

# LEE COUNTY BOARD OF COUNTY COMMISSIONERS

# ZONING and COMPREHENSIVE PLAN AMENDMENT HEARING AGENDA

Wednesday, June 2, 2021

# 9:30AM

REZ2020-00007 Z-21-003 22 BETH STACEY BLVD.

REZ2020-00018 Z-21-005 DOLLAR GENERAL

CPA2021-00001 LEE PLAN 2045 UPDATE - TRANSMITTAL

CPA2019-00007 COMMERCE LAKE PARCEL - ADOPTION

#### NOTICE OF PUBLIC HEARING

The Lee County Board of County Commissioners will hold a public hearing at 9:30 am on Wednesday, June 2, 2021 in the Board Chambers at 2120 Main St., Ft. Myers, FL, to review the written recommendations made by the Hearing Examiner and make a final decision on the cases below.

#### **REZ2020-00007 / 22 BETH STACEY BLVD.**

Rezone 3.6± Acres along the east side of Beth Stacey Boulevard from Multifamily residential (RM-2) to Commercial (C-2).

Located at 22 Beth Stacey Blvd. Lehigh Acres Planning Community, Lee County, FL.

#### REZ2020-00018 / DOLLAR GENERAL

Request to rezone approximately 1.43 acres from the Commercial (C-1) District and Residential Single-Family (RS-1) District to Neighborhood Commercial (CN-2) District

Located at 426, 434 and 430 New York Dr.; 4432 Bessie Ave.; and 4437 Palm Beach Blvd., Fort Myers Shores Planning Community, Lee County, FL.

Copies of the Hearing Examiner's recommendation may be obtained or the file reviewed at the Zoning Section, 1500 Monroe St., Ft. Myers, FL. Telephone 239-533-8585 for additional information.

If you did not appear before the Hearing Examiner or otherwise become a participant for that case in which you wish to testify, the law does not permit you to address the Board of County Commissioners.

Statements before the Board of County Commissioners regarding the zoning case will be strictly limited to testimony presented to the Hearing Examiner, testimony concerning the correctness of the findings of fact or conclusions of law contained in the record, or to allege the discovery of new, relevant information which was not available at the time of the hearing before the Hearing Examiner.

If a participant decides to appeal a decision made by the Board of County Commissioners with respect to any matter considered at this hearing, a verbatim record of the proceeding will be necessary to appeal a decision made at this hearing.

In accordance with the Americans with Disabilities Act, Lee County will not discriminate against qualified individuals with disabilities in its services, programs, or activities. To request an auxiliary aid or service for effective communication or a reasonable modification to participate, contact Joan LaGuardia, (239) 533-2314, <u>ADArequests@leegov.com</u> or Florida Relay Service 711. Accommodation will be provided at no cost to the requestor. Requests should be made at least five business days in advance.

#### NOTICE OF PROPOSED AMENDMENT TO THE LEE COUNTY COMPREHENSIVE LAND USE PLAN (TRANSMITTAL HEARING)

The Lee County Board of County Commissioners will hold a public hearing to consider proposed amendments to the Lee County Comprehensive Land Use Plan (Lee Plan) on Wednesday, June 2, 2021. The hearing will commence at 9:30 a.m., or as soon thereafter as can be heard, in the Board Chambers, 2120 Main Street in Downtown Fort Myers. At the hearing, the Board will consider the proposed amendments for transmittal to the Florida Department of Economic Opportunity:

CPA2021-00001 Lee Plan 2045 Update: Amend the Lee Plan to update text, maps and tables that relate to the planning horizon and which may also include non-substantive changes such as: updating references to regulatory citations and department and organization names; removing out-of-date requirements and policy directives for completed tasks; modifications necessary to reflect recent annexations and incorporations; and, reorganizing and renumbering as needed for clarity.

This transmittal hearing is the first step in a two step public hearing process to amend the Lee Plan. A second hearing will follow the Department of Economic Opportunity's review of the application.

Documentation for the Proposed Comprehensive Plan Amendment is available at <u>https://www.leegov.com/dcd/planning/cpa</u> or at the Department of Community Development located at 1500 Monroe Street, Fort Myers, Florida. This meeting is open to the public. Interested parties may appear at the meeting and be heard with respect to the proposed plan amendment. A verbatim record of the proceeding will be necessary to appeal a decision made at this hearing.

It is the intent of the Board of County Commissioners that the provisions of this Comprehensive Plan Amendment may be modified as a result of consideration that may arise during Public Hearing(s). Such modifications shall be incorporated into the final version.

Lee County will not discriminate against individuals on the basis of race, color, national origin, sex, age, disability, religion, income or family status. To request language interpretation, document translation or an ADA-qualified reasonable modification at no charge to the requestor, contact Joan LaGuardia, (239) 839-6038, Florida Relay Service 711, at least five business days in advance. El Condado de Lee brindará servicios de traducción sin cargo a personas con el idioma limitado del inglés.

#### NOTICE OF PROPOSED AMENDMENT TO THE LEE COUNTY COMPREHENSIVE LAND USE PLAN (ADOPTION HEARING)

The Lee County Board of County Commissioners will hold a public hearing to consider the adoption of proposed amendments to the Lee County Comprehensive Land Use Plan (Lee Plan) on Wednesday, June 2, 2021. The hearing will commence at 9:30 a.m., or as soon thereafter as can be heard, in the Board Chambers, 2120 Main Street in Downtown Fort Myers.

The Board proposes to adopt an ordinance amending the Lee Plan as follows:

CPA2019-00007 Commerce Lake Parcel: Amend the Future Land Use Map (Map 1, Page 1) from Airport Lands and Wetlands to New Community and Wetlands, and update the Airport Noise Zone (Map 1, Page 5) on ±22 acres located at both northern corners of the intersection of Commerce Lakes Drive and Daniels Parkway. The amendment is needed to reflect changes to the airport boundaries.

Copies of this Notice and the proposed ordinance are available for inspection or copying during regular business hours at the Minutes Office of the Clerk of Courts of Lee County, by calling 239-533-2328. The Minutes Office is located in the Courthouse Administration Building, 2115 Second Street, Fort Myers, Florida. This meeting is open to the public. Interested parties may appear at the meeting and be heard with respect to the proposed plan amendment. A verbatim record of the proceeding will be necessary to appeal a decision made at this hearing.

It is the intent of the Board of County Commissioners that the provisions of this Ordinance may be modified as a result of consideration that may arise during Public Hearing(s). Such modifications shall be incorporated into the final version.

Lee County will not discriminate against individuals on the basis of race, color, national origin, sex, age, disability, religion, income or family status. To request language interpretation, document translation or an ADA-qualified reasonable modification at no charge to the requestor, contact Joan LaGuardia, (239) 839-6038, Florida Relay Service 711, at least five business days in advance. El Condado de Lee brindará servicios de traducción sin cargo a personas con el idioma limitado del inglés.

# REZ2020-00007 22 BETH STACEY BLVD.

# **Staff Summary**

CASE NUMBER & NAME: REZ2020-00007 / 22 Beth Stacey Blvd.

REQUEST: Rezone 3.6± Acres along the east side of Beth Stacey Boulevard from Multifamily residential (RM-2) to Commercial (C-2).

RESOLUTION NUMBER: Z-21-003

LOCATION: 22 Beth Stacey Blvd. Lehigh Acres Planning Community, Lee County, FL

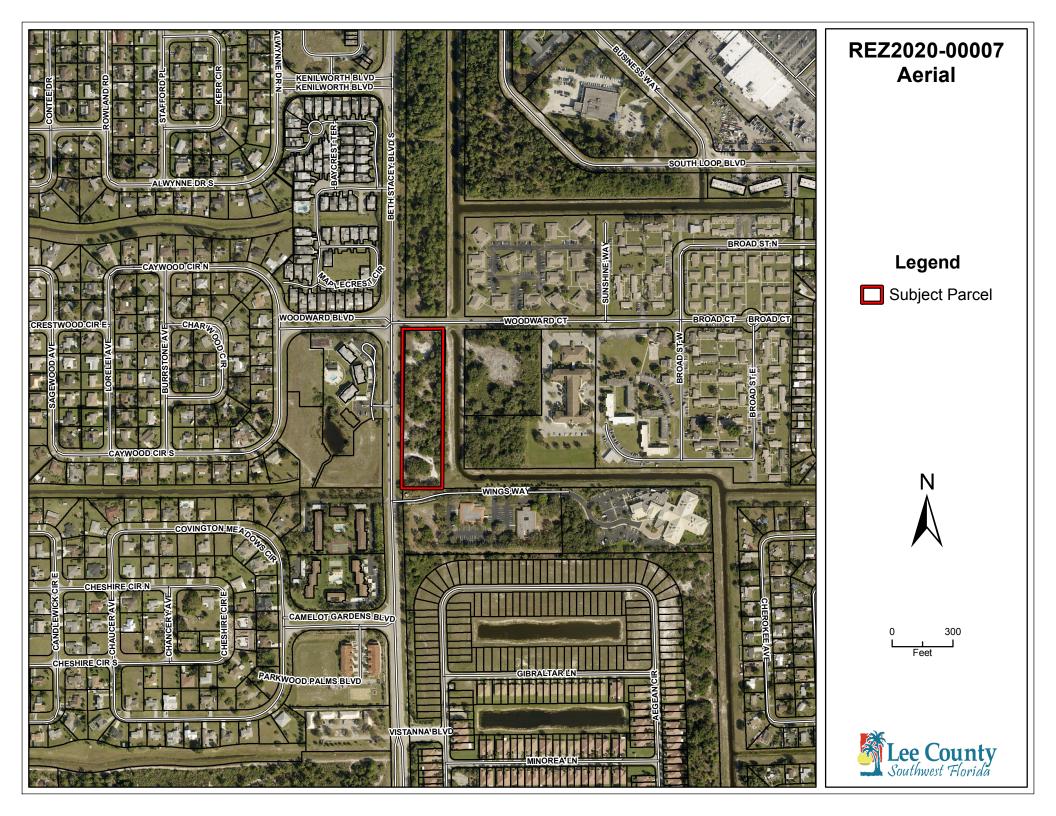
OWNER: Delacruz Properties, LLC

APPLICANT: Delacruz Properties, LLC

AGENT: R J Ward, P.E. Spectrum Engineering, Inc. 6244 St. Andrews Cir. N. Fort Myers, FL 33919

HEARING EXAMINER RECOMMENDATION: Approve

PARTICIPANTS: (0) NONE



# Summary of Hearing Examiner Recommendation

# **22 BETH STACEY BLVD**

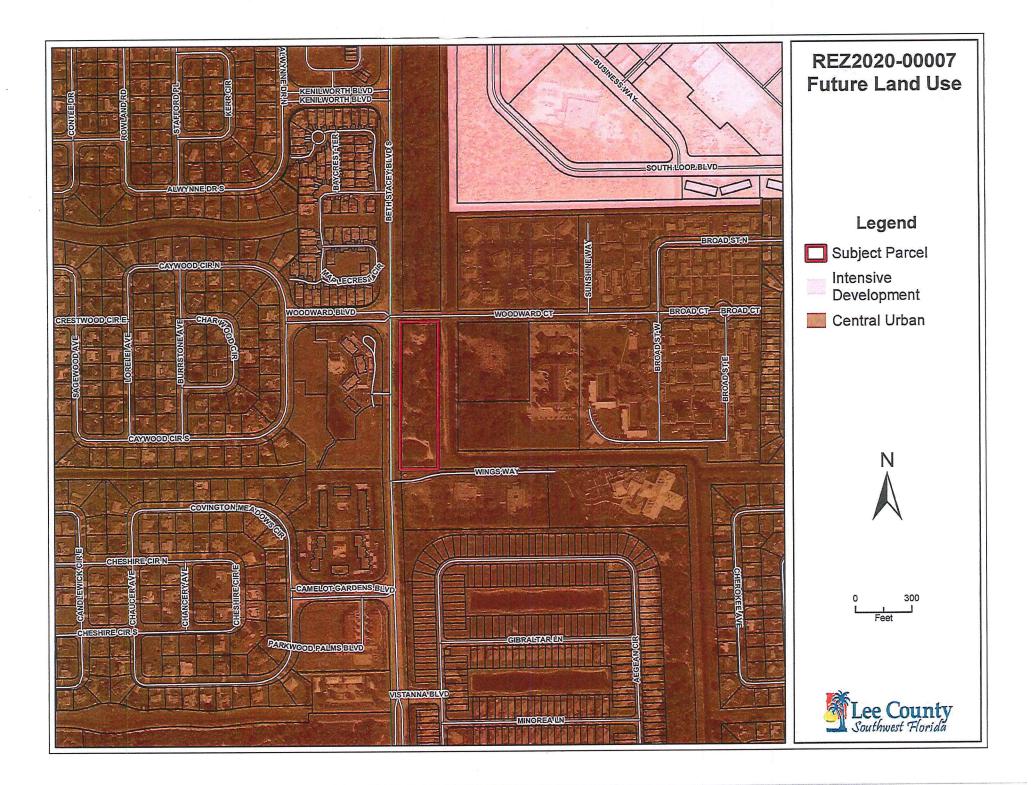
(RJ Ward, P.E. of Spectrum Engineering Inc., on behalf of De la Cruz Properties, LLC)

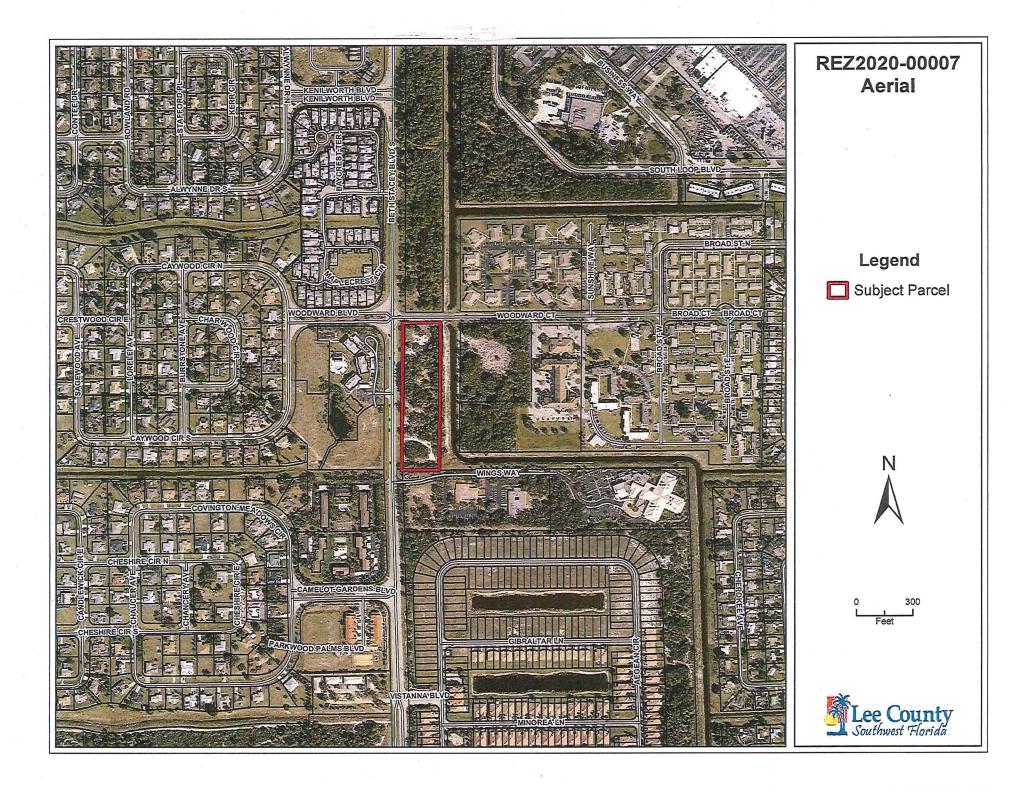
Request:	Rezone Multiple-Family Residential (RM-2) to Commercial(C-2)
Location:	22 Beth Stacey Boulevard
	Lehigh Acres Planning Community District 5
Size:	3.6 acres
Recommendation:	Approve
Public Concerns:	None

# Hearing Examiner Remarks:

The requested C-2 commercial zoning district permits a range of uses appropriate in the Mixed Use Overlay. The C-2 district permits residential and a broad array of commercial uses designed to serve area residents.

Detailed recommendation follows





# OFFICE OF THE HEARING EXAMINER, LEE COUNTY, FLORIDA

# HEARING EXAMINER RECOMMENDATION

**REZONING:** REZ2020-00007

# Regarding: 22 BETH STACEY BLVD

**Location:** 22 Beth Stacey Boulevard

Lehigh Acres Planning Community (District 5)

Hearing Date: April 1, 2021

#### I. <u>Request</u>:

Request to rezone 3.6 acres from Multiple-Family Residential (RM-2) to Commercial (C-2).

Property legal description set forth in Exhibit A.

#### II. <u>Hearing Examiner Recommendation</u>:

Approve.

#### III. <u>Discussion</u>:

The Hearing Examiner serves in an advisory capacity to the Board of County Commissioners (Board) on applications to rezone property.<sup>1</sup> In furtherance of this duty, the Hearing Examiner accepted testimony and evidence on the application to rezone property in Lehigh Acres.

In preparing a recommendation to the Board, the Hearing Examiner must apply the Lee County Comprehensive Plan (Lee Plan), Land Development Code (LDC) and other County regulations to the facts presented at hearing. The record must contain substantial competent evidence to support the Hearing Examiner's recommendation to the Board.

The Hearing Examiner's recommendation of approval follows below.

<sup>&</sup>lt;sup>1</sup> LDC 34-145(d)(4)a.

# <u>Request</u>

This <u>request seeks to rezone 3.6 acres from Multiple Family Residential (RM-2) to</u> <u>Commercial (C-2) on Beth Stacey Boulevard</u> in the Lehigh Acres Planning Community. The property is vacant and lies within a Mixed Use Overlay.<sup>2</sup>

The Department of Community Development <u>staff recommended approval</u> finding the requested C-2 district satisfies LDC review criteria.

#### **Consistency with the Lee Plan**

The future land use designation of the site is Central Urban. The Central Urban Future Land Use category is the second most intense under the Lee Plan. This category consists of the county's heavily settled urban core with a variety of housing, commercial and urban services.<sup>3</sup>

The County's vision for Lehigh Acres is to reduce its dependence on neighboring communities for employment, recreation, and public services.<sup>4</sup> The property lies within a Mixed Use Overlay within the Lehigh Acres Planning Community.<sup>5</sup> <u>The Lee Plan encourages conventional zoning districts within the Mixed Use Overlay</u>.<sup>6</sup>

The Lee Plan encourages mixed use developments that integrate multiple land uses.<sup>7</sup> The site's current RM-2 zoning designation does not accommodate mixed land uses on the property. In contrast, the proposed C-2 zoning district allows both commercial and residential uses.<sup>8</sup> Development of mixed uses on the site offers opportunities to provide commercial services to the community.<sup>9</sup>

#### **Compatibility**

Development patterns along Beth Stacey Boulevard consist of residential and some community facilities. The area immediately adjacent to the property is mainly developed with residential land uses, although several commercial centers lie to the northeast along Homestead Road.<sup>10</sup> The property is a short distance from Downtown Lehigh, a significant activity center with a full array of urban services and infrastructure. The proposed C-2 zoning district is consistent with development patterns in the area.<sup>11</sup>

<sup>&</sup>lt;sup>2</sup> Lee Plan Map 1, page 6 of 7.

<sup>&</sup>lt;sup>3</sup> Lee Plan Policy 1.1.3.

<sup>&</sup>lt;sup>4</sup> Lee Plan Vision Statement, Paragraph 17 (Lehigh Acres) and Goal 25

<sup>&</sup>lt;sup>5</sup> Lee Plan Map 1, page 6 of 7.

<sup>&</sup>lt;sup>6</sup> Lee Plan Policy 11.2.4.

<sup>&</sup>lt;sup>7</sup> Lee Plan Goal 11, Objective 11.1.

<sup>&</sup>lt;sup>8</sup> The C-2 district permits commercial and select residential land uses. LDC34-841(b), 34-844.

<sup>&</sup>lt;sup>9</sup> Lee Plan Goal 11, Objective 11.1 Policy.

<sup>&</sup>lt;sup>10</sup> Downtown Lehigh is a short distance from the property. There is a social services facility across Wings Way to the south.

<sup>&</sup>lt;sup>11</sup> Lee Plan Policy 25.9.2.

The Lee Plan designates the property within <u>Lehigh's Commercial Overlay Zone</u>, where the County discourages development of single family residential uses on lots smaller than one acre.<sup>12</sup> <u>The property is ideally located for commercial uses</u> as a canal and Beth Stacey Boulevard separates the site from residential land uses.<sup>13</sup>

Property in the Mixed Use Overlay may use alternative property development regulations to encourage compact and functional development patterns.<sup>14</sup> Regulations permit developers to include land areas devoted to non-residential uses in density calculations in the Overlay. In addition, permitted reductions in open space, setbacks, landscaping, buffering, and parking facilitates promotes urban-style development.<sup>15</sup>

<u>The proposed C-2 zoning district is a "conventional" zoning district. Therefore, it is</u> <u>not possible to impose conditions on approval.</u> The C-2 use regulation table will govern the permitted uses, subject to the limitations imposed by the Lee Plan.<sup>16</sup> Deviations from the requirements of the Land Development Code (LDC) may be achieved via the variance or administrative amendment process.

Future development order applications will be subject to a publically advertised information session within the planning community.<sup>17</sup> This meeting affords another opportunity for public participation.

# **Transportation**

<u>The site fronts on the east side of Beth Stacey Boulevard</u>, a County maintained arterial roadway.<sup>18</sup> The frontage on Beth Stacey is sufficient to accommodate County driveway separation standards.<sup>19</sup> The property also has frontage on Woodward Court.

<u>The proposed C-2 district is appropriate along a high volume arterial roadway.</u> Site related improvements will be addressed during the development order approval process.<sup>20</sup> Future development will be subject to road impact fees.<sup>21</sup>

<sup>&</sup>lt;sup>12</sup> Lee Plan Map 1 page 7 of 7 (Special Treatment Areas: Lehigh Acres Community Plan Overlays) See Lee Plan Objective 25.6, Policy 25.6.1.

<sup>&</sup>lt;sup>13</sup> Lee Plan Policy 5.1.5.

<sup>&</sup>lt;sup>14</sup> Lee Plan Policy 11.2.5.

<sup>&</sup>lt;sup>15</sup> Id.; LDC 10-425, 34-845, 34-2020.

<sup>&</sup>lt;sup>16</sup> LDC 34-621.

<sup>&</sup>lt;sup>17</sup> LDC 33-1401.

<sup>&</sup>lt;sup>18</sup> Lee County AC 11-1 Beth Stacey Boulevard is a heavily traveled arterial roadway serving commercial and residential uses.

<sup>&</sup>lt;sup>19</sup> LDC 10-285. The property has over 789 feet of frontage on Beth Stacey Boulevard. The LDC requires a connection separation of 440 feet on arterial roadways in future urban areas.

<sup>&</sup>lt;sup>20</sup> Lee Plan Objective 39.1, Policy 39.1.1; LDC 10-8, 10-287.

<sup>&</sup>lt;sup>21</sup> LDC 2-265.

## <u>Environmental</u>

<u>The site is wooded but contains no remarkable environmental features or resources</u>.<sup>22</sup> If future development order proposes impervious surfaces in excess of two acres, the LDC requires a species assessment and indigenous open space.<sup>23</sup>

Future development may comply the LDC requirements for open space, setbacks, landscaping, and buffering in the Mixed Use Overlay.<sup>24</sup>

#### **Urban Services**

<u>The site has access to a full range of urban services and infrastructure</u>.<sup>25</sup> The property fronts on a County maintained arterial roadway with a sidewalk along the west side.<sup>26</sup> Public water and sanitary sewer services are available from Florida Governmental Utility Authority.<sup>27</sup> There is a Lee County Sheriff substation within a half mile<sup>28</sup> and a Lehigh Acres Fire Station within one mile of the site.<sup>29</sup>

Lee Tran bus route 110 runs along Woodward Court and Beth Stacey Boulevard providing an opportunity for future employees and patrons to access the property via mass transit. The site developer must provide pedestrian improvements to an existing bus stop on Woodward Court as a condition of development order approval.<sup>30</sup> The developer must also comply with LDC requirements to build a bicycle/pedestrian facility along the site's road frontage.<sup>31</sup>

#### Public

Property owners seeking to rezone land in the Lehigh Acres Planning Community must conduct one publically advertised information session in the community prior to sufficiency.<sup>32</sup> Applicant presented the request to the public at a meeting before the Lehigh Acres Community Council in July 2020.<sup>33</sup>

No members of the public attended the Hearing Examiner hearing.

<sup>&</sup>lt;sup>22</sup> Testimony of Peter Blackwell, Planner Zoning Division and R.J. Ward, PE, Spectrum Engineering, Inc.

<sup>&</sup>lt;sup>23</sup> Lee Plan Objective 123.8, LDC 10-473, 10-474.

<sup>&</sup>lt;sup>24</sup> LDC 10-425.

<sup>&</sup>lt;sup>25</sup> Lee Plan Objective 11.1, Policies 2.2.1, 25.9.2.

<sup>&</sup>lt;sup>26</sup> Beth Stacey Boulevard is a County maintained arterial roadway. Lee County AC 11-1.

<sup>&</sup>lt;sup>27</sup> Staff Report Attachment G; See Lee Plan Policy 25.9.1 and Standards 4.1.1, 4.1.2.

<sup>&</sup>lt;sup>28</sup> East District Substation.

<sup>&</sup>lt;sup>29</sup> Fire Station and ALS No. 102.

<sup>&</sup>lt;sup>30</sup> LDC 10-442, See also Lee Plan Policies 25.8.6, 43.1.1.

<sup>&</sup>lt;sup>31</sup> Lee Plan Map 3D, LDC 10-256(a).

<sup>&</sup>lt;sup>32</sup> LDC 33-1401(a).

<sup>&</sup>lt;sup>33</sup> Staff Report Attachment F.

### **Conclusion**

The Hearing Examiner concurs with staff's analysis and recommendation of approval. <u>The requested C-2 zoning district satisfies the approval criteria set out in the LDC.</u>

#### IV. Findings and Conclusions:

Based on the testimony and exhibits presented in the record, the Hearing Examiner makes the following findings and conclusions:

- A. The requested C-2 Commercial zoning district complies with the Lee Plan. See Lee Plan Vision Statement Paragraph 17 (Lehigh Acres), Lee Plan Goals 4, 6, 11, 17, 25; Objectives 6.1, 11.1, 11.2, 25.1, 25.2, 25.6, 25.9.2, and Policies 1.1.3, 6.1.1, 6.1.4, 11.2.4, 25.6.1, Maps 1, 16.
- B. The Commercial (C-2) zoning district:
  - 1. Meets the Land Development Code and other County regulations. LDC 33-1400 *et seq.*, 34-491, 34-621, 34-841, 34-844, 34-845, 34-2020;
  - 2. Is compatible with existing and planned uses in the surrounding area. *See* Lee Plan Objectives 25.1, 25.6, Policies 1.1.3, 5.1.5, 6.1.4, 6.1.5, 11.2.4, 25.6.1, 25.9.2
  - 3. Will provide access sufficient to support development intensity. Expected impacts on transportation facilities will be addressed by County regulations. Lee Plan Objective 39.1, Policies 6.1.1, 6.1.5, 39.1.1, 39.2.1
  - 4. Will not adversely affect environmentally critical/sensitive areas or natural resources.
  - 5. Will be served by urban services including transit. See Lee Plan Glossary, Goal 4, Objectives 11.1, 11.2, Policies 1.1.3, 2.2.1, 25.9.1, 25.9.2 Standards 4.1.1, 4.1.2.

Date of Recommendation: April 7, 2021.

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Donna Marie Collins Chief Hearing Examiner

Lee County Hearing Examiner 1500 Monroe Street, Suite 218 Post Office Box 398 Fort Myers, FL 33902-0398

# **Exhibits to Hearing Examiner's Recommendation**

Exhibit A Legal Description and Vicinity Map Exhibit B Exhibits Presented at Hearing Exhibit C Hearing Participants Exhibit D Information

# Exhibit A

# LEGAL DESCRIPTION AND VICINITY MAP

Exhibit A, Legal Description and Vicinity Map

# EXHIBIT A

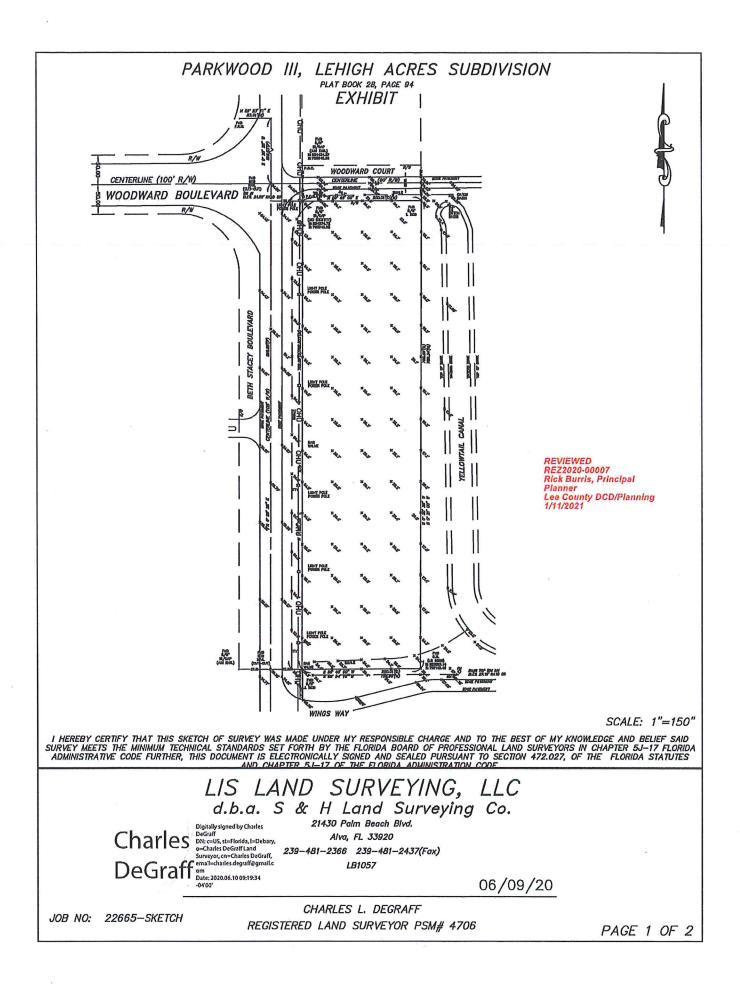
#### PARKWOOD III, LEHIGH ACRES SUBDIVISION PLAT BOOK 28, PAGE 94 LEGAL DESCRIPTION

A tract or parcel of land lying in Section 31, Township 44 South, Range 27 East, Lee County, Florida, being more particularly described as follows: Commencing at the intersection of the Northerly right-of-way line of Woodward Court and the Easterly right-of-way line of Beth Stacey Boulevard, as shown on the Plat of Parkwood III, Section 31, Township 44 South, Range 27 East, a Subdivision of LEHIGH ACRES, Lee County, Florida, recorded in Plat Book 28, at Page 94, of the Public Records of Lee County, Florida; thence South 00'20'28" West, a distance of 60.00 feet; to the Southerly right-of-way line of Woodward Court; and the Point of Beginning of the parcel of land herein described; thence North 89'45'00" East, along Woodward Court; a distance of 200.01 feet; to the Westerly right-of-way line of Yellowtail Canal extension; thence South 00'20'28" West, along said Yellowtail extension, a distance of 789.09 feet, to the South section line of said Section 31; thence South 89'45'00" West, along the South section line, a distance of 200.01 feet; to the Easterly right-of-way line of Beth Stacey Boulevard; thence North 00'20'28" East, along Beth Stacey Boulevard, a distance of 789.09 feet, to the Point of Beginning.

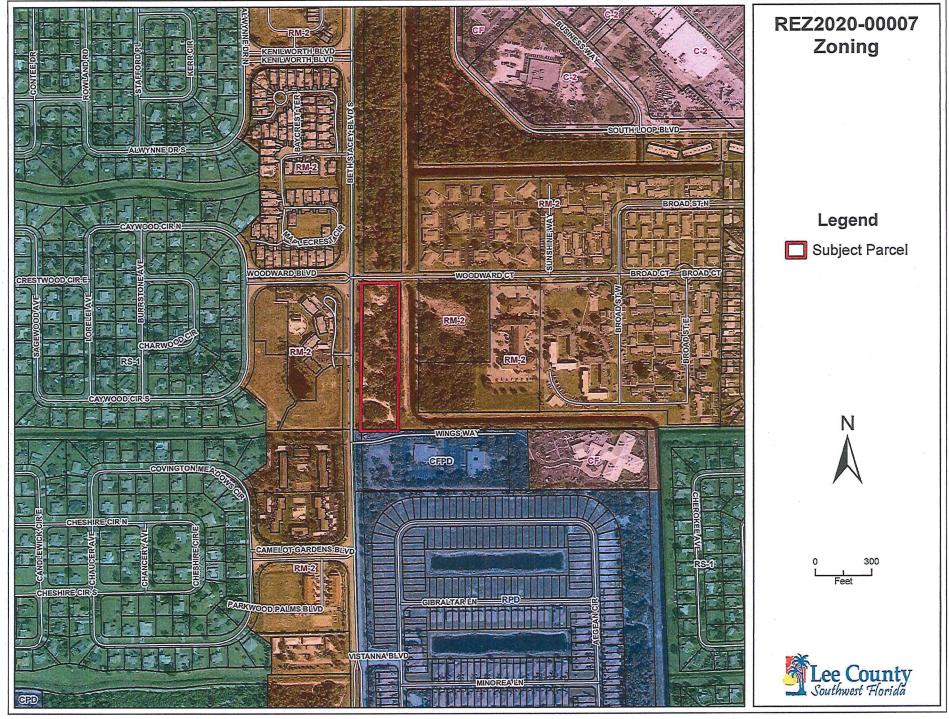
> REVIEWED REZ2020-00007 Rick Burris, Principal Planner Lee County DCD/Planning 1/11/2021

I HEREBY CERTIFY THAT THIS SKETCH OF SURVEY WAS MADE UNDER MY RESPONSIBLE CHARGE AND TO THE BEST OF MY KNOWLEDGE AND BELIEF SAID SURVEY MEETS THE MINIMUM TECHNICAL STANDARDS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS IN CHAPTER 5.J-17 FLORIDA ADMINISTRATIVE CODE FURTHER, THIS DOCUMENT IS ELECTRONICALLY SIGNED AND SEALED PURSUANT TO SECTION 472.027, OF THE FLORIDA STATUTES AND CHAPTER 5.J-17 OF THE FLORIDA ADMINISTRATION CODE

#### LIS LAND SURVEYING, LLC d.b.a. S & H Land Surveying Co. 21430 Palm Beach Blvd. Alva, FL 33920 239-481-2437(Fax) DeGraff email-charles degraffgmail.com Charles DeGraff. DeGraff Edgraff Edgrafilem 239-481-2437(Fax) LB1057 O6/09/20 CHARLES L. DEGRAFF REGISTERED LAND SURVEYOR PSM# 4706 PAGE 2 OF 2



ATTACHMENT B2



# Exhibit B

# EXHIBITS PRESENTED AT HEARING

#### STAFF EXHIBITS

- 1. *DCD Staff Report with attachments for DCI:* Prepared by Peter Blackwell, Planner, dated April 1, 2021 (multiple pages 8.5"x11" & 11"x14") [black & white, color]
- 2. *PowerPoint Presentation:* Prepared for REZ2020-00007, 22 Beth Stacey Boulevard (multiple pages 8.5"x11")[color]

#### **APPLICANT EXHIBITS**

1. *Applicant's Presentation:* Prepared by R.J. Ward, for REZ2020-00007, 22 Beth Stacey Blvd. (1 pages – 8.5"x11")

# Exhibit C

# HEARING PARTICIPANTS

County Staff:

1. Peter Blackwell

Applicant Representatives:

1. R.J. Ward

Exhibit C, Hearing Participants

# Exhibit D

### INFORMATION

#### UNAUTHORIZED COMMUNICATIONS

The LDC prohibits communications with the Hearing Examiner or her staff on the substance of pending zoning actions. There are limited exceptions for written communications requested by the Hearing Examiner, or where the Hearing Examiner seeks advice from a disinterested expert.

#### HEARING BEFORE LEE COUNTY BOARD OF COUNTY COMMISSIONERS

A. The Hearing Examiner will provide a copy of this recommendation to the Board of County Commissioners.

B. The Board will hold a final hearing to consider the Recommendation and record made before the Hearing Examiner. The Department of Community Development will notify hearing participants of the final hearing date. Only Parties and participants may address the Board at the final hearing. Presentation by participants are limited to the substance of testimony presented to the Hearing Examiner, testimony concerning the correctness of Findings of Fact or Conclusions of Law contained in the Recommendation, or allegations of relevant new evidence not known or that could not have been reasonably discovered by the speaker at the time of the Hearing Examiner hearing.

#### COPIES OF TESTIMONY AND TRANSCRIPTS

A. Every hearing is recorded. Recordings are public records that become part of the case file maintained by the Department of Community Development. The case file and recordings are available for public examination Monday through Friday between 8:00 a.m. and 4:30 p.m.

B. A verbatim transcript may also be available for purchase from the court reporting service.

#### Lee County, Florida DEPARTMENT OF COMMUNITY DEVELOPMENT ZONING SECTION STAFF REPORT

#### CASE NUMBER: REZ2020-00007 CASE NAME: 22 BETH STACEY BLVD TYPE OF CASE: CONVENTIONAL REZONING HEARING EXAMINER DATE: APRIL 1, 2021 SUFFICIENCY DATE: FEBRUARY 5, 2021

#### REQUEST

An application has been submitted by RJ Ward, P.E. of Spectrum Engineering, Inc. on behalf of Delacruz Properties, LLC to request a conventional rezoning from Multiple-Family Residential (RM-2) to Commercial (C-2) on approximately 3.6 acres.

The subject property is located at 22 Beth Stacey Boulevard, Lehigh Acres, FL 33936, Lehigh Acres Planning Community, Lee County, FL STRAP Number 31-44-27-00-00001.0050. The legal description for this property can be found in Attachment D.

#### **SUMMARY:**

Staff recommends **APPROVAL** of the request.

#### **HISTORY OF PARCEL**

The property is currently zoned Multiple-Family Residential (RM-2) with no significant zoning actions on the property. The subject property is currently undeveloped and does not have any active Code Enforcement violations on the property.

#### **CHARACTER OF THE AREA**

The subject property has approximately 789 feet of frontage along Beth Stacey Boulevard, a Countymaintained arterial roadway. This property is approximately 3,325 feet south of the intersection of Beth Stacey Boulevard and Homestead Road. The land immediately surrounding the subject property is mainly residential in nature but with commercial uses just beyond to the northeast, with portions of the land being undeveloped. The subject property is designated as Central Urban within the Lee County Future Land Use Map (Attachment B) and is located in the Mixed Use Overlay as described in Lee Plan Map 1. The subject property is located in the Lehigh Acres Planning Community.

The following are the surrounding zoning districts and existing land uses:

#### North

Property to the north is separated by Woodward Court and was zoned Multiple-Family Residential (RM-2) until its rezoning to Commercial (C-2) in November of 2020 by Resolution Z-20-026. It is currently undeveloped.

East

Properties to the east are separated by a canal and are zoned Multiple-Family Residential (RM-2). The northern property is currently undeveloped, and the property to the south and east of it is developed with a multi-family buildings and facilities for elderly living.

#### South

Property to the south is zoned Community Facilities Planned Development (CFPD). This property is developed as a Social Services Center.

#### West

Properties to the west are separated by Beth Stacey Boulevard, and are zoned Multiple-Family Residential (RM-2). These properties are mainly developed with a condominium complex although there are also vacant parcels.

