



LEE COUNTY BOARD OF COUNTY COMMISSIONERS
ZONING
and
COMPREHENSIVE PLAN AMENDMENT HEARING
AGENDA

Wednesday, August 18, 2021

9:30AM

DCI2020-00018
Z-21-007

FMBREW CAMPUS MPD

DRI2021-00001
Z-21-010

LEE TRAN SOUTH COUNTY A/K/A CYPRESS TRACE CENTER DRI

CPA2021-00001

LEE PLAN 2045 UPDATE - ADOPTION

NOTICE OF PUBLIC HEARING

The Lee County Board of County Commissioners will hold a public hearing at 9:30 am on Wednesday, August 18, 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.

DCI2020-00018 / FMBREW CAMPUS MPD

Rezone 22.15 acres on the northeast and northwest corner of Daniels Parkway and Commerce Lakes Drive from AOPD to MPD to allow the Fort Myers Brewing Company to develop up to 76,000 sf of commercial uses to include a tap room, restaurant, retail, event space, food truck prep area, offices and industrial uses including a brewery with indoor and outdoor storage.

Located at Northeast and northwest corner of Daniels Pkwy. and Commerce Lakes Dr., Gateway/Airport Planning Community, Lee County, FL.

DRI2021-00001 / LEE TRAN SOUTH COUNTY A/K/A CYPRESS TRACE CENTER DRI

Request for a change to the Cypress Trace Development of Regional Impact (#7-8384-45), consistent with Section 380.06(7) F.S., to remove 8.28± acres under ownership of Lee County from the boundaries of the DRI, reduce project intensity from 465,000 square feet to 416,230 square feet, and codify previously approved extensions to change the build-out date to January 21, 2029.

Located at 13180 S Cleveland Ave., South Fort Myers 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.

Any Member of the public may appear and speak to DRI2021-00001.

With respect to DCI2020-00018, 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 this 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, ADArequests@leegov.com 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
(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, August 18, 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:

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.

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.

DCI2020-00018
FMBREW CAMPUS
MPD

Staff Summary

CASE NUMBER & NAME: DCI2020-00018 / FMBrew Campus MPD

REQUEST: Rezone 22.15 acres on the northeast and northwest corner of Daniels Parkway and Commerce Lakes Drive from AOPD to MPD to allow the Fort Myers Brewing Company to develop up to 76,000 sf of commercial uses to include a tap room, restaurant, retail, event space, food truck prep area, offices and industrial uses including a brewery with indoor and outdoor storage.

RESOLUTION NUMBER: Z-21-007

LOCATION: Northeast and northwest corner of Daniels Pkwy. and Commerce Lakes Dr., Gateway/Airport Planning Community, Lee County, FL

OWNER: Lee County

APPLICANT: 1227 Holding, LLC

AGENT: Fred Drovdlc
Waldrop Engineering, Inc.
1514 Broadway, Ste. 201
Fort Myers, FL 33901

HEARING EXAMINER
RECOMMENDATION: Approve, with conditions

PARTICIPANT (1): Bethany McCleaf



DCI2020-00018
Aerial

Legend

 Subject Parcel



0 250
Feet

Summary of Hearing Examiner Recommendation

FMBREW CAMPUS MPD

(by Waldrop Engineering, P.A.
o/b/o 1227 Holdings, LLC)

Request: Rezone from Airport Operations Planned Development (AOPD) to Mixed Use Planned Development (MPD).

The request seeks up to 76,000 square feet of commercial, retail, industrial and warehousing uses, including manufacturing for brewing facilities, restaurant, cocktail lounge, outdoor recreation, and food truck area on the main campus parcel east of Commerce Lakes Drive.

Location: Northeast & northwest corner of Daniels Parkway & Commerce Lakes Drive. (District 2)

Gateway/Airport Planning Community

Size: 22.15 acres

Recommendation: Approve, with conditions

Deviations: 8

Public Concerns: Alcohol on parcel adjacent to Summit Church.
(None requested by Applicant)

Hearing Examiner Remarks

The proposed Master Concept Plan includes an access to Daniels Parkway, which requires an amendment to the Daniels Parkway Controlled Access Resolution. Lee County DOT does not object to the amendment.

Detailed recommendation follows

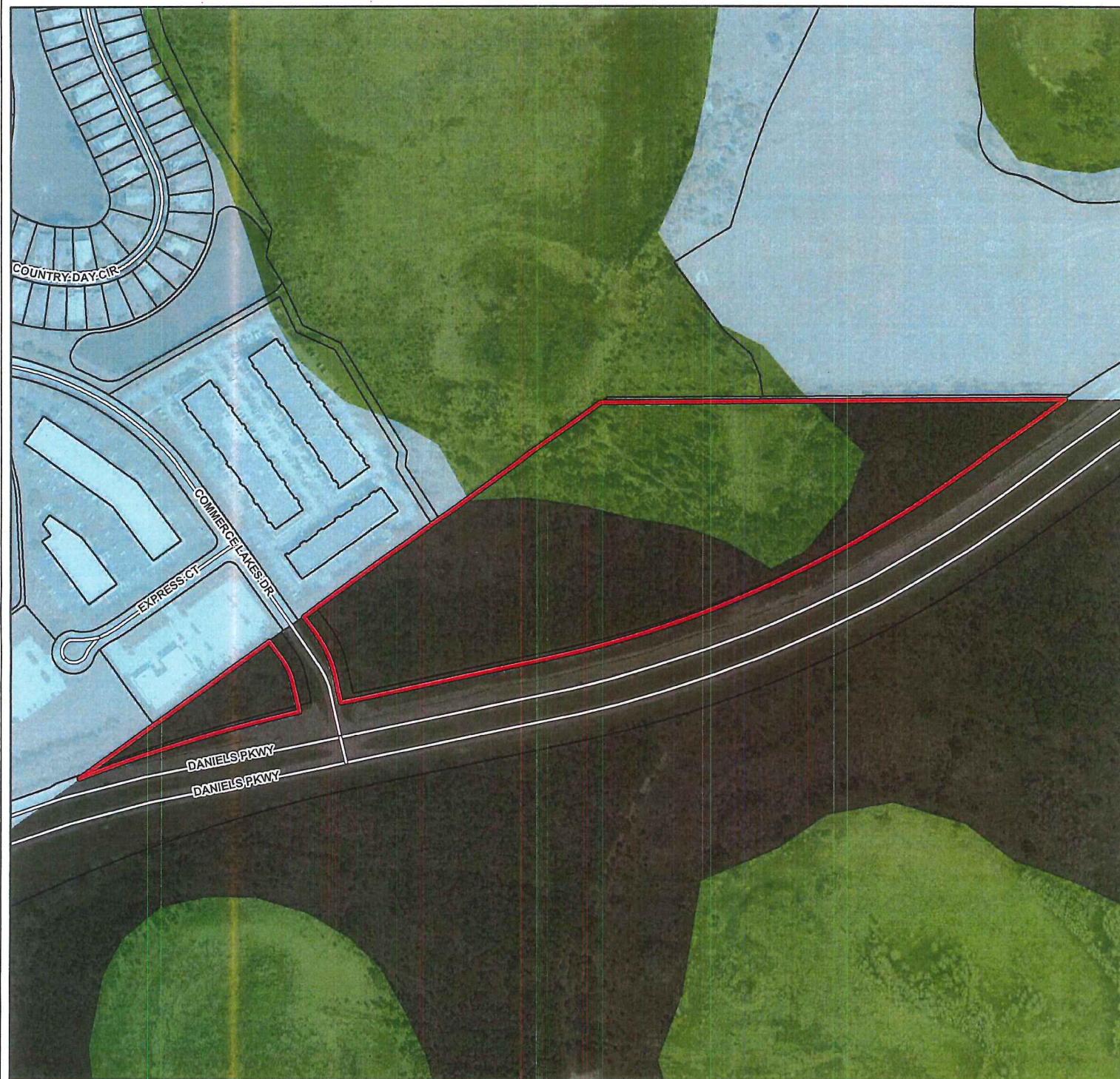
DCI2020-00018
Future Land Use

Legend

-  Subject Parcel
-  New Community
-  Airport
-  Wetlands



0 250
Feet





DCI2020-00018
Aerial

Legend

 Subject Parcel



0 250
Feet

OFFICE OF THE HEARING EXAMINER, LEE COUNTY, FLORIDA

HEARING EXAMINER RECOMMENDATION

REZONING: DCI2020-00018

Regarding: FMBREW CAMPUS MPD

Location: Northeast and northwest corner of Daniels Parkway and Commerce Lakes Drive

Gateway/Airport Planning Community
(District 2)

Hearing Date: July 1, 2021

Record Closed: July 16, 2021

I. Request

Rezone 22.15+/- acres from Airport Operations Planned Development (AOPD) to Mixed Use Planned Development (MPD).

The request seeks up to 76,000 square feet of commercial, retail, industrial and warehousing uses, including manufacturing for brewing facilities, restaurant, cocktail lounge, outdoor recreation, and food truck area on the main campus parcel east of Commerce Lakes Drive.

The property legal description is set forth in Exhibit A.

II. Hearing Examiner Recommendation

Approval, subject to conditions and deviations set forth in Exhibit B.

III. Discussion

The Hearing Examiner serves in an advisory capacity to the Board of County Commissioners on applications to rezone property. In furtherance of this duty, the Hearing Examiner accepted testimony and evidence on an application to rezone property from Airport Operations Planned Development (AOPD) to Mixed Use Planned Development (MPD).

In preparing a recommendation to the Board, the Hearing Examiner must apply the Lee County Comprehensive Plan (Lee Plan), the Land Development Code (LDC) and other regulations to the facts adduced at hearing. The record must

contain substantial competent evidence to support the Hearing Examiner's recommendation.

Synopsis of the Request

Applicant seeks to develop 22.15 +/- acres with commercial and light industrial uses. The property is vacant, located on the north side of Daniels Parkway, east and west of Commerce Lakes Drive.

As proposed, the project will consist of up to 76,000 square feet of retail commercial, industrial and warehousing uses as follows:¹

- 40,000 sq. feet manufacturing (brewery)
- 10,000 sq. feet retail/office uses
- 21,000 sq. feet tap room, kitchen, pavilion area,² and restaurant uses
- 5,000 sq. feet food truck staging area.
- Outdoor consumption of alcoholic beverages

There is a companion request to amend the Daniels Parkway Controlled Access Resolution to include a new right-in/right-out access serving the property.

The Department of Community Development staff recommended approval of the MPD with eight deviations, subject to conditions. One member of the public attended the hearing.

Development Permitting History

The site is composed of two tracts bisected by Commerce Lakes Drive, each zoned AOPD.³ The existing zoning classification authorizes office and retail commercial and industrial uses.⁴ The requested MPD district allows similar uses.

The property was recently the subject of a Lee Plan amendment changing the future land use designation from Airport Lands/Wetlands to New Community/Wetlands.⁵

¹ Commercial uses are confined to Parcel 1 on the MCP.

² The Traffic Impact Statement includes the pavilion area in the overall floor area of the project.

³ The parcel west of Commerce Lake Drive is 1.5 +/- acres in size. The parcel east of Commerce Lakes Drive is 20.6 +/- acres.

⁴ Z-14-030, ADD2019-00027; The Board first approved the Southwest Florida International Airport AOPD in April 1992. See Z-92-012 approved on April 6, 1992. Later amended by Z-00-037 on August 21, 2000.

⁵ Staff Report Attachment N: Lee County Ordinance 21-06 adopted by the Board on June 2, 2021. (effective July 5, 2021) (Formerly CPA 2019-00007) The property became surplus airport lands by virtue of the alignment of the Daniels Parkway extension. The road alignment separated the parcel from the airport campus.

Lee Plan Analysis/Character of Area

The property is classified as a future urban area on the Lee Plan Future Land Use Map, and lies within the New Community and Wetlands future land use categories.⁶ Development in the New Community typically consists of development conserving important environmental resources and utilizing area wide surface water management.⁷

New Community permits industrial land uses notwithstanding obstacles posed by Lee Plan Policy 7.1.6, which does not include New Community within the categories that may develop light industrial uses.⁸ Lee Plan Chapter XIII instructs the County to resolve conflicting policies based on a reading of the whole plan. This exercise leads to the conclusion that light industrial uses promote economic development, a key component of the Plan's vision.⁹

The Wetlands future land use category may develop with very low density residential uses and recreation uses will not affect the ecological function of wetlands.¹⁰ The proposed Master Concept Plan (MCP) preserves the large onsite wetland with minimal impact.

The site abuts the Daniels Preserve MPD on the north and the Southwest International Airport AOPD across Daniels Parkway to the south. Both planned developments are approved for similar commercial and light industrial uses.¹¹

Summit Church is adjacent to the tract west of Commerce Lakes Drive, triggering the need for deviations from COP separation requirements. Applicant seeks no alcohol related uses on that tract. Residential development further north is well outside separation requirements for sale/service of alcoholic beverages.

The property lies within the Gateway/Airport Planning Community, which is intended to accommodate commercial and industrial development fueled by the

⁶ Lee Plan Map 1; See *also* Glossary definition of Future Urban Areas.

⁷ Lee Plan Policy 1.6.1.

⁸ Policy 7.1.6 does not include New Community within the list of land use categories that may develop light industrial uses.

⁹ Lee Plan Vision Statement (diversification of economic base). The subject request includes a mix of commercial and light industrial uses. Industrial uses are consistent with Lee Plan policies favoring a diverse economy, positive business climate and maximum employment opportunities. Lee Plan Goal 158, Objectives 158.1, 158.2 (cultural resources, tourism and recreation), Policies 7.1.10, 158.3.1, 158.3.5 (adequate land area to industrial development), 158.4.1, 158.4.6 (Expansion of existing businesses). Further, the property lies within the Gateway/Airport Planning Community, which is intended to accommodate commercial and industrial development fueled by the airport expansion. Lee Plan Policy 1.1.13; Lee Plan Vision Statement Paragraph 10 and Map 16 Planning Communities Map. See *also* Lee Plan Objective 11.1.

¹⁰ Lee Plan Policy 1.5.1; Wetlands must be consistent with Lee Plan Goal 124.

¹¹ Lee Plan Policies 6.1.4, 6.1.7, 6.1.8, 7.1.8, and 7.1.9.

airport expansion.¹² The requested schedule of uses envisions development consistent with existing and planned uses in the area.¹³ The request serves as an employment center and source of recreation for area residents.¹⁴

A portion of the property lies within an Airport Noise Zone.¹⁵ As conditioned, the request is compatible with airport operations.¹⁶

Transportation

The property fronts on Daniels Parkway, a controlled access facility.¹⁷ The controlled access resolution restricts access along the road corridor to specific locations to preserve safety and traffic capacity.

The MCP illustrates access to Daniels Parkway and Commerce Lakes Drive as follows:

Daniels Parkway: A single right-in/right-out access approximately 960 feet east of Commerce Lakes Drive.¹⁸ This access requires an amendment to the Daniels Parkway controlled access resolution.¹⁹ Lee County DOT does not object to the amendment.²⁰

Commerce Lakes Drive: Two driveways serving tracts on the east and west side of the road.²¹

Daniels Parkway operates at acceptable levels of service and will continue to do so following project completion.²² Developer must address site related

¹² Lee Plan Policy 1.1.13; Lee Plan Vision Statement Paragraph 10 and Map 16 Planning Communities Map. See also Lee Plan Objective 11.1.

¹³ The Daniels Preserve MPD and SWFIA AOPD approve similar uses.

¹⁴ Lee Plan Goal 11, Objective 11.1.

¹⁵ Airport Noise Zone C overlaps the southeastern portion of the site. Objective 1.7, Policies 1.7.1, 47.2.2, Map 1, page 5; The property falls within Airport Noise Zone C. Airport Noise Zones are areas representative of specific airport DNL noise contours or designated over flight areas in which land use is limited. Notification to property owners is provided through notice recorded in Lee County Public Records. Lee Plan Policy 1.7.1; LDC 34-1104, LDC Appendix C Airport Compatibility District Maps, Map 1.