#### ANALYSIS

This application requests a conventional rezoning of an approximately 3.58-acre property within the Mixed Use Overlay from Multiple-Family Residential (RM-2) to Commercial (C-2). LDC Section 34-841(b) states: "Subsequent to February 4, 1978, no land or water shall be rezoned into the C-1A, C-1 or C-2 districts, unless located within the mixed use overlay as identified on Lee Plan Map 1, Page 6." Review of this project will include analysis of the Lee Plan objectives and policies regarding the Mixed Use Overlay as they pertain to this project.

Currently, there is no specific use intended for the subject property. No variances have been requested as part of the request.

#### **Conventional Rezoning**

Decision-making criteria for conventional rezoning requests are established in LDC Sec. 34-145(d)4. The applicant has provided a request statement that describes the request and contains an analysis of pertinent Lee Plan policies (Attachment C). Below is an analysis of the decision-making criteria established In LDC Sec. 34-145(d)4 based upon the applicant's request:

#### 1. *Compliance with the Lee Plan*

The subject property is within the Central Urban future land use category as described in Lee Plan Policy 1.1.3. The Central Urban future land use category is described as the 'urban core' of the county and is already heavily settled with significant urban services. The subject property is located in an area of Lehigh Acres that is significantly settled, where urban services exist. The request to rezone to the Commercial (C-2) zoning district will facilitate urban development on the subject property. Staff finds the proposed rezoning consistent with Policy 1.1.3.

Objectives 2.1 and 2.2 of the Lee Plan intend to direct new growth to future urban areas in compact and contiguous growth patterns where adequate public facilities exist. The subject property is located on Beth Stacey Boulevard, an arterial roadway that has sidewalks on the western portion of the roadway, and a bus stop on the northern portion of Woodward Court across the road from the subject property. The subject property will be served by Fire, Sheriff's and EMS provided by the Lehigh Acres Fire Control District, as well as water and sewer. Staff finds the proposed rezoning consistent with Objective 2.1 and Objective 2.2.

Objective 4.1 on the Lee Plan addresses the availability of potable water and sanitary sewer service to the subject property. The application includes a letter of service availability from Florida Governmental Utility Authority, the relevant service provider for the property. This letter states that the utility currently has sufficient capacity to handle the proposed level of development on the property and that there are both potable water lines and sanitary sewer lines in close proximity to the property. Staff finds that the proposed rezoning conforms to Objective 4.1.

Policy 5.1.5 of the Lee Plan intends to protect the existing and future residential areas from any encroachment of uses that are potentially destructive to the character and integrity of residential development. The nearest residential uses are separated by Beth Stacey Boulevard to the west and are separated by a canal to the east. Because this rezoning request does not include variances or deviations from Land Development Code requirements, future development will be required to adhere to the requirements that promote compatibility, including setbacks and buffering. Because the property is located within the Mixed Use Overlay, development is already afforded certain relief from setbacks buffering and open space. Staff finds the request consistent with Policy 5.1.5.

Goal 6 of the Lee Plan establishes objectives and policies to facilitate orderly and well-planned commercial development at appropriate locations within the county. The proposed rezoning to Commercial (C-2) will facilitate the development of primarily commercial uses. This zoning district is one of the more permissive zoning districts within Lee County, and permits heavier commercial uses, light manufacturing uses, and residential development.

Policy 6.1.1 of the Lee Plan requires that applications be reviewed for traffic and access impacts, incorporate landscaping and detailed site planning, provide screening and buffering, ensure availability of services and facilities, minimize impacts on adjacent uses, be located in proximity to other similar centers, and properly mitigate environmental considerations. Many of these issues are related to specific site designs which are beyond the scope of this request. These issues will be addressed through additional review as part of the Development Order application process. Staff finds the request to be consistent with Policy 6.1.1.

Policy 6.1.4 of the Lee Plan requires that commercial uses be approved only when compatible with adjacent existing and proposed land uses as well as existing and programmed services and facilities. The subject property is located on an arterial roadway, and in an urban area of Lehigh Acres. The subject property is in close proximity to the Downtown Lehigh Acres Node, is within the Lehigh Acres Commercial Overlay and the Mixed-Use Overlay, all of which are complementary to the C-2 zoning district. Staff finds that the request is consistent with Policy 6.1.4.

Policy 6.1.7 of the Lee Plan prohibits commercial developments from locating in a way that opens new areas to premature, scattered, or strip development. Development of the subject property with commercial uses will not open new areas to premature, scattered, or strip development, as it is located in an urban and developed area of the County. Further, the parcel to the north of the subject property has been recently rezoned to the Commercial (C-2) zoning district. The subject parcel would therefore be a continuation of commercial development rather than an isolated island of commercial activity. Staff finds this request consistent with Policy 6.1.7.

Objective 11.1 allows and encourages mixed use development within Land Use categories and at appropriate locations where sufficient infrastructure exists to support the development. As previously stated, sufficient infrastructure and urban services exist to support future development on the subject property. Staff finds the request to be consistent with Objective 11.1

Objective 11.2 describes the Mixed Use Overlay as areas appropriate for mixed use that are in close proximity to public transit routes, education facilities, recreation opportunities and existing residential, shopping and employment centers. Policy 11.2.4 encourages the use of conventional zoning districts within the Mixed Use Overlay. To facilitate this, the Land Development Code allows for conventional rezoning applications to request Commercial (C-1, C-1A, C-2, and C-2A) zoning districts within the Mixed Use Overlay. Rezoning to these zoning districts is permitted only within the Mixed Use Overlay to facilitate a mixed use development pattern. Additionally, properties to the north, south, and east are also within the Mixed Use Overlay. The entirety of the subject property is

within the Mixed Use Overlay and therefore the applicant is able to request the Commercial (C-2) zoning district consistent with the intent of the Mixed Use Overlay. Staff finds that proposed zoning is consistent with Objective 11.2.

Goal 25 of the Lee Plan describes the Lehigh Acres Community Plan area as an area that is utilizing development and redevelopment to overcome single use development in an antiquated pre-platted area, to allow for a vibrant residential and commercial community.

Objective 25.1 of the Lee Plan establishes mixed use nodes within the Lehigh Acres Planning Community to contribute those uses needed to support the community. Policy 25.1.1 establishes the different sub-categories as 'Downtown Lehigh Acres', 'Community Mixed Use Activity Centers', and 'Neighborhood Mixed Use Activity Centers'. The subject property is located just outside of the Downtown Lehigh Acres Node. Policy 25.1.2 and Policy 25.1.3 encourage development to incorporate at least two or more varied uses and note the expectation that development will range toward the higher end of density and intensity ranges. This subject property does not have a final development plan associated with this rezoning request, but the Commercial (C-2) zoning district will allow for this type of development pattern to exist. Staff finds this request consistent with Policy 25.1.1, Policy 25.1.2, and Policy 25.1.3.

Objective 25.2 establishes the areas designated as Downtown Lehigh Acres as areas as vibrant, intensely developed mixed use gathering areas to serve area residents. Intended development includes multiple-family residential, commercial and retail, and civic uses. The subject property is approximately 640 feet south of the designated Downtown node and commercial development at this location would therefore be appropriate to the area. The proposed rezoning from the Multiple-Family Residential zoning district (RM-2) to Commercial zoning district (C-2) allows for the type of development intended for this area. Staff finds the proposed rezoning consistent with Objective 25.2.

The property is located in the Commercial Overlay zone of Lehigh Acres, as described in Lee Plan Objective 25.6. Policy 25.6.1 promotes the use of commercial uses, parks, churches, schools and housing alternative to typical 1/4 acre and 1/2 acre lots. The proposed rezoning will provide for uses consistent with the Commercial Overlay Zone, including commercial uses, and multiple family residential uses. Staff finds the proposed rezoning consistent with Objective 25.6 and Policy 25.6.1.

LDC Section 33-1401(a) requires the applicant to conduct a public informational session prior to a finding of sufficiency for a request for rezoning. The applicant conducted such a meeting at 6PM on July 2, 2020. The meeting was properly advertised and was held at the regularly scheduled Lehigh Acres Community Council meeting. Two council members expressed approval of the proposed rezoning. No members of the public provided comment. (See Attachment F)

#### 2. Ability to comply with Code and other applicable County regulations or qualifies for deviations;

The subject property meets the dimensions required by the Commercial (C-2) zoning district. The Commercial (C-2) zoning district requires a minimum of 100 feet of width, 100 feet of depth, and a minimum lot area of 10,000 square feet for commercial uses. Additional property development regulations are established in Chapters 34 and 10 of the Lee County Land Development Code including maximum height, setbacks, buffer requirements, and open space.

Additionally, the subject property is located in the Mixed Use Overlay. Properties within the Mixed Use Overlay may use alternative property development regulations which significantly reduce lot sizes, setbacks, and buffering, while increasing lot coverage for a project.

3. Compatibility with existing and planned uses in the surrounding area;

This property is surrounded by a mixture of residential and commercial uses. The request is generally compatible with the surrounding land uses and zoning designations. In addition, Land Development Code provisions will facilitate the provision of adequate buffering, screening, and other compatibility-related design considerations during the development order process.

4. Provision with sufficient access to support the proposed development intensity;

The subject property fronts Beth Stacey Boulevard, a County-Maintained Arterial Road. Sufficient access will be provided to the subject property. Requirements of the Land Development Code will sufficiently address any potential access issues for the subject property.

5. Expected impacts on transportation facilities will be addressed by existing County regulations and conditions of approval;

There is not a contemplated use for this property as part of this rezoning request, and no variances or deviations have been requested from the Land Development Code. The Land Development Code requires review of traffic impacts during the development order process, at which point impacts to the roadway system may be required to be offset with development-related traffic improvements. Therefore, requirements of the Land Development Code will sufficiently address any potential traffic-related issues resulting from development of the subject property.

6. No adverse impacts to environmentally critical or sensitive areas and natural resources; and

No wetlands are noted on the subject property. Environmental staff have provided comment that the site is wooded and soils are fine sand favorable for gopher tortoises. If the site is developed with impervious surface area exceeding 2 acres, indigenous open space must be provided. A species assessment is recommended but would not be required if the impervious area is below 2 acres.

At time of development order application, the applicant will be required to comply with the requirements of the Land Development Code for buffers, open space, and submittal of an environmental assessment.

7. Will be served by urban services, defined in the Lee Plan, if located in a Future Urban area category:

Urban Services are defined by the Lee Plan as: the requisite services, facilities, capital improvements, and infrastructure necessary to support growth and development at levels of urban density and intensity.

*Public sewer and water:* The subject property will be serviced by Florida Governmental Utility Authority for both water and sanitary sewer (Attachment G).

*Public Transit:* The subject property is serviced by Lee Tran Route 110. At time of development order approval, the applicant will be required to comply with the Land Development Code as it relates to the provision of pedestrian routes to existing bus stops and the provision of bus stop facilities.

*Police, fire, and emergency services:* Lee County Sheriff's East District Substation is 0.5 mile north-northeast of the subject property. Lehigh Acres Fire Station #102 and ALS #102 are 0.89 miles to the east of the subject property.

*Urban surface water management:* Any future development will be required to comply with the Land Development Code, including all provisions for surface water management.

*Bicycle and Pedestrian Facilities:* The subject property fronts on both Woodward Court and Beth Stacey Boulevard, which has a sidewalk on the western side of the right-of-way. Future development on the subject property will be required to comply with the requirements of the Land Development Code, including all provisions for bicycle and pedestrian facilities.

#### CONCLUSION

The proposed Conventional Rezoning from the Multiple-Family Residential (RM-2) zoning district to the Commercial (C-2) zoning district is consistent with the Lee Plan. This request has been reviewed against the decision-making criteria set forth in LDC Sec. 34-145(d)4, and staff has found that the request:

- Complies with the Lee Plan;
- Meets this Code and other applicable County regulations or qualifies for deviations;
- Is compatible with existing and planned uses in the surrounding area;
- Will provide access sufficient to support the proposed development intensity;
- The expected impacts on transportation facilities will be addressed by existing County regulations and conditions of approval;
- Will not adversely affect environmentally critical or sensitive areas and natural resources; and
- Will be served by urban services, defined in the Lee Plan, if located in a Future Urban area category.

Staff recommends **approval** of the request to rezone the subject property from the Multiple-Family Residential (RM-2) zoning district to the Commercial (C-2) zoning district.

#### **ATTACHMENTS:**

- A. Expert Witness Information
- B. Maps: Aerial, Zoning, and Future Land Use
- C. Applicant Narratives
- D. Legal Description
- E. Letter of Utility Availability
- F. Lehigh Acres Meeting Minutes

# REZ2020-00018 DOLLAR GENERAL

# **Staff Summary**

CASE NUMBER & NAME:	REZ2020-00018 / Dollar General
REQUEST:	Request to rezone approximately 1.43 acres from the Commercial (C-1) District and Residential Single-Family (RS-1) District to Neighborhood Commercial (CN-2) District.
RESOLUTION NUMBER:	Z-21-005
LOCATION:	426, 434 and 430 New York Dr.; 4432 Bessie Ave.; and 4437 Palm Beach Blvd., Fort Myers Shores Planning Community, Lee County, FL
OWNER:	KAFE-EE KARIM A + KAFEI XIMENA C H/W
APPLICANT:	Palmetto Capital Group, LLC
AGENT:	Brendan Sloan Avalon Engineering, Inc. 2503 Del Prado Blvd. S, Ste. 200 Cape Coral, FL 33919
HEARING EXAMINER RECOMMENDATION:	Approve
PARTICIPANTS: (1)	David S. Hall



# Summary of Hearing Examiner Recommendation

# **DOLLAR GENERAL**

(by Brendan Sloan, P.E.)

Request:	Rezone 1.43 acres from Commercial & Residential Single- Family to Neighborhood Commercial
Location:	Northwest corner of the Palm Beach Boulevard & New York Drive Intersection (Tice)
	Fort Myers Shores Planning Community District 4
Size:	1.43 acres
Recommendation:	Approve
Public Concerns:	None. <sup>1</sup>

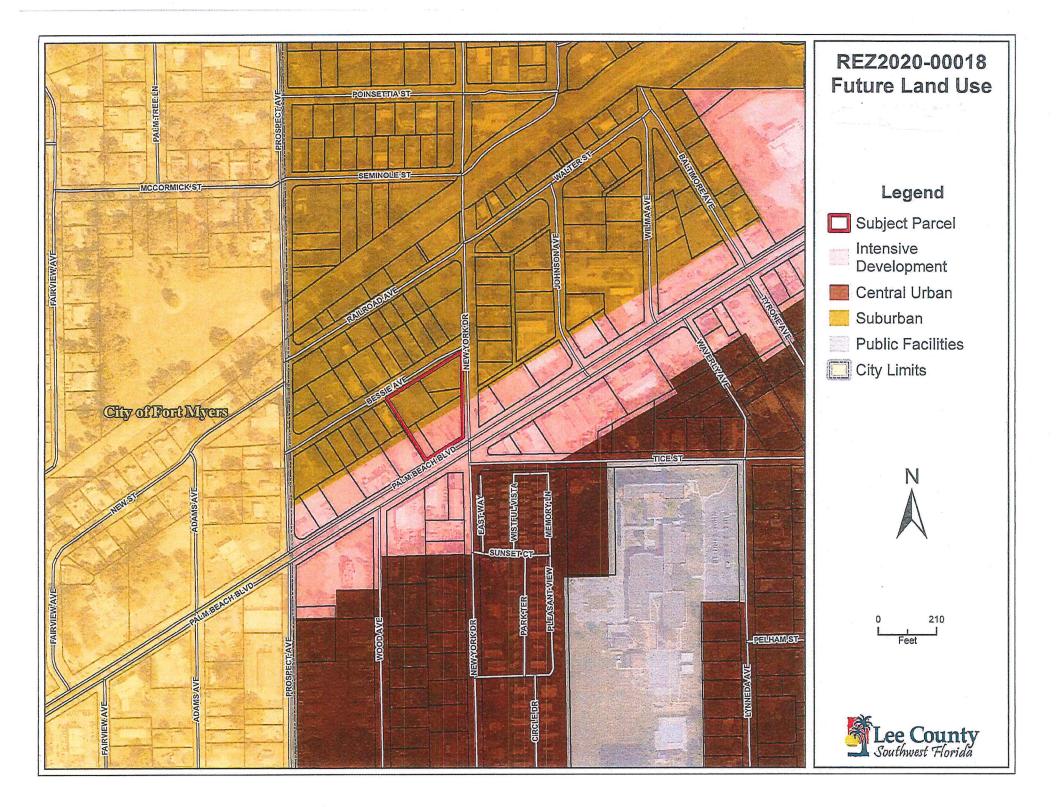
# Hearing Examiner Remarks

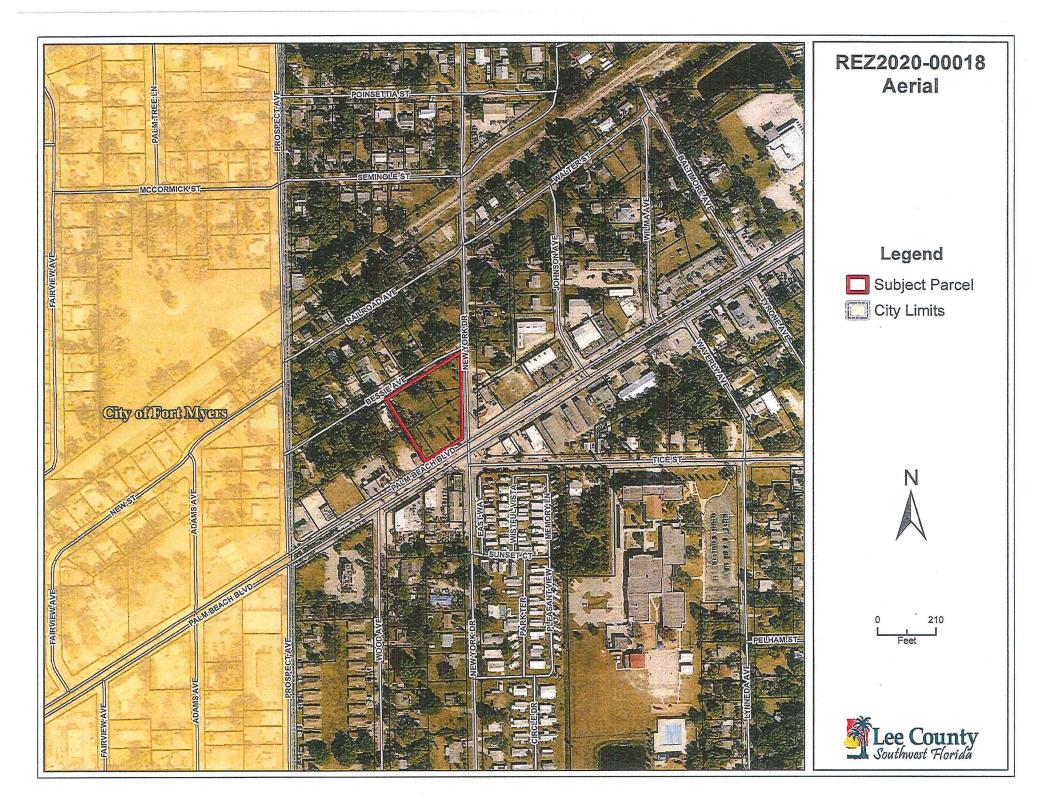
Palm Beach Boulevard is a commercial artery developed with a variety of commercial land uses. The proposed CN-2 zoning designation serves as a transition from a heavily traveled road corridor and residential neighborhoods to the north.

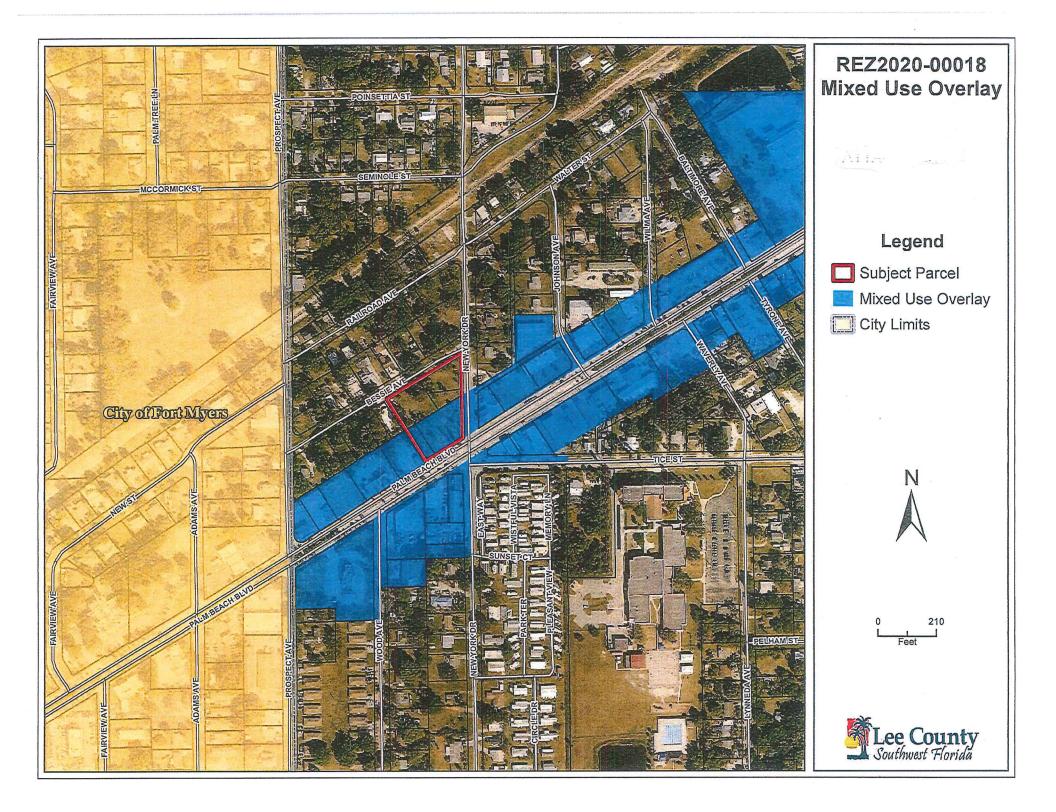
Redevelopment of a vacant tract along an established commercial road corridor constitutes infill development furthering the County's goals of compact development patterns.

Detailed recommendation follows

<sup>&</sup>lt;sup>1</sup> One member of the public spoke at hearing requesting the installation of traffic calming measures along Railroad Avenue north of the site.







#### OFFICE OF THE HEARING EXAMINER, LEE COUNTY, FLORIDA

#### HEARING EXAMINER RECOMMENDATION

- **REZONING:** REZ2020-00018
- Regarding: DOLLAR GENERAL
- Location: Northwest corner of the intersection of Palm Beach Boulevard & New York Drive

Fort Myers Shores Planning Community (District 4)

Hearing Date: April 22, 2021

#### I. <u>Request</u>

Rezone +/- 1.43 acres from Commercial (C-1) and Residential Single-Family (RS-1) to Neighborhood Commercial (CN-2).

Property legal description is set forth in Exhibit A.

#### II. <u>Hearing Examiner Recommendation</u>

Approval.

#### III. Discussion

The Hearing Examiner serves in an advisory capacity to the Board of County Commissioners (Board) on applications to rezone property.<sup>2</sup> In furtherance of this duty, the Hearing Examiner accepted testimony and evidence on the application to rezone property in Tice.

In preparing a recommendation to the Board, the Hearing Examiner must apply the Lee County Comprehensive Plan (Lee Plan), Land Development Code (LDC) and other County regulations to the facts presented at hearing. The record must contain substantial competent evidence to support the Hearing Examiner's recommendation to the Board.

The Hearing Examiner's recommendation of approval follows below.

<sup>&</sup>lt;sup>2</sup> LDC 34-145(d)(4)a.

#### <u>Request</u>

This is a <u>request to rezone 1.43</u> acres from Commercial (C-1) and Single Family Residential (RS-1) to Neighborhood Commercial (CN-2) on Palm Beach Boulevard in the Fort Myers Shores Planning Community.

The proposed CN-2 zoning district is a "conventional" zoning district. Therefore, it is not possible to impose conditions on approval. The CN-2 use regulation table will govern permitted uses, subject to limitations imposed by the Lee Plan.<sup>3</sup> Deviations from LDC requirements may be achieved via the variance or administrative amendment process.<sup>4</sup>

The purpose of the CN-2 district is to permit moderate scale consumer oriented commercial facilities.<sup>5</sup> Facilities of this type provide a broad mix of goods and services. Uses permitted in CN-2 include retail sale of food, drugs, sundries, hardware and some personal services.<sup>6</sup> Some uses may impact neighboring land uses.<sup>7</sup>

The Department of Community Development <u>staff recommended approval</u> of the requested CN-2 district.

#### Zoning History

The acre site is comprised of five parcels platted nearly 100 years ago. The existing C-1 and RS-1 zoning designations date back to the County's adoption of its original zoning maps. The lots were subsequently improved with single family dwellings.

The property is vacant.<sup>8</sup>

#### Character of the Area

<u>The site is located on Palm Beach Boulevard</u>, a four lane roadway serving as the Tice community's primary commercial corridor. Residential neighborhoods lie behind the commercial development.

<sup>&</sup>lt;sup>3</sup> LDC 34-621, 34-841(e), 34-844.

<sup>&</sup>lt;sup>4</sup> LDC 33-1535, 33-1545, 34-621(a)(2).

<sup>&</sup>lt;sup>5</sup> Applicant's representative testified the plan was to develop the site with a Dollar General Store. However, once the property is rezoned to the CN-2 district, any use authorized by the CN-2 Use Regulation Table is possible.

<sup>&</sup>lt;sup>6</sup> LDC 34-841(e).

<sup>&</sup>lt;sup>7</sup> Id.

<sup>&</sup>lt;sup>8</sup> There is a chain link fence running down the center of the tract.

The Palm Beach Boulevard is improved with medians, landscaping and sidewalks contributing to a pedestrian friendly environment.<sup>9</sup> <u>The CN-2 zoning district is consistent with development patterns along the road corridor.</u>

Lee Tran serves the area with bus stops on both sides of Palm Beach Boulevard.<sup>10</sup>

#### **Consistency with the Lee Plan**

The future land use designation is split between Intensive Development and Suburban. The Intensive Development future land use category is intended to support high density and intensity development.<sup>11</sup> Areas classified as Suburban are predominantly developed with residential uses.<sup>12</sup> The Lee Plan authorizes commercial uses in the Suburban category but emphasizes the importance of protecting nearby residential neighborhoods.<sup>13</sup>

The property lies south of the Caloosahatchee River east of the City of Fort Myers.<sup>14</sup> The Fort Myers Shores Planning Community includes two distinct areas: Caloosahatchee Shores and Palm Beach Boulevard. Palm Beach Boulevard is one of the County's original urban areas. <u>The County's vision for the area to redevelop as an attractive, mixed use community with employment and shopping opportunities.<sup>15</sup></u>

The property is in the <u>Tice Community Planning Area</u> and is subject to Lee Plan directives set forth in Goal 34.<sup>16</sup> Long term objectives for Tice include <u>redeveloping</u> the community into a vibrant mix of commercial and residential uses served by transit and safe pedestrian and bicycle facilities.

The property is within a <u>Mixed Use Overlay, which encourages an integrated mix</u> of uses to promote pedestrian friendliness and reduce dependence on <u>automobiles</u>. The Lee Plan encourages conventional zoning districts such as the requested CN-2 within the Mixed Use Overlay to facilitate urban forms of development.<sup>17</sup> Developers may compact site design standards to achieve this goal.<sup>18</sup>

<sup>&</sup>lt;sup>9</sup> Most businesses are within walking distances of residential neighborhoods. See Lee Plan Goals 11, 34, Policies 34.1.1, 39.2.1.

<sup>&</sup>lt;sup>10</sup> Lee Tran Route 100.

<sup>&</sup>lt;sup>11</sup> Lee Plan Policy 1.1.2 Intensive Development areas are considered "urban nodes" permitting a range of residential, commercial, office, and limited light industrial uses. Staff Report, page 5.

<sup>&</sup>lt;sup>12</sup> Lee Plan Policy 1.1.5 Suburban classified lands are often located on the fringe of more intense land uses. <sup>13</sup> Id.

<sup>&</sup>lt;sup>14</sup> Lee Plan Map 16. The site is in the Fort Myers Shores Planning Community.

<sup>&</sup>lt;sup>15</sup> Lee Plan Vision Statement Paragraph 4.

<sup>&</sup>lt;sup>16</sup> Goal 34: Tice Historic Community Plan.

<sup>&</sup>lt;sup>17</sup> Lee Plan Policies 11.2.4, 11.2.5.

<sup>&</sup>lt;sup>18</sup> Lee Plan Map 1, Page 6, Objective 11.2, Policy 11.2.5.

#### Compatibility

Palm Beach Boulevard is the primary commercial artery serving Tice. There are existing commercial centers to the south, east and west of the site. <u>The proposed</u> <u>CN-2 zoning designation</u> is appropriate because it <u>serves as a transition from a heavily traveled road corridor and residential neighborhoods to the north.</u>

Redevelopment of one of the few vacant tracts along the road corridor constitutes infill development furthering the County's goals of compact development patterns.<sup>19</sup>

Urban levels of police, fire and emergency services are available to the property.<sup>20</sup>

#### **Transportation**

The property sits in the northwest quadrant of a signalized intersection,<sup>21</sup> and has frontage on three roadways.<sup>22</sup> Palm Beach Boulevard (SR 80) is a four lane divided arterial roadway.<sup>23</sup> New York and Bessie Drives are County maintained local roads.<sup>24</sup>

Future development will be subject to road impact fees.<sup>25</sup> Site related improvements will be addressed during the development order approval process.<sup>26</sup>

#### <u>Environmental</u>

Although formerly developed with single family homes, the property is now vacant and cleared of vegetation. An environmental assessment confirms no environmentally critical features or natural resources are present on site.<sup>27</sup> The site must comply with LDC site development regulations to obtain a development order.

#### Urban Services

<u>The site has access to urban services and infrastructure</u>.<sup>28</sup> The property fronts on a four lane divided arterial roadway and two local streets.<sup>29</sup> Public water and

<sup>21</sup> Palm Beach Boulevard and New York Drive.

<sup>&</sup>lt;sup>19</sup> Lee Plan Objectives 2.1, 2.2, Policies 6.1.7, 11.2.7, 39.2.1, 39.2.2.

<sup>&</sup>lt;sup>20</sup> The Tice Fire District has a station within 1.6 miles with fire and emergency medical services. The closest Lee County Sheriff Office is located on Pondella Road approximately five miles from the site.

<sup>&</sup>lt;sup>22</sup> Palm Beach Boulevard, New York Drive and Bessie Drive.

<sup>&</sup>lt;sup>23</sup> Lee County AC 11-1. FDOT is the permitting authority for driveway access to Palm Beach Boulevard.

<sup>&</sup>lt;sup>24</sup> Id.

<sup>&</sup>lt;sup>25</sup> LDC 2-265.

<sup>&</sup>lt;sup>26</sup> Lee Plan Objective 39.1, Policy 39.1.1; LDC 10-8, 10-287.

<sup>&</sup>lt;sup>27</sup> Staff Report Attachment F.

<sup>&</sup>lt;sup>28</sup> Lee Plan Policy 2.2.1.

<sup>&</sup>lt;sup>29</sup> Palm Beach Boulevard (SR 80) is a state maintained arterial roadway. Lee County AC 11-1.

sanitary sewer service are available.<sup>30</sup> Lee Tran Route 100 runs east and westbound along Palm Beach Boulevard offering opportunities for future employees and patrons to access the property via mass transit.<sup>31</sup> Palm Beach Boulevard includes pedestrian and bicycle improvements connecting nearby neighborhoods to transit and goods and services along the corridor.<sup>32</sup>

#### <u>Public</u>

One member of the public spoke at the hearing. He expressed concerns on the need for traffic calming measures on Railroad Avenue.<sup>33</sup>

#### <u>Conclusion</u>

The Hearing Examiner concurs with staff's analysis and recommendation of approval. The requested CN-2 zoning district satisfies the approval criteria set out in the LDC.

#### IV. Findings and Conclusions

Based on the testimony and exhibits presented in the record, the Hearing Examiner makes the following findings and conclusions:

- A. The requested CN-2 zoning district complies with the Lee Plan. See Lee Plan Vision Statement Paragraph 4 (Fort Myers Shores Planning Community), Lee Plan Goals 2, 4, 6, 17, 34; Objectives 2.1, 2.2, 5.1, 6.1, 11.2, 34.2, 34.3 and Policies 1.1.2, 1.1.5, 2.1.1, 6.1.1, 6.1.3, 6.1.4, 6.1.7, 11.2.2, 11.2.4, 11.2.5, 34.1.2, 34.3.1. Maps 1, 16.
- B. The CN-2 Neighborhood Commercial zoning district:
  - 1. Meets the Land Development Code and other County regulations. Lee Plan Policies 6.1.3, 6.1.5, 11.2.4, and LDC 34-491, 34-621, 34-841, 34-844;
  - 2. Is compatible with existing and planned uses in the surrounding area. *See* Lee Plan Objectives 2.1, 2.2, 5.1, 6.1, 34.2, 34.3, Policies 1.1.2, 1.1.5, 5.1.5, 6.1.1, 6.1.4, 6.1.7, 11.2.7, 34.1.2, 34.2.2, 34.3.1, 34.3.3, 39.2.1

<sup>&</sup>lt;sup>30</sup> Staff Report Attachment G.

<sup>&</sup>lt;sup>31</sup> The Palm Beach Road corridor is served by pedestrian and bicycle facilities. Staff Report, See Lee Plan Goal 34, Policy 39.2.1.

<sup>&</sup>lt;sup>32</sup> Lee Plan Policies 11.2.2, 39.2.1, 43.1.1.

<sup>&</sup>lt;sup>33</sup> David Hall was encouraged to address the Board of County Commissioners at a future Board meeting during the "Public Presentation of Matters by Citizens" portion of the agenda.

- 3. Will provide access sufficient to support development. Expected impacts on transportation facilities will be addressed by County regulations. Lee Plan Objective 39.1, Policies 6.1.1, 6.1.5, 11.2.2, 34.2.2, 39.1.1
- 4. Will not adversely affect environmentally critical/sensitive areas or natural resources.
- 5. Will be served by urban services. See Lee Plan Glossary, Goal 4, Policies 1.1.2, 1.1.5, 2.2.1, 39.2.1, 43.1.1, Standards 4.1.1, 4.1.2.

Date of Recommendation: April 28, 2021.

Donna Marie Collins Chief Hearing Examiner

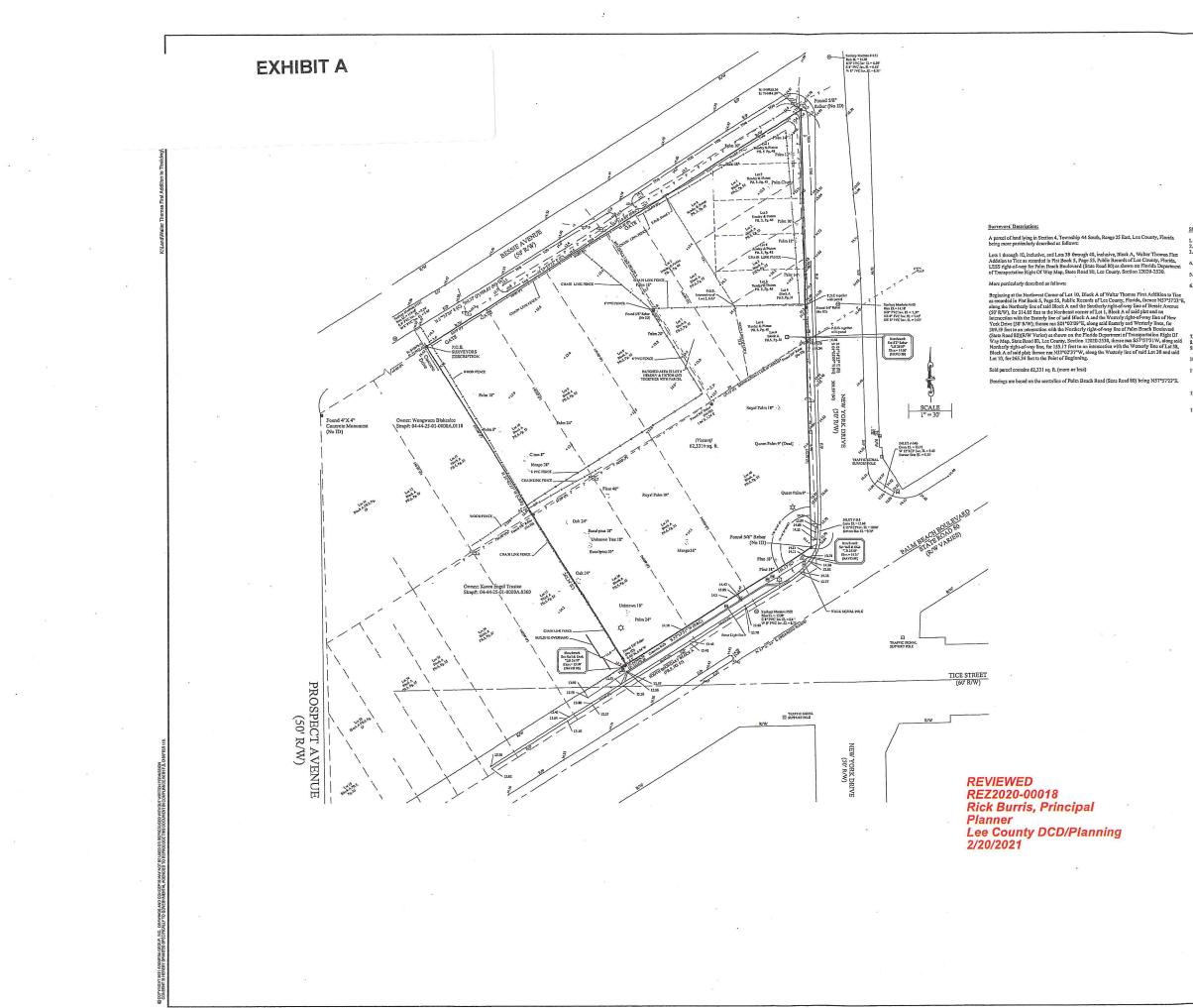
Lee County Hearing Examiner 1500 Monroe Street, Suite 218 Post Office Box 398 Fort Myers, FL 33902-0398

#### **Exhibits to Recommendation**

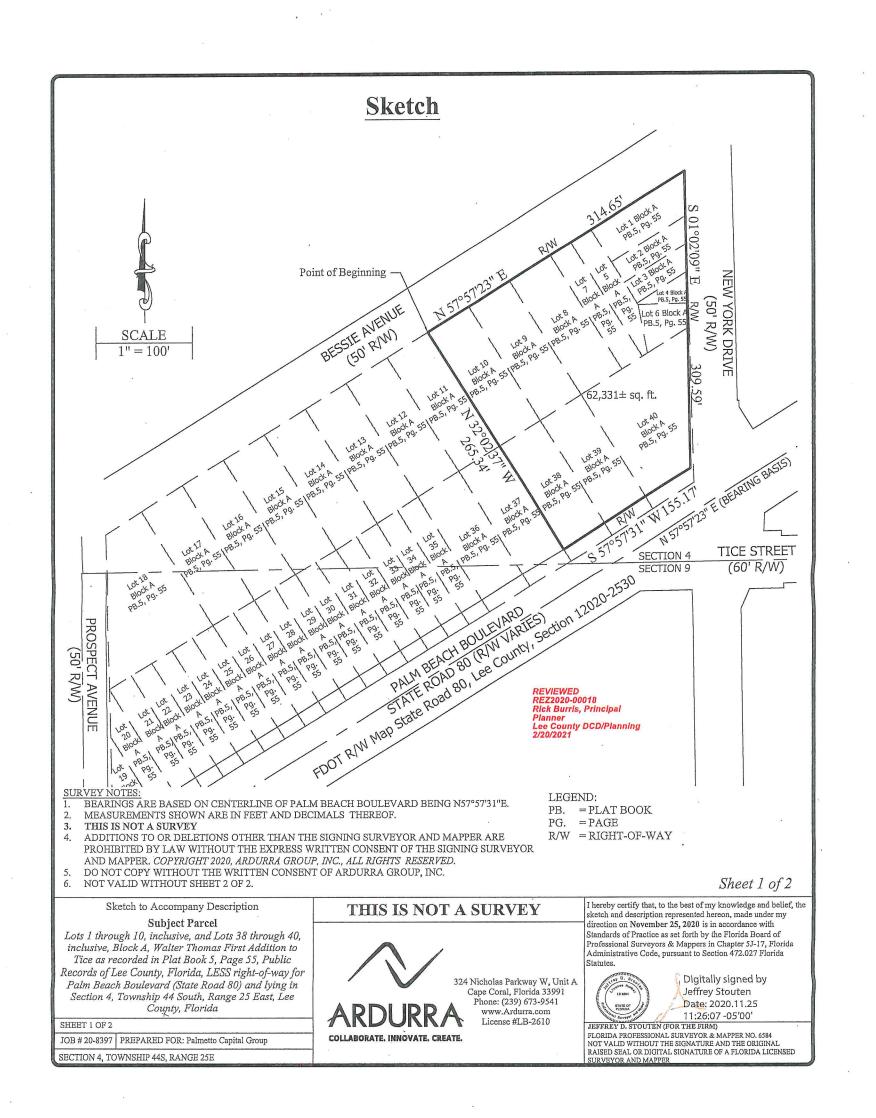
Exhibit A Legal Description and Vicinity Map Exhibit B Exhibits Presented at Hearing Exhibit C Hearing Participants Exhibit D Information

#### Exhibit A

#### LEGAL DESCRIPTION AND VICINITY MAP



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### Description

#### Subject Parcel Description:

A parcel of land lying in Section 4, Township 44 South, Range 25 East, Lee County, Florida being more particularly described as follows:

Lots 1 through 10, inclusive, and Lots 38 through 40, inclusive, Block A, Walter Thomas First Addition to Tice as recorded in Plat Book 5, Page 55, Public Records of Lee County, Florida, LESS right-of-way for Palm Beach Boulevard (State Road 80) as shown on Florida Department of Transportation Right Of Way Map, State Road 80, Lee County, Section 12020-2530.