¹⁶ Lee Plan Objective 47.2, Policy 7.1.3.

¹⁷ The County protects road capacity through access control. Lee Plan Objective 40.1, Policy 40.2.2. The Board designated Daniels Parkway a Controlled Access Facility establishing access points, median openings, and turning movements for the protection of public health, safety and welfare. See Resolution 89-10-11, as amended.

¹⁸ Daniels Parkway is a four lane divided county maintained arterial roadway with a posted speed limit of 50 mph during daytime hours,

¹⁹ The proposed access would be limited to right-in, right-out turning movements.

²⁰ See Staff Report Attachment I, Memorandum from Lili Wu, Senior Planner Lee DOT.

²¹ Commerce Lakes Drive is a two lane undivided local road with a posted speed limit of 30 mph. The Gateway Community Development District has maintenance responsibility for the roadway.

²² Testimony at hearing, and traffic studies submitted into evidence demonstrate this to be the case. See Lee Plan Policies 6.1.5, 7.1.1, 7.1.2; See also Staff Report Attachment I: Traffic Impact Statement for Fort Myers Brewing Company & Response to AC 11-10 Controlled Access Facilities, prepared by TR

improvements, including turn lanes, during the development order process.²³ Developer will also be subject to road impact fees.

Environmental

The property includes 13.08 acres of wetlands, 7.08 acres of which will be protected by conservation easement connecting to conservation lands to the north.²⁴ Wetlands slated for preservation consist of freshwater marsh, hydric pine Flatwoods, pine-mesic oak and cypress.²⁵ The LDC requires buffer plants/landscaping to adhere to xeriscape principles to conserve water.²⁶

Applicant's protected species survey of the site found no signs of protected species but identified habitat favorable to Florida Bonneted Bat, Red-Cockaded Woodpecker and Big Cypress Fox Squirrel.²⁷ Recommended conditions require bear-proof dumpster enclosures and other measures to discourage Florida Black Bear activity.²⁸ Proposed conditions also require preconstruction surveys and species management plans where indicated.²⁹

The MCP meets open space requirements.³⁰ Applicant requested deviations from LDC requirements for buffers, lake bank slopes, planted littoral shelves, and littoral plantings. The proximity of the airport drives the requested deviations from lake bank slope criteria and required plantings.³¹

Developments greater than five acres with native trees within 50 feet of an arterial roadways must provide a 50 foot right of way buffer to preserve existing trees.³² The site contains South Florida Slash Pines within 50 feet of the Daniels and

Transportation Consultants, Inc., dated February 11, 2021 and Memorandum from Lili Wu, Senior Planner, DOT dated June 18, 2021.

²³ Lee Plan Objective 39.1 and Policies 1.6.1.6, 39.1.1.

²⁴ The 7.08 indigenous wetland preserve meets 100% of the open space requirement. Lee Plan Policies 1.5.1, 123.2.8, 123.4.4; LDC 10-415(b); the site plan impacts approximately 6 acres of jurisdictional wetlands. Applicant plans offsite mitigation for those impacts.

²⁵ The MCP reflects 7 acres of preserved wetlands.

²⁶ Xeriscape principles include reduced turf, mulching and drought tolerant plant materials. The LDC requires 100% native vegetation in buffer areas and Florida friendly landscaping. Lee Plan Objectives 77.3, 126.2, Policies 54.1.3, 126.2.1; cf. Policy 54.1.3; LDC 10-42.1.

²⁷ Lee Plan Policy 123.4.1; Staff Report Attachment J: Lee County Environmental Staff Report and Protected Species Assessment dated August 20, 2020 prepared by DexBender & Associates.

²⁸ Florida Wildlife Commission recommended conditions to address Florida Black Bear including bear-proof dumpsters and educational materials. See Lee Plan Objective 123.12, Policies 123.12.2, 123.12.3.

²⁹ Lee Plan Objectives 123.3, 213.4, Policies 123.3.1, 123.3.2, 123.4.3; LDC 10-474, 10-154.

³⁰ Lee Plan Goals 77, 123, Objectives 60.4, 77.2, 77.3, 123.1, Policies 1.1.13, 1.5.1, 1.6.1, 4.1.3, 6.1.3, 6.1.6, 77.3.1, 123.1.5, 123.1.7 123.4.2, Standard 4.1.4.

³¹ Most of the site lies within the Southwest International Airport 10,000 square foot Wildlife Hazardous Advisory Area. Developers must reduce potential for bird attractants by increasing lake bank slopes and reducing herbaceous littoral plant species to discourage bird foraging. Implementation of land use practices to minimize hazardous wildlife populations near the airport generates the need for the variances. Lee Plan Objective 47.2, Policies 47.2.1, 47.2.5, 47.6.4; LDC 34-1003, 34-1012(a).

³² LDC 10-415(b)(1)b.4.

Commerce Lakes Drive rights-of-way. Applicant seeks a deviation to allow a 15 foot buffer *with Type D plantings* along Daniels Parkway outside the wetland area instead of preserving those trees.³³ Staff recommended approval of the deviation subject to planting specific tree and plant species.³⁴

Urban Services

The testimony at the hearing summarized the urban services and infrastructure available to serve the site, which includes public water and sanitary sewer, paved roads, police, fire and emergency services.³⁵

The property lies within the Lee County Utilities Service Area with potable water and sanitary sewer lines in operation adjacent to the property.³⁶ Since the site is not within a quarter mile of a LeeTran route it will not be required to connect to/improve transit facilities.³⁷

Deviations

The Applicant requests 8 deviations from the LDC. A “deviation” is a departure from the land development regulations.³⁸ An applicant must demonstrate a requested deviation will enhance the achievement of the objectives of the planned development and not cause a detriment to public interests.³⁹

The Hearing Examiner's standard of review for deviations requires a finding that the deviation:

1. Enhances the objectives of the planned development; and
2. Preserves and promotes the LDC's intent to protect public health, safety and welfare.⁴⁰

³³ LDC Type D buffer are a minimum of 15 feet in width with five trees and plantings include a double staggers row of hedges maintained to form a 36 inch high continuous visual screen within one year after the time of planting. LDC 10-416. The existing Slash Pines are highly sensitive to root disturbance and must be preserved a full dripline to avoid impacts.

³⁴ Condition requires the alternative buffer include South Florida Slash Pine, and Cabbage palms with a mixture of cocoplum and green saw palmetto. The alternative replicates species found in the indigenous preserve and provides view windows into the site. Lee Plan Objectives 77.3, 126.2, Policies 54.1.3, 60.4.1, 126.2.1; LDC 10-421; See Staff Report Attachment J.

³⁵ Lee Plan Goal 4, Objectives 2.1, 2.2, 4.1, Policies 2.2.1, 2.2.2, 6.1.7, 7.1.5, 29.9.3, 53.1.5, 56.1.7, Standards 4.1.1, 4.1.2.

³⁶ Lee Plan Goals 53, 56, Maps 6 and 7; sanitary sewer service will be provided by the Gateway Water Reclamation facility. See Staff Report Attachment H correspondence from Mary McCormic, Technician Senior Lee County Utilities.

³⁷ See Staff Report Attachment K, Correspondence from Jorge J. Puente, Service Planner, LeeTran Mobility Enhancement Team. The County will review the project for compliance with LDC transit requirements again during the development review process.

³⁸ LDC 34-2.

³⁹ LDC 34-373(a)(9).

⁴⁰ LDC 34-377(a)(4).

Applicant requests deviations from code requirements for: separation from churches for establishments selling/serving alcoholic beverages, right of way buffers, littoral shelves and herbaceous plantings, lake bank slopes, and parking lot interconnections.

Staff recommended approval of the deviations subject to conditions. The Hearing Examiner also recommends approval of requested deviations, with conditions.

Conditions

The MPD will be subject to several conditions of approval. The proposed conditions reasonably relate to the impacts anticipated from development.⁴¹ The Hearing Examiner recommends revisions to proposed wording of conditions to improve clarity.⁴²

IV. Findings and Conclusions

Based on the testimony and exhibits in the record, the Hearing Examiner recommends approval of the request to rezone the property to the Mixed Use Planned Development zoning district, subject to conditions, and makes the following findings and conclusions:


- A. The request for MPD zoning district complies with the Lee Plan. Lee Plan Goals 2, 6, 7, 11, 77, 158, Objectives 2.1, 2.2, 4.1, 6.1, 7.1, 11.1, 47.2, 77.2, 77.3, 126.2, Policies 2.1.2, 2.2.1, 6.1.1, 6.1.3, 7.1.1, 7.1.2, 7.1.10, 39.2.1, 47.2.1, 47.2.5, 124.1.1, 158.3.5, 158.4.9; Lee Plan Vision Statement Paragraphs 10, Map 16.
- B. As conditioned herein, the MPD zoning designation:
 - 1. Meets the standards set forth in the LDC and other regulations or qualifies for deviations. Lee Plan Goals 2, 4, 6, 7; Objectives 2.1, 2.2 and Policies 2.1.1, 6.1.3, 7.1.2; LDC 10-7(b), 10-154, 10-415, 10-416, 10-421, 10-474, 10-630, 34-373, 34-411, 34-491, 34-1104(b), 34-1003, 34-1012;
 - 2. Is compatible with existing and planned uses in the surrounding area. Lee Plan Objectives 2.1, 2.2, 47.2, and Policies 1.7.6, 2.1.1, 6.1.4, 7.1.3, 7.1.9, 47.2.1, 47.2.2, 47.5.2; LDC 34-411(j);
 - 3. Will provide access to support the proposed development intensity. Lee Plan Policies 6.1.5, 7.1.1, 39.2.1; LDC 34-411(d);

⁴¹ LDC 34-83(b)(4)a.3, 34-1012(a).

⁴² LDC 34-145(d)(6)a.

4. Existing regulations and conditions of approval address the expected impacts on transportation facilities. Lee Plan Policy 6.1.5; LDC 2-261 *et seq.*, 10-7(b), 10-286, 10-298;
 5. Will not adversely affect environmentally critical areas or natural resources. Lee Plan Objectives 77.2, 77.3, 123.3, 124.1, Policies 1.5.1, 54.1.3, 77.3.1, 77.3.4, 77.3.5, 123.3.1, 123.3.2, 123.4.1, 123.4.2, 123.4.3, 123.4.4, 124.1.1, 126.2.1, Standard 4.1.4; LDC 34-411(h); and
 6. Will be served by urban services including public water and sewer, paved streets, police, fire and emergency services, and urban surface water management. Lee Plan Objectives 2.1, 2.2, 4.1, 6.1.4, 7.1.5, 123.4; Policies 2.2.1, 6.1.4, 6.1.5, 7.1.5; Standards 4.1.1, 4.1.2.
- C. The proposed uses are appropriate at the location and constitute infill development. Lee Plan Policies 2.1.1, 2.2.2, 6.1.4, 6.1.7, 7.1.3, 7.1.5, 47.2.1, 47.2.2, 47.5.2, 158.4.9; LDC 34-411.
- D. The recommended conditions of approval and applicable regulations provide sufficient safeguards to protect the public interest. Those conditions are reasonably related to the impacts expected from the proposed development. Lee Plan Objectives 47.2, 126.2, Policies 1.7.1, 2.2.1, 6.1.6, 7.1.2, 7.1.8, 47.2.1, 47.2.2, 47.2.5, 123.3.3, 123.12.2, 123.12.3; LDC 34-411.
- E. The requested deviations:
1. Enhance the objectives of the planned development; and
 2. Promote the intent of the LDC to protect public health, safety and welfare.

Date of Recommendation: July 12, 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 Hearing Examiner's Recommendation

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

Exhibit A

LEGAL DESCRIPTION AND VICINITY MAP

Exhibit A

RHODES & RHODES LAND SURVEYING, INC.PARCEL C

A TRACT OR PARCEL OF LAND LYING IN THE SOUTHEAST QUARTER (SE 1/4) OF SECTION 18, TOWNSHIP 45 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA, WHICH TRACT OR PARCEL OS DESCRIBED AS FOLLOWS;

FROM THE SOUTHEAST CORNER OF SAID FRACTION RUN N 00°58'41" W ALONG THE EAST LINE OF SAID FRACTION FOR 1870.26 FEET TO AN INTERSECTION WITH THE NORTHERLY RIGHT-OF-WAY LINE OF DANIELS PARKWAY; (THE FOLLOWING TWO COURSES BEING ALONG AND COINCIDENT WITH SAID NORTHERLY RIGHT-OF-WAY LINE) THENCE S 78°00'00" W A DISTANCE OF 233.32 FEET TO A POINT OF CURVATURE WITH A TANGENT CIRCULAR CURVE, CONCAVE TO THE SOUTH; THENCE ALONG SAID CURVE, HAVING FOR ITS ELEMENTS A RADIUS OF 4743.66 FEET, A CENTRAL ANGLE OF 01°12'20", A CHORD DISTANCE OF 99.81 FEET TO THE POINT OF BEGINNING; FROM SAID POINT OF BEGINNING; THENCE CONTINUE ALONG SAID NORTHERLY RIGHT-OF-WAY LINE ALONG A TANGENT CIRCULAR CURVE, CONCAVE TO THE SOUTH, HAVING FOR ITS ELEMENTS A RADIUS OF 4743.66 FEET, A CENTRAL ANGLE OF 07°46'39", A CHORD DISTANCE OF 643.42 FEET, A CHORD BEARING OF S 72°46'39", AND AN ARC DISTANCE OF 643.92 FEET; THENCE N 54°00'00" E A DISTANCE OF 655.83 FEET; THENCE S 36°00'00" E A DISTANCE OF 62.75 FEET TO A POINT OF CURVATURE WITH A TANGENT CIRCULAR CURVE, CONCAVE TO THE WEST; THENCE ALONG SAID CURVE, HAVING FOR ITS ELEMENTS A RADIUS OF 180.00 FEET, A CENTRAL ANGLE OF 23°3'09", A CHORD DISTANCE OF 73.37 FEET, A CHORD BEARING OF S 24°14'26" E, AND AN ARC DISTANCE OF 73.89 FEET; THENCE S 12°28'51" E A DISTANCE OF 80.59 FEET TO THE POINT OF BEGINNING.

CONTAINING 1.51 ACRES, MORE OR LESS

PARCEL D

A TRACT OR PARCEL OF LAND LYING IN THE SOUTHWEST QUARTER (SW-1/4) OF SECTION 17 AND THE SOUTHEAST QUARTER (SE-1/4) OF SECTION 18, TOWNSHIP 45 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA, WHICH TRACT OR PARCEL IS DESCRIBED AS FOLLOWS:

FROM THE SOUTHEAST CORNER OF SAID SOUTHEAST QUARTER (SE-1/4) OF SAID SECTION 18 RUN N 00°58'41" W ALONG THE EAST LINE OF SAID FRACTION FOR 1870.26 FEET TO THE POINT OF BEGINNING, SAID POINT ALSO LYING ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF DANIELS PARKWAY. FROM SAID POINT OF BEGINNING ; THENCE S 78°00'00" W ALONG SAID NORTH RIGHT-OF-WAY LINE A DISTANCE OF 213.12 FEET; THENCE N 12°28'51" W A DISTANCE OF 80.55 FEET TO A POINT OF CURVATURE WITH TANGENT CIRCULAR CURVE, CONCAVE TO THE WEST; THENCE ALONG SAID CURVE, HAVING FOR ITS ELEMENTS A RADIUS OF 300.00 FEET, A CENTRAL ANGLE OF 23°31'07", A CHORD DISTANCE OF 122.28 FEET, A CHORD BEARING OF N 224°14'40" W AND AN ARC DISTANCE OF 123.15 FEET; THENCE N 36°00'00" W A DISTANCE OF 62.75 FEET; THENCE N 54°00'00" E A DISTANCE OF 1026.83 FEET; THENCE N 89°30'50" E A DISTANCE OF 1301.13 FEET TO AN INTERSECTION WITH THE NORTHERLY RIGHT-OF-WAY LINE

Z:\FT MYERS BREWING\2019-255 legal.docx

RHODES & RHODES LAND SURVEYING, INC.