#### Surveyors' Description:

Beginning at the Northwest Corner of Lot 10, Block A of Walter Thomas First Addition to Tice as recorded in Plat Book 5, Page 55, Public Records of Lee County, Florida, thence N57°57'23"E, along the Northerly line of said Block A and the Southerly right-of-way line of Bessie Avenue (50' R/W), for 314.65 feet to the Northeast corner of Lot 1, Block A of said plat and an intersection with the Easterly line of said Block A and the Westerly right-of-way line of New York Drive (50' R/W); thence run S01°02'09"E, along said Easterly and Westerly lines, for 309.59 feet to an intersection with the Northerly right-of-way line of Palm Beach Boulevard (State Road 80)(R/W Varies) as shown on the Florida Department of Transportation Right Of Way Map, State Road 80, Lee County, Section 12020-2530, thence run S57°57'31W, along said Northerly right-of-way line, for 155.17 feet to an intersection with the Westerly line of Lot 38, Block A of said plat; thence run N32°02'37"W, along the Westerly line of said Lot 38 and said Lot 10, for 265.34 feet to the Point of Beginning.

Said parcel contains 62,331 sq. ft. (more or less)

Bearings are based on the centerline of Palm Beach Road (State Road 80) being N57°57'23"E.

*REVIEWED REZ2020-00018 Rick Burris, Principal Planner Lee County DCD/Planning 2/20/2021* 

THIS IS NOT A SURVEY

Subject Parcel Lots 1 through 10, inclusive, and Lots 38 through 40, inclusive, Block A, Walter Thomas First Addition to Tice as recorded in Plat Book 5, Page 55, Public Records of Lee County, Florida, LESS right-of-way for Palm Beach Boulevard (State Road 80) and lying in Section 4, Township 44 South, Range 25 East, Lee County, Florida

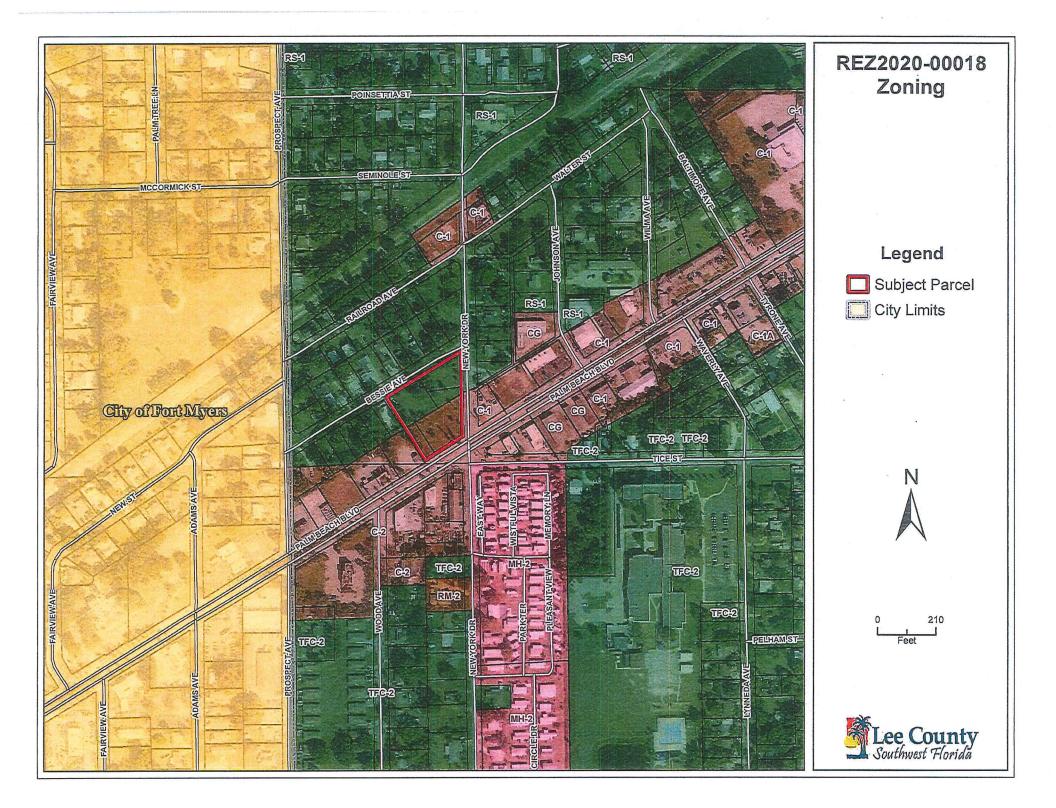
Description to Accompany Sketch

Not Valid without Sheet 1 of 2

I hereby certify that, to the best of my knowledge and belief, the sketch and description represented hereon, made under my direction on November 25, 2020 is in accordance with

3

Standards of Practice as set forth by the Florida Board of Professional Surveyors & Mappers in Chapter 5J-17, Florida Administrative Code, pursuant to Section 472.027 Florida Sheet 2 of 2 324 Nicholas Parkway W, Unit A Cape Coral, Florida 33991 tatutes Phone: (239) 673-9541 See Sheet 1 of 2 for Signature and Seal www.Ardurra.com JEFFREY D. STOUTEN (FOR THE FIRM) FLORIDA PROFESSIONAL SURVEYOR & MAPPER NO. 6584 NOT VALLD WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OR DIGITAL SIGNATURE OF A FLORIDA LICENSED SURVEYOR AND MAPPER License #LB-2610 JOB # 20-8397 PREPARED FOR: Palmetto Capital Group COLLABORATE. INNOVATE. CREATE. SECTION 4, TOWNSHIP 44S, RANGE 25E



#### Exhibit B

#### EXHIBITS PRESENTED AT HEARING

#### **STAFF EXHIBITS**

1. DCD Staff Report with attachments for DCI: Prepared by Adam Mendez, Lee County Planner, date stamped received April 8, 2021 (multiple pages – 8.5"x11" & 11"x14") [black & white, color]

#### APPLICANT EXHIBITS

- a. *Exhibit List:* Email from Linda Miller, Avalon Engineering, to Hearing Examiner, dated Tuesday, April 20, 2921 1:42 PM (2 pages 8.5"x11")
- 1. *Property Information Chart:* (1 page 8.5"x11")
- 2. *Aerial Map:* Prepared by Avalon Engineering (1 page 8.5"x11")[color]
- 3. *Zoning Map:* Prepared by Avalon Engineering (1 page 8.5"x11")
- 4. Land Use Map: Prepared by Avalon Engineering (1 page 8.5"x11")
- 5. *Mixed-Use Overlay Map:* Prepared by Avalon Engineering (1 page 8.5"x11")
- 6. *FLUCCS Map:* (1 page 8.5"x11")[color]
- 7. *Letter of Availability of Utilities:* From Mary McCormic, Technician Senior, Lee County Utilities Engineering, to Brendon Sloan, Avalon Engineering, Inc., dated December 2, 2020 (2 pages 8.5"x11")
- 8. *PowerPoint Presentation:* Prepared for REZ2020-00018, Dollar general (multiple pages 8.5"x11")[color]

#### Exhibit C

#### **HEARING PARTICIPANTS**

County Staff:

Adam Mendez

Applicant Representatives:

Linda Miller

Public Participants:

David S. Hall

#### Exhibit D

#### INFORMATION

#### UNAUTHORIZED COMMUNICATIONS

The LDC prohibits communications with the Hearing Examiner or her staff on the substance of pending zoning actions. There are limited exceptions for written communications requested by the Hearing Examiner, or where the Hearing Examiner seeks advice from a disinterested expert.

#### HEARING BEFORE LEE COUNTY BOARD OF COUNTY COMMISSIONERS

A. The Hearing Examiner will provide a copy of this recommendation to the Board of County Commissioners.

B. The Board will hold a final hearing to consider the Recommendation and record made before the Hearing Examiner. The Department of Community Development will notify hearing participants of the final hearing date. Only Parties and participants may address the Board at the final hearing. Presentation by participants are limited to the substance of testimony presented to the Hearing Examiner, testimony concerning the correctness of Findings of Fact or Conclusions of Law contained in the Recommendation, or allegations of relevant new evidence not known or that could not have been reasonably discovered by the speaker at the time of the Hearing Examiner hearing.

#### COPIES OF TESTIMONY AND TRANSCRIPTS

A. Every hearing is recorded. Recordings are public records that become part of the case file maintained by the Department of Community Development. The case file and recordings are available for public examination Monday through Friday between 8:00 a.m. and 4:30 p.m.

B. A verbatim transcript may also be available for purchase from the court reporting service.

#### Lee County, Florida DEPARTMENT OF COMMUNITY DEVELOPMENT ZONING SECTION STAFF REPORT

Case Number: REZ2020-00018 Case Name: Dollar General Area to be Rezoned: +/- 1.43 Acres Case Type: Conventional Rezoning Sufficiency Date: February 22, 2021 Hearing Date: April 22, 2021

#### **REQUEST:**

Brendan Sloan, P.E., has filed an application to rezone approximately 1.43 acres from Commercial (C-1) and Residential Single-Family (RS-1) to Neighborhood Commercial (CN-2).

The subject property is located at the northwest corner of the Palm Beach Boulevard and New York Drive intersection within the Fort Myers Shores Planning Community, Commissioner District #4. The applicant has indicated the property's current STRAP Numbers are 04-44-25-01-0000A.0380, 04-44-25-01-0000A.0390, 04-44-25-02-00002.0000, 04-44-25-02-00001.0000 and 04-44-25-01-0000A.0080. A legal description and survey of the subject property are attached as Attachment B of this report.

#### **SUMMARY:**

Staff recommends **APPROVAL** of the applicant's request.

#### **HISTORY OF PARCEL:**

In what is one of the older settlements in the unincorporated areas of Lee County, the subject property lies within the Tice Community on the north side of Palm Beach Boulevard, just shy of the easterly city limits of Fort Myers. Re-platted in 1924, the subject property is also bound by New York Drive and Bessie Avenue. The primary thoroughfares in the surrounding area, Tice Street, New York Avenue and Palm Beach Boulevard all converge at the intersection upon which the subject property fronts. Each of the five parcels that comprise the property were occupied with single-family residences in the early 2000s, with all structures removed between 2002 and 2011. The  $\pm 0.68$  acres of C-1 and 0.75 acres of RS-1 zoning designations are original, with no zoning actions preceding this request.

#### CHARACTER OF THE AREA:

The area surrounding the subject property is notably characterized by its proximity to the City of Fort Myers, the mixture of longstanding commercial buildings established in the 1940s and 1950s which are situated closely against the Palm Beach Boulevard right-of-way, and various residential housing types. The area also includes the Seminole Gulf locomotive railroad, and the Tice Elementary School established in 1927, which abut the Tice Community Pool. Sidewalks along the north side of Tice Street and both sides of Palm Beach Boulevard are heavily utilized by pedestrians and cyclist, and allow access

to nearby transit stops. These areas described are located in the Intensive Development, Central Urban, Suburban and Public Facilities respectively as designated by the Lee County Comprehensive Plan (Lee Plan) future land use map. The properties immediately surrounding the subject property are exhibited in Attachment C of this report and can be characterized by cardinal direction as follows:

#### <u>North</u>

Developed with a single-family neighborhood lands to the north of the subject property are located in the Suburban future land use category and are zoned Residential Single-Family (RS-1), with the exception of two Commercial (C-1) zoned properties at New York Drive's intersection with the locomotive railroad.

#### <u>East</u>

Lands to the east of the subject property are located in the Intensive Development and Suburban future land use categories. These lands are zoned C-1 and General Commercial (CG) along the north side of Palm Beach Boulevard and abut single-family residential (RS-1 zoning, Suburban future land use category) to the north. Commercial activity in this direction includes automotive repair and service, retail, warehousing, two separate motels and a United States Postal Service Office and distribution facility.

#### <u>South</u>

Lands to the south of the subject property are located in the Intensive Development and Central Urban future land use categories and are zoned Commercial (C-2) and Mobile Home (MH-2). Commercial activity includes automotive repair and service, appliance sales and service with open storage, and a place of worship. Across New York Drive on the south side Tice Street is Tice Mobile Home Court, a manufactured home and recreational vehicle park established in 1953.

#### <u>West</u>

Lands to the west of the subject property are located in the Intensive Development and Suburban future land use categories. These lands are zoned C-1 and C-2 along the north side of Palm Beach Boulevard, and abut single-family residential (RS-1). The nearest single-family residence abuts the subject property in this area. Existing commercial activity includes a small beauty salon, personal services, and a twostory mixed-use building currently utilized as a place of worship with apartment housing above.

#### **Availability of Urban Services**

Urban services are defined by the Lee Plan as "the requisite services, facilities, capital improvements, and infrastructure necessary to support growth and development at levels of urban density and intensity." The following details the level of urban services currently serving the subject property:

<u>Public sewer and water</u>: The applicant has provided a water and sewer availability letter from Lee County Utilities. Potable water and wastewater lines are available along Palm Beach Boulevard with available capacity (see Attachment G).

<u>Paved streets and roads</u>: The subject property has approximately 810 feet of frontage divided among the three roadways. Palm Beach Boulevard is State-maintained arterial road, while New York Drive and Bessie Drive are county-maintained paved local roads. New York Drive is signalized at its intersection with Palm Beach Boulevard.

<u>Public transit and pedestrian facilities</u>: According to the 2016 Transit Development Plan, Lee Tran Route #100 runs eastbound and westbound on Palm Beach Boulevard. This route serves the subject property with the closest bus stop (Stop #10675) located within 40 feet of the subject property situated with a bench. Sidewalks and cross-walks connect bicycle and foot traffic along the surrounding road network.

<u>Parks and recreation facilities and community facilities:</u> As noted, Tice Community Pool is located in close proximity to the subject property. Schandler Hall Community Park is located half a mile east on Palm Beach Boulevard. Terry Park and Sports Complex, as well as Billy Creek Preserve, are located within 1.5 miles of the subject property.

<u>Police, fire, and emergency services</u>: The subject property will be provided urban levels of police, fire and emergency services. Fire protection is provided by Tice Fire Station in the Tice Fire District, located at 9351 Workmen Way, approximately 1.6 miles from the subject property. This fire station also contains an EMS substation. The Lee County Sherriff's Office North District substation is located at 121 Pondella Road, approximately 5.1 miles from the subject property.

<u>Schools</u>: As noted, Tice Elementary School is located in close proximity to the subject property. The subject property is served by the School District of Lee County and is located in East Zone E-2. This request will not generate impact on classroom demands as dwelling units are not permitted by right in the proposed CN-2 zoning district.

#### ANALYSIS:

The request seeks to increase the area and depth of commercial zoning on the subject property in order to accommodate appreciable neighborhood commercial development situated at a signalized intersection prominently located in the Tice Community. The southern ±140 feet of the subject property fronting Palm Beach Boulevard currently holds a Commercial (C-1) zoning designation while the northern ±130 feet is zoned Residential Single-Family (RS-1). The Intensive Development and Suburban future land use designations closely correspond with the existing commercial and residential allocations along this side of the Palm Beach Boulevard Corridor. The existing commercial allocations are also located in the Mixed-Use Overlay (MUO), which is geared to accommodate greater density and intensity of development by exempting commercial intensity from reducing allowable gross density. The MUO also reduces requirements such as setbacks, parking spaces, buffer and open space requirements to greater accommodate compact mixed-use development and redevelopment (see Attachment D).

The wide array of land uses permitted in the existing C-1 zoning designation are incompatible with the adjacent residential areas, with the transition to Commercial C-2 zoning on the western abutting property only intensifying this circumstance. The C-1 District permits by right uses that are often associated with noise, glare, high levels of traffic, and potential night time operations, such as convenience food and beverage stores with or without fuel pumps, auto repair and service, car washes,

drive-through facilities for any permitted use, outdoor recreation facilities, fast food restaurants, open storage, and vehicle and equipment dealers. All of the aforementioned uses are not permitted by right in the proposed Neighborhood Commercial (CN-2) District. The Lee County Land Development Code (LDC) sets forth the purpose and intent of the CN-2 District in Section 34-841:

The purpose and intent of the CN-2 district is to permit the designation of suitable locations for consumer-oriented commercial facilities of moderate scale, including neighborhood shopping centers, and to facilitate their proper development and use. The facilities include the functions of CN-1 commercial places, but the greater floor area and the broader mix of goods and services available results in a wider market or service area, a larger population served, and a greater impact on surrounding land uses. The primary uses provided for include retail trade in food, drugs, sundries, hardware and similar items, and the provision of personal services.

The applicant states that the use of the property will be a Dollar General retail store, which is typically classified as a variety store, as defined by LDC Section 34-2. While a variety store is permitted by right within the proposed CN-2 District, and is contemplated by this request, the county cannot condition the approval for a singular use. Therefore, the analysis contained herein considers potential outcomes associated with development within the parameters of the CN-2 zoning district. The approval of this request would result in 1.43 acres of land zoned primarily for neighborhood-level commercial retail and personal services, which would now extend north to Bessie Avenue. While neighborhood-level commercial development may extend further northward, the potential impacts associated with the southern half of the property are significantly reduced by exchanging the C-1 zoning designation for a far more compatible CN-2 zoning designation given the existing stark transition between commercial and residential-single family in this area.

#### <u>Review Criteria</u>

LDC Section 34-145 establishes the review criteria for requests for conventional rezoning. Before recommending approval of a conventional rezoning request, the Hearing Examiner must find the request:

- a) Complies with the Lee Plan;
- b) Meets the Land Development Code and other applicable County regulations or qualifies for deviations;
- c) Is compatible with existing and planned uses in the surrounding area;
- d) Will provide access sufficient to support the proposed development intensity;
- e) The expected impacts on transportation facilities will be addressed by existing County regulations and conditions of approval;
- f) Will not adversely affect environmentally critical or sensitive areas and natural resources; and
- g) Will be served by urban services, defined in the Lee Plan, if located in a future urban area category.

The applicant has provided a narrative that addresses the proposed rezoning with analysis of the applicable criteria (see Attachment H). The following text provides staff's analysis of the request, as measured by the established criteria.

#### a) <u>Compliance with the Lee Plan</u>

According to Lee Plan Map 1, Page 1, and as noted above, the subject property is located in the Intensive Development and Suburban future land use categories as delineated by Attachment C of this report. Lee Plan Policy 1.1.2 states that "by virtue of their location, the county's current development patterns, and the available and potential levels of public services, they [Intensive Development areas] are well suited to accommodate high densities and intensities." Intensive Development areas are considered "urban nodes" and permit a wide range of residential, commercial, office, and limited light industrial uses. Policy 1.1.5, in part, defines the Suburban future land use category as "predominantly residential areas that are either on the fringe of the Central Urban or Urban Community future land use categories or in areas where it is appropriate to protect existing or emerging residential neighborhoods." Permissible uses in the Suburban areas include residential, commercial and office, with industrial uses expressly prohibited. The Suburban areas in this particular area of the county are on the fringe of intensive development areas which create an abruptness to the transition of permissible abutting land uses which may prove incompatible. The requested rezoning from C-1 and RS-1 to allow neighborhood levels of commercial activity permitted within the CN-2 designation is far more compatible with abutting single-family neighborhoods and is consistent with the expectations of both future land use categories. Therefore, the request is **CONSISTENT with Polices 1.1.2 and 1.1.5 of the Lee Plan**.

Map 16 of Lee Plan identifies the subject property as located in the Fort Myers Shores Planning Community. The Lee Plan acknowledges that the large geographic area that is Fort Myers Shores contains two distinct communities: Caloosahatchee Shores which is east of Interstate 75 (I-75), and Palm Beach Boulevard, west of I-75. West of I-75 in this planning community, Palm Beach Boulevard is envisioned through 2030 within Vision Statement #4 of the Lee Plan, which states that "an effort will be made to renovate and beautify aging commercial centers along the corridor."

A 'Community Plan Area', closely analogous to a 'Planning Community Area', means a Goal in the Lee Plan specific to a defined area of the county with long term community objectives and policies that complement and remain consistent with the county's overall goals, objectives, and policies (Lee Plan Glossary definition.) The subject property is located in the Tice Community Planning Area according to Lee Plan Map 1, Page 2, and is described as Palm Beach Boulevard west of I-75 in the Fort Myers Shores Vision Statement. Tice Community's long term objectives and policies are carried out in **Goal 34**. Goal 34, Tice Historic Community Plan, seeks "redevelopment of the community into a vibrant commercial and residential neighborhood, with mixed use centers, landscaping, safe pedestrian and bicycle facilities, improved transit service, and an array of public space and recreational areas while protecting the community's historic resources". **Objective 34.3** provides directive policies to establish transitional uses between commercial corridors and single-family residential neighborhoods. **Policy 34.3.1** further defines transitional uses as "pedestrian oriented retail uses, commercial offices, day care centers, mid-rise multifamily buildings, live-work units, and accessory apartments." **Policy 34.3.2** states "consider development standards to allow the conversion of single-family uses abutting commercial uses that are located along commercial corridors into transitional uses."

**Policy 34.3.3** states "*it is anticipated that transitional uses will coexist with existing single-family residences in the transitional use area.*" The land uses permissible in the proposed Neighborhood Commercial (CN-2) district are consistent with the transitional uses identified in Objective 34.3. The request seeks conversion of single-family uses to transitional uses in a manner that minimally abuts the surrounding single-family neighborhood by assembling a large contiguous corner of the platted block. The request is closely forecasted by the Tice Community Planning Area, therefore, the request is **CONSISTENT with Goal 34.** 

As described in **Lee Plan Policy 1.7.6**, the Planning Communities Map and Acreage Allocation Table (see Map 16 and Table 1(b) and Policies 1.1.1 and 2.2.2) depicts the proposed distribution, extent, and location of generalized land uses for the year 2030. The Lee Plan currently allocates 44.37 acres of commercial development within the Fort Myers Shores planning community by the year 2030. Staff finds the request consistent with the allocations for the Fort Myers Shores planning community. This finding is not a guarantee that there will be sufficient allocations for commercial development in the future, further determinations will be made at time of local development order review. Therefore, the request is **CONSISTENT with Policy 1.7.6**.

**Objective 2.1** states that "contiguous and compact growth patterns will be promoted through the rezoning process..." in order to contain urban sprawl, conserve land, minimize the cost of services, and minimize impacts on natural resources, among other things. Objective 2.2 directs new growth to urban areas where "adequate public facilities exist or are assured, and where compact and contiguous development patterns can be created." The subject property is located in an older urban area of the county where urban services are planned or already in place, as previously detailed. The requested rezoning will facilitate commercial infill which is indicative of compact and contiguous development. Staff finds the rezoning request to be **CONSISTENT** with **Objectives 2.1 and 2.2**.

**Standards 4.1.1 and 4.1.2** establish parameters in which development is to be connected to potable water service and sanitary sewer service. These standards are effectuated at time of development order by LDC Sections 10-352 (water) and 10-353 (sewer). As noted, the applicant has provided a water and sewer availability letter from Lee County Utilities. Potable water and wastewater lines are available along Palm Beach Boulevard with available capacity (see Attachment G). The request is **CONSISTENT with Standards 4.1.1 and 4.1.2**.

**Policy 5.1.5** aims to protect existing and future residential areas from any encroachment of uses that are potentially destructive to the character and integrity of the residential environment, and in the case of conventional rezoning requests, to ensure buffers required by the Land Development Code are adequate to address potentially incompatible uses in a satisfactory manner. Thorough review of Policy 5.1.5 is warranted in this instance as one residence abuts the subject property to the west, and several home sites are within close proximity to the north across Bessie Avenue.

The Mixed-Use Overlay does not encompass the portion of the property that is currently zoned residential (see Attachment D). This fact is important as development in this area of the property may

not utilize the alternative regulations which reduce safeguards, such as separation and buffering from abutting land uses. LDC Section 10-416(d)(6) requires that "if roads, drives, or parking areas are located less than 125 feet from an existing single-family residential subdivision or single-family residential lots, a solid wall or combination berm and solid wall not less than eight feet in height must be constructed not less than 25 feet from the abutting property and landscaped (between the wall and the abutting property) with a minimum of five trees and 18 shrubs per 100 lineal feet or a 30-foot wide Type F buffer with the hedge planted a minimum of 20 feet from the abutting property." This buffer regulation, among other right-of-way buffers required along Bessie Avenue, New York Drive and Palm Beach Boulevard, and other design-related provisions in Chapter 10 of the LDC will adequately influence the layout of future buildings, design of parking areas, and drives and access points on the subject property to minimize potential encroachments. As previously stated, potential impacts from the southern half of the property are significantly reduced by exchanging the existing C-1 zoning designation for a far more compatible CN-2 designation. The CN-2 Designation is implemented for neighborhood-level commercial retail and personal services and is more restrictive in terms of uses that may be incompatible with existing and future residential areas. Land development regulations considered, the request is **CONSISTENT** with Lee Plan Policy 5.1.5.

**Goal 6** promotes orderly and well-planned commercial development within appropriate locations in the county. **Policy 6.1.1** requires development approvals for commercial land uses to be consistent with various policies, including traffic and access impacts, screening and buffering, adequacy of urban services, compatibility with surrounding land uses, proximity to other similar centers and environmental considerations. **Policy 6.1.4** states that "commercial development will be approved only when compatible with adjacent existing and proposed land uses and with existing and programmed public services and facilities." **Policy 6.1.5** requires that "commercial development be designed to protect the traffic-carrying capacity of roads and streets." As further expanded in the criteria analysis below, Staff finds that the request is **CONSISTENT** with **Goal 6** and **Policies 6.1.1, 6.1.4 and 6.1.5**.

#### b) Land Development Code Compliance

LDC Sections 34-841 through 34-845 establish use and property development regulations for conventional commercial districts, which includes the proposed CN-2 District. From a spatial standpoint, the CN-2 district requires a minimum of 100 feet of lot width, 100 feet of lot depth, and a minimum lot area of 10,000 square feet. The 1.43 acres of land area subject to this rezoning exceeds these minimum dimensional requirements (see Attachment B). Additional land development regulations are established in Chapters 34 and 10 of the LDC, including supplemental regulations predicated on the desired use and commercial design standards which regulate height, bulk, setbacks, buffer requirements, lot coverage and open space. Compliance with all design-related provisions of the Land Development Code must be demonstrated to obtain development order approval as no variances or deviations are proposed at this time.

#### c) <u>Compatibility with existing and planned uses in the surrounding area</u>

As defined by LDC Section 34-2 "compatible means, in describing the relation between two land uses, buildings or structures, or zoning districts, the state wherein those two things exhibit either a positive relationship based on fit, similarity or reciprocity of characteristics, or a neutral relationship based on a relative lack of conflict (actual or potential) or on a failure to communicate negative or harmful influences one to another." As outlined above, staff finds the requested rezoning will be compatible with existing and proposed residential uses. Staff also finds that the CN-2 District will be compatible with all other land uses and zoning districts within the proximity described in in the surrounding land use analysis.

#### d) Sufficiency of Access and Transportation Impacts

Palm Beach Boulevard, New York Drive, Bessie Avenue and Tice Street comprise the immediate surrounding road network. The roadways are county-maintained, with the exception of Palm Beach Boulevard, which is maintained by the State of Florida. With over 800 feet of road frontage, the property will be required to meet access-related regulations such as connection separation, and will need to obtain approval from County and State Department of Transportation relative to proposed access points. Staff finds that the LDC-imposed requirements on future development are sufficient to address potential roadway improvements and traffic impacts at time of development order approval.

With respect to pedestrian traffic, the County conducted a walkability study in the Tice area in 2014 (see Attachment E). As noted, this area is an older urbanized part of Lee County and pedestrian use of the surrounding sidewalks is frequent. The map indicates that walkability in proximity to the intersection the subject property is located at transitions from "Basic Walkability" to "Minimal Walkability." New York Drive, including north of Palm Beach Boulevard, does not currently have a sidewalk. The LDC, specifically Section 10-256, requires commercial development to install ADA-compliant sidewalks and bicycle ways along all the frontages of the property, subject to a development order, and to connect to existing pedestrian facilities within one-quarter mile. County regulations also require improvements to the closest transit (bus) stop, including installation of secure bike racks, dependent on the scale of the development. These pedestrian facilities will be required to connect to on-site sidewalks leading to the entrances of development on the subject property. New commercial development of neighborhood-level retail and personal service uses with corresponding required walkability, bicycle way and transit improvements will complement and advance the Tice Community plan and further reduce reliance on personal vehicles for day to day needs.

#### f) No adverse impacts to environmentally critical or sensitive areas and natural resources

Although not required for sufficiency of conventional rezoning applications, the applicant has provided a detailed environmental assessment of the subject property, which is attached as Attachment F of this report. The property is vacant, with the exception of existing fencing

within the residentially-zoned areas, and is primarily cleared of vegetation. The property does not contain environmentally critical or sensitive areas and natural resources. Such impacts are considered and will continue to be monitored at time of development order approval.

## g) <u>Will be served by urban services, defined in the Lee Plan, if located in a Future Urban area</u> <u>category</u>

As noted and defined above, the subject property is located within a future urban area. The subject property has adequate access to urban services to accommodate the development possible within the requested rezoning. Future improvements required as part of development order approval will further improve urban services and pedestrian facilities.

#### **CONCLUSION**:

The requested rezoning from Residential (RS-1) and Commercial (C-1) to Neighborhood Commercial (CN-2) is consistent with the Lee Plan and Land Development Code. The rezoning will not result in negative impacts to surrounding land uses, urban services, or infrastructure. The subject property is sufficiently served by fire, police, and emergency services. The request will not impact any aquatic preserves, or flood hazard areas; or adversely affect environmentally critical or sensitive areas and natural resources. Therefore, staff recommends **APPROVAL** of the applicant's request.

#### ATTACHEMENTS:

- A. Expert Witness Information
- B. Legal Description and Boundary Survey
- C. Aerial, Future Land Use, and Current Zoning Maps
- D. Mixed-Use Overlay Map
- E. 2014 Walkability Map
- F. Applicant's Environmental Assessment
- G. Lee County Utilities Availability Letter
- H. Applicant's Request Statement

# CPA2021-00001 LEE PLAN 2045 UPDATE

#### Summary Sheet Lee Plan 2045 Update, CPA2021-00001

#### **BoCC Direction:**

On February 2, 2021 Staff was directed to update the Lee Plan planning horizon to 2045 in order to maintain consistency with § 163.3177(1)(f)(3), F.S. which requires the Lee Plan be based on at least a 10-year planning period. The current Lee Plan has a planning horizon year of 2030.

#### Purpose:

The proposed amendments update Lee Plan text, maps, and tables that relate to the planning horizon and also includes non-substantive changes such as: updating references to regulatory citations and department and organization names; removing out-of-date requirements and policy directives for completed tasks; modifications necessary to reflect recent annexations and incorporations; and, reorganizing and renumbering as needed for clarity.

#### **Public Comments:**

There was <u>no public comment</u> concerning the proposed amendment at the LPA Hearing.

#### LPA Motion:

A motion was made to recommend that the Board of County Commissioners <u>transmit</u> CPA2021-00001. The LPA, in their motion, recommended that Table 1(b) and Map1, Page 2 retain the names of the planning communities, as it would be easier for the public to use and understand. The motion passed 6 to 0.

RAYMOND BLACKSMITH	AYE
DUSTIN GARDNER	AYE
JAMES M. INK	AYE
ALICIA OLIVO	AYE
DON SCHROTENBOER	AYE
STAN STOUDER	AYE
HENRY ZUBA	ABSENT

#### **Response to LPA Motion:**

Staff agrees with the LPAs recommendation. The changes as requested by the LPA are reflected in attachments 2 and 3. To accommodate the requested changes, additional amendments were also required to Lee Plan text. New changes to Lee Plan text are shown in attachment 1 with a double underline.

#### Staff Recommendation:

Staff recommends that the BoCC *transmit* the proposed amendment as provided in attachments 1, 2, and 3.

#### STAFF REPORT FOR CPA2021-00001: LEE PLAN 2045 UPDATE

Text & Map Amendments to the Lee Plan



#### Amendment Type:

County Initiated: 2/2/2021

#### Staff Recommendation:

*Transmit* the amendments as provided in the attachments

Hearing Dates: LPA: 4/26/2021 BoCC #1: 6/2/2021

#### Attachments:

- 1: Text Amendments
- 2: Map Amendments
- 3: Table Amendments

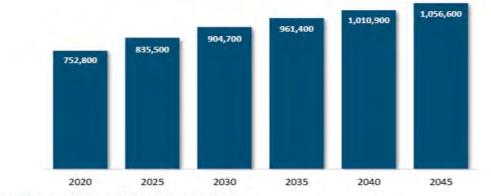
#### PURPOSE

The purpose of these amendments is to update the planning horizon to the year 2045. This update is needed for consistency with § 163.3177(1)(f)(3), F.S. which requires the Lee Plan be based on at least a 10-year planning period. The current Lee Plan has a planning horizon year of 2030.

The proposed amendments update Lee Plan text, maps, and tables that relate to the planning horizon and also includes non-substantive changes such as: updating references to regulatory citations and department and organization names; removing out-of-date requirements and policy directives for completed tasks; modifications necessary to reflect recent annexations and incorporations; and, reorganizing and renumbering as needed for clarity.

#### SUMMARY

The current Lee Plan is based on the Bureau of Economic and Business Research (BEBR) population projection for the year 2030, as the projection existed in 2005. The updated planning horizon is based on current BEBR population projections for Lee County as shown in the chart below.



#### **2020 – 2045 POPULATION PROJECTIONS**

Source: Bureau of Economic and Business Research (BEBR)

Lee County has a projected population of 1,056,000 persons in the year 2045. Using socio-economic data from the 2045 MPO Transportation Plan, assumptions are made about the development trends necessary to accommodate the anticipated population growth; it is assumed that the trends envisioned for the 2030 planning horizon will continue through 2045. As such, the proposed revisions, with the exceptions discussed in this report, do not change the intent of the Goals, Objectives, and Policies being amended to reflect the 2045 planning horizon.

#### PART 1

#### STAFF DISCUSSION AND ANALYSIS

The Board of County Commissioners directed staff to amend the Lee Plan planning horizon to the year 2045 at their February 2, 2021 regular board meeting. This direction authorized staff to update text, maps, and tables that relate to the planning horizon and other non-substantive changes.

The recommended amendments can be found in Attachments 1 (text), 2 (maps), and 3 (tables). The attachments show the proposed amendments in strike-through and underlined format and provide a brief reason for each change.

Florida Statute 163.3177(1)(f)(3) provides that local comprehensive plans be based on at least a 10-year planning period; therefore, the Lee Plan planning horizon must be updated to remain in compliance with state statute. Staff recommends the planning horizon be extended to the year 2045 to be consistent with the most recently adopted MPO Transportation Plan. Current BEBR projections for the year 2045 provide that Lee County will have a population of 1,056,600.

To incorporate the new planning horizon, Lee Plan Goals, Objectives, and Policies are being amended that: specifically state the 2030 planning horizon date; are policy directives for completed tasks or have past-due completion dates; and, have outdated references to regulatory citations and department/organization names. With a few exceptions, as discussed below, the proposed amendments do not change the intent of any of the Goals, Objectives or Policies.

**Table 1(b) Update:** The most critical amendment for incorporating the new planning horizon into the Lee Plan is to the Planning Community Allocation Table ("Table 1(b)"). Table 1(b) was originally adopted in 1990, amended by the county in 1998 and 2007, and subsequently amended numerous times via privately initiated amendments to maintain the adopted 2030 population projection while accommodating new development.

The methodology for updating Table 1(b) to reflect the 2045 BEBR population projections and allocations for Lee County is summarized below.

<u>Residential Population Methodology:</u> Residential land use data from the existing land use database, maintained by staff, has been integrated with census data showing persons per household and residential occupancy rates in order to estimate total population by year. These estimates have been compared with the annual estimates from BEBR. This comparison of data reveals consistency between the two data sources; therefore, there is no justifiable basis for adopting a 2045 population projection from a different source. Staff recommends using the BEBR mid-range 2045 projection<sup>1</sup> as the official population projection for Table 1(b). The table below identifies the total Lee County projected population for 2045 from BEBR. The table also identifies the projected 2045 populations for each of Lee County's six incorporated areas. The population

<sup>&</sup>lt;sup>1</sup> Florida Population Studies: Projections of Florida Population by County, Volume 53, Bulletin 186, January 2020

projections for the City of Bonita Springs, City of Cape Coral, City of Fort Myers, City of Sanibel, Town of Fort Myers Beach, and the Village of Estero are based on information provided, or made available, by these municipalities.

Jurisdiction	Projected Population
Total Lee County	1,056,600
Bonita Springs	70,723
Cape Coral	263,782
Estero	51,848
Fort Myers	115,000
Fort Myers Beach	7,000
Sanibel	7,100
Unincorporated Lee County	541,147

The total Lee County 2045 projected population, less the projected populations of the municipalities is 541,147 persons.

Recognized planning literature also supports the application of a 25% population buffer to the projected increase in population. The projected increase in population for unincorporated Lee County is 172,732; therefore, the 25% buffer is 43,183. This number is then added to unincorporated Lee County's projected 2045 population (541,147) for a total of 584,330 people that must be accommodated within Lee County by the Lee Plan.

The accommodated population is distributed amongst the existing 22 planning communities (as listed on Table 1(b) and shown on Map 16). The January 1, 2020 dwelling unit count and existing residential acres from the existing land use database were set as the baseline for the reallocation analysis. The difference in population from 2030 to 2045 was used as a target for determining the need for new dwelling units with consideration of variables such as: persons per household; available land, including future land use and zoning categories; natural features; available infrastructure (roads, water, sewer, etc.); and, average lot size. The results by planning community were summed and then compared to the unincorporated portion of the 2045 BEBR projection, including the 25 percent population buffer.