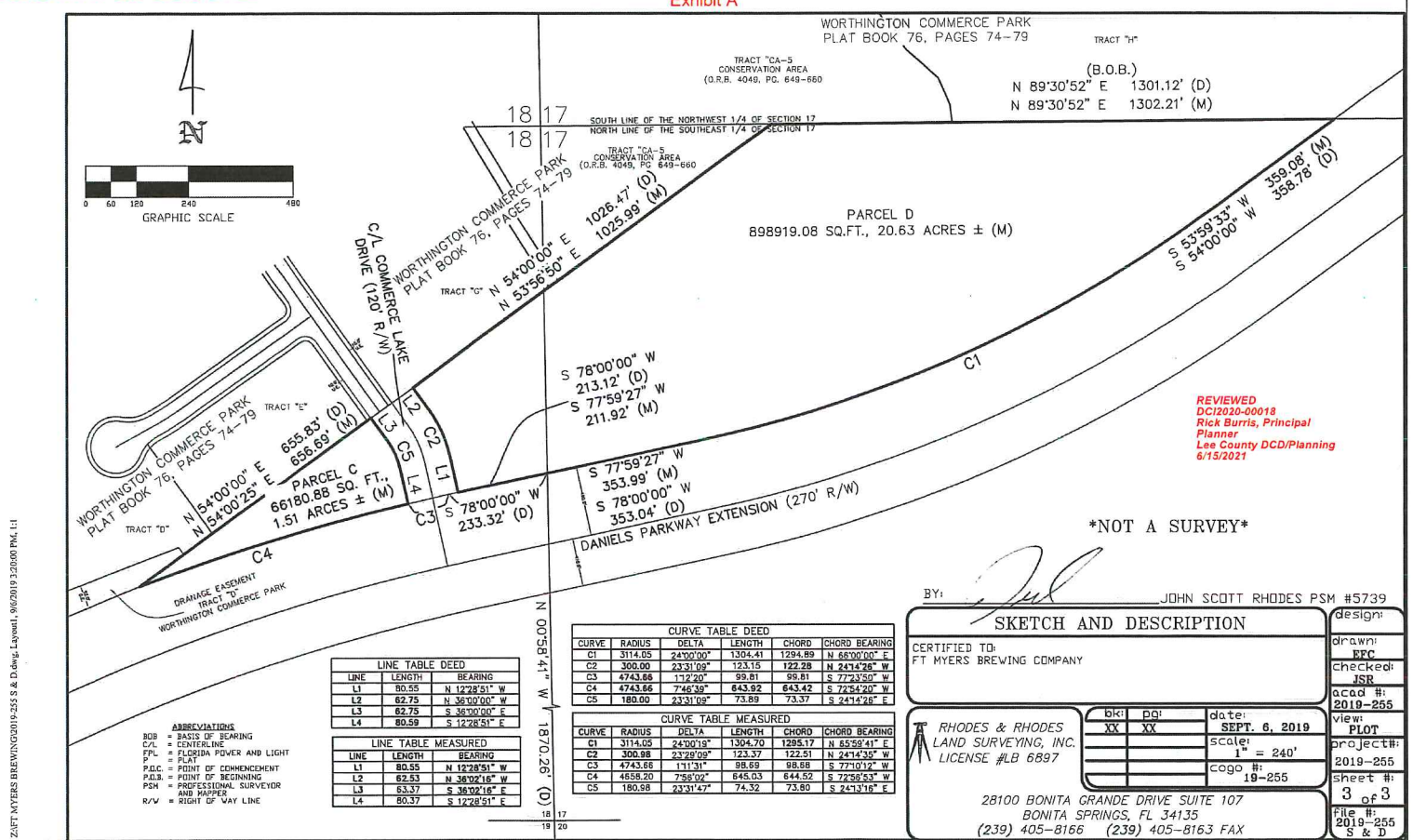
OF DANIELS PARKWAY; THENCE S 54°00'00" W A DISTANCE OF 359.16 FEET TO A POINT OF CURVATURE WITH A TANGENT CIRCULAR CURVE, CONCAVE TO THE NORTHWEST; THENCE ALONG SAID CURVE, HAVEING FOR ITS ELEMENTS A RADIUS OF 3114.04 FEET, A CENTRAL ANGLE OF 24°00'00", A CHORD DISTANCE OF 1294.89 FEET, A CHORD BEARING OF S 66°00'00" W, AND AN ARC DISTANCE OF 1301.41 FEET; THENCE RUN S 78°00'00" W A DISTANCE OF 353.04 FEET TO SAID POINT OF BEGINNING.

CONTAINING 20.62 ACRES, MORE OR LESS.



JOHN SCOTT RHODES, PSM #5739
PROFESSIONAL SURVEYOR & MAPPER
STATE OF FLORIDA

***REVIEWED
DCI2020-00018
Rick Burris, Principal
Planner
Lee County DCD/Planning
6/15/2021***



DCI2020-00018
Zoning

Legend

 Subject Parcel



0 250
Feet



Exhibit B

Hearing Examiner RECOMMENDED CONDITIONS AND DEVIATIONS Revised by Hearing Examiner

CONDITIONS

1. Master Concept Plan and Approved Development Parameters

Development must be consistent with the one-page Master Concept Plan (MCP) entitled "FMBrew Campus MPD," prepared by Waldrop Engineering as revised June 24, 2021 except where modified by conditions in this resolution. Changes to the Master Concept Plan (MCP) require further development approvals.

Development Parameters: 76,000 square feet of commercial and industrial/manufacturing uses as follows:

- 40,000 sq. ft. manufacturing (brewery)
- 10,000 sq. ft. retail/office uses
- 21,000 sq. ft. tap room, kitchen, pavilion area, and restaurant uses*
- 5,000 sq. ft. food truck staging area
- Outdoor consumption of alcoholic beverages

*Includes outdoor seating areas

Development must comply with the Lee County Land Development Code (LDC) at time of local development order approval, except where deviations are approved in this resolution.

2. Permitted Uses and Property Development Regulations.

NOTE: Main Campus is the parcel located on the northeast corner of Commerce Lakes Drive and Daniels Parkway.

a. Schedule of Uses

- Accessory Uses and Structures
- Bar or cocktail lounge – Main Campus Only
- Consumption on premises – Main Campus Only
- Drive through
- Entrance gates and gatehouse
- Essential services
- Essential service facilities: Group I
- Excavation, Water Retention
- Fences, walls

- Gift and souvenir shop
- Manufacturing/Light Industrial
 - Food and kindred products: Group II - Main Campus Only
- Package store – Main Campus Only
- Recreation facilities: Commercial Groups I, III (excluding waterslides and golf driving ranges)
- Restaurants: Groups I, III
- Signs in accordance with LDC
- Specialty retail shops: Group I
- Storage, open
- Temporary uses
- Warehouse:
 - Cold storage, pre-cooling, warehouse and processing plant
 - Private

b. Site Development Regulations

Maximum Lot Coverage:	60%
Maximum Building Height:	60 feet
Minimum Open Space:	30%

Minimum Lot Area and Dimensions:	
Area:	10,000 square feet
Width:	100 feet
Depth:	100 feet

Setbacks:	
PD Boundary (commercial uses):	15 feet
PD Boundary (industrial uses):	25 feet
Street right-of-way or easement:	25 feet
Water Body:	25 feet
Minimum building separation:	30 feet

3. Hours of Operation

- a. Retail operations, restaurant, tap room, special events, and associated consumption on premises: 10am to midnight.
- b. No restrictions on the operating hours of manufacturing, office and other uses.

4. Development Permits

County development permits do not establish a right to obtain permits from state or federal agencies. Further, it does not establish liability on the county if the developer: (a) does not obtain requisite approvals or fulfill obligations imposed by state or federal agencies or (b) undertakes actions that violate state or federal law.

5. Indigenous Open Space

- a. Development order plans must depict 7.08 acres indigenous open space to meet the project open space requirement of 6.65 acres.
- b. The Vegetation Removal Permit application must include a wetland mitigation plan for impacts to jurisdictional wetlands or a copy of the receipt confirming payment of offsite wetland mitigation.

6. Right of Way Buffers

Development order landscape plans must depict a 15-foot wide right of way buffer along Daniels Parkway and Commerce Lakes Drive composed of:

- a. Five South Florida Slash Pine (*Pinus elliottii* var. *densa*) per 100 lineal feet.
- b. Three clusters of Cabbage Palms (*Sabal palmetto*) with each cluster consisting of five Cabbage palms.
- c. Double staggered hedge of cocoplum (*Chrysobalanus icaco*) and saw palmetto (*Serenoa repens*).
- d. Developer must install cabbage palms at staggered heights ranging from 10 to 14-foot clear trunk in each cluster.

7. Littoral Shelf Plantings

Development order landscape plans must provide wetland trees in lieu of littoral plantings. Required wetland tree substitution will be based on a ratio of one wetland tree to 100 littoral plants.

8. Compliance with Port Authority Plant List

Plant material must comply with the Lee County Port Authority Compatible Plant List published in 2016.

9. Protected Species Management Plan

The Developer must submit a protected species management plan with the first development order application with a large mammal management plan that includes the following:

- a. South Florida Black Bear human-wildlife coexistence plan, including educational materials;
- b. Bear-proof dumpsters (if available) or maintenance plan for dumpsters/garbage receptacles;

- c. South Florida Black Bear (*Ursus americanus floridanus*) educational kiosks located between public parking areas and pedestrian access points to development uses;
 - d. Grease traps must be underground;
 - e. Florida Bonneted Bat (*Eumops floridanus*) roost survey; and
 - f. Florida panther (*Puma concolor coryi*) consultation information and a receipt of payment for mitigation, if applicable.
10. Big Cypress Fox Squirrel and Florida Bonneted Bat
Developer must submit pre-construction surveys for Big Cypress Fox Squirrel (*Sciurus niger avicenia*) and Florida Bonneted Bat (*Eumops floridanus*) prior to approval of a vegetation removal permit,
11. Florida Black Bear
Developer must install Florida Black Bear signage at each intersection of a public parking area and pedestrian access to development uses prior to County issuance of a certificate of compliance.
12. Airport Noise Zone
The developer, successor or assign acknowledges the property's proximity to Southwest Florida International Airport and the potential for noises created by and incidental to the operation of the airport as outlined in Land Development Code Section 34-1104. The developer, successor or assign acknowledges that a disclosure statement is required on plats, and in association documents for condominium, property owner and homeowner associations as outlined in Land Development Code Section 34-1104(b).
13. Daniels Parkway Controlled Access Resolution
Applicant must amend the Daniels Parkway Controlled Access Resolution to include the access to Daniels Parkway reflected on the MCP prior to County issuance of a development order that includes the access.
14. Outdoor Seating for Restaurant(s)
Gross floor area of restaurant uses include outdoor seating areas. This limitation does not apply to food trucks and trailers.

Deviations

1. Location of Establishments Selling/Serving Alcohol for Consumption on Premises
Deviation (1) seeks relief from LDC 34-1264(b)(1)a.1 which prohibits establishments selling/serving alcoholic beverages for consumption on premises closer than 500 feet from a religious facility; to allow the closest public entrance of

a building on the brewery campus to be located no less than 450 feet as measured from the nearest property line of Summit Church Gateway Campus.

Hearing Examiner Recommendation: Approved

2. Location of Establishments Selling Alcohol for Consumption Off-premises Deviation (2) seeks relief from LDC 34-1263(e)(4) which requires planned development applicants that cannot meet the 500 foot separation requirement from religious facilities for sale of alcoholic beverages for consumption off-site; to allow alcoholic beverage sale to take place no less than 450 feet measured from the nearest property line of Summit Church Gateway Campus to the closest public entrance of the brewery.

Hearing Examiner Recommendation: Approved

3. Open Space. Deviation (3) seeks relief from LDC 10-415(b)(1)b.4. which requires commercial or industrial developments greater than ten acres in size abutting an arterial road with existing native trees within 50 feet of the right-of-way to provide a 50-foot right-of-way buffer for tree preservation; to allow a 15-foot Type 'D' buffer where development is proposed on the northeast corner of Daniels and Commerce Lakes.

Hearing Examiner Recommendation: Approved, subject to Condition 6.

4. Surface Water Management Systems. Deviation (4) seeks relief from LDC 10-418(2)(a) which requires planted littoral shelf (PLS) shoreline length to be 25% of the total linear feet of the lake at control elevation; to eliminate this requirement to minimize wildlife hazards within the 10,000 foot Hazardous Wildlife Zone criteria for airport operations and in accordance with the FAA Advisory Circular 150/5200-33C.

Hearing Examiner Recommendation: Approved, subject to Condition 7.

5. Surface Water Management Systems. Deviation (5) seeks relief from LDC 10-418(2)(c) to omit the required 20-foot-wide planted littoral shelf extending water ward of the control elevation at a depth no greater than 2 feet below the control elevation to minimize the potential for bird attractants.

Hearing Examiner Recommendation: Approved, subject to Condition 7.

6. Surface Water Management Systems. Deviation (6) seeks relief from LDC 10-418(2)(d)(3), which allows native wetland trees to substitute for up to 25% of the number of required herbaceous plants, to allow native wetland trees to substitute for 100% of required herbaceous plants.

Hearing Examiner Recommendation: Approved, subject to Condition 7.

7. Excavations. Deviation (7) seeks relief from LDC 10-329(d)(4) which requires lake bank slopes to be 6:1; to allow 4:1 slopes to minimize wildlife hazards within the 10,000 foot Hazardous Wildlife Zone for airport operations consistent with FAA Advisory Circular 150/5200-33C.