<u>Acreage changes between 2030 and 2045 Allocations:</u> Extending the horizon represented by Table 1(b) from 2030 to 2045 is expected to accommodate additional growth in the unincorporated areas of the county. This growth will be accommodated by the conversion of land from one use to another. Generally this conversion is from vacant or agriculture to commercial, industrial, and/or residential as well as for associated public/quasi-public uses. Therefore, the expected change in acreage allocation is an increase in these four allocations and a decrease in vacant and agriculture allocations.

Table 1(b) is only regulatory for commercial, industrial, and residential. In some instances, the revised allocation for 2045 will be a reduction from 2030. This may occur for a number of reasons, which include: better reflection of development patterns; changes in development trends; conservation land purchases; annexations; and, consistency with future land use categories. With the exception of residential uses, which has already been discussed, each of the types of land uses included on Table 1(b) are addressed below:

Commercial and Industrial: The methodology for the commercial and industrial portions of Table 1(b) is based on determining the ratio of the total number of housing units to commercial and industrial square feet and acreage, using existing data from 2019. The ratio was then applied to determine the commercial/industrial square feet and acre per residential unit using the projected number of households for the year 2045. Final adjustments were made based on the location and community constraints. For example, commercial and industrial developments are not expected to increase in Greater Pine Island or Southeast Lee County to the same degree as other areas.

Public: Table 1(b) shows the expected amount of land needed for uses such as parks, schools, government services, roads, surface water management, conservation areas, religious facilities, golf courses, and non-profit civic associations. This land may be publicly or privately held. Similar to commercial and industrial uses on Table 1(b), public uses are based on a ratio of public land to the total number of housing units. Final adjustments are made based on actual location and community.

Active and Passive Agriculture / Vacant: The existing inventory of these uses exceeds the proposed allocation figures on Table 1(b). This is expected and anticipated as over time agricultural and vacant uses will be replaced with other uses or, in some instances, purchased for conservation purposes. The 2045 allocation for agriculture and vacant uses are based on the amount of area currently available less the areas anticipated to be converted to other uses identified on Table 1(b).

Conservation: The amount of area provided in Table 1(b) is based on the wetlands as mapped on the Future Land Use Map with the expectation that new development on a parcel will have mitigated the wetlands or that a determination was done to show an error in the mapping of the wetland.

**Vision Statement:** The proposed Vision Statement amendment condenses this chapter of the Lee Plan into a brief introduction updated to reflect the projected population and growth trends through the 2045 planning horizon. The descriptions of "planning communities" have been removed; "planning communities" are used to distribute the anticipated population, based on BEBR projections, throughout the county and are shown on Lee Plan Map 16. A cross reference to "community plan areas" (shown on Lee Plan Map 1, Page 2) has been added; each community plan area is described within a specific Goal of the Lee Plan. This amendment is intended to help reduce confusion between planning communities and community plan areas.

Other amendments to the Vision Statement include removing unnecessary references to state statutes, reorganizing for clarity, and removal of outdated language. As previously stated it is not anticipated that development trends will substantially change with the new planning horizon; therefore, the proposed amendments do not substantially change the intent of Lee County's vision statement as expressed in the Lee Plan.

*Map Revisions:* The following maps are being either deleted or amended. Reasons for the proposed deletions or amendments are provided below.

<u>Map 1, Page 3 - Lee County Development of Regional Impact Activities:</u> This map is proposed to be deleted; it is informational only, has not been updated since 1994, and it is no longer required to be in the Lee Plan by state statute.

Map 3A - 2030 Financially Feasible Highway Plan: This map is proposed to be updated to be consistent with the 2045 Cost Feasible Roadway Projects accepted by the MPO.

<u>Map 3B - Future Functional Classification Map</u>: This map is proposed to be updated to reflect the change from local to major or minor collector roads as provided below:

Road	From	То	New Classification
Oriole Rd	Alico Rd	Three Oaks Pkwy	Major Collector
Sunset Rd	Buckingham Rd	Sunniland Blvd	Minor Collector
Williams Ave	W. 12th St	W. 17th St	Minor Collector
Joan Ave N	1st St W	19th St W	Minor Collector
19th St W	Joan Ave N	Ann Ave N	Minor Collector
W 9th St	Ann Ave N	Richmond Ave N	Minor Collector
16th St W	Sunshine Blvd N	Joan Ave N	Minor Collector
Lee Cir S	Lee St	Jack Ave N	Minor Collector
Lee St	Lee Cir S	Lee Cir N	Minor Collector
4th St W	Yvonne Ave N	Sara Ave N	Minor Collector
Centennial Blvd	Abrams Blvd	Gunnery Rd N	Minor Collector
Sunrise Blvd	Homestead Rd	End of County Maint.	Minor Collector

The functions of these roads have changed from handling exclusively local traffic to accommodating some through traffic as a result of changes to the roadway infrastructure, such as canal crossings or traffic signals, or as a result in changes in land use such as expansions of schools and parks. The Director of Transportation administratively approved these reclassifications in October 2020 pursuant to Lee County Administrative Code AC11-1.

<u>Map 3C – Financially Feasible Transit Network:</u> This map is proposed to be updated to reflect the financially feasible transit network identified in the Lee County Transit Development Plan, from November 2020.

Map 3H - Future Maintenance Responsibility: This map is proposed to be deleted; it is not referenced within the Lee Plan or required by state statute.

<u>Map 31 - Public Transit Trip Generators</u>: This map is proposed to be deleted; it is not referenced within the Lee Plan or required by state statute.

<u>Map 6 - LCU Future Water Service Areas</u>: This map is proposed to be updated to include areas already served or able to be served with water due to existing or proposed water main improvements. Some areas are being added to provide a more clear and straight line of demarcation. Adding the identified properties to the service area boundaries will: not change the requirements for connection provided in the Land Development Code; reflect properties to that were permitted to connect without a Map 6 amendment; and, allow other properties to connect where service is available without having to amend Map 6.

<u>Map 16: Lee County Planning Communities:</u> This map is proposed to be updated to reflect where the Planning Community boundaries are changed from annexation and to realign the boundaries where unified developments are bifurcated.

Attachment 2 shows the amendments to the maps, provided as "existing" and "proposed".

#### CONCLUSION

Planning staff recommends that the Board of County Commissioners *transmit* the proposed amendments as provided in the attachments to: update text that references the 2030 planning horizon to the new planning horizon date of 2045; delete any text that is date sensitive and the time frame has passed or the intent of the text has been satisfied; simplify the Lee Plan's vision statement; update Table 1(b) to reflect the 2045 population projection and accommodation; and update or delete Maps based on current data and requirements.

#### PART 2 LOCAL PLANNING AGENCY REVIEW AND RECOMMENDATION

#### DATE OF PUBLIC HEARING: April 26, 2021

#### A. LOCAL PLANNING AGENCY REVIEW:

Staff provided a brief presentation addressing reasons for the amendments, board direction, population projection methodology, proposed amendments, and staff recommendation.

Members of the LPA asked for clarifications concerning the population projections and questions about specific policies which were addressed by staff.

One member of the LPA asked about staff recommendation to remove the community names from Map 1, Page 2 and Table 1(b). Staff provided a response, which was understood, but the member indicated it would be better for the public if the community names remained. Other members of the LPA agreed.

There was <u>no public comment</u> concerning the proposed amendment at the LPA Hearing.

#### B. LOCAL PLANNING AGENCY RECOMMENDATION:

A motion was made to recommend that the Board of County Commissioners <u>transmit</u> CPA2021-00001. The LPA, in their motion, recommended that Table 1(b) and Map1, Page 2 retain the names of the planning communities, as it would be easier for the public to use and understand. The motion passed 6 to 0.

RAYMOND BLACKSMITH	AYE
DUSTIN GARDNER	AYE
JAMES M. INK	AYE
ALICIA OLIVO	AYE
DON SCHROTENBOER	AYE
STAN STOUDER	AYE
HENRY ZUBA	ABSENT

#### C. Response to LPA Motion:

Staff agrees with the LPAs recommendation. The changes as requested by the LPA are reflected in attachments 2 and 3. To accommodate the requested changes, additional amendments were also required to Lee Plan text. New changes to Lee Plan text are shown in attachment 1 with a double underline.

#### D. Staff Recommendation:

Staff recommends that the BoCC *transmit* the proposed amendment as provided in attachments 1, 2, and 3.

## **ATTACHMENT 1**

#### ATTACHMENT 1 PROPOSED TEXT AMENDMENTS

Lee Plan Goals, Objectives and Policies may be renumbered or relettered, typographical errors corrected, and state regulatory citations and department names updated throughout the Plan. These changes are not substantive and will not affect the intent of the Goals, Objectives or Policies being amended.

#### I. Vision Statement

All units of local government in the State of Florida are required to adopt comprehensive plans pursuant to Chapter 163 of the Florida Statutes. These plans essentially serve three broad purposes. First of all, certain day to day public and private activities within each jurisdiction must be consistent with the goals, objectives, and policies in the adopted plan Second, the plan is a source of authority for the local government's land development regulations and for a wide range of official discretionary actions, including, but not limited to, the capital improvement program. Finally, the plan represents the community's vision of what it will or should look like by the end of the planning horizon. This last function was emphasized in the 1993 ELMS III Bill, which encouraged local governments to use their plans to develop and implement a vision for the future.

The Lee Plan is designed to depict Lee County as it will appear in the year <u>2045 when the population is</u> <del>2030. Given the</del> projected <u>to be increase in population (to 979,000 1,056,600</u> permanent residents with an additional 18% seasonal residents). In order to balance the County's projected growth with evolving planning priorities, the following trends are expected to continue through the year 2045 planning horizon: and the probable rate of technological change between the present date and 2030, it is impossible to describe the future face of the county with any degree of certainty or precision. However, the following list of themes will be of great importance as Lee County approaches the planning horizon:

- The county's growth patterns of the county will continue to be dictated by a Future Land Use Map that will not change dramatically during the time frame of this plan. As a result, the distinction between future urban, suburban, and non-urban areas described by this plan will likely be maintained. The county's future urban areas will be essentially built out by 2045 and, to accommodate the population growth, an interest in the redevelopment of these areas will continue. With the exception of Cape Coral and Lehigh Acres, the county's urban areas will be essentially built out by 2030 (pending, in some cases, redevelopment) The county will attempt to maintain the clear distinction between urban, and rural areas that characterizes this plan. Its success will depend on two things: the continuing viability of agricultural uses and the amount of publicly owned land in outlying areas.
- <u>The county's public facilities will be maintained at adequate levels of service, partly by the construction</u> of new facilities and partly by the use of new methods to conserve the capacity of existing facilities.
- The county's natural resources will <u>be</u> protect<u>ed</u> its natural resource base in order to maintain a high quality of life for its residents and visitors. This will be accomplished through an aggressive public land acquisition programs and by maintaining and enforcing cost-effective land use and environmental regulations that supplement, where necessary, federal, state, and regional regulatory programs.
- The county's traditional economic base will <u>continue to</u> be diversified in order to increase the percentage of high-paying jobs, reduce tax burdens on residents, and enhance the stability of the community. Traditional industries, such as agriculture, commercial fishing, tourism, and construction, will continue to play a significant role in the county's economy <u>alongside new industries anticipated in</u>

response to technical advancements, the increasing capacity of Southwest Florida International Airport, and the growing number of higher education institutions within the county. , but will become less important in relation to new business opportunities afforded by the expanded international airport and the new university.

Community plans have been created within the Lee Plan to address specific conditions unique to defined areas of the county. The vision for each community plan area is incorporated as a Goal within the Future Land Use Element and the boundary for each area is shown on the Future Land Use Map (Map 1, Page 2). *Remainder of Chapter is deleted.* 

• The Vision Statement is condensed to reflect the projected population and growth trends through the 2045 planning horizon for Lee County. The descriptions of planning communities used to determine population accommodation are removed; the planning community boundaries can be found on Map 16. The descriptions of the community plan areas are also removed; each area is described as a Goal in the Future Land Use Element and the boundary for each community plan area is shown on Map 1, Page 2.

#### **II. Future Land Use**

**POLICY 1.1.1:** <u>The Future Land Use Map depicts the pattern for future development and substantial redevelopment within the unincorporated portion of Lee County through the year 2045.</u> The Future Land Use Map contained in this element is hereby adopted as the pattern for future development and substantial redevelopment within the unincorporated portion of Lee County. Map 16 and Table 1(b) are an integral part of the Future Land Use Map series (see Policies 1.7.6 and 2.2.2). They depict the extent of development through the year 2030. No development orders or extensions to development orders will be issued or approved by Lee County which would allow the Planning Community's acreage totals for residential, commercial or industrial uses established in Table 1(b) to be exceeded (see Policy 1.7.6). The cities of Fort Myers, Cape Coral, Sanibel, Bonita Springs and Town of Fort Myers Beach are depicted on these maps only to indicate the approximate intensities of development permitted under the comprehensive plans of those cities. Residential densities are described in the following policies and summarized in Table 1(a).</u>

• Policy 1.1.1 is being rewritten in order to: (1) update language for consistency with Ordinance 10-10 which removed the future land use categories of incorporated areas from the Future Land Use Map; and (2) remove cross references and duplicative language from Policies 1.7.6 and 2.2.2, Policies 1.7.6 and 2.2.2 can be relied on for implementation of Map 16 and Table 1(b).

**POLICY 1.1.2:** The Intensive Development <u>future land use category is areas are</u> located along major arterial roads. in Fort Myers, North Fort Myers, East Fort Myers west of 1.75, and South Fort Myers. By virtue of their location, the county's current development patterns, and the available and potential levels of public services, <u>areas with this designation they</u> are <del>well</del> suited to accommodate high densities and intensities. Planned</del> Mixed use centers of high-density residential, commercial, limited light industrial (see Policy 7.1.6), and office uses are encouraged to be developed as described in Objective 11.1, where appropriate. As Lee County develops as a metropolitan complex, these centrally located urban nodes can offer a diversity of lifestyles, cosmopolitan shopping opportunities and specialized professional services that befit such a region. The standard density range is from eight dwelling units per acre (8 du/acre) to fourteen dwelling units per acre (14 du/acre), with a maximum. Maximum total density <u>of</u> twenty-two dwelling units per acre (22 du/acre). The maximum total density may be increased to thirty dwelling units per acre (30 du/acre) utilizing Greater Pine Island Transfer of Development Units.

• Policy 1.1.2 is being amended for language consistency within the Lee Plan and to remove dated language.

**POLICY 1.1.3:** The Central Urban <u>future land use category</u> areas can best be characterized as the "urban core" of the county. These consist mainly of portions of the city of Fort Myers, the southerly portion of the eity of Cape Coral, and other close in areas near these cities; and also the central portions of the city of Bonita Springs, Iona/McGregor, Lehigh Acres, and North Fort Myers. These areas are This is the part of the county that is already the most heavily settled and <u>have</u>, which has or will have, the greatest range and highest levels of <u>public services</u>. urban service water, sewer, roads, schools, etc. Residential, commercial, public and quasi-public, and limited light industrial land uses (see Policy 7.1.6) will continue to predominate in the Central Urban <u>future land use category</u>.area with future <u>Future</u> development in this category <u>is</u> encouraged to be developed as a mixed-use, as described in Objective 11.1, where appropriate. This eategory has a standard density range <u>is</u> from four dwelling units per acre (4 du/acre) to ten dwelling units per acre (10 du/acre), with and a maximum total density of fifteen dwelling units per acre (20 du/acre) utilizing Greater Pine Island Transfer of Development Units.

• Policy 1.1.3 is being amended for language consistency within the Lee Plan. Urban services is being replaced with public services since these types of services are appropriate and planned for outside of "urban" areas.

POLICY 1.1.4: The Urban Community future land use category areas are areas outside of Fort Myers and Cape Coral that are characterized by a mixture of relatively intense commercial and residential uses. Included among them, for example, are parts of Lehigh Acres, San Carlos Park, South Fort Myers, Iona/McGregor, Pine Island, and Gasparilla Island. Although the Urban Communities have a distinctly urban character, they should be developed The residential development in these areas will be at slightly lower densities than other future urban categories described in this Plan. As vacant properties in this category are developed, the portions of these communities are urbanized, they will need to maintain their existing bases of urban public services will need to be maintained which may include and expanding and strengthening them accordingly. As in the Central Urban future land use category area, predominant land uses in the Urban Communities this category will be residential, commercial, public and quasi-public, and limited light industry (see Policy 7.1.6) with future development in this category encouraged to be developed as a mixed-use, as described in Objective 11.1, where appropriate. Standard The standard density ranges is from one dwelling unit per acre (1 du/acre) to six dwelling units per acre (6 du/acre), with a maximum total density of ten dwelling units per acre (10 du/acre). The maximum total density may be increased to fifteen dwelling units per acre (15 du/acre) utilizing Greater Pine Island Transfer of Development Units.

• Policy 1.1.4 is being amended for language consistency within the Lee Plan. Urban services is being replaced with public services since these types of services are appropriate and planned for outside of "urban" areas.

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**POLICY 1.1.7:** The Industrial Development future land use category plays an important role in strengthening the county's economic base and will become increasingly important as the county grows in size and urban complexity. To a great extent these are the areas to which Lee County must look for expanded job opportunities, investments and production opportunities, and a balanced and sufficient tax base. The Industrial Development future land use category is reserved mainly for industrial uses and land use mixtures including industrial, manufacturing, research, recreational, and office (if specifically related to adjoining industrial uses). These uses have special locational requirements that are more stringent than those for residential areas, including: transportation needs (e.g., air, rail, highway); industrial levels of water, sewer, fire protection, and other urban-public services needs; and, employee needs, such as being conveniently located. and locations that are convenient for employees to reach. The Industrial Development future land

use category is reserved mainly for industrial activities and selective land use mixtures. Appropriate land use mixtures include industrial, manufacturing, research, recreational uses and office complex (if specifically related to adjoining industrial uses) that constitute a growing part of Florida's economic development sector. Retail, recreational and service uses are allowed as follows:

Remainder of policy is unchanged.

• Policy 1.1.7 is being amended for language consistency within the Lee Plan. Urban services is being replaced with public services since these types of services are appropriate and planned for outside of "urban" areas.

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POLICY 1.1.9: The University Community future land use category provides for Florida's 10th University, Florida Gulf Coast University (FGCU), and for associated support development. The location and timing of development within this category area must be coordinated with the development of FGCU the University and the provision of necessary infrastructure. All development within the University Community must be designed to enhance and support the University. In addition to all other applicable regulations, development within the University Community future land use category must be designed to enhance and support FGCU and will be subject to cooperative master planning with, and approval by, the FGCU Florida Gulf Coast University President or their designee. Prior to development in the University Community future land use category, there will be established a Conceptual Master Plan which includes a generalized land use plan and a multi-objective water management plan. These plans will be developed through a cooperative effort between the property owner, Lee County, and South Florida Water Management District. Within the University Community are two distinct sub-categories: University Campus and the University Village. The University Window overlay, although not a true sub-category, is a distinct component of the total university environment. Together these functions provide the opportunity for a diversity of viable mixed use centers. Overall residential development within the University Village future land use category will not exceed 6,510 dwelling units. None of the 6,510 dwelling units may be used on or transferred to lands located outside of the University Community future land use category boundaries as they exist on October 20, 2010. Specific policies related to the University Community future land use category are provided in Goal 15.

• Policy 1.1.9 is being amended for clarity and to remove language repeated in Goal 15.

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**POLICY** <u>1.1.14</u> <u>1.7.11</u>: The Burnt Store Marina Village <u>future land use category</u> area provides for the redevelopment that enhances the existing character of the Burnt Store Marina project, protects natural resources, and provides continuing public access to the water via boat ramps and docks while managing the location and intensity of future commercial, residential and commercial marina uses by establishing realistic aesthetic requirements designed to allow Burnt Store Marina Village the ability to develop as a community center. The following uses are permitted within the Burnt Store Marina Village category:</u> a maximum of 55,000 square feet of retail uses; a maximum of 1,325 wet and dry spaces; a maximum of 15,000 square feet of office space; a maximum of 145 hotel units; and a maximum of 160 residential units. Specific policies related to the Burnt Store Marina Village future land use category are provided in Goal 14.

• Policy 1.7.11 is being moved and renumbered as a Policy under Objective 1.1 where the policies for other future urban and suburban future land use categories are described. A reference to Goal 14 is added for ease of use.

**POLICY** <u>1.1.15</u> <u>1.6.1</u>: <u>The</u> New Community <u>future land use category are</u> areas <u>are of lands</u> that <u>can be</u> <u>are</u> <u>capable of being</u> planned and developed as a cohesive unit in order to better achieve conservation of important environmental resources and to initiate area wide surface water management. New Community

land must be located such that the area is capable of being developed with a balance of residential and nonresidential uses and that major impacts of the development are internalized and/or alleviated by infrastructure that is existing or will be funded privately. New Community areas will be developed as freestanding economic units and will not impose negative fiscal impacts on the county (other than those associated with the delay in placing property improvements on the tax rolls).

Remainder of policy is unchanged.

• Policy 1.6.1 is being moved and renumbered as a Policy under Objective 1.1 where the policies for other future urban and suburban future land use categories are described. Policy language is revised for consistency with language in other future land use categories.

\*\*\*

**POLICY 1.5.2:** When the exact location of Wetlands boundaries is in question, Chapter XIII of this plan provides an administrative process<del>, including a field check</del>, to precisely define the boundary.

• Policy 1.5.2 is being amended to remove reference to a field check which is no longer part of Lee County's the wetland boundary determination process.

\*\*\*

**OBJECTIVE 1.6: NEW COMMUNITY.** Designate on the Future Land Use Map areas which are suitable for the development of large scale multi-use communities developed pursuant to an overall planned development.

• Objective 1.6 is no longer necessary since its only policy is being moved under Objective 1.1 which achieves the same purpose.

\*\*\*

**POLICY 1.7.2:** The Development of Regional Impact overlay is an informational tool showing all of the Lee County property subject to development orders approved pursuant to Chapter 380 of the Florida Statutes. Development in these areas is regulated by the terms of the applicable development orders.

• Policy 1.7.2 and its associated map (Map 1, Page 3) are being deleted. The map showing the Development of Regional Impact overlay is an informational tool, not required by state statutes, that is outdated (last amended in 1994). Since the map is being deleted, Policy 1.7.2 is no longer necessary.

\*\*\*

**POLICY 1.7.6:** The Planning Communities <u>Districts</u> Map and Acreage Allocation Table (see-Map 16, Table 1(b) and Policies 1.1.1 and 2.2.2) depicts the proposed distribution, extent, and location of generalized land uses through the Plan's horizon. Acreage totals are provided for land in each Planning Community <u>District</u> in unincorporated Lee County. No development orders or extensions to development orders will be issued or approved by Lee County that would allow the acreage totals for residential, commercial or industrial uses contained in Table 1(b) to be exceeded. This policy will be implemented as follows:

1. For each Planning <u>Community District</u> the county will maintain a parcel based database of existing land use. The database will be periodically updated at least twice every year, in September and March, for each Planning Community.

2. No Changes.

3. At each regularly scheduled date for submission of the Lee Plan Evaluation and Appraisal Report, <u>When</u> updating the planning horizon, the county must conduct a comprehensive evaluation of the Planning Community <u>District</u> Map and the Acreage Allocation Table <u>will be conducted</u>, including but not limited

to, the appropriateness of land use distribution, problems with administrative implementations, if any, and areas where the Planning Community Map and the Acreage Allocation Table system might be improved.

• Policy 1.7.6 is being revised for clarification and to reflect current practice of continually updating the parcel based database. The amendments also clarify when the comprehensive evaluation of these population allocation tools will occur since the State removed the requirement for submission of Evaluation and Appraisal Reports in 2011.

\*\*\*

**POLICY 2.1.3:** All land use categories and Planning <u>Community District</u> Map areas permit the consideration of churches and schools (except in Wetlands and Airport Noise Zones <u>A and B</u>), public uses and buildings, public utilities and resource recovery facilities, public recreational uses (including franchised quasi-commercial uses in conjunction with a public use), and sites for compatible public facilities when consistent with the goals, objectives, policies, and standards in this plan and applicable zoning and development regulations. (Ordinance No. 94-30, 98-09)

• Policy 2.1.3 is being updated for clarification and to reflect applicable noise zones.

\*\*\*

**POLICY 2.2.2:** Map 1 of the <u>The</u> Future Land Use Map series indicates the uses and density ranges that will ultimately be permitted on a given parcel. However, it is not a guarantee that such densities or uses are immediately appropriate, as the map provides for the county's growth beyond the <u>Lee Plan's 2045</u> planning horizon of 2030. During the rezoning process the Board of County Commissioners will balance the overall standards and policies of this plan with three additional factors:

1 through 2: *No changes* 

Whether a given proposal would result in unreasonable development expectations that may not be achievable because of acreage limitations contained in the Acreage Allocation Table (see Policy 1.7.6, Map 16 and Table 1(b)). Additional provisions related to mining are provided in Policy 33.1.4.

Remainder of policy is unchanged.

• Policy 2.2.2 is being updated to reflect the new planning horizon year 2045 and to delete unnecessary or outdated cross-references.

\*\*\*

**OBJECTIVE 2.6: REDEVELOPMENT.** Future redevelopment activities will be directed in appropriate areas, consistent with sound planning principles, the goals, objectives, and policies contained within this plan, and the desired community character.

**POLICY 2.6.1:** Community redevelopment activities will be conducted by the Lee County Community Redevelopment Agency within approved redevelopment areas according to adopted redevelopment plans. **POLICY 2.6.2:** Redevelopment activities will be comprehensive in approach and include the following components: study of incompatible land uses; correction of outdated zoning classifications; elimination of substandard or unsafe buildings; traffic circulation and parking; economic revitalization; protection of adjacent residential neighborhoods and historic and natural resources; signage; landscaping; urban design/master planning; and, affordable housing.

**POLICY 2.6.3:** Within the Charleston Park CRA residential, commercial and industrial use which meet the needs of the low income residents and which are suitable to the scale and location of the community and will be compatible with the residential character of the community and consistent with the adopted CRA plan will be permitted.

• Objective 2.6 and its subsequent polices are specific to Community Redevelopment Areas (CRAs). The County dissolved CRA's in 2006 (Resolution 06-11-27) which makes this objective and policies irrelevant.

\*\*\*

**OBJECTIVE 2.9: SCENIC CORRIDORS.** By 1995, formally consider the establishment of specialized <u>Consider establishing special</u> design standards along specified arterial and collector roads.

• Objective 2.9 is being updated to remove specific completion year.

\*\*\*

**POLICY 2.11.1:** During each Evaluation and Appraisal Report process, calculate an estimate of the carrying capacity information.

• Policy 2.11.1 is being deleted; the Evaluation and Appraisal Report process no longer exists, it was removed by the State in 2011. Carrying capacity will be included in the evaluation conducted in accordance with Policy 1.7.6.

\*\*\*

**GOAL 5: RESIDENTIAL LAND USES.** To provide sufficient land in appropriate locations on the Future Land Use Map to To accommodate the projected population of Lee County in the year 2030 2045 in appropriate locations, guided by the Future Land Use Map, and in attractive and safe neighborhoods with a variety of price ranges and housing types.

• Goal 5 is being revised for clarity and to update the planning horizon year.

**POLICY 5.1.1:** Residential developments requiring rezoning and meeting Development of County Impact (DCI) thresholds must be developed as planned residential developments except if located within the Mixed Use Overlay.

\*\*\*

• Policy 5.1.1 is being updated for internal consistency, as use of conventional rezoning is encouraged within the Mixed Use Overlay (see Policy 11.2.4).

\*\*\*

**POLICY 6.1.3:** Commercial developments requiring rezoning and meeting Development of County Impact (DCI) thresholds must be developed as <u>commercial</u>-planned developments <u>except if located within</u> <u>the Mixed Use Overlay</u>. The planned development must be designed to arrange uses in an integrated and cohesive unit in order to:

Remainder of policy is unchanged.

• Policy 6.1.3 is being updated for internal consistency, as use of conventional rezoning is encouraged within the Mixed Use Overlay (see Policy 11.2.4).

\*\*\*

**POLICY 6.1.11:** Encourage the upgrading or revitalization of deteriorating commercial areas (consistent with approved CRA plans, where applicable), but prohibit the expansion or replacement of commercial uses which are inappropriately located or that have an adverse impact on surrounding residential and non-

residential uses. Such revitalization includes, but is not limited to: store-front renewal, sign control, and the provision of common parking areas and consolidated access.

• Policy 6.1.11 is being amended to delete reference to CRA's; the County dissolved CRA's in 2006 (Resolution 06-11-27).

\*\*\*

**POLICY 7.1.2:** Industrial developments requiring rezoning and meeting Development of County Impact (DCI) thresholds must be developed as planned developments <u>except if located within the Mixed Use</u> <u>Overlay. The planned development must be</u> designed to arrange uses as an integrated and cohesive unit in order to:

Remainder of policy is unchanged.

• Policy 7.1.2 is being updated for internal consistency, as use of conventional rezoning is encouraged within the Mixed Use Overlay (see Policy 11.2.4).

\*\*\*

**POLICY 7.1.4:** The Future Land Use Map must designate a sufficient quantity of land to accommodate the minimum allocated land area found in Policy 1.7.6 and related Table 1(b), where appropriate. Lee County will monitor the progress of development and the number of acres converted to industrial use as part every Evaluation and Appraisal Report (EAR). This acreage may be adjusted to accommodate increases in the allocations.

• Policy 7.1.4 is being deleted since Policy 1.7.6 can be relied on for this type of monitoring to occur.

\*\*\*

**POLICY 9.1.1:** In accordance with 187.201(23)(b)1, nothing in this plan will be construed to permanently prohibit the conversion of agricultural uses to other land uses.

• Policy 9.1.1 is being deleted to remove unnecessary redundancy with Florida Statutes.

\*\*\*

**POLICY 9.1.6:** Lee County will work with a private agricultural advisory committee, agricultural operators, and landowners to establish incentives to encourage the continuation of existing agricultural operations and improvements to existing agricultural operations as needed to store and treat water and improve ecological values. The county will investigate the feasibility of a Transfer of Development Rights (TDR) bank for agricultural property by 2012. (Ordinance No. 94-30, 00-22, 07-12, 10-19) Policy 9.1.6 is being deleted since incentives have already been established.

\*\*\*

**POLICY 9.2.1:** Rezoning of land to agricultural zoning districts is prohibited in those areas designated by the Lee Plan as future urban and future suburban areas, except for parcels five acres or larger designated with the exception of those areas designated as Sub-Outlying Suburban or, if located within the Pine Island or Caloosahatchee Shores Community Plan area, designated Outlying Suburban, or Suburban. Requests to rezone properties to an agricultural district within the Sub-Outlying Suburban, Outlying Suburban, or Suburban future land use categories will be reviewed on a case-by-case basis with consideration of the following: where parcels five acres or larger may request rezoning to an agricultural zoning district. These requests will be reviewed on a case by case basis. Approval will be based on:

- a. current and future availability of <u>public services</u> urban infrastructure;
- b. compatibility with surrounding of the existing and future land uses;
- c. acreage of the rezoning request;
- d. cumulative effect on county tax base;
- e. Suburban and Sub-Outlying Suburban lands must be located within the Pine Island and Caloosahatchee Shores Planning Communities; and,
- f. evaluation of how protection or mitigation of environmental features, including but not limited to flow-ways, protected species, and habitat, will be protected or mitigated.
- Policy 9.2.1 is being updated for internal consistency and for clarity. Future urban areas were separated into future urban and future suburban areas by Ordinance 17-13.

\*\*\*

**POLICY 13.1.1:** The Private Recreation Facilities Overlay, Map 4, shows those locations that are appropriate for the development of Private Recreation Facilities in the DR/GR <u>future land use category</u> area. The areas depicted on Map 4 are consistent with the application of the following locational criteria:

- 1. Located outside of those areas designated for public acquisition through <u>Florida Forever the Florida</u> <u>Conservation and Recreational Land Program (CARL)</u>, the Corkscrew Regional Ecosystem Water Trust (CREW), the South Florida Water Management District's Save Our Rivers Program, and the county's 20/20 Conservation Program;
- 2. through 6. no change.
- Policy 13.1.1 is being amended to update the name of the state program.

\*\*\*

**POLICY 13.2.1: PRIVATE RECREATION FACILITY PLANNED DEVELOPMENT (PRFPD).** By the end of December, 2000, Lee County will amend the Land Development Code to include provisions for a new Private Recreation Facilities Planned Development zoning category. All Private Recreational Facilities proposed within the DR/GR <u>future</u> land use category must be reviewed as a <u>PRFPD</u>. Development of County Impact, Private Recreation Facilities Planned Development. (Ordinance No. 99-16, 18-18)

• Policy 13.2.1 is being amended since provisions for PRFPDs have already been included in the LDC.

\*\*\*

**POLICY 13.2.6:** Time share, fractional ownership units (meaning any dwelling unit for which ownership is shared among multiple entities for the primary purpose of creating short term use or rental units rather than permanent full time residential units), and Bed and Breakfast establishments may be permitted if the property is designated is included on Map 17 as a Rural Golf Course Community (see Map 17) Residential Overlay area. These uses must be ancillary to or in conjunction with uses within the Private Recreational Facility, including a Golf Training Center or similar facility, and must be located adjacent to, or within 1,000 feet of, the principal use that is being supported. Through the PRFPD process, the applicant must demonstrate that external vehicular trips will be reduced from typical single-family residential units due to the ancillary nature of the use.

• Policy 13.2.6 is being amended to make the overlay title consistent with title used on Map 17 and to remove the definition of fractional ownership units which is being moved to the Glossary.

**POLICY 13.2.7:** Time share, fractional ownership units, or bed and breakfast establishments will only be permitted in a designated Rural Golf Residential Overlay area as specified on Map 17 and may only be constructed through transferring density in accordance with the Southeast Lee County TDR Program. Each

TDR credit that is eligible to be transferred to a Mixed-Use Community on (see Map 17) can be redeemed for one timeshare unit, one fractional ownership unit, or two bed and breakfast bedrooms.

\*\*\*

• Policy 13.2.7 is being amended to remove language redundant with Policy 13.2.6.

**POLICY 13.2.12:** During the 2010 comprehensive plan Evaluation and Appraisal Report process the county will conduct a comprehensive evaluation of the impacts of Private Recreation Facilities on surface and groundwater quality and quantity. Recommendations from this evaluation will then be incorporated into the Lee Plan.

• Policy 13.2.12 is being deleted; the Evaluation and Appraisal Report process no longer exists, it was removed by the State in 2011. Impacts of Private Recreation Facilities are evaluated as part of the rezoning process.

\*\*\*

**POLICY 13.4.7:** Any Private Recreational Facilit<u>yies</u> proposed within the DR/GR <u>future</u> land use category must cooperate with Lee County and SFWMD in implementing an overall surface water management plan as outlined in Objective 60.2 and <u>126.1-117.1</u>. Compliance with these policies must be demonstrated during development order approval.

• Policy 13.4.7 is being amended to update the cross-reference.

\*\*\*

**OBJECTIVE 13.8: GOLF COURSE PERFORMANCE STANDARDS.** The location, design and operation of golf courses located within <u>the</u> Private Recreational Facilities <u>Overlay</u> will minimize their impacts on natural resources, and incorporate Best Management Practices. A maximum of five (5) 18-hole golf courses, for a total of 90 golf holes, will be permitted <del>through 2030</del>.

• Objective 13.8 is being amended to allow permitting of golf courses within the Private Recreational Facilities Overlay beyond 2030.

\*\*\*

**POLICY 22.1.5:** Heritage trees, as defined in Land Development Code Sec.10-415, will be preserved or, when possible, may be relocated on-site. If a heritage tree must be removed from the site then a replacement tree with a minimum 20-foot height must be planted within an appropriate open space.

• Policy 22.1.5 is being amended to remove unnecessary cross-reference.

\*\*\*

**POLICY 24.3.4:** Dwelling units may be transferred from parcels that have a future land use designation of Coastal Rural to parcels with urban future land use categories on Greater Pine Island, subject to the following:

1. through 6. remain unchanged.

7. Bona fide agricultural uses on the transferring parcel may continue in accordance with Policy 24.6.1 14.6.1.

• Policy 24.3.4 is being revised to update a cross-reference.

\*\*\*

**POLICY 25.9.2:** Direct new development and redevelopment in Lehigh Acres to areas that can be reasonably expected to receive <u>urban public</u> services and infrastructure during the planning horizon.

• Policy 25.9.2 is being amended for language consistency within the Lee Plan. Urban services is being replaced with public services since these types of services are appropriate and planned for outside of "urban" areas.

\*\*\*

**POLICY 28.1.4:** New industrial activities or changes of land use that allow future industrial activities, not directly associated with Alva's commercial agriculture, are prohibited in Alva. By 2014, Alva will work with Lee County to establish regulations in the Land Development Code to further this policy.

**POLICY 28.1.5:** New natural resource extraction mining activities are prohibited in Alva. By 2014, Alva will work with Lee County to establish regulations in the Land Development Code to further implement this policy. (Ordinance No. 11-21, 18-18)

• Policies 28.1.4 & 28.1.5 are being amended to remove outdated and unnecessary language. These are self-implementing policies; therefore, regulations do not need to be included in the LDC.

\*\*\*

**POLICY 33.1.2:** The DR/GR Priority Restoration <u>Strategy consists of overlay depicts</u> seven tiers of land where protection and/or restoration would be most critical to restore historic surface and groundwater levels and to connect existing corridors or conservation areas (see <u>Policy 1.7.7 and</u> Map 1, Page 4). *Remainder of policy is unchanged.* 

• Policy 33.1.2 is being amended for consistency and to remove an outdated policy reference.

\*\*\*

**POLICY 33.2.4:** Lands that provide a significant regional hydrological and wildlife connection have the potential to improve, preserve, and restore regional surface and groundwater resources and indigenous wildlife habitats. These lands, located along Corkscrew and Alico Roads, can provide important hydrological connections to the Flint Pen Strand and the Stewart Cypress Slough as well as important wildlife habitat connections between existing CREW and Lee County properties. As an incentive to improve, preserve, and restore regional surface and groundwater resources and wildlife habitat of state and federally listed species additional densities and accessory commercial uses will be granted if the project is found consistent with and demonstrates through a planned development rezoning the following:

- 2. The property is rezoned to a planned development that meets the following:
- g. Uses Florida Friendly <u>Landscaping Planting</u>s with low irrigation requirements in Common Elements.
  Policy 33.2.4 is being amended to update the "Florida Friendly Landscaping" consistent with state
- Policy 33.2.4 is being amended to update the "Florida Friendly Landscaping" consistent with state references.

#### **III. TRANSPORTATION**

#### **OBJECTIVE 36.2: RESERVED** *Replace with language from Policy 1.3.6.*

**POLICY 36.2.1:** *Relocate language from Policy 1.3.7.* 

**POLICY 37.3.2:** Lee County will continue to annually identify roadway conditions and available capacity on major roadways as part of *its capacity monitoring* <u>the Public Facilities Level of Service and Concurrency</u> report. The report will identify existing traffic conditions (based on the latest year's traffic counts), a oneyear projection (adding traffic from projects with approved building permits) and forecast traffic conditions associated with unissued building permits from approved development orders.(adding traffic from projects with approved local development orders). The available capacity for existing conditions will include the added capacity of roadway improvements programmed for construction in the first three years of an adopted County Capital Improvement Program or State Five-Year Work Program.

• Policy 37.3.2 is being revised to update the name of the report and to reflect the existing process.

**POLICY 37.3.3:** All proposed development activity <u>(calculated from approved local development order applications requests</u>) will be inventoried against the available <u>roadway</u> capacity <u>under existing conditions</u> <u>(as identified in the annual Public Facilities Level of Service and Concurrency report)</u>. capacity monitoring report based on existing conditions.

• Policy 37.3.3 is being revised for clarity and to update the name of the report.

\*\*\*

**POLICY 38.1.6:** Property that was subject to CPA2009-01 will donate 75 feet of right of way along the entire frontage of Alico Road. The donation of right of way along Alico Road will not be creditable against road impact fees or DRI proportionate share obligations.

• Policy 38.1.6 is being deleted since the action called for in the policy has been completed.