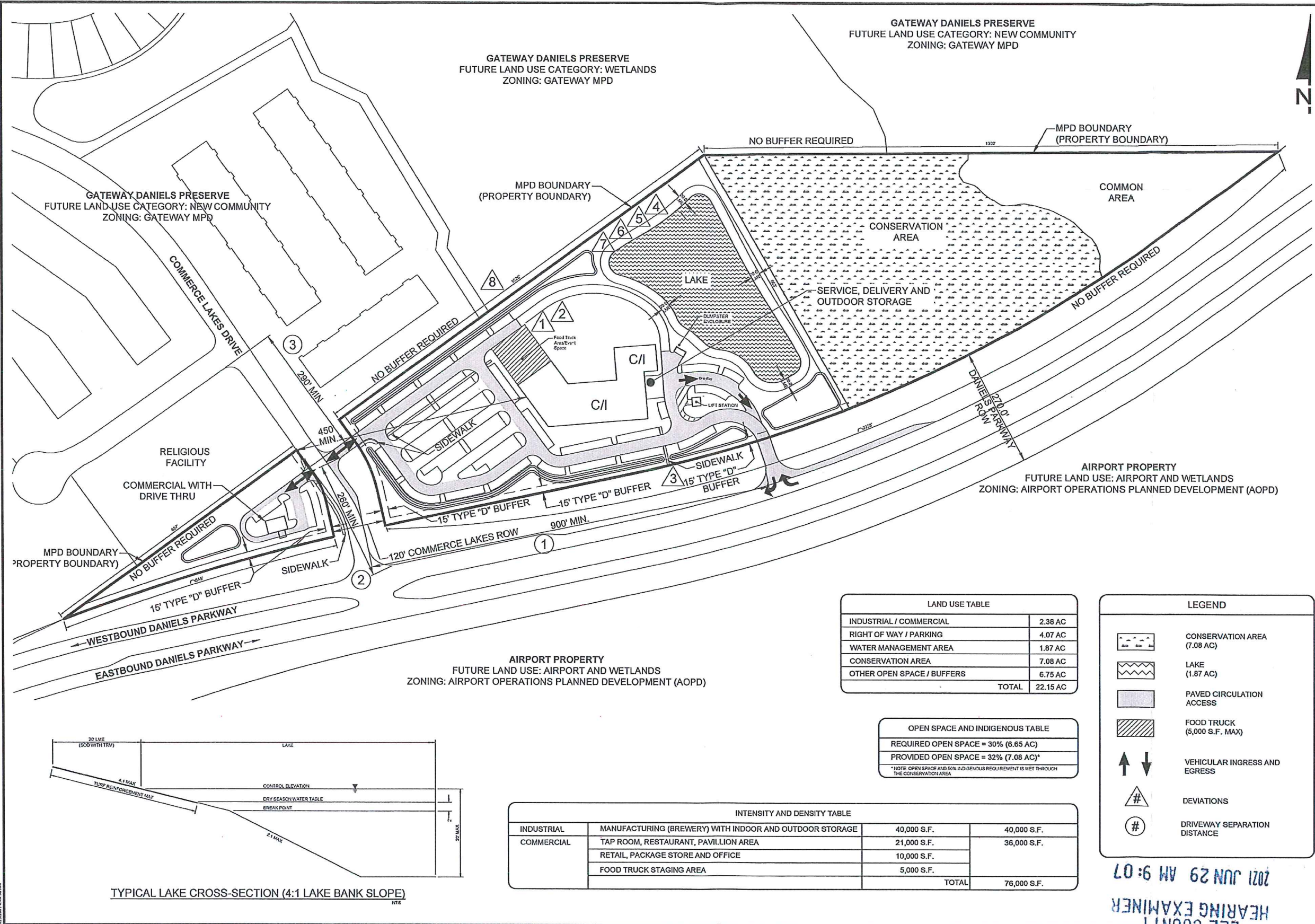
Hearing Examiner Recommendation: Approved.

8. Site Design for Commercial Developments. Deviation (8) seeks relief from LDC 10-610(e) which requires adjacent commercial uses to provide parking lot interconnections for automobile, bicycle and pedestrian traffic; to allow no interconnection between parking lots on either side of Commerce Lake Drive.

Hearing Examiner Recommendation: Approved.

Exhibits to Conditions:

B1 Master Concept Plan for FMBrew Campus MPD revised June 24, 2021,
stamped received by DCD on June 29, 2021



B:\Projects\BrewCampus\Drawings\01-01-2021\Master Concept Plan\01-01-2021.dwg
07/02/2021 1:45:59 AM

LAND USE TABLE	
INDUSTRIAL / COMMERCIAL	2.38 AC
RIGHT OF WAY / PARKING	4.07 AC
WATER MANAGEMENT AREA	1.87 AC
CONSERVATION AREA	7.08 AC
OTHER OPEN SPACE / BUFFERS	6.75 AC
TOTAL	22.15 AC

OPEN SPACE AND INDIGENOUS TABLE	
REQUIRED OPEN SPACE = 30% (6.65 AC)	
PROVIDED OPEN SPACE = 32% (7.08 AC)*	
*NOTE: OPEN SPACE AND 50% INDIGENOUS REQUIREMENT IS MET THROUGH THE CONSERVATION AREA	

INTENSITY AND DENSITY TABLE			
INDUSTRIAL	MANUFACTURING (BREWERY) WITH INDOOR AND OUTDOOR STORAGE	40,000 S.F.	40,000 S.F.
COMMERCIAL	TAP ROOM, RESTAURANT, PAVILLION AREA	21,000 S.F.	36,000 S.F.
	RETAIL, PACKAGE STORE AND OFFICE	10,000 S.F.	
	FOOD TRUCK STAGING AREA	5,000 S.F.	
TOTAL		76,000 S.F.	

LEGEND

CONSERVATION AREA
(7.08 AC)

LAKE
(1.87 AC)

PAVED CIRCULATION
ACCESS

FOOD TRUCK
(5,000 S.F. MAX)

VEHICULAR INGRESS AND
EGRESS

DEVIATIONS

DRIVEWAY SEPARATION
DISTANCE

CIVIL ENGINEERING &
LAND DEVELOPMENT CONSULTANTS
25100 BONTA GRANDE DRIVE - SUITE 300 BONTA SPRINGS, FL 34135
P: 239-405-7777 F: 239-405-7899 EMAIL: info@waldropengineering.com

MASTER CONCEPT PLAN FOR
FMBrew Campus MPD

CLIENT:
1227 HOLDINGS, LLC

PLAN REVISIONS

NO.	DATE	DESCRIPTION
1	06/01/21	REVISED PER COUNTY COMMENTS
2	06/02/21	REVISED PER COUNTY COMMENTS
3	06/02/21	REVISED PER COUNTY COMMENTS

FLORIDA CERTIFICATE OF AUTHORIZATION #5505

SCALE: 1"=100'

SET NUMBER: 859-01-E10

SHEET: 1

2021 JUN 29 AM 9:07

HEARING EXAMINER

Exhibit C

EXHIBITS PRESENTED AT HEARING

STAFF EXHIBITS

- a. *48-Hour Notice*: Email from Brian Roberts, to Maria Perez, with copies to Jamie Princing, Tracy Toussaint, & Fred Drovdlc, dated Friday, June 18, 2021 9:31 AM (multiple pages – 8.5"x11")
- b. *Revision to Attachment D to Staff Report*: Email from Jamie Princing, to Brian Roberts & Maria Perez, with copies to Tracy Toussaint & Fred Drovdlc, dated Tuesday, June 29, 2021 9:22 AM (7 – pages – 8.5"x11")
1. *DCD Staff Report with attachments for DCI*: Prepared by Brian Roberts, Planner, date stamped received July 17, 2021 (multiple pages – 8.5"x11" & 11"x14") [black & white, color]
2. *PowerPoint Presentation*: Prepared for DCI2020-00018, FMBrew Campus MPD (multiple pages – 8.5"x11")[color]
3. *Lee Plan Analysis*: Memorandum from Brandon Dunn, Principal Planner, to Donna Marie Collins, Chief Hearing Examiner, dated July 1, 2021 (1 double sided page – 8.5"x11")
4. *Revised Conditions*: Response to item numbers 2, 3, & 4 (1 page – 8.5"x11")
5. *Written Submittal*: Email from Brian Roberts, to Maria Perez, with copy to Jamie Princing, dated Wednesday, July 7, 2021 (multiple pages – 8.5"x11")

APPLICANT EXHIBITS

- a. *48-Hour Notice*: Email from Fred Drovdlc, with Waldrop Engineering, to Maria Perez, Jen Whyte, Rod Whyte, Brian Roberts, Deborah Carpenter, Rebecca Sweigert, Tracy Toussaint, Jamie Princing, Elizabeth Workman, Tina Boone, Lauren Schaefer, Warren Baucom, Anura Karuna-Muni, Mikki Rozdolski, Jessica Sulzer, Amanda Swindle, Anthony Rodriguez, Dirk Danley, Jr., Joseph Adams, Esq., Michael Jacob, Esq., Neale Montgomery, Esq., dated Tuesday, June 29, 2021 9:19 AM (multiple pages 8.5"x11" & 1 page – 11"x17")
1. *PowerPoint Presentation*: Prepared for Fort Myers Brewing, Co., for case DCI2020-00018, FMBrew Campus MPD (multiple pages – 8.5"x11")[color]

2. *Master Concept Plan:* Prepared by Waldrop Engineering, last revised 6/24/21 (1 page – 24"x36")

Exhibit D

HEARING PARTICIPANTS

County Staff:

1. Brian Roberts
2. Elizabeth Workman

Applicant Representatives:

1. Yury Byhou
2. Fred Drovdlc
3. Neale Montgomery, Esq.

Public Participants:

1. Bethany McCleaf

Exhibit E
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.