**POLICY 38.1.7:** Lee County will complete a study by July 1, 2017, with input from property owners, to determine the improvements necessary to address increased density within the Environmental Enhancement and Preservation <u>Communities</u> Overlay (See Policy <u>33.2.4</u><u>33.3.4</u>). The study will include a financing strategy for the identified improvements, including participation in a Proportionate Share Program.

 Policy 38.1.7 is being revised to remove the outdated completion year and to correct the Overlay name and policy cross reference.

**OBJECTIVE 39.2: TRANSPORTATION AND LAND USE PLANNING**. Develop and maintain transportation planning tools and strategies to coordinate land use development with planned transportation facilities appropriate to future urban <u>areas</u>, future suburban <u>areas</u>, or <u>future</u> non-urban areas, as defined-in the Glossary. Include road designs and street modifications to accommodate significant truck traffic on freight corridors identified in the MPO Freight Mobility Study and for transit, bicycle, and pedestrian facilities where indicated on the transportation map series and Map 22, <u>the</u> Lee County Greenways and <u>Multi-Purpose Recreational Trails</u> Master Plan.

• Objective 39.2 is being updated for consistency of terms within the Lee Plan and to correct the reference for the Greenways Master Plan.

\*\*\*

**POLICY 39.6.1:** The county will develop a safe and interconnected bicycle/pedestrian network, giving priority to facilities depicted on the Lee County Walkways & Bikeways Bikeways/Walkways Facilities

Plan (Map 3D), the Greenways Multi-Purpose Recreational Trails Master Plan (Map 22), and the MPO BPMP.

• Policy 39.6.1 is being amended to update the names of the maps.

\*\*\*

**POLICY 42.1.1:** The county will participate in the MPO and Regional Planning Council planning processes for system-wide facility needs.

• Policy 42.1.1 is being amended to delete the reference to the Regional Planning Council since the county works directly with the MPO on system-wide facility needs.

\*\*\*

**POLICY 42.1.3:** The county declares a position of interest for land use decisions affecting county and state roads within <u>all incorporated areas of Lee County</u> Sanibel, Cape Coral, Fort Myers Beach, Bonita Springs, and Fort Myers, and state roads and county roads shared with adjacent counties.

• Policy 42.1.3 is being amended so that all incorporated areas of the county are included, not just those jurisdictions incorporated at the time this policy was last revised.

\*\*\*

**POLICY 46.1.4:** The county will encourage discussions between the Florida High Speed Rail Commission and appropriate local groups in regards to the location of a high speed rail train in the county in a manner consistent with this plan.

• Policy 46.1.4 is being deleted since it is not likely a high speed rail will come to Lee County by 2045. Deletion of this policy will not prohibit Lee County from being supportive of high speed rail if the opportunity arises.

#### IV. COMMUNITY FACILITIES AND SERVICES

**POLICY 55.1.3:** Actively implement and utilize the Water Supply Facilities Work Plan, Lee County, Florida, May 2019, adopted by reference, as a guide to potable water supply facility planning consistent with Table 5, the <u>Ten Year</u> Water Supply Development Projects Table, potable water resources, and water conservation.

• Policy 55.1.3 is being updated to include reference to the most recent Work Plan as required by state statute.

\*\*\*

**POLICY 56.1.3:** All utilities are encouraged to construct and install sufficient treatment facilities and collection systems that will meet or exceed the minimum acceptable service standards. These facilities will have capacity to service the demand so generated and will meet or exceed the minimum requirements of the <u>Florida</u> Department of Environmental Protection, the <u>Florida</u> Department of <u>Health</u> Department of <u>Health</u> and <u>Rehabilitative Services</u>, U.S. Environmental Protection Agency, or local ordinances that exceed those requirements. All utilities will advise the county of system expansions or modification to ensure coordination.

• Policy 56.1.3 is being amended to update the name of the Department.

**POLICY 59.1.1:** The county will update and implement the comprehensive county wide Lee County surface water management master plan, with full attention to issues of regional water quality and environmental integrity. (Ordinance No. 98-09, 07-12)

• Policy 59.1.1 is being amended for clarification.

\*\*\*

**OBJECTIVE 64.1:** Maximize access to library services, programs and facilities through an equitable distribution of library facilities, of varied sizes with a corresponding level of services, programs and resources, throughout Lee County consistent with community demographics as well as designations of <u>future urban areas</u>, <u>future suburban areas and future Urban</u>, <u>Suburban and</u> non-urban areas.

• Objective 64.1 is being updated for consistency of terms within the Lee Plan.

\*\*\*

**POLICY 67.1.1:** The county will work in collaborateion with the Lee County <u>School</u> District Board of Education, representatives of private and parochial school associations, and other interested institutions, for the location and development of educational systems-consistent with Chapter 235, F.S., and the policies of this plan.

• Policy 67.1.1 is being updated to remove an outdated cross-reference to Florida Statutes.

**POLICY 67.1.5:** Lee County will <u>provide input on the continued development of Florida Gulf Coast</u> <u>University by coordinating coordinate with the State Board of Regents on the development of the Florida</u> <del>Gulf Coast University</del> through the Campus Master Plan process<del>, and the required Development Agreement,</del> and <del>through</del> other means of intergovernmental coordination.

\*\*\*

• Policy 67.1.5 is being amended for clarification.

**POLICY 69.2.1:** Support the Local Emergency Planning Committee (as required by the provisions of Title III: The Federal Emergency Planning and Community Right To Know Act of 1986) Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) (42 U.S.C. § 11004) through continued implementation of relevant information, material, and practicable responsibilities set forth by the Local Emergency Planning Committee.

\*\*\*

• Policy 69.2.1 is being amended to update the regulatory citation.

\*\*\*

**POLICY 69.3.1:** Require any new development involved in the manufacturing, production, use, application, and storage of hazardous materials or toxic substances contained on the current list of extremely hazardous substances published in the Code of Federal Regulations (CFR), Title 40, Chapter I, Subchapter J, Part 355, to establish an emergency notification system in the event of a release of a listed hazardous substance. Notification information will conform to requirements set forth in Section 304 of Title III: The

Federal Emergency Community Right-to-Know Act of 1986. Emergency Planning and Community Rightto-Know Act of 1986 (EPCRA) (42 U.S.C. § 11004).

• Policy 69.3.1 is being amended to update the regulatory citation.

\*\*\*

**OBJECTIVE 71.1: ENERGY CONSERVATION**. By 1995 the county will support management and education Support programs on energy efficiency and conservation, resource conservation and recycling, appropriate community technology, and environmental protection.

• Objective 71.1 is being amended to delete an outdated and unnecessary completion date; the County will continue to support energy conservation programs.

#### V. PARKS, RECREATION AND OPEN SPACE

**POLICY 83.3.1:** <u>Maintain an agreement with the Lee County School District that clearly sets out the existing use of County and School District properties and facilities by each entity, sets the pattern for future use of these properties and facilities, and provides procedures for maintenance of the facilities and properties.</u> The county departments/divisions responsible for park development and park maintenance will work with the School Board in an attempt to develop a revised interlocal agreement between the School Board and the Board of County Commissioners. The agreement will clearly set out the existing use of each other's properties and facilities, will establish the pattern for future use of these properties and facilities, and will establish procedures for maintenance of the facilities.</u>

• Policy 83.3.1 is being updated to reflect that an interlocal agreement with the Lee County School District has been established and that it will be maintained.

\*\*\*

**POLICY 84.1.2:** Lee County will work with the <u>Lehigh Acres Municipal Services Improvement District</u> East County Water Control District to establish a regional park at Harns Marsh.)

• Policy 84.1.2 is being amended to update the name of the District.

\*\*\*

**POLICY 85.1.2:** Parks will be linked to bike paths, trails and greenways, and other parks as identified in the Lee County Greenways Master Plan and the Lee County <u>Walkways & Bikeways</u> <del>Bikeways/Walkways Facilities</del> Plan where feasible.

• Policy 85.1.2 is being amended to update the map number and name.

\*\*\*

**POLICY 85.1.5:** The county will c Continue to participate in the formation, expansion, and management of those greenways identified in the Lee County Greenways Master Plan-and the six regionally significant greenways identified in the Southwest Florida Regional Planning Council's Strategic Regional Policy Plan. The six regionally significant greenways are: the Charlotte Harbor/Pine Island Sound Coastal Greenway, the Corkscrew Regional Ecosystem Watershed Greenway, the Estero Bay/Wiggins Pass Coastal Greenway, the Hickey Creek Greenway, the Sanibel Island Greenway, and the Six Mile Cypress Slough Preserve Greenway.

• Policy 85.1.5 is being amended to remove reference to the SFRPC Strategic Regional Policy Plan which no longer identifies regionally significant greenways.

\*\*\*

- **POLICY 87.2.4:** Lee County will assist the efforts by the School Board and Florida Power and Light to establish a manatee park on the Orange River.
- Policy 87.2.4 is being deleted since the manatee park has been established and therefore this policy is no longer needed.

**POLICY 87.2.5:** Lee County will implement the Matanzas Harbor Plan by encouraging private/public coordination.

• Policy 87.2.5 is being deleted since the policy is not needed; private/public coordination will continue without the need for this policy.

**POLICY 87.2.6:** Lee County will adopt an administrative code which sets forth procedures to accept private and corporate donations of items to be placed in Lee County parks.

**POLICY 88.1.1:** The county will adopt an administrative code and/or a procedures manual which requires the establishment of maintenance procedures based on facility type/need throughout the county parks system.

**POLICY 88.2.1:** The county will adopt an administrative code and/or a procedures manual which regulates the scheduling, programming and organization of events and activities at all county park facilities.

• Policies 87.2.6, 88.1.1 and 88.2.1 are being deleted since it's no longer needed; procedures have been adopted.

### VII. CONSERVATION AND COASTAL MANAGEMENT

**POLICY 101.1.4:** Require that comprehensive plan amendments which increase density within the Coastal High Hazard Area or on islands meet one of the following criteria in accordance with § 163.3178(8), F.S.: 1. & 2. *No Changes* 

3. Will provide appropriate mitigation, as determined by Lee County Department of Public Safety, to satisfy both criteria above, which may include the payment of money or construction of hurricane shelters and transportation facilities. The applicant must enter into a development agreement to memorialize the mitigation plan prior to adoption of the plan amendment.

• Policy 101.1.4 is being amended to remove language that is inconsistent with the county's development process and with statutory requirements.

\*\*\*

**POLICY 124.1.1:** Ensure that development in wetlands is limited to very low density residential uses and uses of a recreational, open space, or conservation nature that are compatible with wetland functions. The maximum density in the Wetlands category is one unit per 20 acres, except that one single family residence will be permitted on lots meeting the standards in Chapter XIII, and except that owners of wetlands adjacent to Intensive Development, General Interchange, Central Urban, Urban Community, Suburban, New Community, and–Outlying Suburban, and Sub-Outlying Suburban areas may transfer densities to developable contiguous uplands under common ownership in accordance with (see Table 1(a)). Footnote 8b of Table 1(a), Summary of Residential Densities.

• Policy 124.1.1 is being updated to add Sub-Outlying Suburban future land use category for consistency with Table 1(a); Table 1(a) was amended by Ord. 10-39 to add Sub-Outlying Suburban as an area where density could be transferred.

\*\*\*

**POLICY 128.1.1:** Commercial and government-operated multi-slip docking facilities <u>located in a water-dependent overlay (see Map 12) may be rezoned to marine-oriented districts</u> indicated on the Future Land Use Map as having water-dependent overlay zones will be reclassified by the county to marina zoning categories to protect their rights to rebuild and expand <u>these facilities</u> and to prevent their conversion <u>of</u> these facilities to non-water-dependent uses without a public hearing.

• Policy 128.1.1 is being amended to clarify that the county is not required to initiate the rezoning and to update the zoning category reference to be consistent with the LDC.

\*\*\*

**OBJECTIVE 128.3: SHORELINE MANAGEMENT.** By 1990 the county will have developed a shoreline management plan. The program will be submitted to the Board of County Commissioners for formal consideration.

**POLICY 128.3.1:** County staff will compile and continuously update inventory of various shoreline uses by distinctive geographic shoreline areas.

**POLICY 128.3.2:** County staff will compile a document analyzing and synthesizing the information in the inventory of shoreline uses by geographic areas.

**POLICY 128.3.3:** The county will consider specific shoreline management programs based on identified needs.

• Objective 128.3 and its subsequent policies are being deleted since a shoreline management plan has been developed.

\*\*\*

**POLICY 128.5.1:** Proposed boat access facilities (and expansion of existing facilities) in the following areas face a variety of technical, legal, or environmental obstacles which must be addressed during the review process:

- Marine or <u>and</u> Estuarine Sanctuaries (NOAA)
- Remainder of policy is unchanged.
- Policy 128.5.1 is being amended for clarification.

\*\*\*

**OBJECTIVE 128.7:** The Regional Planning Council will be the lead agency addressing the need for adequate sites for water dependent uses on a regional basis.

**POLICY 128.7.1:** The county will cooperate with the Regional Planning Council in addressing the need for water dependent sites on a regional basis.

• Objective 128.7 and Policy 128.7.1 are being deleted since the Regional Planning Council is no longer the appropriate agency.

#### VIII. HOUSING

**OBJECTIVE 135.1: HOUSING AVAILABILITY.** To ensure the types, costs, and locations of housing are provided to meet the needs of the county's population by working with private and public housing providers to ensure that the additional dwellings needed by 2025 are provided in types, costs, and locations to meet the needs of the Lee County population. It is estimated that by 2025, 114,927 additional dwelling units will be needed in all of Lee County and 39,637 will be needed in unincorporated Lee County.

• Objective 135.1 is being amended to remove the year 2025 reference since housing availability is addressed beyond 2025 and is rewritten for clarity.

\*\*\*

**POLICY 135.1.7:** Site selection criteria will be used in the location of housing for special needs populations as defined in Rule 67-37.002(21) F.S. 420.0004 which will consider accessibility, convenience, and infrastructure availability. Favorable sites include one or more of the following characteristics: *Remainder of policy is unchanged*.

**POLICY 135.1.8:** The county will provide through the rezoning process for the location of adequate sites for very-low, low- and moderate-income residential development including mobile homes, and housing for special needs populations as defined in Rule 67-37.002(21) F.S. 420.0004.

• Policy 135.1.7 and 135.1.8 are being amended to update reference to the definition.

\*\*\*

**POLICY 135.1.11:** The Lee County Office of Equal Opportunity will be responsible for compliance with the county's <u>Equal Opportunity in Housing Ordinance</u> Fair Housing Ordinance.

• Policy 135.1.11 is being amended to update the name of the Ordinance.

**POLICY 135.1.12**: The county will coordinate its activities and cooperate with other affected public and private interests, including consumers and producers of housing, the Affordable Housing <u>Advisory</u> Committee, Community Action/<u>Neighborhood District</u> Agency, and the Neighborhood District Committee(s) to ensure effective public participation in the housing planning process.

• Policy 135.1.12 is being amended to update the names of the Committee and Agency.

**OBJECTIVE 135.2: RURAL AND FARMWORKER HOUSING.** <u>To provide suitable and affordable housing for farmworkers.</u> By the year 2025, Lee County will provide affordable housing that is suitable and affordable for rural and farm worker housing by increasing the stock of standard affordable housing and the removal of substandard conditions.

\*\*\*

- Objective 135.2 is being amended to remove the year 2025 reference and rewritten for clarity.
- Policies under Objective 135.2 are being revised as needed to remove "rural and" from "rural and farmworker housing".

\*\*\*

**POLICY 135.2.4:** Lee County will set aside 10% of its SHIP housing subsidy for funding the development of special needs housing, which will include rural and farm worker housing.

• Policy 135.2.4 is being deleted since the definition of "special needs" no longer includes farmworker housing; therefore, SHIP money for development of special needs housing cannot be used for farmworker housing.

\*\*\*

**POLICY 135.4.8:** The county will participate in state and federal housing assistance programs to aid special needs populations as defined in Rule 67-37.002(21) F.S. 420.0004, and other very-low, low and moderate-income households to secure suitable, affordable housing, housing rehabilitation, home buyer training, down payment and closing cost assistance, rental assistance, and new construction home ownership programs.

**POLICY 135.4.9:** Give priority to special needs populations as defined in Rule 67-37.002(21) <u>F.S.</u> 420.0004 with inadequate housing in recognition of the even greater problems faced by the private sector in providing this needed type of housing.

• Policy 135.4.8 and 135.4.9 are being amended to update reference to the definition.

**POLICY 135.4.13:** Lee County will set aside 30% of its SHIP housing subsidy for funding the development of affordable housing for very-low income households.

\*\*\*

**POLICY 135.4.14:** Lee County will set aside 30% of its SHIP housing subsidy for funding the development of affordable housing for low income households.

• Policies 135.4.13 & 14 are being deleted since the duplicative of statutory requirements; the County is required to use a minimum of 30% of its local housing distribution through the SHIP program to serve households with low and very-low incomes.

\*\*\*

**POLICY 135.4.12:** The county will encourage proposals for affordable housing that are consistent with the use and density provisions of this Plan and associated land development regulations that encourage affordable housing proposals provided such locations: avoid Encourage affordable housing projects that are consistent with density, use, and land development provisions and located where: concentrations of very-low and low-income households are avoided; are provided full urban public services are provided; and, and facilities; are environmentally sensitive areas are protected.; and, would create a livable and supportive environment.

• Policy 135.4.12 is being revised for clarity.

\*\*\*

**POLICY 135.4.18:** Through County housing programs, the County will promote diversity to increase integration, workforce housing, and economic development zones.

• Policy 135.4.18 is being deleted since it is not clear or necessary.

\*\*\*

**POLICY 135.5.1:** Mobile homes are permitted in all <u>future</u> land use categories that permit residential development: Intensive Development, Central Urban, Urban Community, Suburban, Outlying Suburban, Sub Outlying Suburban, Rural, Outer Islands, Rural Community Preserve, Coastal Rural, Open Lands, Density Reduction/Groundwater Recharge, Wetlands, New Community, and University Community.

• Policies 135.5.1 and 135.6.1 are being amended to delete the list of future land use categories since it is no longer accurate; the categories where residential uses are permitted can be found in Goal 1 and are summarized in Table 1(a).

**POLICY 135.5.2:** The Land Development Code will continue to designate zoning categories for mobile home parks and to implement the requirements set forth in F.S. <u>773.083</u> <u>723.062</u> Governmental Action Affecting the Removal of Mobile Home Owners.

• Policy 135.5.2 is being amended to update the reference to State Statute.

\*\*\*

**POLICY 135.6.1:** Housing for special needs is permitted in all <u>future</u> land use categories that permit residential development: Intensive Development, Central Urban, Urban Community, Suburban, Outlying Suburban, Sub-Outlying Suburban, Rural, Outer Islands, Rural Community Preserve, Coastal Rural, Open Lands, Density Reduction/Groundwater Recharge, Wetlands, New Community, and University Community.

• Policies 135.5.1 and 135.6.1 are being amended to delete the list of future land use categories since it is no longer accurate; the categories where residential uses are permitted can be found in Goal 1 and are summarized in Table 1(a).

\*\*\*

**POLICY 135.6.8:** The county will cooperate with appropriate agencies in order to provide adequate sites for community residential homes (e.g. group homes or foster care facilities), homeless shelters and transitional housing, to meet the requirements of persons with special needs as defined in Rule 67-37.002(21) F.S. 420.0004.

• Policy 135.6.8 is being amended to update reference to the definition.

# **POLICY 135.6.9:** Lee County will set aside 10% of its SHIP housing subsidy for funding the development of special needs housing.

• Policy 135.6.9 is being deleted since it is outdated and duplicative of statutory requirements; the County is required to use a minimum of 20% of its local housing distribution through the SHIP program to serve persons with special needs.

#### IX. HISTORIC PRESERVATION

**POLICY 143.3.2:** Lee County may apply will continue to seek and make applications for historic and archaeological preservation grants from private, state, and federal sources. Funds will be administered by the Historic Preservation Trust Fund, once established.

• Policy 141.3.2 is being updated and amended for clarification; funds will be administered by staff.

\*\*\*

**POLICY 143.3.6:** Lee County will explore ways in which the historic preservation program and the Community Redevelopment Agency can work together using tax increment financing to restore historic districts in slum or blighted areas.

• Policy 143.3.6 is being deleted since the county's Community Redevelopment Agencies (CRAs) were dissolved in 2006; the references to slum and blighted areas were specific to creation of CRAs and not applicable to creation or restoration of historic districts.

\*\*\*

**POLICY 144.1.1:** Lee County will maintain <u>a historic preservation guide</u> and make available to the public an historic preservation manual to help property owners preserve and maintain their properties consistent with historic preservation standards.

• Policy 144.1.1 is being amended to update the name of the Guide.

\*\*\*

**POLICY 145.1.2:** All county departments must notify the Lee County Historic Preservation Board of any proposals that would affect a historic resource. The Historic Preservation Board will advise the Board of County Commissioners as to any action they deem appropriate or perform other duties as specified in a historic preservation ordinance.

• Policy 145.1.2 is being deleted since it is a procedure that is addressed by the historic preservation ordinance.

\*\*\*

**POLICY 145.2.2:** Lee County <u>may will exert every effort to enter into an interlocal agreements</u> with the <u>incorporated</u> municipalities to share functions of the within Lee County to perform shared functions with the Historic Preservation Board.

• Policy 145.2.2 is being amended for flexibility and clarity.

\*\*\*

**POLICY 145.2.4:** The county will consider establishing or supporting a staff position for a county or regional archaeologist to undertake the educational and cultural research requirements of the Lee County archaeological resource base.

• Policy 145.2.4 is being deleted since the establishment of staff positions is not appropriate as a Lee Plan policy.

#### X. INTERGOVERNMENTAL COORDINATION

**OBJECTIVE 151.1: SPECIAL DISTRICTS.** Lee County will utilize the Department of Community Affairs' Economic Opportunity special district information program so as to provide for the regular exchange of information, proposals, and plans between the county and its special districts, bodies, boards, and other entities; and Lee County will monitor the effectiveness of this program as it pertains to intergovernmental coordination.

• Objective 151.1 is being amended to update the name of the Department.

\*\*\*

**POLICY 151.2.2:** Where conflicts with other entities regarding service standards cannot be resolved through discussion among those concerned, Lee County will pursue resolution through interlocal agreement

or through a dispute resolution process, established pursuant to § 186.509, F.S., for bringing intergovernmental disputes to closure in a timely manner. s and/or the informal mediation process of the Southwest Florida Regional Planning Council.

**POLICY 152.1.2:** Where conflicts regarding growth management and development issues cannot be resolved through discussion among those concerned, <u>Lee County will pursue the dispute resolution</u> process, established pursuant to § 186.509, F.S., for bringing intergovernmental disputes to closure in a timely manner.the informal mediation process of the Southwest Florida Regional Planning Council will be used where judicial action can be avoided.

• Policies 151.2.2 and 152.1.2 are being amended to reflect language provided in state statute.

\*\*\*

**OBJECTIVE 152.2: POLITICAL INTERVENTION.** In 1995, and on a continuing basis thereafter, Lee County will initiate vehicles for dialogue and communicateion with other local governments to address issues which have an effect beyond the boundaries of unincorporated Lee County.

• Objective 152.2 is being amended to delete the reference to 1995 when implementation of this objective was to begin.

#### XI. ECONOMIC ELEMENT

**POLICY 158.3.7:** Lee County will promote and coordinate the Lee County/Fort Myers Enterprise Zones. Policy 158.3.7 is being deleted since the Enterprise Zones have been sunset by the State.

\*\*\*

**POLICY 158.5.3:** Lee County will encourage the Lee County School District, <u>Edison State College Florida</u> <u>Southwestern State College</u>, Florida Gulf Coast University, and any future institutions of higher learning, to develop cooperative and integrated curriculums that enhance and increase the productivity of the local work force and attract industries and skilled workers.

• Policy 158.5.3 is being amended to update the name of the college.

#### XII. GLOSSARY

BASE FLOOD - The flood having a one percent chance of being equaled or exceeded in any given year.

• "Based Flood" is not used within in the Lee Plan, except within the Glossary, and is therefore not necessary.

\*\*\*

**BIOLOGICAL OXYGEN DEMAND (BOD)** - The oxygen used in meeting the metabolic needs of aerobic microorganisms in water rich in organic matter.

• "Biological Oxygen Demand" is not used within in the Lee Plan, except within the Glossary, and is therefore not necessary.

Attachment 1 CPA2021-00001 **CHEMICAL OXYGEN DEMAND (COD)** - The amount of matter available in water with the potential to take up dissolved oxygen from the water by various chemical processes.

 "Chemical Oxygen Demand" is not used within in the Lee Plan, except within the Glossary, and is therefore not necessary.

**FRACTIONAL OWNERSHIP UNIT** – As used in Goal 13, any dwelling unit for which ownership is shared among multiple entities for the primary purpose of creating short-term use or rental units rather than permanent full time residential units.

• Definition is being relocated from 13.2.6.

\*\*\*

**FREEWAY** – The term freeway as used herein and as defined by the 1985 Highway Capacity Manual, Special Report 209, is a <u>A multilane</u> divided highway facility having with at least two or more lanes for the exclusive use of traffic in each direction and full control of access and egress. Access to and egress from the facility occur only at ramps, which are generally designed to permit high speed merging and diverging maneuvers to take place, thus minimizing disruptions to mainline traffic.

• This definition is being amended for consistency with industry definition.

\*\*\*

**FUNCTIONAL STREET CLASSIFICATION** - Functional classification is the process by which streets and highways are grouped into classes, or systems, according to the character of service they are intended to provide.

• This definition is being amended for internal consistency within the Lee Plan.

\*\*\*

**GREYFIELD DEVELOPMENT** - Redevelopment of antiquated or underutilized commercial or industrial properties such as strip shopping centers, malls and office parks.

• "Greyfield Development" is not used within in the Lee Plan, except within the Glossary, and is therefore not necessary.

\*\*\*

**HUMAN-SCALE DEVELOPMENT** - The use of buildings with details, elements and materials that are inviting to pedestrians and site design elements clearly oriented to human activity, such as limited block length, limited distance between entrances and reduced blank or dead façade space.

• "Human Scale Development" is not used within in the Lee Plan, except within the Glossary, and is therefore not necessary.

\*\*\*

**PARK-ONCE ENVIRONMENT** - An urban design strategy that creates an area where it is possible, after arrival, to engage in a variety of activities by walking.

• "Park Once Environment" is not used within in the Lee Plan, except within the Glossary and is therefore not necessary.

**URBAN** <u>PUBLIC</u> SERVICES - The requisite services, facilities, capital improvements, and infrastructure necessary to support growth and development at levels of urban density and intensity. Urban <u>Public</u> services as used in this plan include, but are not limited to: public sewer and water; paved streets and roads; public transit; parks and recreation facilities; urban levels of police, fire, and emergency services; urban surface water management; schools; employment, industrial, and commercial centers; institutional, public, or administrative facilities; and, community facilities such as senior citizens' centers, libraries, and community centers.

• This definition is being amended to change "urban" to "public" for clarification and to remove unnecessary public facilities.

#### Table 1(a)

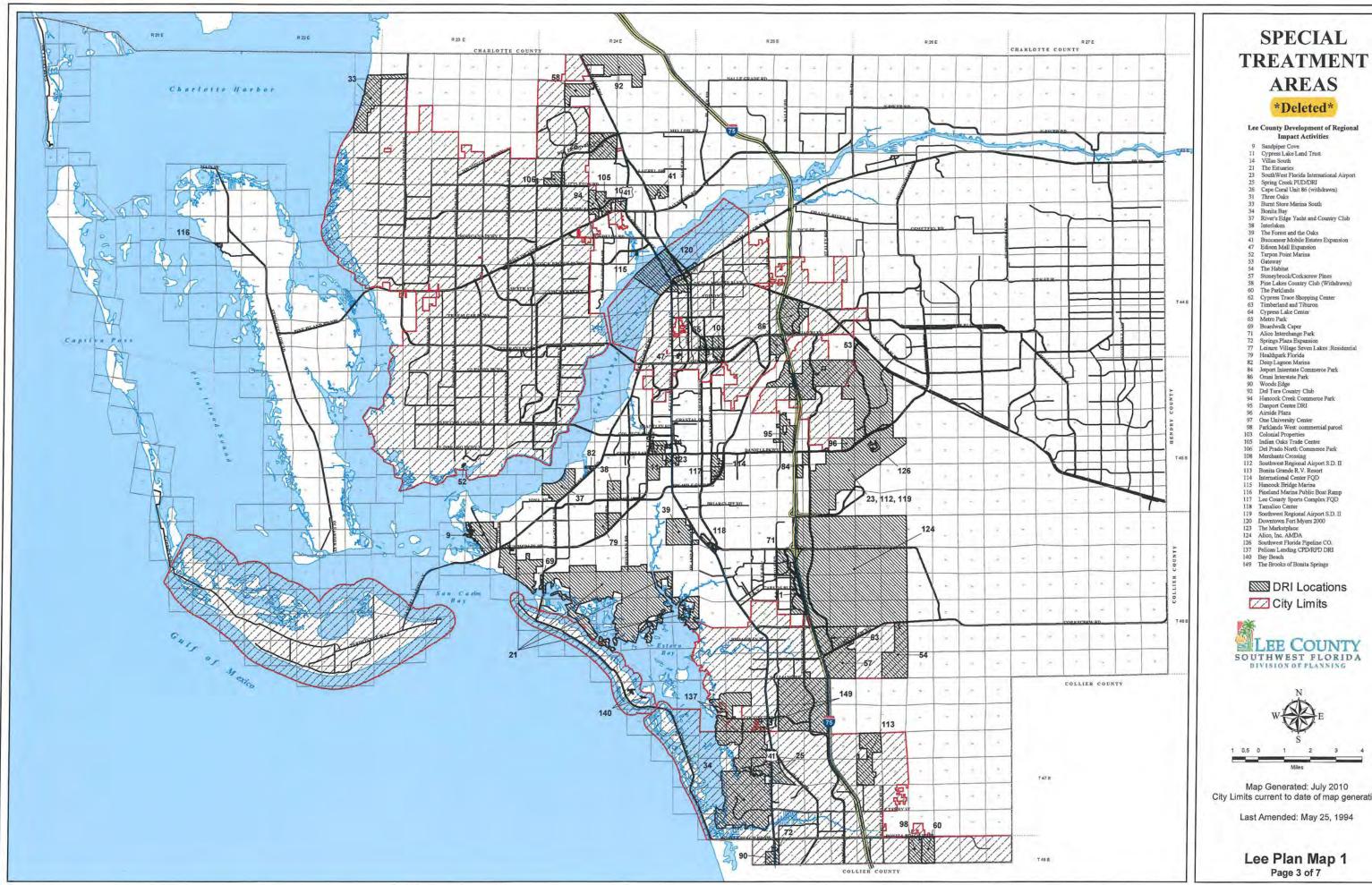
#### **Clarifications and Exceptions:**

<sup>8</sup> Higher densities may be allowed under the following circumstances where wetlands are preserved on the subject site:

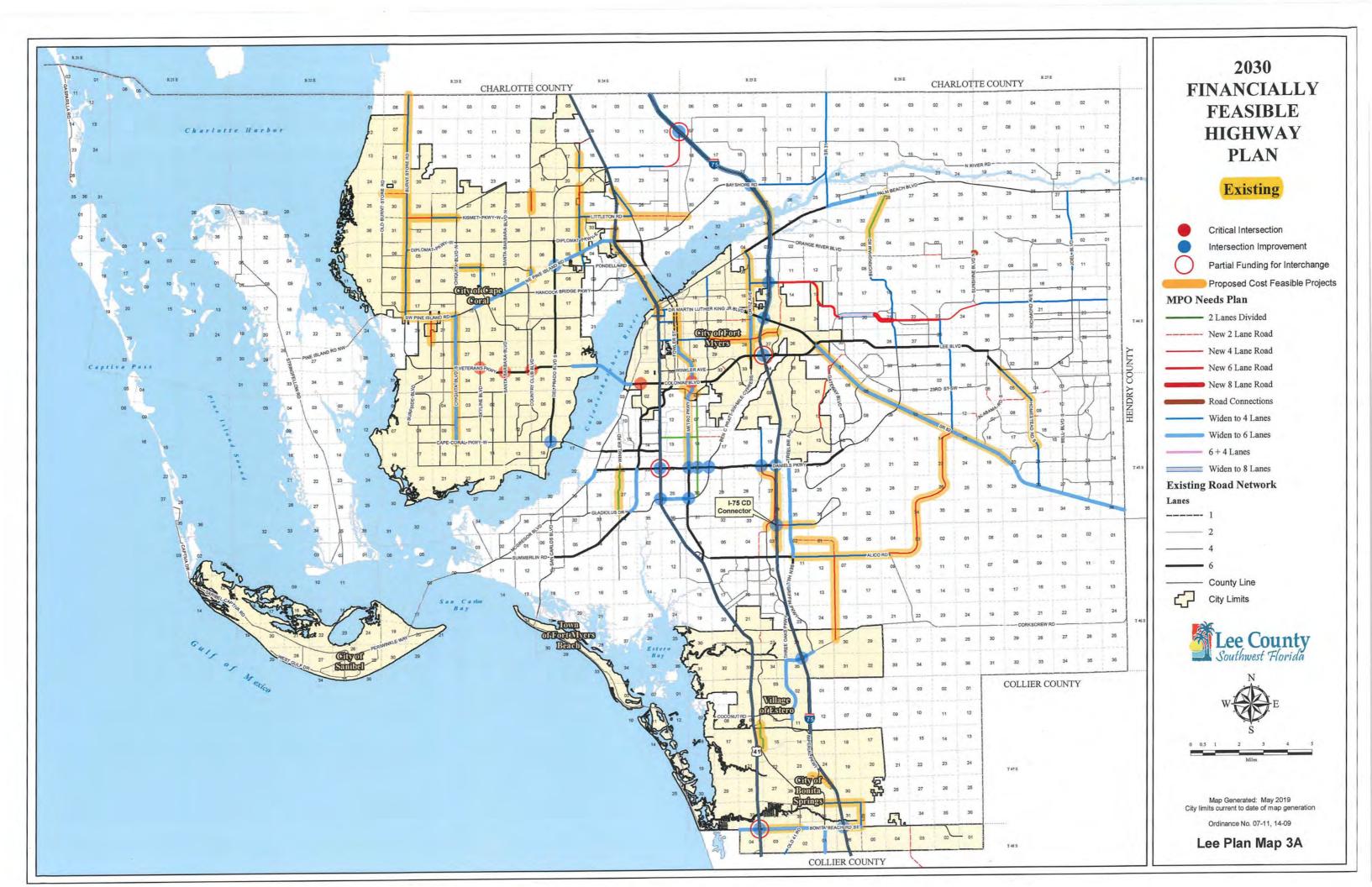
- (a) If the dwelling units are relocated off-site through the provision of Transfer of Development Rights program provided in Chapter 2 of the Land Development Code Ordinance 86-18, as amended or replaced; or
- (b)Dwelling units may be relocated to developable contiguous uplands designated Intensive Development, General Interchange, Central Urban, Urban Community, Suburban, Outlying Suburban, Sub-Outlying Suburban, and New Community from preserved freshwater wetlands at the same underlying density as permitted for those uplands (see Policy 124.1.1). Impacted wetlands will be calculated at the standard Wetlands density of 1 dwelling units per 20 acres. Planned Developments or Development Orders approved prior to October 20, 2010 are permitted the density approved prior to the adoption of CPA2008-18.
- <sup>13</sup> See <u>Objectives 33.2 and 33.3</u> Policies 33.3.2, 33.3.3, and 33.3.4 for potential density adjustments resulting from concentration or transfer of development rights.
- <sup>18</sup> The standard maximum density is 1 du/2.7 acres unless the "Adjusted Maximum Density" of 1 du/acre is achieved in accordance with requirements of (see Policy 1.4.7 and Chapter 33 of the Land Development Code).
- <sup>19</sup> Maximum density in the New Community future land use category is limited to 1 du/2.5 acres in the North Olga Community Plan area in accordance with (see Policy 1.6.1).
- Notes 8 and 13 have been updated to correct cross-references.
- Notes 18 and 19 are being updated for clarity.

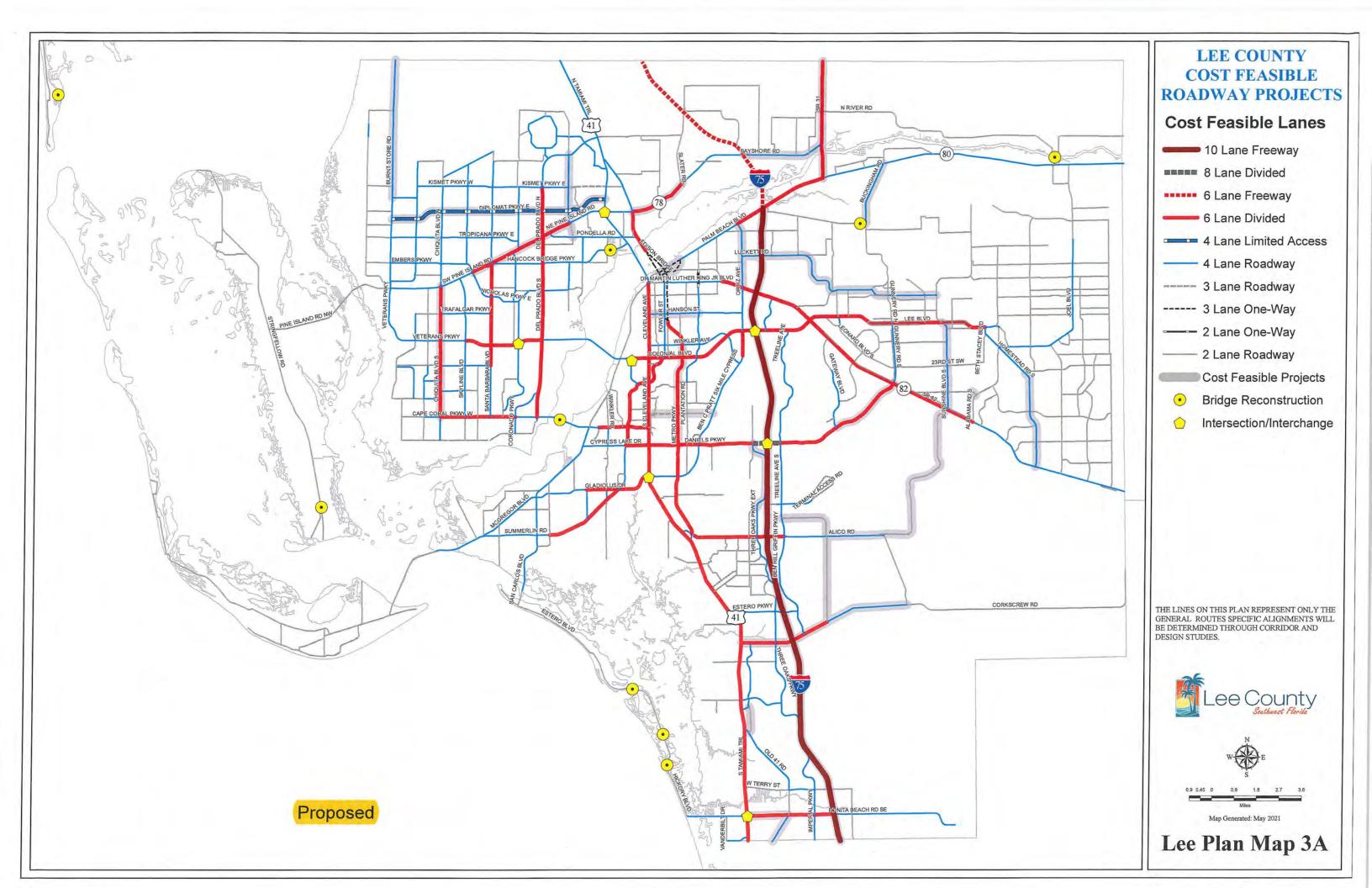
# **ATTACHMENT 2**

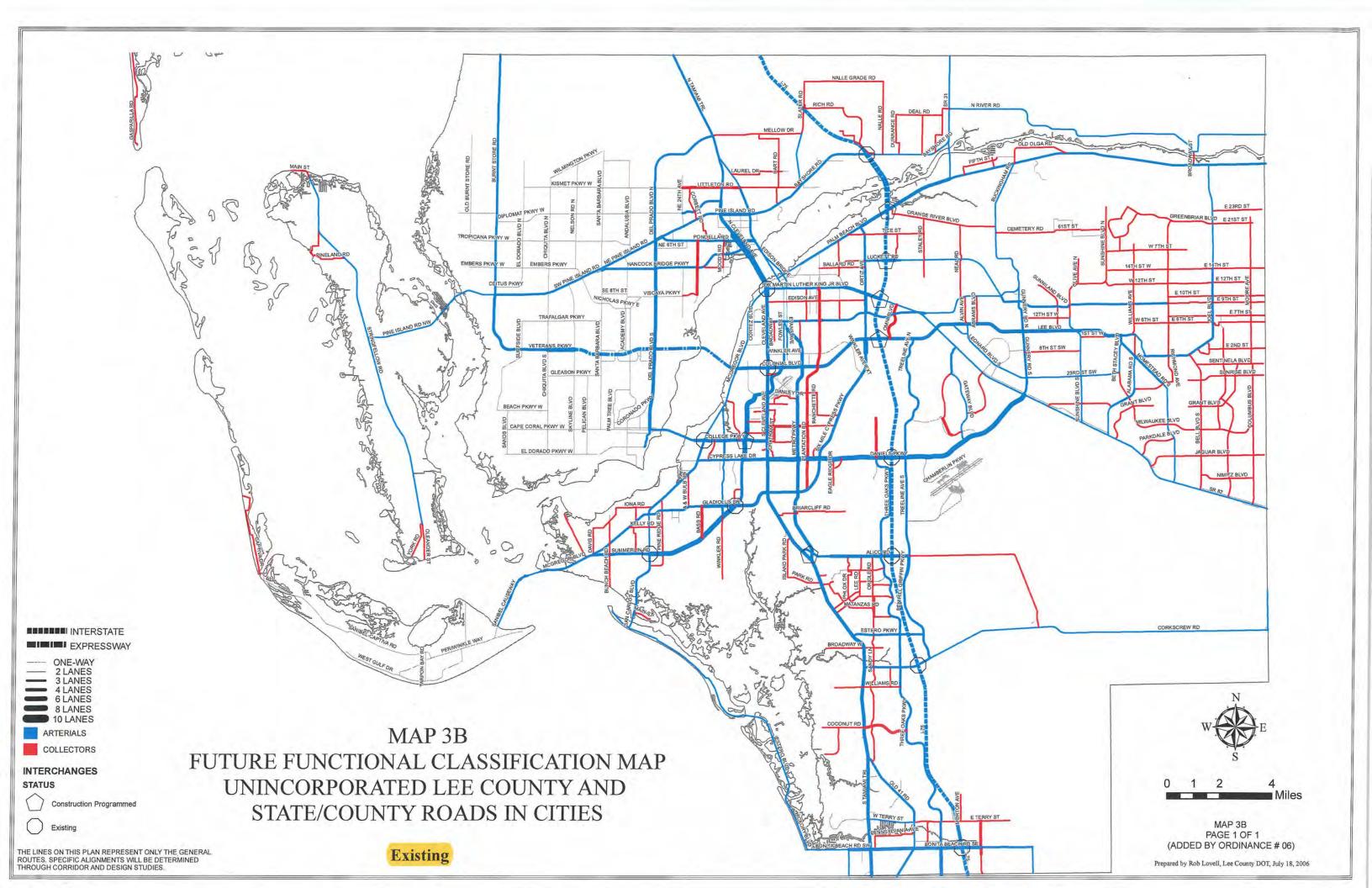
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- Map 3A
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  - $\circ$  Proposed
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  - Existing
  - Proposed
- > Map 3C
  - Existing
  - Proposed
- Map 3H
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- > Map 3I
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  - $\circ$  Proposed
- ➢ Map 16
  - Changes
  - Existing
  - Proposed

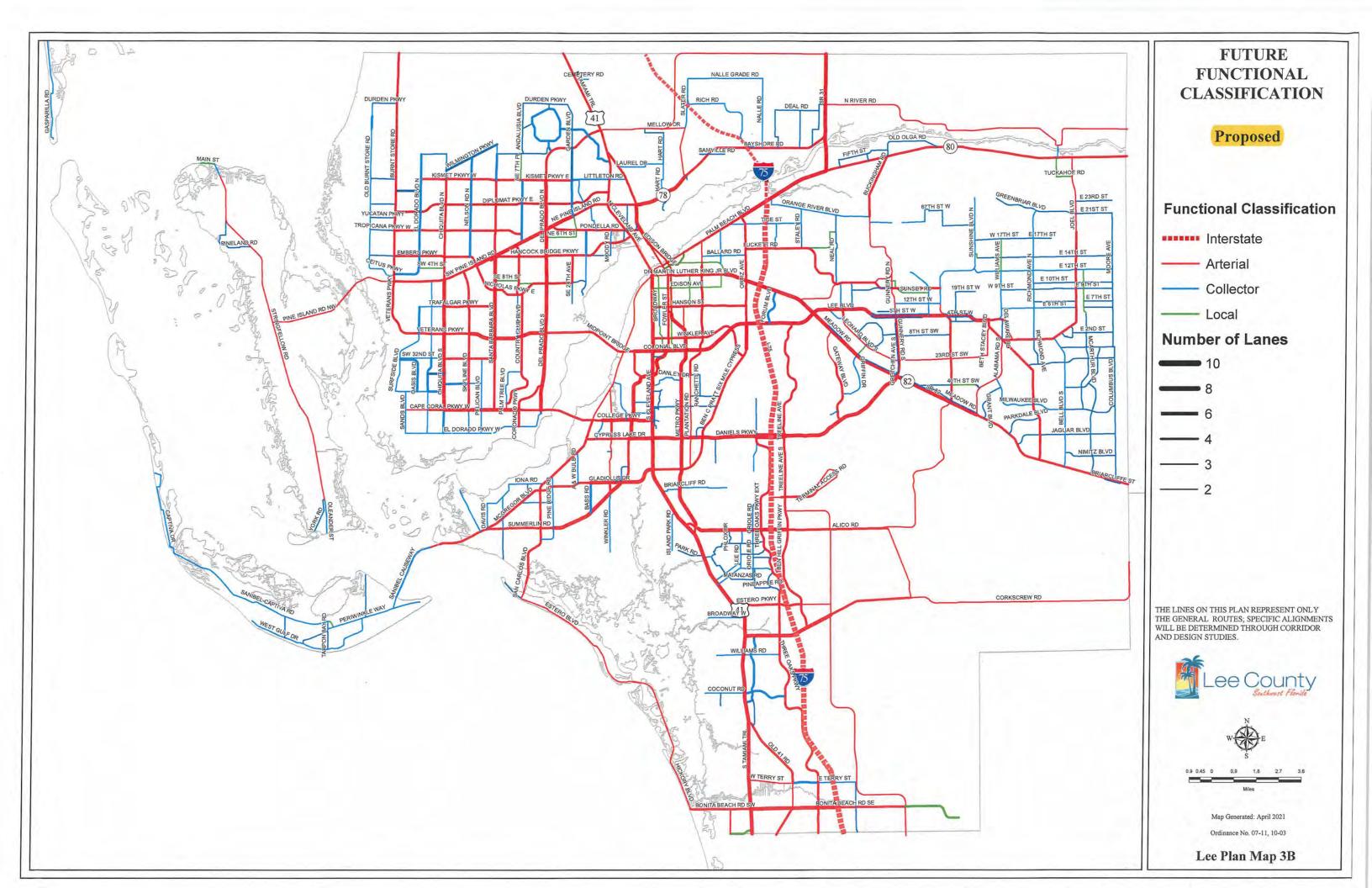


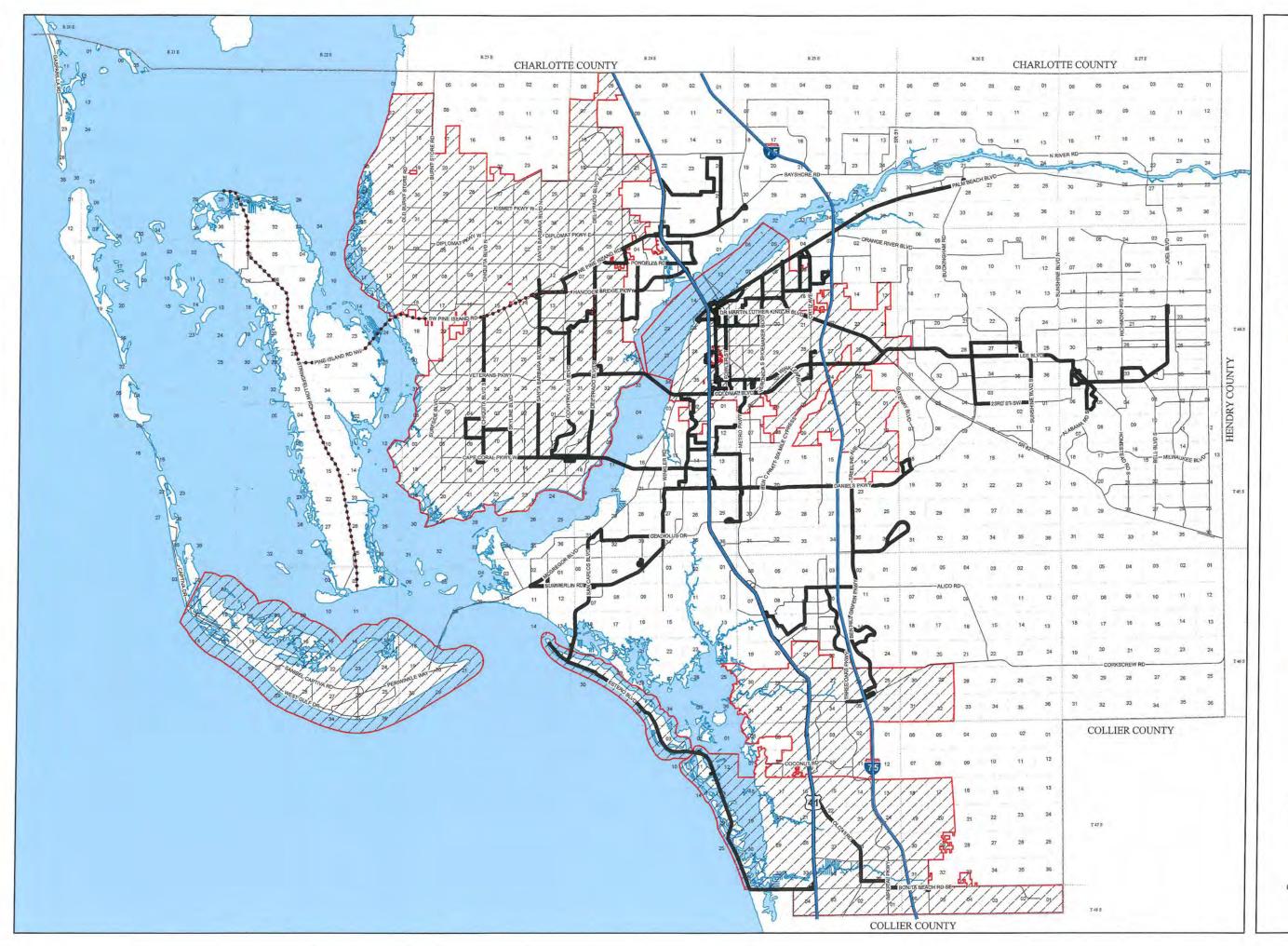
City Limits current to date of map generation











2030 FINANCIALLY FEASIBLE TRANSIT NETWORK

# Existing

Regular Route
 Thursday Operation
 City Limits

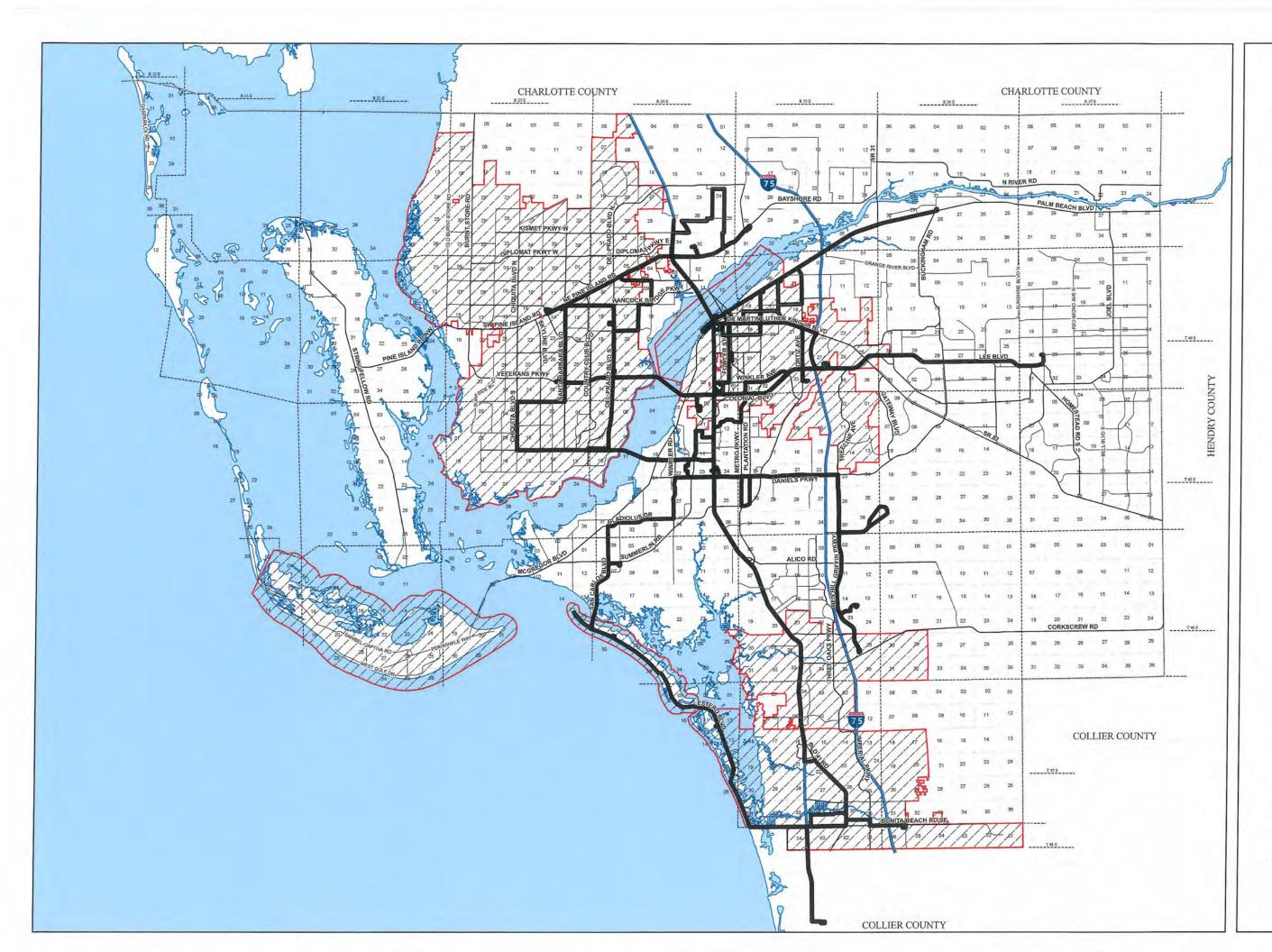




Ordinance No. 98-09, 02-02, 10-09

Map Generated: April 2021 City limits current to date of map generation

Lee Plan Map 3C



2045 FINANCIALLY FEASIBLE TRANSIT NETWORK

# Proposed

Transit Routes

 City Limits

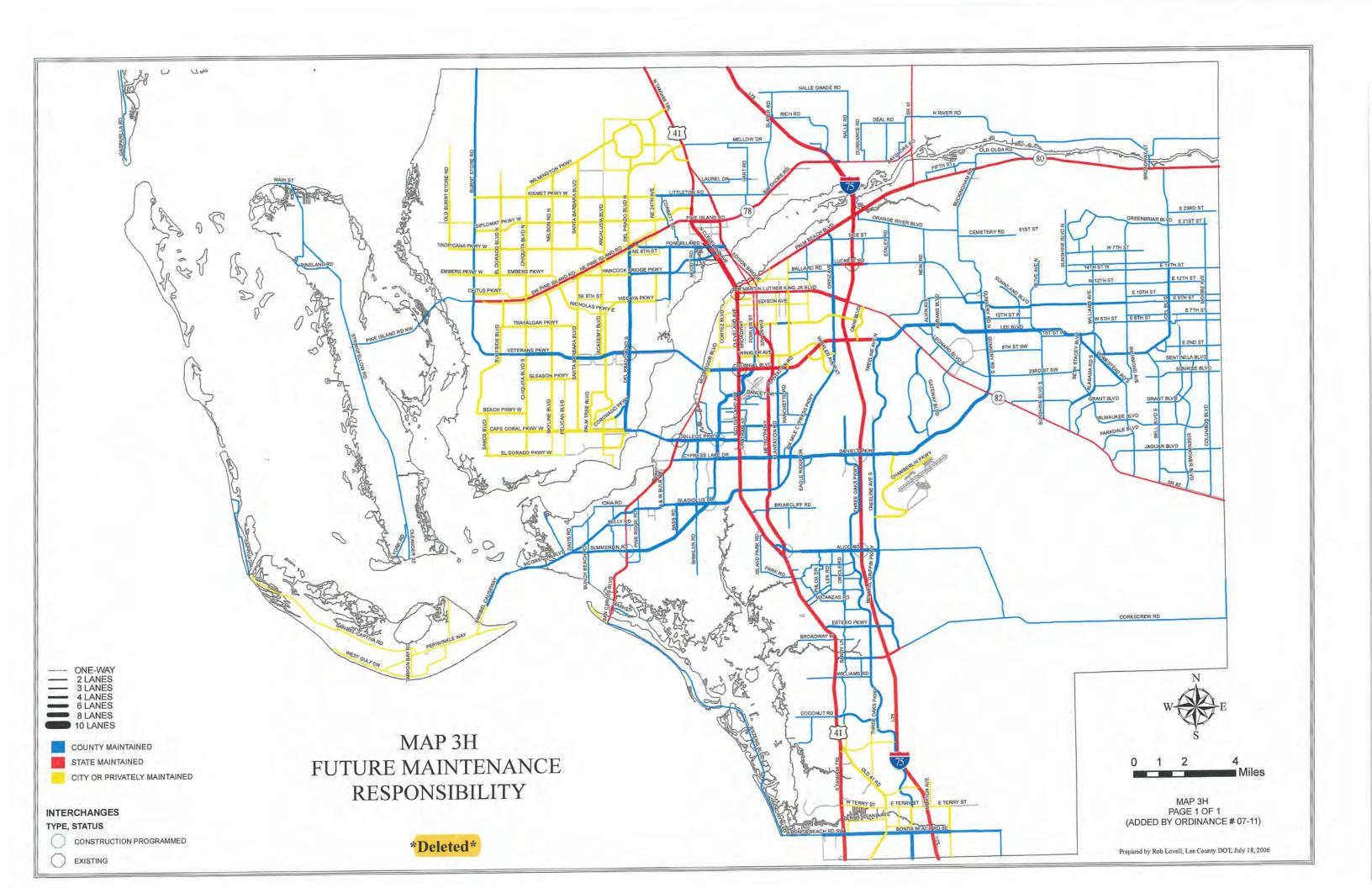


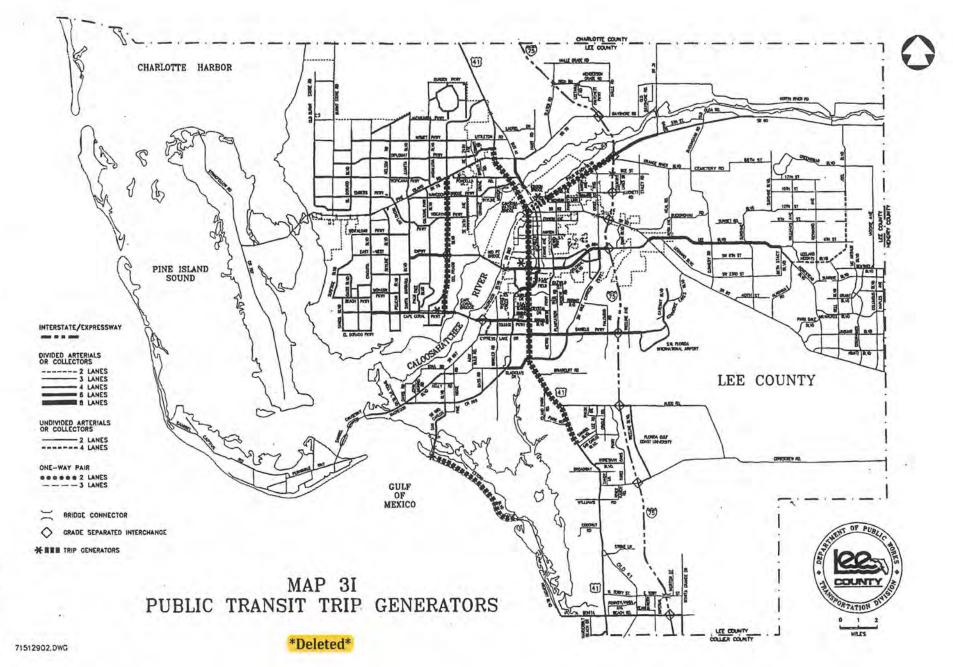


Map Generate: April 2021 City limits current to date of map generation

Ordinance No. 98-09, 02-02, 10-09

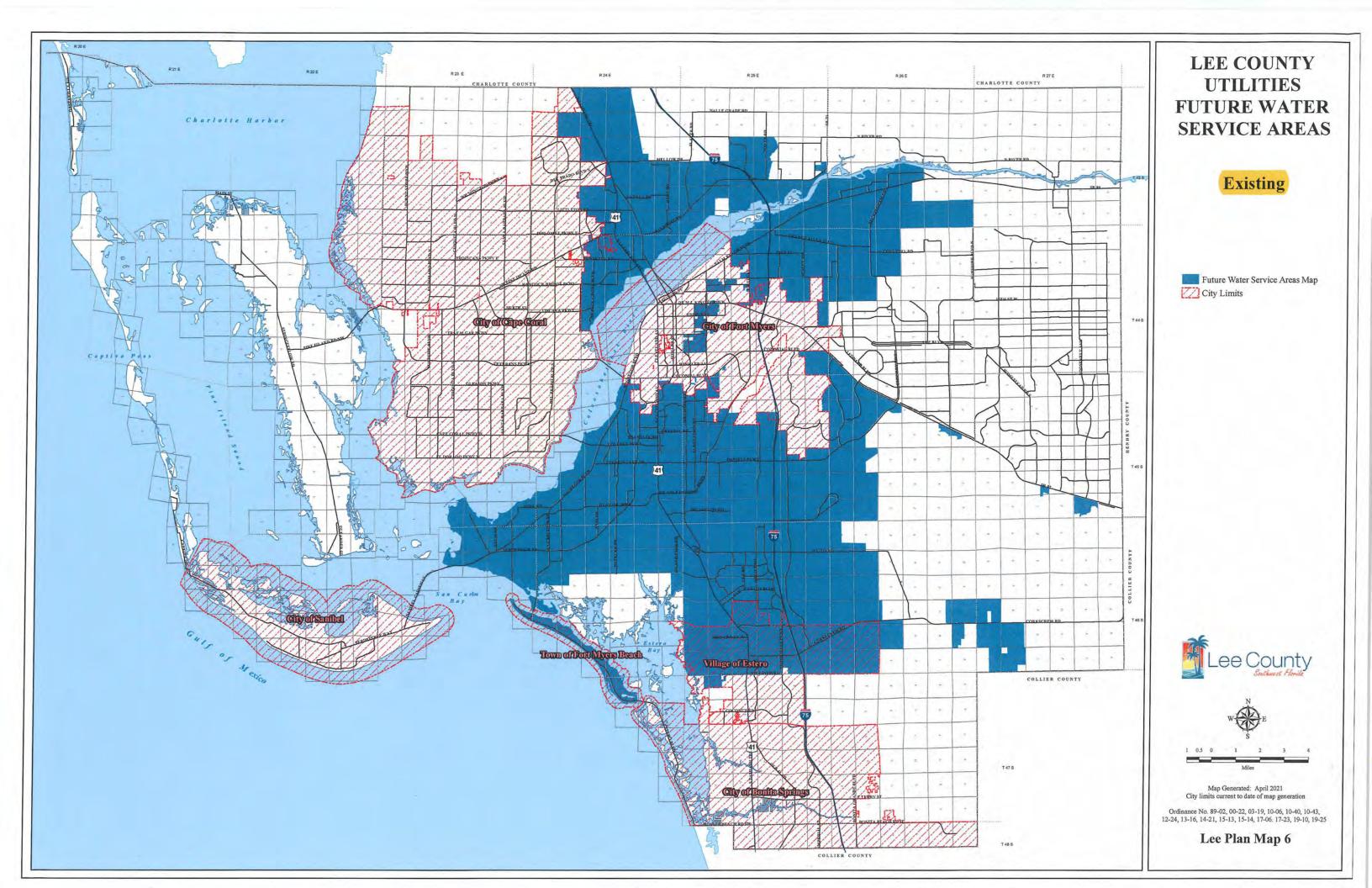
Lee Plan Map 3C

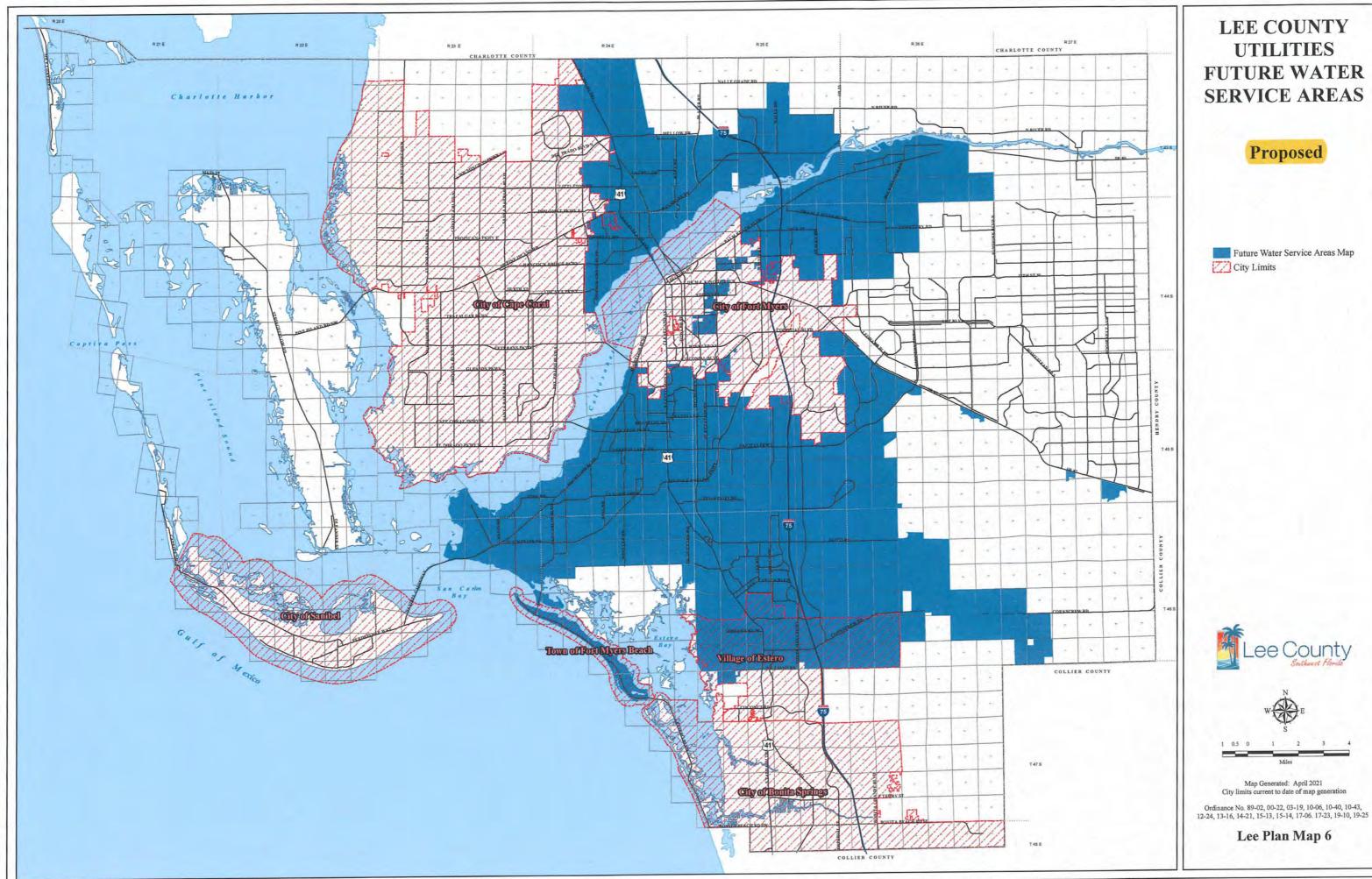




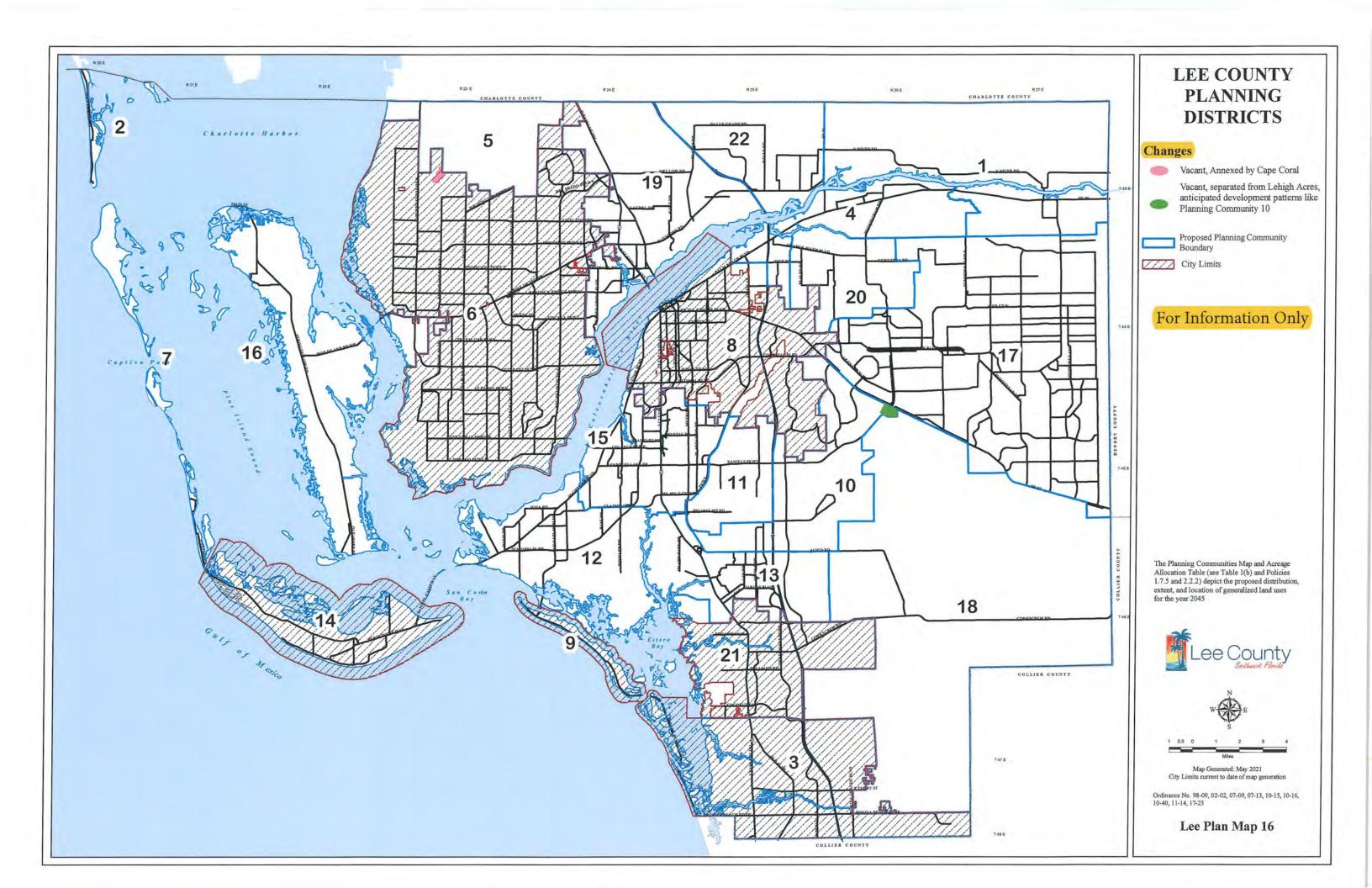
MAP 3I - PAGE 1 OF 1

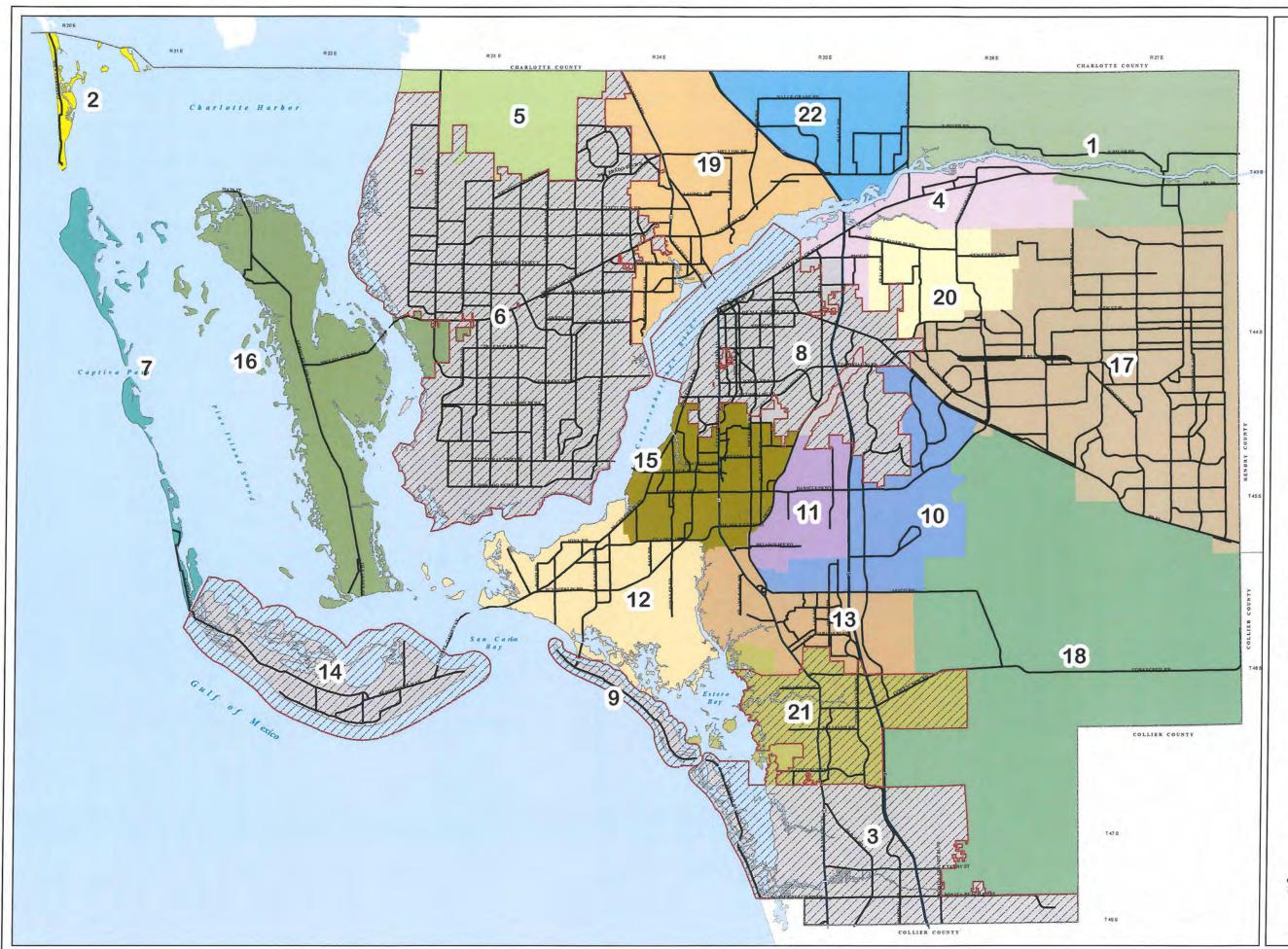
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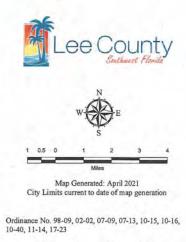
# **FUTURE WATER** SERVICE AREAS



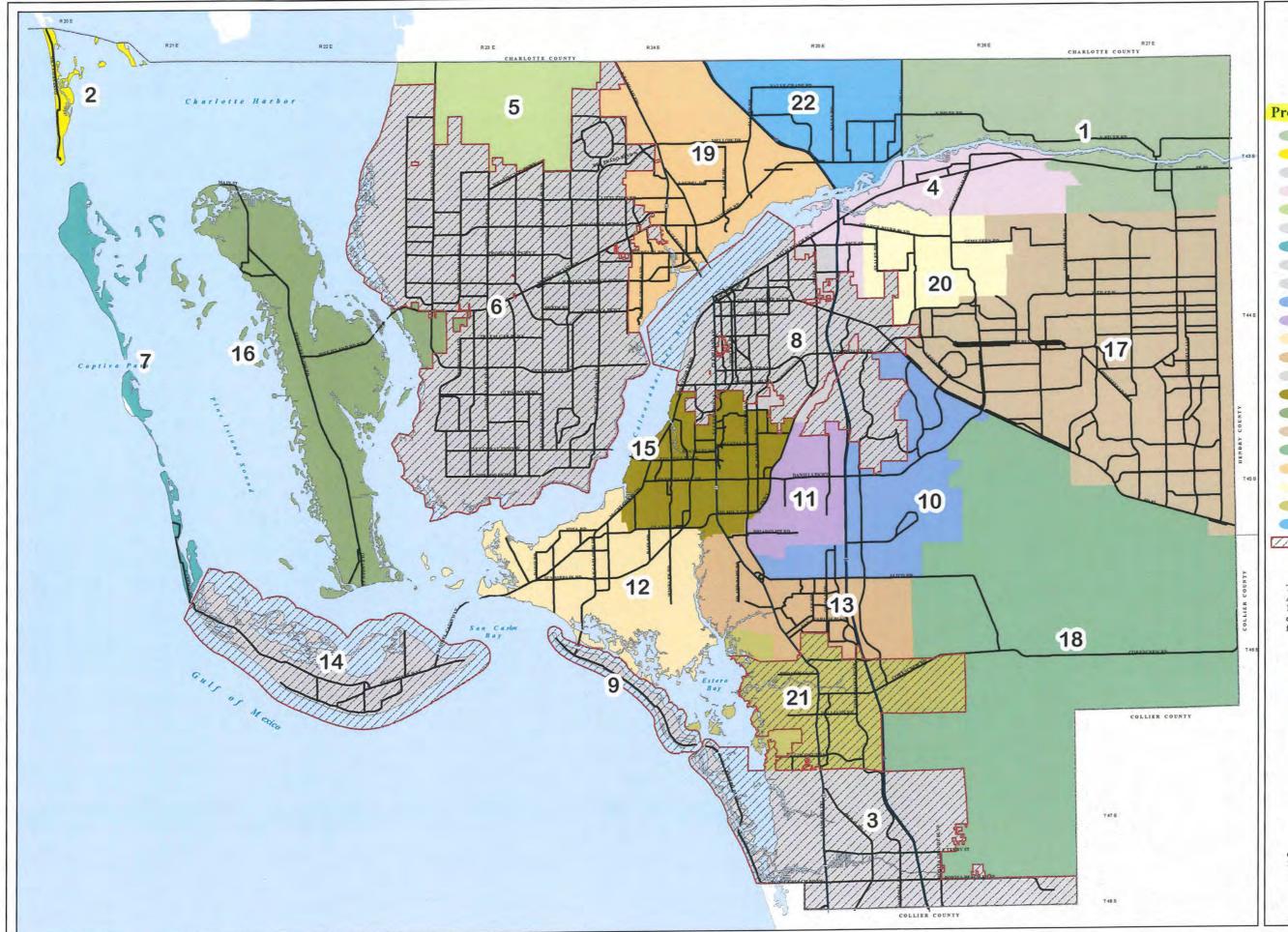




The Planning Communities Map and Acreage Allocation Table (see Table 1(b) and Policies 1.1.1 and 2.2.2) depict the proposed distribution, extent, and location of generalized land uses for the year 2030.



Lee Plan Map 16



### LEE COUNTY PLANNING DISTRICTS

### Proposed

	District 1 - Northeast Lee County
	District 2 - Boca Grande
	District 3 - Bonita Springs
	District 4 - Fort Myers Shores
	District 5 - Burnt Store
0	District 6 - Cape Coral
	District 7 - Captiva
	District 8 - Fort Myers
	District 9 - Fort Myers Beach
	District 10 - Gateway / Airport
	District 11 - Daniels Parkway
	District 12 - Iona / McGregor
	Distrcit 13 - San Carlos
	District 14 - Sanibel
	District 15 - South Fort Myers
	District 16 - Pine Island
	District 17 - Lehigh Acres
	District 18 - Southeast Lee County
	District 19 - North Fort Myers
	District 20 - Buckingham
	District 21 - Estero
	District 22 - Bayshore
111	City Limits

The Planning Communities Map and Acreage Allocation Table (see Table 1(b) and Policies 1.7.5 and 2.2.2) depict the proposed distribution, extent, and location of generalized land uses for the year 2045



Map Generated: May 2021 City Limits current to date of map generation

Ordinance No. 98-09, 02-02, 07-09, 07-13, 10-15, 10-16, 10-40, 11-14, 17-23

Lee Plan Map 16

# **ATTACHMENT 3**

#### TABLE 1(b) Year 2030 Allocation Existing

F	uture Land Use Category	Lee County Totals	Northeast Lee County	Boca Grande	Bonita Springs	Fort Myers Shores	Burnt Store	Cape Coral	Captiva	Fort Myers	Fort Myers Beach	Gateway/ Airport	Daniels Parkway
	Intensive Development	1,361			26.2	5		27		250			
Г	Central Urban	14,766				225	1			230			
	Urban Community	16,396	520	485		637	A			1.0	1	250	
	Suburban	16,623				1,810			L	85	1		
	Outlying Suburban	4,301	30			498	20	2	500				1,438
	Sub-Outlying Suburban	1,687	7.7.2.2			279						227	
~[	Commercial			Y					1			1	
rutegory	Industrial	79	S	10 22 21	1	10000	1	10.000	1.2.2.1	39		20	10.0
20	Public Facilities	1							1			1.00	
	University Community	850	0	1.0		1.0		(	1.11.11.1.1	1.1		C =	
	Destination Resort Mixed Use Water Dependent	8		3					1	1.2.3			2.5
n n	Burnt Store Marina Village	4	1	2.1.1.1.1.1			4					1	
3	Industrial Interchange	1	1				1.2.2.3						1
	General Interchange	169	(h	1.2.2.1			1.					29	58
3	General Commercial Interchange		1				1					1	
	Industrial Commercial Interchange			-		1							
Nestuentiat by Latare Lana	University Village Interchange											1	
1	Mixed Use Interchange	1.1.1	10										
ā' [	New Community	2,100	1,200									900	
	Airport			IF STORE		12. 31							
1 1	Tradeport	9	· · · · · · · · · · · · · · · · · · ·			1	1					9	1.
3	Rural	8,313	1,948			1,400	636					1	1,500
31	Rural Community Preserve	3,100				N				1			
4 [	Coastal Rural	1,300		1.0		Di la la							
T	Outer Island	202	5		-	1	N	10.000	150				
- t	Open Lands	2,805	250	-			590	18		1			120
T	Density Reduction/ Groundwater Resource	6,905	711									94	1.2.2
1	Conservation Lands Upland			XE	15.000	1		1				1.0	
1	Wetlands	0	-	1.1.1.1.1.1	1000			1					
1	Conservation Lands Wetland											1	
Unir	acorporated County Total Residential	80,979	4,664	485	1	4,855	1,250	29	651	604	-	1,529	3,116
Com	mercial	12,793	177	52		400	50	17	125	150		1,100	440
Indu	ustrial	6,620	26	3		400	5	26		300		3,100	10
on	Regulatory Allocations	1				1	1	1		1		1 -/	1
Publ		82,570	7,100	421	1	2,005	7,000	20	1,961	350	1	7,752	2,477
	ve AG	24,208	5,100	141		550	150	20	4,701	000		1102	20
-	sive AG	43,591	12,229		-	2,305	109			-		1,241	20
-	servation	81,933	2,214	611		1,142	3,236	133	1,603	748	-	-	
Vaca				011	100000			-	1,003			2,947 282	1,733
Tota		24,481	1,953	1 570		61	931	34	1.040	45	-		151
	u ulation Distribution (unincorporated Lee County)	357,175 495,000	33,463 9,266	1,572		11,718 34,178	12,731 3,270	259 225	4,340 530	2,197 5,744		17,951 19,358	7,967

(Amended by Ordinance No. 02-02, 03-19, 05-19, 07-13, 09-15, 09-16, 10-15, 10-16, 10-40, 10-43, 14-14, 15-10, 16-02, 16-17, 17-12, 17-23, 18-06, 19-13, 19-14, 19-16, 20-05) Printed 4/16/2021

Page 1 of 2

#### TABLE 1(b) Year 2030 Allocation Existing

I	Future Land Use Category	Iona/ McGregor	San Carlos	Sanibel	South Fort Myers	Pine Island	Lehigh Acres	Southeast Lee County	North Fort Myers	Buckingham	Estero	Bayshore
	Intensive Development	1400 - 40			660	3	42	1	365		9	1277
	Central Urban	375	17		3,140		8,179	Y	2,600			
1	Urban Community	850	1,000		860	500	10,734	1	u (1022-103)	110	450	
- [	Suburban	2,488	1,975		1,200	675		UII	6,690		1,700	
	Outlying Suburban	377			1.00	600			382		454	
1	Sub-Outlying Suburban		25					A	140	66	11111	950
_[	Commercial									1 . T		1
use caregory	Industrial	5	5		10				1.1.1.1.1.1.1			
30	Public Facilities	1.00	1			1						
11	University Community	111111	850		-				11.00			2
2	Destination Resort Mixed Use Water Dependent	8							1.1			
S I	Burnt Store Marina Village											
3	Industrial Interchange	100	1		1	1					10-1-0-1	1
1 m	General Interchange		1	10000	1000		12223	15	31		6	30
- 1	General Commercial Interchange								1.1.1.1		1.5	
	Industrial Commercial Interchange	- In	1								1	0
111	University Village Interchange	5 No.		1.000		1.0		-	1			
4	Mixed Use Interchange	1		1232		21.55	1.5.7.1		1			1
ā' ľ	New Community								1.0		-	1.1
a	Airport	1 N	1					1.0		1		
hu	Tradeport			1000						4		
ae	Rural		90			190	14	1.00	500	50	635	1,350
Kestaential By Future Land	Rural Community Preserve			11						3,100	1	
4	Coastal Rural	5 1			1.5	1,300						1.
I	Outer Island	1	1000			45		2.4				
1	Open Lands	1		1					45			1,800
1	Density Reduction/ Groundwater Resource			11.0	1			4,000				2,100
	Conservation Lands Upland			1.0.0					· · · · · ·		0.00	
	Wetlands	1		1.1.1.1.1.1								11
	Conservation Lands Wetland				1		1					1.
Uni	ncorporated County Total Residential	4,104	3,962		5,870	3,313	18,969	4,015	10,753	3,326	3,254	6,230
_	nmercial	1,100	1,944	1	2,100	226	1,300	68	1,687	18	1,700	139
	ustrial	320	450	1	900	64	300	65	554	5	87	5
	Regulatory Allocations	020	1 100	-	200	1 01	000	00	1 001			1
Pub		3,550	3,059	1	3,500	2,100	15,289	12,000	4,000	1,486	7,000	1,500
-	ive AG	5,000	0,009	-	0,000	2,400	10/203	14,352	200	411	125	900
	sive AG	-	-	-		815	-	14,552	1,532	3,619	200	4,000
		0.207	2.000	-	100		1 541			1		
	iservation	9,306	2,969	-	188	14,767	1,541	31,210	1,317	336	5,068	864
Vac		975	594		309	3,781	10,505	470	2,060	1,000	800	530
Tot	al vulation Distribution (unincorporated Lee County)	19,355 34,538	12,978 36,963		12,867 58,363	27,466	47,904	79,701	22,103 71,001	10,201 6,117	18,234 25,577	14,168 8,760

(Amended by Ordinance No. 02-02, 03-19, 05-19, 07-13, 09-15, 09-16, 10-15, 10-16, 10-40, 10-43, 14-14, 15-10, 16-02, 16-17, 17-12, 17-23, 18-06, 19-13, 19-14, 19-16, 20-05) Printed 4/16/2021 Page 2 of 2

#### Table 1(b) Year 2045 Allocations PROPOSED

-		Planning District											
Future Land Use Category		Unincorporated County	District 1 Northeast Lee County	District 2 Boca Grande	District 3 Bonita	District 4 Fort Myers Shores	District 5 Burnt Store	District 6 Cape Coral	District 7 Captiva	District 8 Fort Myers	District 9 Fort Myers Beach	District 10 Gateway / Airport	
1	Intensive Development	1,483				17		21		238		-	
10	Central Urban	13,838	1 ÷ 1			207				230		25	
F	Urban Community	22,739	813	453	÷	475					-	150	
	Suburban	14,913	-		E E	1,950		-		80		-	
	Outlying Suburban	3,648	25	¥		490	13	3	429	-	-	-	
>	Sub-Outlying Suburban	1,731	· ·		2	330		1				227	
Category	Commercial			÷		-	•	-	+				
6a	Industrial	15		+		-		-	4	6	-1	6	
at	Public Facilities	2	-	-	-	-	(4)	S			A.1	-	
	University Community	503	14		÷	-	*	÷	1		1	÷	
Use	Destination Resort Mixed Use Water Dependent	8		(1) (1) (1) <del>(</del> 1)	1	-		1	· · ·	1		-	
2	Burnt Store Marina Village	2				-	2	1		· · · · ·	1		
na	Industrial Interchange	1.000				10000	Cerem 24	1			· ·		
Land	General Interchange	114	-	-		12	10 - 1 - E - E		-			15	
	General Commercial Interchange		-	-			0			1000	0	-	
3	Industrial Commercial Interchange			-		1-1	-	-	×		1.2.		
Future	University Village Interchange		1		-	1 H		C				-	
	New Community	2,104	1,115	(*************************************	-	-	1.00	2		- 1	-	989	
8	Airport			· · · · ·	-					1	-		
ia	Tradeport	3		1			1.11	1		1 A.		3	
'nt	Rural	7,764	2,431		-	800	730	1000 A.	-		-		
g	Rural Community Preserve	3,517	1.00	Concerna.	4							2	
Residential By	Coastal Rural	1,338	· · · · ·	-	1.7					-	-	-	
2	Outer Island	233	2	4	1.8	1	е.		169	-			
	Open Lands	2,186	153	1.00	1 ( ) ( ) ( ) ( ) ( ) ( ) ( ) ( ) ( ) (		257			1	-	-	
	Density Reduction/ Groundwater Resource	6,974	131	-		4	1.000			-			
	Conservation Lands Upland			-			-		1	-		-	
	Wetlands		10-0-0-0-0-0-0-0-0-0-0-0-0-0-0-0-0-0-0-					-		-	*	1	
	Conservation Lands Wetland	12	-		-	-	-		+	-	-	-	
U	nincorporated County Total Residential	83,113	4,669	457		4,270	1,002	24	598	548	-	1,415	
С	ommercial	8,916	300	53	-	450	27	9	125	150	-	1,216	
Ir	dustrial	4,787	30	3	10000	300	10	15	70	315	H	2,134	
No	on Regulatory Allocations												
	ublic	120,211	14,191	622	-	4,864	7,323	6	2,340	583	-	9,660	
A	ctive AG	21,944	5,500	-	-	-	90	-	1			2	
P	assive AG	13,685	5,500			-	100					485	
С	onservation	87,746	2,458	297			3,186	67	1,595	926		2,206	
V	acant	26,118	1,145	28		-	766	8	103	17		88	
Т	otal	366,520	33,793	1,460		12,634	12,505	129	4,831	2,538	10.00	17,205	
Por	pulation Distribution (unincorporated Lee County)		8,235	1,470			2,179	152	725	5,273	-	22,281	

## Table 1(b) Year 2045 Allocations PROPOSED

-		-					Plannin	g District					-
	Future Land Use Category	District 11 Daniels Parkway	District 12 Iona / McGregor	District 13 San Carlos	District 14 Sanibel	District 15 South Fort Myers	District 16 Pine Island	District 17 Lehigh Acres	District 18 Southeast Lee County	District 19 North Fort Myers	District 20 Buckingham	District 21 Estero	District 2: Bashore
	Intensive Development					801	1	30	100	376	4		-
	Central Urban	4	656	20	1	3,113		7,362		2,225		1.1.1	
	Urban Community		978	1,318	-	863	540	17,034	÷ .	-	115	+	
	Suburban	4	2,566	2,069		1,202	659			6,387		-	
	Outlying Suburban	1,253	438	-	-	-	502			406		90	-
	Sub-Outlying Suburban		÷	13						145	66	-	95
51	Commercial			-		-		1		-		1.1.1	-
	Industrial		3	3		3	100 200	-		· · · ·			
51	Public Facilities	1	V	1	1.000	1122.043	-		SS.	0	1000	-	-
	University Community		1	503	1. 1991	11-12-12-22	1	-	2				
sF	Destination Resort Mixed Use Water Dependent	1.1	8	11 - 14 A	-	-	-	-	-	÷	-	-	-
21	Burnt Store Marina Village	C	-	-	1 2		1.1.1.1	-	-	-	-		-
	Industrial Interchange		1	+	1.1.1			1	1.000	+	1	-	-
11	General Interchange	58	-						8	14			
Ī	General Commercial Interchange				1		1	-			-		
	Industrial Commercial Interchange		1	V	-	21	1	4	1000		1.11	-	
	University Village Interchange	· ·	-			· · · ·	•	+		÷ .		-	
	New Community		1900 - 190 -	1.00	1.	11.000		1	-	÷	11	-	
	Airport	-		-	-		· · · · ·			-	-		1.1
	Tradeport		1	1	-	-			1.	1.25	1.1	· · ·	1.
ŧΓ	Rural	1,573	-	99	1	1	227	14	10 D.22	454	50	-	1,3
Vestucifiu	Rural Community Preserve		1.000	-		-	100	-		-	3,517	-	
ā [	Coastal Rural		15- G. P		-	5	1,338			-	10000	-	
ŧΓ	Outer Island		2	1.1.1			55	1.1.8		11.00	-	і — н.	
1	Open Lands	80	· · · · · · · · ·		1	-		1.00		30		-	1,6
T	Density Reduction/ Groundwater Resource	1	-			-		1	4,742		1		2,1
ſ	Conservation Lands Upland	1	10 million (14		1.000	-	1.000	-	Ne certa	1-2-2-4	+		11.000
1	Wetlands		-		11-17-41	-	-		10	1	-	- SA	
1	Conservation Lands Wetland	1 2		-	1 . Let	40.00		1.1.1.1	(a)	Contract Re		1.1	
Uni	ncorporated County Total Residential	2,964	4,650	4,024	11.11.24	5,982	3,322	24,440	4,750	10,035	3,748	90	6,12
Con	nmercial	326	774	938		2,012	288	900	118	1,121	19	18	7
Ind	ustrial	5	198	387	-	566	67	218	215	244	4	2	
on	Regulatory Allocations	1					In the second second	A CONTRACTOR			1		
Pub		3,214	4,898	6,364	1.12	5,883	4,831	20,267	17,992	10,117	3,052	653	3,35
Act	ive AG	5	13	5	-		2,780	35	12,000	90	630	4	55
Pas	sive AG	10		5		1200.	70	50	2,500	250	2,000		2,10
Cor	servation	1,677	9,786	2,232	-	211	15,489	1,077	41,028	1,607	382	1,465	89
Vac	ant	20	55	158	-	4	2,200	14,804	2,400	1,183	850	130	1,42
Tot	al	8,221	20,374	14,114	-	14,658	29,047	61,791	81,003	24,649	10,684	2,362	14,52
opu	lation Distribution (unincorporated Lee County)	14,322	44,132	54,615	1	76,582	13,431	162,245	17,369	110,722	5,951	741	8,653

# CPA2019-00007 COMMERCE LAKE

PARCEL

#### Summary Sheet Commerce Lakes Parcel, CPA2019-00007

#### **BoCC Direction:**

On June 27, 2019 the parcel was deemed surplus to Southwest International Airport's (RSW) future aviation operations or export expansion by the Board of County Commissioners. County staff was directed to initiate amendments to the Future Land Use Map and other appropriate amendments to the Lee Plan to reflect the change to the airport boundary.

#### Purpose:

Amend the Future Land Use Map (Map 1, Page 1) from Airport Lands and Wetlands to New Community and Wetlands, and update the Airport Noise Zone (Map 1, Page 5) on ±22 acres located at both northern corners of the intersection of Commerce Lakes Drive and Daniels Parkway.

The amendment is needed to reflect the changes to the airport boundaries and to allow for development not associated with the airport.

#### **Public Comments:**

There was <u>no public comment</u> concerning the proposed amendment at the BoCC transmittal hearing.

#### **BoCC Transmittal Hearing:**

A motion was made to *transmit* CPA2019-00007. The motion was called and passed 5-0.

#### State Reviewing Agency Objections, Recommendations, and Comments:

Lee County received responses from the following reviewing agencies addressing the transmitted amendment:

- Florida Department of Economic Opportunity (DEO),
- Florida Department of Environmental Protection (DEP),
- Florida Department of Transportation (DOT),
- Florida Fish and Wildlife Conservation Commission (FWC), and
- South Florida Water Management District (SFWMD).

There were **<u>no objections</u>** concerning the proposed amendments. FDOT and FWC provided technical assistance comments, which are discussed within Part 6 of the staff report.

#### **Staff Recommendation:**

Staff recommends that the BoCC *adopt* the proposed amendment as provided in Attachment 1.

#### LEE COUNTY ORDINANCE NO. \_\_\_\_ Commerce Lake Parcel CPA2019-00007

AN ORDINANCE AMENDING THE LEE COUNTY COMPREHENSIVE PLAN. COMMONLY KNOWN AS THE "LEE PLAN." ADOPTED BY ORDINANCE NO. 89-02, AS AMENDED, SO AS TO ADOPT PERTAINING TO THE COMMERCE LAKE PARCEL AMENDMENT (CPA2019-00007) APPROVED DURING A PUBLIC **HEARING**: PROVIDING FOR PURPOSE, INTENT, AND SHORT TITLE: AMENDMENTS TO ADOPTED MAP AND TEXT; LEGAL EFFECT OF "THE LEE PLAN"; PERTAINING TO MODIFICATIONS THAT MAY ARISE **HEARING**: FROM CONSIDERATION AT PUBLIC GEOGRAPHICAL APPLICABILITY; SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.

WHEREAS, the Lee County Comprehensive Plan ("Lee Plan") and Chapter XIII, provides for adoption of amendments to the Plan in compliance with State statutes and in accordance with administrative procedures adopted by the Board of County Commissioners ("Board"); and,

WHEREAS, the Board, in accordance with Section 163.3181, Florida Statutes, and Lee County Administrative Code AC-13-6 provide an opportunity for the public to participate in the plan amendment public hearing process; and,

WHEREAS, the Lee County Local Planning Agency ("LPA") held a public hearing on the proposed amendment in accordance with Florida Statutes and the Lee County Administrative Code on January 25, 2021, and,

WHEREAS, the Board held a public hearing for the transmittal of the proposed amendment on March 3, 2021. At that hearing, the Board approved a motion to send, and did later send, proposed amendment pertaining to Commerce Lake Parcel (CPA2019-00007) to the reviewing agencies set forth in Section 163.3184(1)(c), F.S. for review and comment; and,

WHEREAS, at the March 3, 2021 meeting, the Board announced its intention to hold a public hearing after the receipt of the reviewing agencies' written comments; and,

WHEREAS, on June 2, 2021, the Board held a public hearing and adopted the proposed amendment to the Lee Plan set forth herein.

# NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, THAT:

#### SECTION ONE: PURPOSE, INTENT AND SHORT TITLE

The Board of County Commissioners of Lee County, Florida, in compliance with Chapter 163, Part II, Florida Statutes, and with Lee County Administrative Code AC-13-6, conducted public hearings to review proposed amendments to the Lee Plan. The purpose of this ordinance is to adopt map and text amendments to the Lee Plan discussed at those meetings and approved by a majority of the Board of County Commissioners. The short title and proper reference for the Lee County Comprehensive Land Use Plan, as hereby amended, will continue to be the "Lee Plan." This amending ordinance may be referred to as the "Commerce Lake Parcel Ordinance (CPA2019-00007)."

#### SECTION TWO: ADOPTION OF COMPREHENSIVE PLAN AMENDMENT

The Lee County Board of County Commissioners amends the existing Lee Plan, adopted by Ordinance Number 89-02, as amended, by adopting an amendment, which amends the Future Land Use Map (Map 1, Page 1) from Airport Lands and Wetlands to New Community and Wetlands, and update the Airport Noise Zone (Map 1, Page 5) on  $\pm 22$  acres located at both northern corners of the intersection of Commerce Lakes Drive and Daniels Parkway. The amendment is needed to reflect changes to the airport boundaries. The ordinance is known as Commerce Lake Parcel (CPA2019-00007).

The corresponding Staff Reports and Analysis, along with all attachments and application submittals for this amendment are adopted as "Support Documentation" for the Lee Plan. Proposed amendments adopted by this Ordinance are attached as Exhibit A.

#### SECTION THREE: LEGAL EFFECT OF THE "LEE PLAN"

No public or private development will be permitted except in conformity with the Lee Plan. All land development regulations and land development orders must be consistent with the Lee Plan as amended.

#### SECTION FOUR: MODIFICATION

It is the intent of the Board of County Commissioners that the provisions of this Ordinance may be modified as a result of consideration that may arise during Public Hearing(s). Such modifications shall be incorporated into the final version.

#### SECTION FIVE: GEOGRAPHIC APPLICABILITY

The Lee Plan is applicable throughout the unincorporated area of Lee County, Florida, except in those unincorporated areas included in joint or interlocal agreements with other local governments that specifically provide otherwise.

#### SECTION SIX: SEVERABILITY

The provisions of this ordinance are severable and it is the intention of the Board of County Commissioners of Lee County, Florida, to confer the whole or any part of the powers herein provided. If any of the provisions of this ordinance are held unconstitutional by a court of competent jurisdiction, the decision of that court will not affect or impair the remaining provisions of this ordinance. It is hereby declared to be the legislative intent of the Board that this ordinance would have been adopted had the unconstitutional provisions not been included therein.

#### SECTION SEVEN: INCLUSION IN CODE, CODIFICATION, SCRIVENERS' ERROR

It is the intention of the Board of County Commissioners that the provisions of this ordinance will become and be made a part of the Lee County Code. Sections of this ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section," "article," or other appropriate word or phrase in order to accomplish this intention; and regardless of whether inclusion in the code is accomplished, sections of this ordinance may be renumbered or relettered. The correction of typographical errors that do not affect the intent, may be authorized by the County Manager, or his designee, without need of public hearing, by filing a corrected or recodified copy with the Clerk of the Circuit Court.

#### SECTION EIGHT: EFFECTIVE DATE

The plan amendments adopted herein are not effective until 31 days after the State Land Planning Agency notifies the County that the plan amendment package is complete. If timely challenged, an amendment does not become effective until the State Land Planning Agency or the Administrative Commission enters a final order determining the adopted amendment to be in compliance. No development orders, development permits, or land uses dependent on this amendment may be issued or commence before the amendment has become effective. If a final order of noncompliance is issued by the Administration Commission, this amendment may nevertheless be made effective by adoption of a resolution affirming its effective status.

THE FOREGOING ORDINANCE was offered by Commissioner \_\_\_\_\_, who moved its adoption. The motion was seconded by Commissioner \_\_\_\_\_. The vote was as follows:

Kevin Ruane	
Cecil Pendergrass	
Raymond Sandelli	
Brian Hamman	
Frank Mann	

DONE AND ADOPTED this 2<sup>nd</sup> day of June 2021.

ATTEST: LINDA DOGGETT, CLERK LEE COUNTY BOARD OF COUNTY COMMISSIONERS

BY:\_\_\_\_\_ Deputy Clerk BY: \_\_\_\_\_ Kevin Ruane, Chair

DATE:\_\_\_\_\_

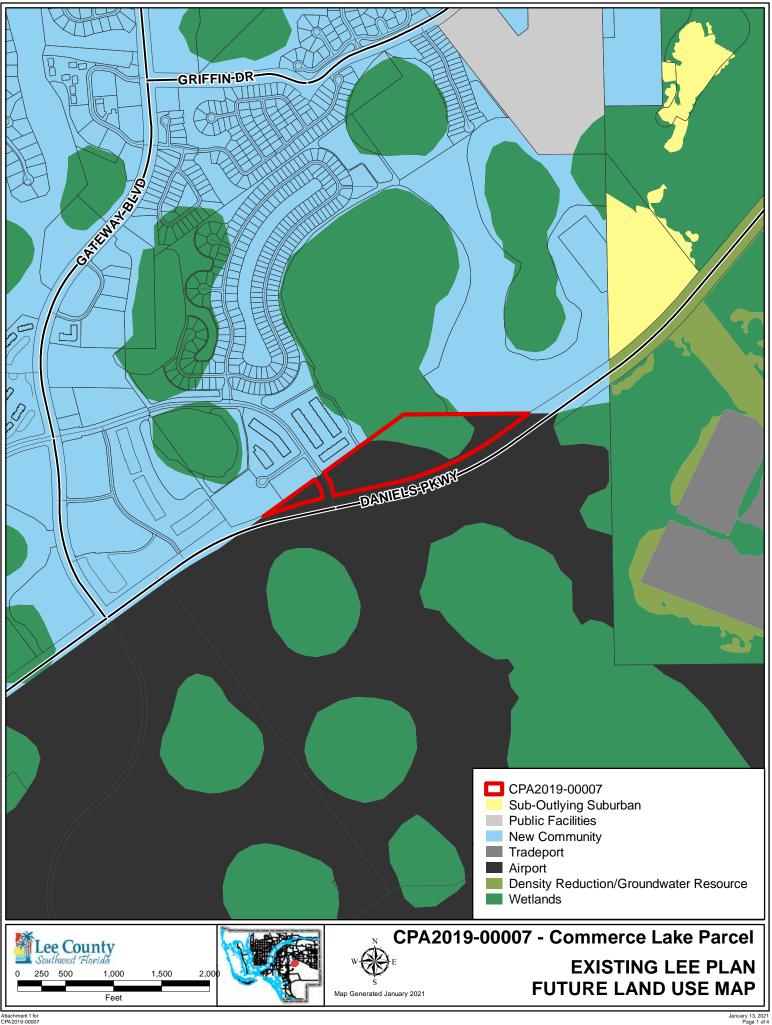
# APPROVED AS TO FORM FOR THE RELIANCE OF LEE COUNTY ONLY

County Attorney's Office

Exhibit A: Adopted revisions to Future Land Use Map (Map 1, Page 1) and Airport Noise Zone (Map 1, Page 5) (Adopted by BOCC June 2, 2021)

#### EXHIBIT A

Note: Text depicted with underscore represents additions to the Lee Plan. Strike-through text represents deletions from the Lee Plan.

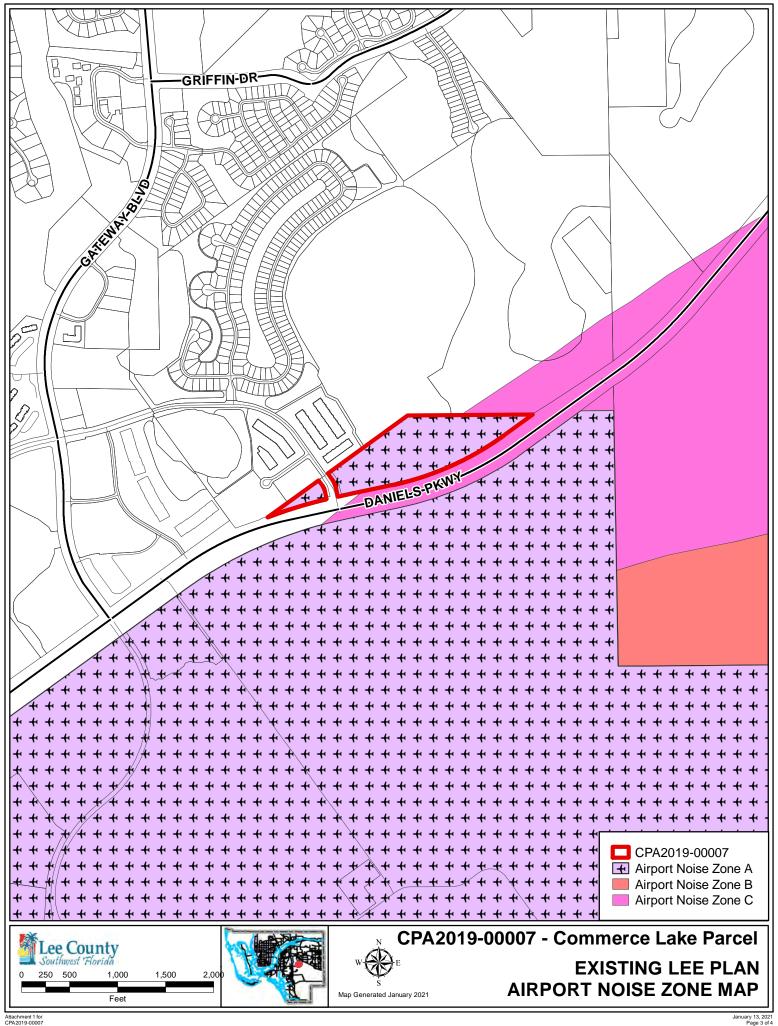




Attachment 1 for CPA2019-00007

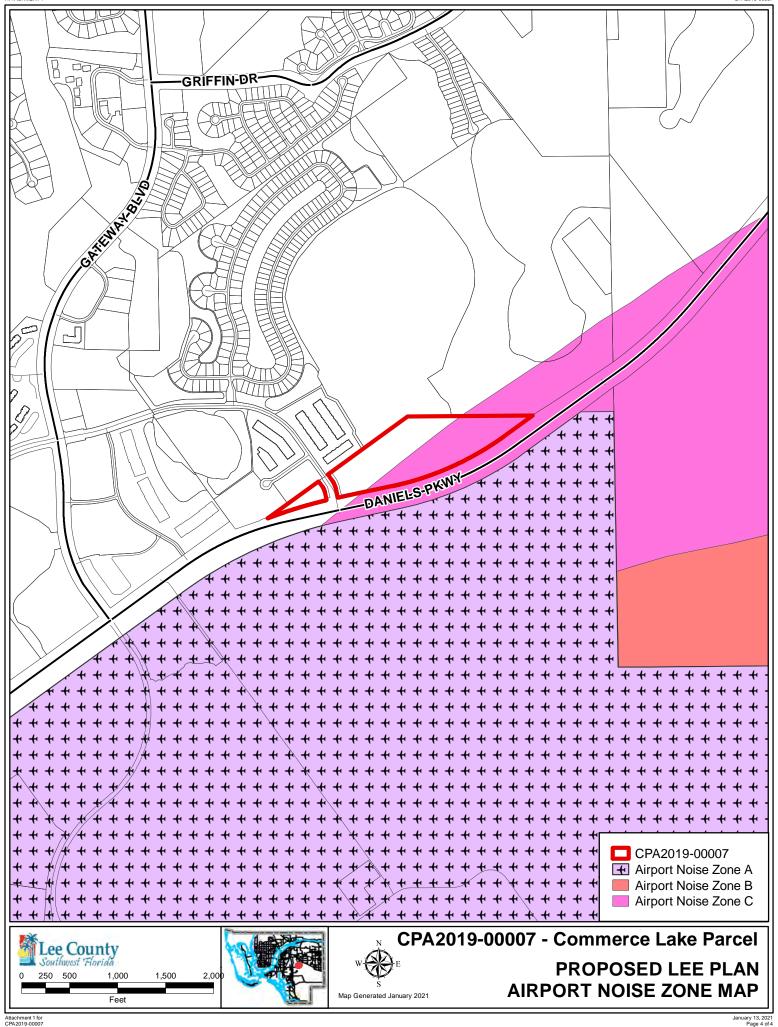












Attachment 1 for CPA2019-00007

#### STAFF REPORT FOR CPA2019-00007: Commerce Lakes Parcel

County Initiated Map Amendment to the Lee Plan



#### REQUEST

#### **Representative:**

Department of Community Development

#### **Property Location:**

Northeast of RSW, At the intersection of Commerce Lakes Drive and Daniels Parkway

Property Size: ±22.14 acres

Planning Community: Gateway/Airport

Commissioner District: District #2

Hearing Dates: LPA: January 25, 2021 BoCC #1: March 3, 2021 BoCC #2: June 2, 2021

# Amend the Future Land Use Map (Map 1, Page 1) from Airport Lands and Wetlands to New Community and Wetlands, and update the Airport Noise Zone (Map 1, Page 5) on ±22 acres located at both northern corners of the intersection of Commerce Lakes Drive and Daniels Parkway. The amendment is needed to reflect changes to the airport boundaries.

#### SUMMARY

The requested amendment will change the future land use category and airport noise zone for the "Commerce Lakes Parcel." The Commerce Lakes Parcel consists of two parcels that are separated from contiguous airport property by Daniels Parkway, a four-lane divided arterial, and was deemed surplus to Southwest International Airport's (RSW) future aviation operations or airport expansion by the Board of County Commissioners. As surplus, the Airport Lands future land use category is no longer the appropriate designation for these parcels; the proposed New Community future land use category will be consistent with the designations on adjacent properties located north of Daniels Parkway. Wetlands on these parcels will continue to be designated Wetlands on the future land use map.

The requested amendment will not change allowable intensity permitted on the parcels, but will allow for future development by non-Port Authority owners.

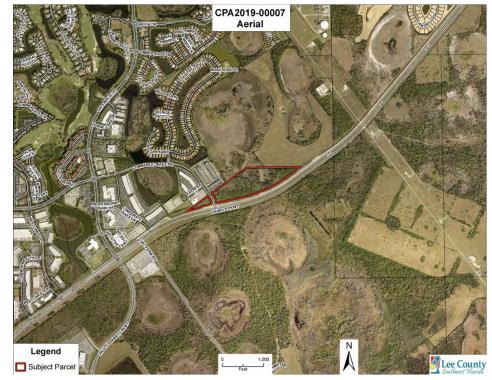


Figure 1: Aerial Location Map

#### RECOMMENDATION

Staff recommends that the Board of County Commissioners *adopt* CPA2019-00007, based on the analysis and findings provided in this staff report.

#### PART 1 BACKGROUND

The Commerce Lakes Parcel ("Parcel") was acquired by Lee County as part of the original airport land acquisition and has remained in the airport lands inventory since its acquisition, Port Authority staff determined it is not needed for aviation purposes and has been unsuccessful in leasing the property for a non-aviation use. On June 27, 2019 the Board authorized the sale of the approximately 22.14 acre Parcel as surplus property and directed the Department of Community Development to initiate the necessary Comprehensive Plan amendments to reflect the change in the airport boundaries.

There is also a concurrent rezoning for the subject property, DCI2020-00018, filed by 1227 Holdings, LLC who is under contract to purchase the property. Florida Statutes Chapter 163.3184(12) provides that "At the request of an applicant, a local government shall consider an application for zoning changes that would be required to properly enact any proposed plan amendment transmitted pursuant to this subsection." This requires Lee County to provide concurrent review of the rezoning request.

Staff notes that even with the recommended adoption of the proposed map amendments, the applicant for the concurrent rezoning must demonstrate consistency with the Lee Plan in order to receive a favorable recommendation.

#### PART 2 STAFF DISCUSSION AND ANALYSIS OF PROPOSED AMENDMENTS

#### Subject Property:

The Parcel is located northeast of RSW, on the north side of Daniels Parkway, and on either side (east and west) of the intersection of Daniels Parkway and Commerce Lakes Drive. It is within the Gateway/Airport planning community and is currently zoned as an Airport Operations Planned Development (AOPD).

#### **Surrounding Properties:**

Lands located to the north, east, and west of the Parcel, on the north side of Daniels Road, contain a mix of light industrial, commercial, and residential uses. These properties are zoned as Planned Unit Development (PUD) and Mixed Use Planned Development (MPD). This area is commonly known as "Gateway," and is in the New Community future land use category.

South of the Parcel is Daniels Parkway, then land owned by the Lee County Port Authority, containing RSW. This property is zoned AOPD and is within the Airport Lands future land use category.



Figure 2: Surrounding Zoning

#### Current Future Land Use Categories:

The Parcel is currently designated as Airport Lands and Wetlands on the Future Land Use Map. These future land use categories are described in Policies 1.1.12 and 1.5.1.

Policy 1.1.12 provides that "Allowable land uses and intensities within the Airport Lands future land use category are subject to the plans for the airport properties outlined in the Southwest Florida International Airport Master Plan Update..." This land use category accommodates the Port Authority's airports and projected need for growth in order to continue viable airport operations.

Policy 1.5.1 states that "Permitted land uses in Wetlands consist of very low density residential uses and recreational uses that will not adversely affect the ecological functions of wetlands. All development in Wetlands must be consistent with Goal 124 of this plan. The maximum density is one dwelling unit per twenty acres (1 du/20 acre) except as otherwise provided in Table 1(a) and Chapter XIII of this plan."



Figure 3: Existing Future Land Use Map

The Airport Lands future land use category describes land owned by the Port Authority and allows land uses and intensities consistent with the most recently adopted Airport Master Plan for each airport. Development in the Airport Lands future land use category requires approval through the AOPD zoning process. A change to the airport boundary, via the sale of surplus property, requires that the boundary of the Airport Lands future land use category also be amended to reflect the change in ownership and allow rezoning of the property to a non-AOPD zoning district.

#### Proposed Future Land Use Categories:

Upland areas within the Parcel currently in the Airport Lands future land use category are proposed to be re-designated to the New Community future land use category described in Policy 1.6.1. Wetland areas within the Parcel will remain in the Wetlands future land category.

Development within the New Community future land use category must be, in part, "capable of being planned and developed as a cohesive unit...land must be located such that the area is capable of being developed with a balance of residential and non-residential uses and that major impacts of the development are internalized and/or alleviated by infrastructure that is existing or will be funded privately."

The expansion of the New Community future land use boundary onto the Parcel will allow for the Parcel to be developed in a manner that is cohesive and compatible with the existing development on contiguous New Community properties. Policy 1.6.1 requires the minimum land area of a New Community development exceed 2,000 acres, to ensure an appropriate balance of land uses. The New Community future land use category in the Gateway area, if expanded to encompass the Parcel, will include approximately 2,524 acres, and is consistent with Policy 1.6.1.

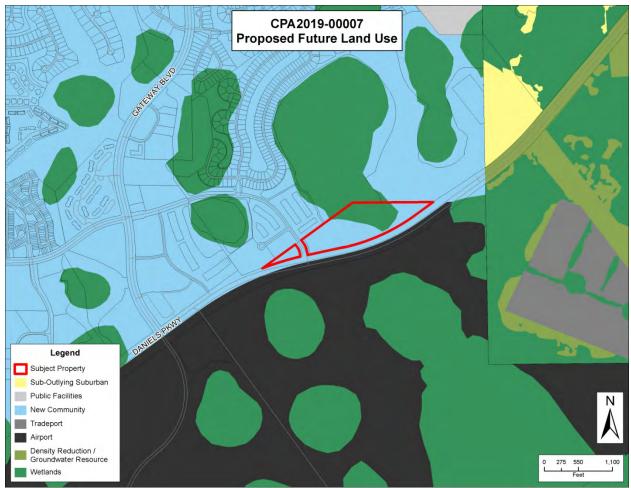


Figure 4: Proposed Future Land Use Map

The primary difference in uses allowed in the New Community future land use category and the Airport Lands future land use category is that New Community allows for residential uses. Staff notes that the concurrent rezoning request does not include residential uses; therefore the proposed change will have no impacts based on allowable uses or intensities.

#### Airport Noise Zones

The Parcel is currently identified in Airport Noise Zone A on Map 1, Page 5 of the Lee Plan. Policy 1.7.1 provides that Noise Zone A is the designation given to Airport Property and that "Upon disposition of any Port Authority property, the land is then subject to the Noise Zone as applicable based on the most recent Composite Day-Night Average Noise Level (DNL) Noise Contours map for Southwest Florida International Airport approved by the Federal Aviation Administration."

To maintain consistency with Policy 1.7.1, Lee Plan Map 1, Page 5 will be amended to reflect the appropriate Noise Zone on the Parcel based on the most recent DNL Noise Contours map on the Parcel (see Attachment 1).

#### Growth Management/Compatibility:

Goal 2 discusses the need for appropriate growth management. Objective 2.2 specifies that new growth should be directed to future urban areas where adequate public facilities exist, as well as areas where contiguous development patterns can be created. The Parcel is in an area with adequate facilities and substantial development on all sides. Expansion of the New Community designation onto the Parcel will allow for contiguous development patterns and is consistent with Goal 2 and Objective 2.2 of the Lee Plan.

Policy 6.1.4 also states that commercial development will be approved only when compatible with adjacent existing and proposed land uses, as well as with existing and proposed public services and facilities. The proposed land use is compatible with the currently existing commercial development, and is located in an area that currently has appropriate programmed public services. The proposed amendment is consistent with Policy 6.1.4.

#### Public Service Availability:

As previously stated, the proposed amendment to the Future Land Use Map will not change either the uses or the intensities of the subject property. The adequacy of the public facilities services will be reviewed as part of the zoning process, where the specific proposed uses and intensities can be evaluated.

<u>Transit</u>: The subject area is not within one-quarter mile of a fixed-route corridor. The area has not been identified as needing enhanced or additional transit services.

<u>Utilities:</u> There is sufficient capacity to provide potable water and sanitary sewer service to the Parcel. Service will be provided by Gateway Water Reclamation Facility.

<u>Solid Waste:</u> Solid waste collection services will be provided by Lee County using the Lee County Resource Recovery Facility and the Lee-Hendry Regional Landfill.

Fire: The Parcel will be served by the South Trail Fire Protection & Rescue Service District.

<u>EMS:</u> The primary ambulance for this location is located 4.3 miles from the property, with a secondary ambulance located 6.1 miles away.

<u>Police</u>: The Lee County Sheriff will provide law enforcement services primarily from the Central District sub-station in Fort Myers. The Sheriff indicated in a letter dated October 2, 2020 that the development of the subject property will not affect the ability of the Lee County Sheriff's Office to provide core services at this time.

#### PART 3 CONCLUSIONS

The Board of County Commissioners initiated this amendment to maintain consistency with the Lee Plan, since the existing Airport Lands future land use category and Airport Noise Zone A designations are only for lands owned by the Lee County Port Authority. The amendments will accommodate the sale of the surplus property to a private entity for development.

- The New Community future land use category and updated Airport Noise Zone will allow for privately developed commercial and/or light industrial uses on the subject property adjacent to a primarily light industrial area within the Gateway community.
- While New Community allows for residential uses and Airport Lands does not, there is no difference in the intensities of non-residential uses allowed in the existing and proposed future land use categories.
- A concurrent planned development rezoning application filed by the purchaser of the property is limited to commercial and light industrial uses; therefore the proposed future land use category will result in no increase in allowable densities or intensities.
- There is currently, and will continue to be, adequate public services to meet the demands of the New Community future land use category.

For the reasons discussed in this staff report, Staff recommends that the Board of County Commissioners *adopt* the proposed amendments.

#### PART 4 LOCAL PLANNING AGENCY REVIEW AND RECOMMENDATION

#### DATE OF PUBLIC HEARING: January 25, 2021

#### A. LOCAL PLANNING AGENCY REVIEW:

Staff provided a brief presentation for the proposed amendment, which included the purpose for the amendment, Lee Plan consistency, and a comparison between the current and requested future land use categories.

Following staff's presentation, members of the LPA asked for clarification on several aspects of the requested amendment. Points of clarification included whether the property was under one ownership group, and the need for a County-initiated amendment if the land is under one ownership.

Concern was expressed by LPA members over the update to the Airport Noise Zone. Staff stated that the Airport Noise Zone would not be removed, only re-designated based on new ownership. Further concern was expressed by an LPA member regarding possible future challenges posed by area residents. Staff stated that residents would receive notification regarding the Airport Noise Zone. The LPA member asked staff whether height restrictions would be modified or removed. Staff responded that they did not believe that height restrictions were based on the noise zones.

Another LPA member asked staff if the amendment could move forward without changing the noise zones. Staff responded that this would be inconsistent with Lee Plan policy 1.7.1.

An LPA member stated that the County was "heading in the wrong direction" in giving up airport noise zone territories, with which another LPA member agreed.

An LPA member referenced another case heard by the LPA several months ago, in which a piece of property involved had a noise zone on a portion of it. Height restrictions were addressed again by an LPA member, in regards to the changing noise zone. Staff again stated that they did not believe height restrictions were related to noise zones.

A staff member stated that policy 1.7.1 outlines descriptions of the noise zones, but there are no specifics regarding height restrictions, and that height is handled through the applicant's "tall structure permitting," which is reviewed by the Port Authority. Discussion continued regarding noise zones and a future rezoning amendment.

Questions pertaining to the property's appraisal and sales contract were addressed by staff members.

There was <u>no public comment</u> concerning the proposed amendment.

#### B. LOCAL PLANNING AGENCY RECOMMENDATION:

A motion was made to recommend that the Board of County Commissioners <u>transmit</u> CPA2019-00007. The motion passed 6 to 0.

#### C. VOTE:

RAYMOND BLACKSMITH	AYE
DUSTIN GARDNER	AYE
JAMES INK	AYE
ALICIA OLIVO	ABSENT
DON SCHROTENBOER	AYE
STAN STOUDER	AYE
HENRY ZUBA	AYE

#### PART 5 BOARD OF COUNTY COMMISIONERS TRANSMITTAL HEARING FOR PROPOSED AMENDMENT

DATE OF PUBLIC HEARING: March 3, 2021

#### A. BOARD REVIEW:

Staff provided a brief presentation for the proposed amendment which included an overview of the proposed amendment and staff recommendation.

There was <u>no public comment</u> concerning the proposed amendment.

#### B. BOARD MOTION:

A motion was made to *transmit* CPA2020-00003 as recommended by staff and the LPA. The motion passed 5 to 0.

#### C. VOTE:

BRIAN HAMMAN	AYE
FRANK MANN	AYE
CECIL L. PENDERGRASS	AYE
KEVIN RUANE	AYE
RAY SANDELLI	AYE

#### PART 6 STATE REVIEWING AGENCIES' OBJECTIONS, RECOMMENDATIONS, AND COMMENTS

Comments from the State Reviewing Agencies were due to Lee County by April 14.

#### A. OBJECTIONS, RECOMMENDATIONS AND COMMENTS:

Lee County received responses from the following review agencies addressing the transmitted amendment:

- Florida Department of Economic Opportunity (DEO),
- Florida Department of Environmental Protection (DEP),
- Florida Department of Transportation (DOT),
- Florida Fish and Wildlife Conservation Commission (FWC), and
- South Florida Water Management District (SFWMD)

There were no objections concerning the proposed amendments; however, technical assistance comments were received from the Florida Department of Transportation.

#### Florida Department of Transportation

*Comment #1: FDOT encourages the County to promote the use of multimodal alternatives within the planning and development of communities that aid in mitigating potential transportation impacts,* 

promote safety and economic development, and improve quality of life for all communities in the county. These development types help to decrease overall passenger vehicle trips on the roadway network by encouraging compact and dense developments that provide multimodal connectivity between existing and future development areas. This context sensitive approach promotes healthy, safe, and economically viable communities that encourages quality of life, and incorporates all modes of transportation.

Comment #2: The Department recommends that sidewalks and/or bicycle lanes be included as part of any future development plans. This will encourage connectivity from/to the development and provide safe access to the surrounding communities.

#### Response:

Staff is appreciative of FDOT's technical guidance comments and efforts regarding coordination of transportation development and multimodal options. A sidewalk will be required in accordance with Section 10-610, which provides guidelines for pedestrian walkways for commercial development.

#### Florida Fish and Wildlife Conservation Commission

Advisory Comment: (FWC) staff reviewed the Lee County 21-02ESR comprehensive plan amendment package in accordance with our authorities under Chapter 163.3184(3), Florida Statutes. At this time, our comments are limited to advisory information and recommendations for reducing potential conflicts with Florida black bears (Ursus americanus floridanus) at the proposed development project located north of the intersection of Commerce Lakes Drive and Daniels Parkway in Lee County.

FWC has received 99 reports of human-bear conflicts within roughly a five-mile radius of the project site since 2011. Florida black bears are frequent in this area which is within the South Bear Management Unit identified in the 2019 Bear Management Plan. Please review the attached document for important information related to potential measures that can be taken to avoid or minimize negative wildlife interactions during the planning, construction, and operation phases of this project.

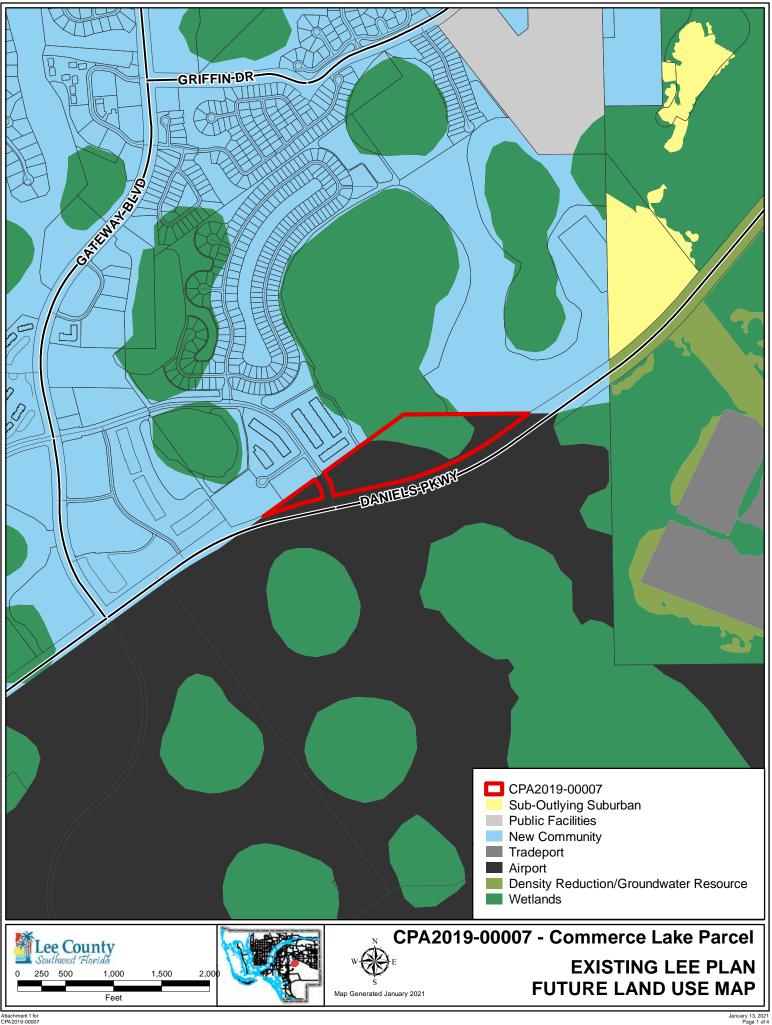
#### Response:

Staff is appreciative of FWC's advisory comments and will take them into consideration during the upcoming rezoning and local development order processes.

#### B. STAFF RECOMMENDATION

Staff recommends that the Board of County Commissioners *adopt* the amendments to the Lee Plan as transmitted and as provided in Attachment 1.

# **ATTACHMENT 1**

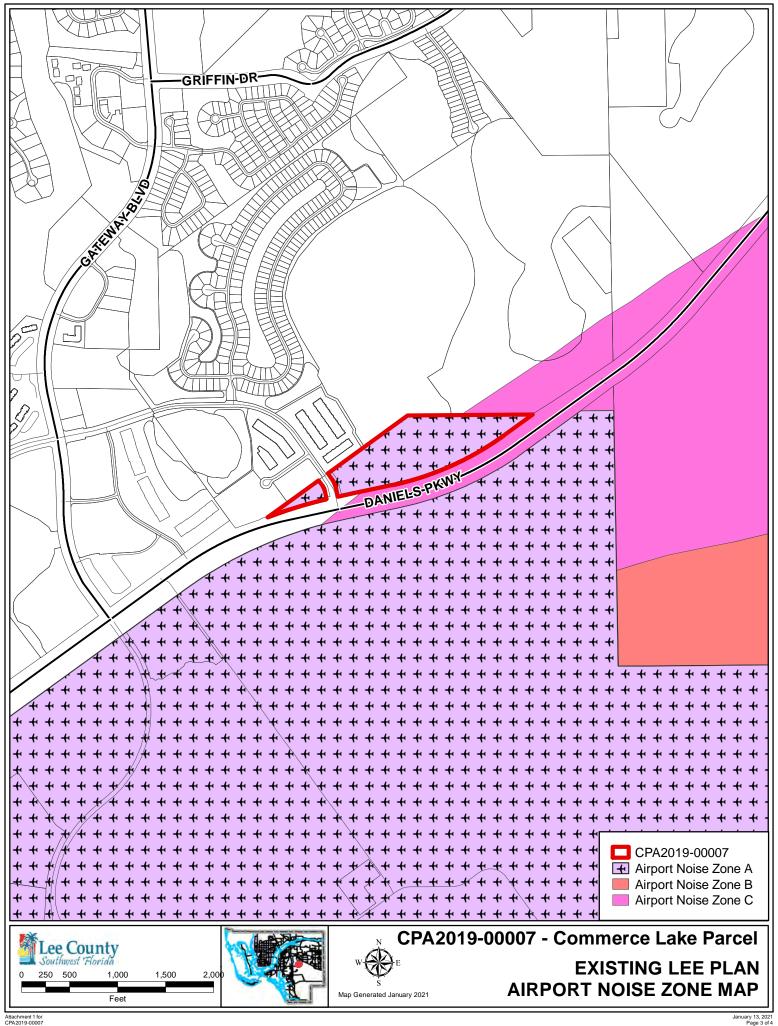




Attachment 1 for CPA2019-00007

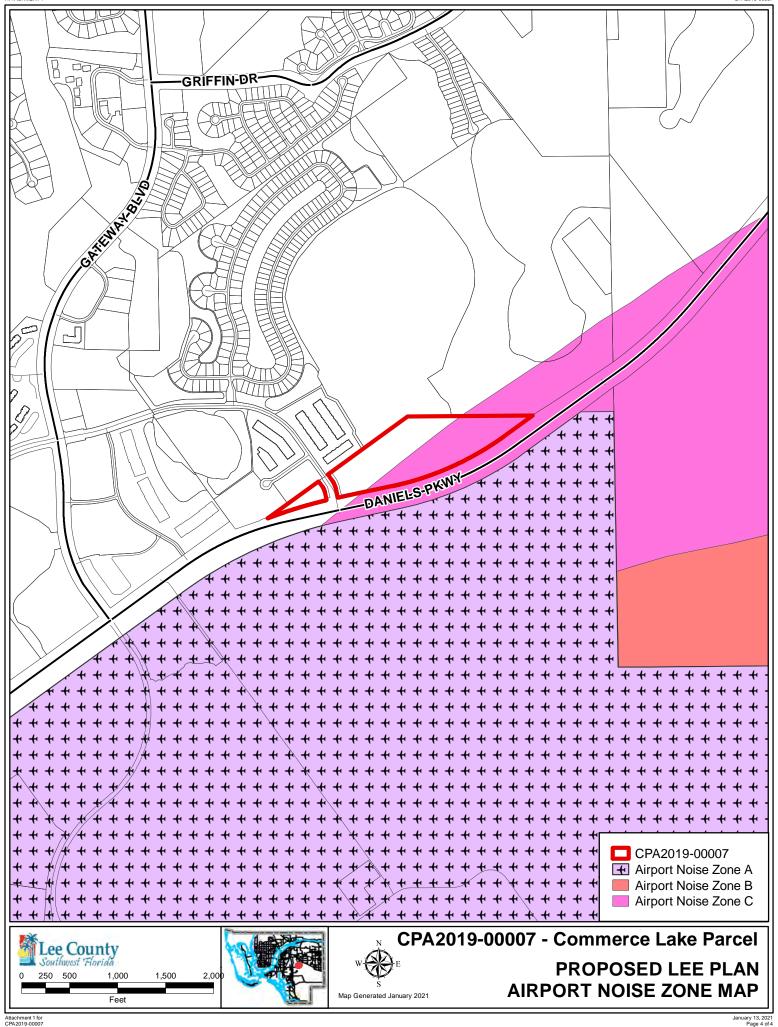












Attachment 1 for CPA2019-00007

**AGENCY COMMENTS** 

Ron DeSantis



Dane Eagle

April 12, 2021

The Honorable Kevin Ruane Chairman, Lee County Board of County Commissioners Post Office Box 398 Fort Myers, Florida 33902-0398

Dear Chairman Ruane:

The Department of Economic Opportunity ("Department") has reviewed the proposed comprehensive plan amendment for Lee County (Amendment No. 21-02ESR) received on March 15, 2021. The review was completed under the expedited state review process. We have no comment on the proposed amendment.

The County should act by choosing to adopt, adopt with changes, or not adopt the proposed amendment. For your assistance, we have enclosed the procedures for adoption and transmittal of the comprehensive plan amendment. In addition, the County is reminded that:

- Section 163.3184(3)(b), F.S., authorizes other reviewing agencies to provide comments directly to the County. If the County receives reviewing agency comments and they are not resolved, these comments could form the basis for a challenge to the amendment after adoption.
- The second public hearing, which shall be a hearing on whether to adopt one or more comprehensive plan amendments, must be held within 180 days of your receipt of agency comments or the amendment shall be deemed withdrawn unless extended by agreement with notice to the Department and any affected party that provided comment on the amendment pursuant to Section 163.3184(3)(c)1., F.S.
- The adopted amendment must be rendered to the Department. Under Section 163.3184(3)(c)2. and 4., F.S., the amendment effective date is 31 days after the Department notifies the County that the amendment package is complete or, if challenged, until it is found to be in compliance by the Department or the Administration Commission.

Florida Department of Economic Opportunity | Caldwell Building | 107 E. Madison Street | Tallahassee, FL 32399 850.245.7105 | www.FloridaJobs.org www.twitter.com/FLDEO |www.facebook.com/FLDEO

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The Honorable Kevin Ruane, Chairman April 12, 2021 Page 2 of 2

If you have any questions concerning this review, please contact Scott Rogers, Planning Analyst, by telephone at (850) 717-8510 or by email at scott.rogers@deo.myflorida.com.

Sincerely, James D. Stansbury, Chief

Bureau of Community Planning and Growth

JDS/sr

Enclosure(s): Procedures for Adoption

cc: David Loveland, Director, Lee County Department of Community Development Margaret Wuerstle, Executive Director, Southwest Florida Regional Planning Council

#### SUBMITTAL OF ADOPTED COMPREHENSIVE PLAN AMENDMENTS

#### FOR EXPEDITED STATE REVIEW

#### Section 163.3184(3), Florida Statutes

**NUMBER OF COPIES TO BE SUBMITTED:** Please submit electronically using the Department's electronic amendment submittal portal "Comprehensive Plan and Amendment Upload"

(https://floridajobs.secure.force.com/cp/) or submit three complete copies of all comprehensive plan materials, of which one complete paper copy and two complete electronic copies on CD ROM in Portable Document Format (PDF) to the State Land Planning Agency and one copy to each entity below that provided timely comments to the local government: the appropriate Regional Planning Council; Water Management District; Department of Transportation; Department of Environmental Protection; Department of State; the appropriate county (municipal amendments only); the Florida Fish and Wildlife Conservation Commission and the Department of Agriculture and Consumer Services (county plan amendments only); and the Department of Education (amendments relating to public schools); and for certain local governments, the appropriate military installation and any other local government or governmental agency that has filed a written request.

**SUBMITTAL LETTER:** Please include the following information in the cover letter transmitting the adopted amendment:

State Land Planning Agency identification number for adopted amendment package;

\_\_\_\_\_ Summary description of the adoption package, including any amendments proposed but not adopted;

\_\_\_\_\_ Identify if concurrency has been rescinded and indicate for which public facilities. (Transportation, schools, recreation and open space).

Ordinance number and adoption date;

\_\_\_\_\_ Certification that the adopted amendment(s) has been submitted to all parties that provided timely comments to the local government;

Name, title, address, telephone, FAX number and e-mail address of local government contact;

\_ Letter signed by the chief elected official or the person designated by the local government.

ADOPTION AMENDMENT PACKAGE: Please include the following information in the amendment package:

\_ In the case of text amendments, changes should be shown in strike-through/underline format.

In the case of future land use map amendments, an adopted future land use map, in color format, clearly depicting the parcel, its future land use designation, and its adopted designation.

\_\_\_\_ A copy of any data and analyses the local government deems appropriate.

Note: If the local government is relying on previously submitted data and analysis, no additional data and analysis is required;

Copy of the executed ordinance adopting the comprehensive plan amendment(s);

Suggested effective date language for the adoption ordinance for expedited review:

"The effective date of this plan amendment, if the amendment is not timely challenged, shall be 31 days after the state land planning agency notifies the local government that the plan amendment package is complete. If the amendment is timely challenged, this amendment shall become effective on the date the state land planning agency or the Administration Commission enters a final order determining this adopted amendment to be in compliance."

\_\_\_\_\_ List of additional changes made in the adopted amendment that the State Land Planning Agency did not previously review;

List of findings of the local governing body, if any, that were not included in the ordinance and which provided the basis of the adoption or determination not to adopt the proposed amendment;

\_\_\_\_\_ Statement indicating the relationship of the additional changes not previously reviewed by the State Land Planning Agency in response to the comment letter from the State Land Planning Agency.

Ron DeSantis GOVERNOR



March 15, 2021

Dane Eagle



### COMMUNITY DEVELOPMENT

Mr. Brandon Dunn, Principal Planner Lee County Planning Section Post Office Box 398 Fort Myers, Florida 33902-0398

Dear Mr. Dunn:

Thank you for submitting Lee County's proposed comprehensive plan amendment submitted for our review pursuant to the Expedited State Review process. The reference number for this amendment package is **21-02ESR**.

The proposed submission package will be reviewed pursuant to Section 163.3184(3), Florida Statutes. Once the review is underway, you may be asked to provide additional supporting documentation by the review team to ensure a thorough review. You will receive the Department's Comment Letter no later than April 14, 2021.

If you have any questions please contact Cristin Beshears, Plan Processor at (850) 717-8486 or Justin Stiell, Regional Planning Administrator, who will be overseeing the review of the amendments, at (850)717-8523.

Sincerely,

D. Ray Eubanks, Administrator Plan Review and Processing

DRE/cb

cc: External Agencies

Florida Department of Economic Opportunity | Caldwell Building | 107 E. Madison Street | Tallahassee, FL 32399 850.245.7105 | www.FloridaJobs.org www.twitter.com/FLDEO | www.facebook.com/FLDEO

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Kevin Ruane District One

Cecil L Pendergrass District Two

Ray Sandelli District Three

Brian Hamman District Four

Frank Mann District Five

Roger Desjarlais County Manager

Richard Wm. Wesch County Attorney

Donna Marie Collins Hearing Examiner March 8, 2021

Ray Eubanks, Plan Processing Administrator State Land Planning Agency Caldwell Building 107 East Madison – MSC 160 Tallahassee, FL. 32399-0800

#### Re: Amendment to the Lee Plan Transmittal Submission Package CPA2019-00007, Commerce Lakes Parcel Map Amendment

Dear Mr. Eubanks:

In accordance with the provisions of F.S. Chapter 163, please find attached the proposed Comprehensive Plan Amendment, known locally as CPA2019-00007 (Commerce Lakes Parcel Map Amendment). The amendment is as follows:

#### CPA2019-00007, Commerce Lakes Parcel:

Amend the Future Land Use Map (Map 1, Page 1) from Airport Lands and Wetlands to New Community and Wetlands, and update the Airport Noise Zone (Map 1, Page 5) on ±22 acres. The amendment is needed to reflect changes to the airport boundaries.

The Local Planning Agency held a public hearing for the plan amendment on January 25, 2021. The Board of County Commissioners voted to transmit the amendment on March 3, 2021. The proposed amendments are not applicable to an area of critical state concern. The Board of County Commissioners stated their intent to hold an adoption hearing following the receipt of the review agencies' comments.

The name, title, address, telephone number, and email address of the person for the local government who is most familiar with the proposed amendment is as follows:

> Mr. Brandon Dunn, Principal Planner Lee County Planning Section P.O. Box 398 Fort Myers, Florida 33902-0398 (239) 533-8585 Email: bdunn@leegov.com

RECEIVELL Ban. of Community Honeing and Groads

MAR 15 2021

Div. of Community Development Dept. Economic Opportunity Included with this package are one paper copy and two CD ROM copies, in PDF format, of the proposed amendments and supporting data and analysis. By copy of this letter and its attachments, I certify that this amendment and supporting data and analysis have been sent on this date to the agencies listed below.

Sincerely,

Lee County Department of Community Development Planning Section

Rufel-Kgdelst.

Mikki Rozdolski Manager, Community Development Operations

All documents and reports attendant to this transmittal are also being sent by copy of this cover in an electronic format to:

Comprehensive Plan Review Department of Agriculture and Consumer Services

Mark Weigly Department of Education

Plan Review Department of Environmental Protection

Jason Aldridge Florida Department of State

Scott Sanders Florida Fish and Wildlife Conservation Commission

Vitor Suguri FDOT District One

Margaret Wuerstle Southwest Florida Regional Planning Council

Terry Manning, AICP, Senior Planner, Intergovernmental Coordination Section South Florida Water Management District

#### Miller, Janet

From: Sent: To: Cc: Subject: Dunn, Brandon Monday, April 5, 2021 12:32 PM Miller, Janet Griffin, Tyler; Rozdolski, Mikki FW: Lee County 21-02ESR Proposed

Please see correspondence below. This is for Commerce Lakes Parcel.

Brandon

From: Plan\_Review <Plan.Review@dep.state.fl.us> Sent: Monday, April 5, 2021 12:02 PM To: Dunn, Brandon <BDunn@leegov.com>; dcpexternalagencycomments@deo.myflorida.com Cc: Plan\_Review <Plan.Review@dep.state.fl.us> Subject: Lee County 21-02ESR Proposed

To: Mr. Brandon Dunn, Principal Planner

Re: Lee County 21-02ESR - Expedited State Review of Proposed Comprehensive Plan Amendment

The Office of Intergovernmental Programs of the Florida Department of Environmental Protection (Department) has reviewed the above-referenced amendment package under the provisions of Chapter 163, Florida Statutes. The Department conducted a detailed review that focused on potential adverse impacts to important state resources and facilities, specifically: air and water pollution; wetlands and other surface waters of the state; federal and state-owned lands and interest in lands, including state parks, greenways and trails, conservation easements; solid waste; and water and wastewater treatment.

Based on our review of the submitted amendment package, the Department has found no provision that, if adopted, would result in adverse impacts to important state resources subject to the Department's jurisdiction.

Please submit all future amendments by email to <u>Plan.Review@FloridaDEP.gov</u>. If your submittal is too large to send via email or if you need other assistance, contact Lindsay Weaver at (850) 717-9037.

Linkyber



#### Miller, Janet

From: Sent: To: Subject: Attachments: Dunn, Brandon Thursday, May 6, 2021 3:10 PM Miller, Janet FW: FWC's comments on Lee County 21-02ESR (2019-00007) Technical Assistance Regarding the Florida Black Bear - 2021.pdf

From: Cucinella, Josh <Josh.Cucinella@MyFWC.com> Sent: Wednesday, April 14, 2021 4:31 PM To: Dunn, Brandon <BDunn@leegov.com> Cc: DCPexternalagencycomments@deo.myflorida.com; Conservation Planning Services <conservationplanningservices@MyFWC.com>; Wagman, Jason <Jason.Wagman@MyFWC.com> Subject: [EXTERNAL] FWC's comments on Lee County 21-02ESR (2019-00007)

Dear Mr. Dunn:

Florida Fish and Wildlife Conservation Commission (FWC) staff reviewed the Lee County 21-02ESR comprehensive plan amendment package in accordance with our authorities under Chapter 163.3184(3), Florida Statutes. At this time, our comments are limited to advisory information and recommendations for reducing potential conflicts with Florida black bears (*Ursus americanus floridanus*) at the proposed development project located north of the intersection of Commerce Lakes Drive and Daniels Parkway in Lee County.

FWC has received 99 reports of human-bear conflicts within roughly a five-mile radius of the project site since 2011. Florida black bears are frequent in this area which is within the South Bear Management Unit identified in the 2019 Bear Management Plan. Please review the attached document for important information related to potential measures that can be taken to avoid or minimize negative wildlife interactions during the planning, construction, and operation phases of this project.

If you have specific technical questions, please contact Jason Wagman at (863) 209-2688 or by email at <u>Jason.Wagman@MyFWC.com</u>. For all other inquiries, please contact our office by email at <u>ConservationPlanningServices@MyFWC.com</u>.

1

Sincerely,

Josh Cucinella Biological Administrator II Office of Conservation Planning Services Florida Fish and Wildlife Conservation Commission 1239 SW 10<sup>th</sup> Street Ocala, Florida 34471 (352) 620-7330

Lee County 21-02ESR\_43951



#### Florida Fish and Wildlife Conservation Commission

Commissioners Rodney Barreto Chairman Coral Gables

Michael W. Sole Vice Chairman Tequesta

Steven Hudson Fort Lauderdale

Gary Lester Oxford

Gary Nicklaus Jupiter

Sonya Rood St. Augustine

Robert A. Spottswood Key West

Office of the Executive Director Eric Sutton Executive Director

Thomas H. Eason, Ph.D. Assistant Executive Director

Jennifer Fitzwater Chief of Staff

850-487-3796 850-921-5786 FAX

Managing fish and wildlife resources for their long-term well-being and the benefit of people.

620 South Meridian Street Tallahassee, Florida 32399-1600 Voice: 850-488-4676

Hearing/speech-impaired: 800-955-8771 (T) 800 955-8770 (V)

MyFWC.com

#### Technical Assistance Regarding the Florida Black Bear - 2021

Dear Applicant, Property Owner, and Interested Parties:

According to Florida Fish and Wildlife Conservation Commission (FWC) data, there is the potential for Florida black bears (*Ursus americanus floridanus*) to occur in the project area. The FWC received a sufficient number of reports of human-bear conflicts, evidence of bears collected by researchers, reports of bears killed by vehicles surrounding the project, or other data to recommend measures that may prevent or reduce conflicts with bears.

While Florida black bears tend to shy away from people, they are adaptable and will take advantage of human-provided food sources. This includes sources that are currently available near this site or sources available after construction, including unsecured garbage, pet food, and bird seed. Once bears become accustomed to finding food around people, their natural wariness is reduced to the point that there can be an increased risk to private property and public safety.

During the construction phase, construction sites should be kept clean, with refuse that might attract bears kept separate from construction debris and stored securely in bear-resistant containers or removed daily from the construction site before dark. Refuse that might attract bears includes all food and drink-related materials, as well as any items with strong scents like cleaning agents. If a homeowners' association or community covenants are planned, by-laws that would require residents to take measures to prevent attracting bears into the neighborhood are recommended. By-law language used by other Florida communities is available at (http://myfwc.com/wildlifehabitats/managed/bear/living/community-group/bylaw/). Once construction activities are complete, residents should be provided with bear-resistant garbage cans as part of their regular waste service and any larger waste storage containers should also be bear-resistant. Providing residents with information on how to avoid human-bear conflicts is also recommended. This information can include:

- Options for keeping garbage secure which can include using bear-resistant garbage containers, modifying regular cans to be bear-resistant, or keeping cans secure in a garage or sturdy shed and then placing garbage on the curb the morning of pick-up rather than the night before (http://myfwc.com/wildlifehabitats/managed/bear/living/attractants/);
- Removing bird and wildlife feeders, or modifying them to exclude bears (http://myfwc.com/wildlifehabitats/managed/bear/wildlife-feeders/);
- Using electric fencing to secure outdoor attractants like fruiting trees/shrubs, gardens, compost, and small livestock (<u>https://myfwc.com/media/1886/ElectricFence.pdf</u>/);
- Proper composting in bear range (https://myfwc.com/media/1888/howtocompostinbearcountry.pdf);
- Keeping pets safe (https://myfwc.com/media/1892/protect-your-pet.pdf ); and
- Cleaning and securing barbeque grills.

Information should also include guidelines for how residents should respond to bears in the area, such as:

- What to do if they encounter a bear, whether from a distance or at close range (https://myfwc.com/wildlifehabitats/wildlife/bear/living/encounter/), and
- When and how to contact the FWC regarding a bear issue (https://myfwc.com/wildlifehabitats/wildlife/bear/nuisance-contact/).

FWC can always assist with residential planning to incorporate the above recommendations and reduce the potential for unwanted interactions between bears and humans. Please feel free to contact our office at <u>ConservationPlanningServices@myfwc.com</u> for technical assistance.

Sincerely,

Jason Hight Land Use Planning Program Administrator Office of Conservation Planning Services

#### Miller, Janet

From:Dunn, BrandonSent:Monday, April 19, 2021 7:44 AMTo:Miller, Janet; Griffin, TylerCc:Rozdolski, MikkiSubject:FW: Proposed CPA 21-02 / Lee County / Expedited State Review / No Comment

Please see correspondence below.

#### Brandon D. Dunn, Principal Planner

Lee County Department of Community Development Planning Section bdunn@leegov.com 239.533.8585

From: Suguri, Vitor <Vitor.Suguri@dot.state.fl.us>
Sent: Sunday, April 18, 2021 9:00 AM
To: Rozdolski, Mikki <MRozdolski@leegov.com>
Cc: DEO - CPA Comments (DCPexternalagencycomments@deo.myflorida.com)
<DCPexternalagencycomments@deo.myflorida.com>; Reina, Bessie <Bessie.Reina@dot.state.fl.us>; Engala, Todd
<Todd.Engala@dot.state.fl.us>; Ambikapathy, Babuji <BAmbikapathy@vhb.com>; jzaballero@vhb.com; Dunn, Brandon
<BDunn@leegov.com>

Subject: [EXTERNAL] Proposed CPA 21-02 / Lee County / Expedited State Review / No Comment

Ms. Rozdolski,

Pursuant to Section 163.3184(3), Florida Statutes (F.S.), in its role as a reviewing agency as identified in Section 163.3184(1)(c), F.S., the Florida Department of Transportation (FDOT) reviewed the Lee County's Proposed Comprehensive Plan Amendment (CPA) package 21-02ESR.

The amendment proposes to amend the Future Land Use Map (Map 1, Page 1) from Airport Lands and Wetlands to New Community and Wetlands, and update the Airport Zone (Map 1, Page 5) on +/-22 Acres located at both northern corners of the intersection of Commerce Lakes Drive and Daniels Parkway.

The requested amendment will not change allowable intensity permitted on the parcels, but will allow for future development by non-Port Authority owners.

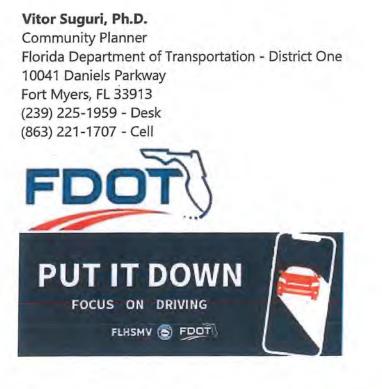
**FDOT Review Comment:** FDOT determined the proposed amendment has no significant adverse impacts to transportation resources or facilities of state importance. The Department welcomes the opportunity for early coordination on projects impacting or near a state facility.

**FDOT Technical Assistance 1:** FDOT encourages the County to promote the use of multimodal alternatives within the planning and development of communities that aid in mitigating potential transportation impacts, promote safety and economic development, and improve quality of life for all communities in the county. These development types help to decrease overall passenger vehicle trips on the roadway network by encouraging compact and dense developments that provide multimodal connectivity between existing and future development areas. This context sensitive approach promotes healthy, safe, and economically viable communities that encourages quality of life, and incorporates all modes of transportation.

**FDOT Technical Assistance 2:** The Department recommends that sidewalks and/or bicycle lanes be included as part of any future development plans. This will encourage connectivity from/to the development and provide safe access to the surrounding communities.

FDOT appreciates your commitment to intergovernmental coordination and the opportunity to review and comment on the proposed amendment.

Thank you,



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#### Miller, Janet

From: Sent: To: Cc: Subject: Dunn, Brandon Monday, April 5, 2021 12:33 PM Miller, Janet Griffin, Tyler; Rozdolski, Mikki FW: Lee County, DEO #21-2ESR Comments on Proposed Comprehensive Plan Amendment Package

FYI...for Commerce Lakes Parcel.

Brandon

From: Oblaczynski, Deborah <doblaczy@sfwmd.gov> Sent: Wednesday, March 24, 2021 2:47 PM To: Rozdolski, Mikki <MRozdolski@leegov.com> Cc: Dunn, Brandon <BDunn@leegov.com>; Ray Eubanks (ray.eubanks@deo.myflorida.com) <ray.eubanks@deo.myflorida.com>; Barbara Powell (barbara.powell@deo.myflorida.com) <barbara.powell@deo.myflorida.com>; ext-Wuerstle, Margaret (swfrpc.org) <mwuerstle@swfrpc.org>; DEO Planning Group Email (DCPexternalagencycomments@deo.myflorida.com) <DCPexternalagencycomments@deo.myflorida.com> Subject: Lee County, DEO #21-2ESR Comments on Proposed Comprehensive Plan Amendment Package

Dear Ms. Rozdolski:

The South Florida Water Management District (District) has completed its review of the proposed amendment package from Lee County (County). The amendment package changes the land use designation on 22.14 acres from Airport Lands and Wetlands to New Community and Wetlands. The proposed changes do not appear to adversely impact the water resources within the District; therefore, the District has no comments on the proposed amendment package.

The District requests that the County forward a copy of the adopted amendments to the District. Please contact me if you have any questions or need additional information.

Sincerely,

Deb Oblaczynski Policy & Planning Analyst Water Supply Implementation Unit

Please be advised I am working from home until further notice. I can be contacted at: South Florida Water Management District 3301 Gun Club Road West Palm Beach, FL 33406 Email: <u>doblaczy@sfwmd.gov</u> or Cell Phone: 561-315-1474

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