28100 BONITA GRANDE DRIVE - SUITE 305 BONITA SPRINGS, FL 34135
P: 239-405-7777 F: 239-405-7899 EMAIL: info@waldropengineering.com

CLIENT:
1227 HOLDINGS, LLC

OPEN SPACE AND INDIGENOUS TABLE
REQUIRED OPEN SPACE = 30% (6.65 AC)
PROVIDED OPEN SPACE = 32% (7.08 AC)*
* NOTE: OPEN SPACE AND 50% INDIGENOUS REQUIREMENT IS MET THROUGH THE CONSERVATION AREA

INTENSITY AND DENSITY TABLE			
INDUSTRIAL	MANUFACTURING (BREWERY) WITH INDOOR AND OUTDOOR STORAGE	40,000 S.F.	40,000 S.F.
COMMERCIAL	TAP ROOM, RESTAURANT, PAVILLION AREA	21,000 S.F.	36,000 S.F.
	RETAIL, PACKAGE STORE AND OFFICE	10,000 S.F.	
	FOOD TRUCK STAGING AREA	5,000 S.F.	
		TOTAL	76,000 S.F.

	CONSERVATION AREA (7.08 AC)
	LAKE (1.87 AC)
	PAVED CIRCULATION ACCESS
	FOOD TRUCK (5,000 S.F. MAX)
	VEHICULAR INGRESS AND EGRESS
	DEVIATIONS
	DRIVEWAY SEPARATION DISTANCE

	PLAN REVISIONS	REVISED PER COUNTY COMMENTS 04/09/21	REVISD PER COUNTY COMMENTS 06/24/21	REV'D <SUBMITTED / BID SET>> XXXXXX
A				
B				
C				
D				
E				
F				
G				
H				
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V				
W				
X				
Y				
Z				

FLORIDA CERTIFICATE OF AUTHORIZATION #8636

SET NUMBER: 869-01-E1

SHEET :

A. Conditions

1. Development must be consistent with the one-page Master Concept Plan (MCP) entitled "FMBrew Campus MPD," prepared by Waldrop Engineering revised and dated June 24, 2021 except as modified by the conditions below. This development must comply with all requirements of the Lee County Land Development Code at time of local Development Order Approval, except as may be granted by deviation as part of this planned development. If changes to the Master Concept Plan are subsequently pursued, appropriate approvals will be necessary.
2. The following limits apply to the project and uses.
 - a. SCHEDULE OF USES:
 - Accessory Uses and Structures (includes outdoor seating)
 - Bar or cocktail lounge – Main Campus Only (parcel on northeast corner of Commerce Lakes and Daniels Parkway)
 - Consumption on premises – Main Campus Only (parcel on northeast corner of Commerce Lakes and Daniels Parkway)
 - Drive through
 - Entrance gates and gatehouse
 - Essential services
 - Essential service facilities: Group I
 - Excavation, Water Retention
 - Fences, walls
 - Gift and souvenir shop
 - Manufacturing/Light Industrial
 - Food and kindred products (34-622(c)(15)): Group II - Main Campus Only (parcel on northeast corner of Commerce Lakes and Daniels Parkway)
 - Package store – Main Campus Only (parcel on northeast corner of Commerce Lakes and Daniels Parkway)
 - Recreation facilities: Commercial (34-622(c)(38)) Groups I, III (excluding waterslides and golf driving ranges)
 - Restaurants (34-622(c)(43)): Groups I and III
 - Signs in accordance with chapter 30
 - Specialty retail shops (34-622(c)(47)): Group I
 - Storage, open
 - Temporary uses
 - Warehouse:
 - Cold storage, pre-cooling, warehouse and processing plant
 - Private

b. **SITE DEVELOPMENT REGULATIONS:**

Development of the MPD will comply with the following Property Development Regulations

Maximum Lot Coverage:	60 percent
Maximum Building Height:	60 feet
Minimum Open Space:	30%
Minimum Lot Area and Dimensions:	
Area:	10,000 square feet
Width:	100 feet
Depth:	100 feet
Setbacks:	
PD Boundary (commercial uses):	15 feet
PD Boundary (industrial uses):	25 feet
Street right-of-way or easement:	25 feet
Water Body:	25 feet
Minimum building separation:	30 feet

Table 1: Intensity

USE		AREA
Industrial		40,000 sf
Commercial		36,000 sf

3. Hours of Operation

- a. The primary campus public service hours, that include retail operation such as the restaurant, tap room, special events, and associated consumption on premises will be limited to 10am to midnight.
- b. Manufacturing, office and all other uses will not have hours of operation restrictions.

4. Development Permits

Issuance of a county development permit does not establish a right to obtain a permit from state or federal agencies. Further, it does not establish liability on the part of the county if the developer: (a) does not obtain requisite approvals or fulfill the obligations imposed by state or federal agencies or (b) undertake actions that result in a violation of state or federal law.

5. Indigenous Open Space

- a. Prior to the issuance of an initial development order, all plans must depict 7.08 acres of indigenous open space to meet the overall open space requirement of 6.65 acres.

- b. Prior to the issuance of a Vegetation Removal Permit, either a wetland mitigation plan for impacts to jurisdictional wetlands or a copy of the receipt of payment for offsite wetland mitigation must be submitted with the application.
- 6. Prior to the issuance of the initial development order, the landscape plans must depict the following 15-foot wide rights-of-way buffer abutting Daniels Parkway and Commerce Lakes Drive:
 - a. Five South Florida Slash Pine (*Pinus elliottii* var. *densa*) per 100 lineal feet.
 - b. Three clusters of Cabbage Palms (*Sabal palmetto*) with each cluster consisting of five Cabbage palms.
 - c. Double staggered hedge consisting of cocoplum (*Chrysobalanus icaco*) and saw palmetto (*Serenoa repens*).
 - d. Cabbage palms must be specified at staggered heights ranging from ten to fourteen-foot clear trunk in each cluster.
- 7. No Littoral plantings are required. Instead of littoral plantings the landscape plans will provide wetland trees in lieu of littoral plantings. The required wetland tree substitution will be based on a one wetland tree to 100 littoral plant ratio.
- 8. Plant material must be in compliance with the Lee County Port Authority Compatible Plant List published in 2016.
- 9. Prior to the issuance of an initial development order, a protected species management plan must be submitted to include a large mammal management plan, including the following:
 - a. South Florida Black Bear human-wildlife coexistence plan, including educational materials;
 - b. Bear-proof dumpsters (if available) or a maintenance plan for dumpsters/garbage receptacles;
 - c. South Florida Black Bear (*Ursus americanus floridanus*) educational kiosks located between public parking areas and pedestrian access points to development uses;
 - d. All grease traps must be underground;
 - e. Florida Bonneted Bat (*Eumops floridanus*) roost survey; and
 - f. Florida panther (*Puma concolor coryi*) consultation information and a receipt of payment for mitigation, if applicable.
- 10. Prior to the issuance of a vegetation removal permit, pre-construction surveys for Big Cypress Fox Squirrel (*Sciurus niger avicenia*) and Florida Bonneted Bat (*Eumops floridanus*) must be submitted per the species survey submitted with the development order. (The species survey submitted with the zoning application can be submitted with the Development Order application if still valid.)
- 11. Prior to the issuance of a Certificate of Compliance, Florida Black Bear signage must be installed at each intersection of a public parking area and a pedestrian access point to development uses.

12. The developer, successor or assign acknowledges the property's proximity to Southwest Florida International Airport and the potential for noises created by and incidental to the operation of the airport as outlined in Land Development Code Section 34-1104. The developer, successor or assign acknowledges that a disclosure statement is required on plats, and in association documents for condominium, property owner and homeowner associations as outlined in Land Development Code Section 34-1104(b).
13. Prior to issuance of a Development Order that includes access to Daniels Parkway, an amendment to the currently approved controlled access resolution showing the proposed access location is required.
14. Permitted restaurant (non-food truck or trailer) gross floor area includes restaurant outdoor seating areas.

DEVIATIONS

1. **Deviation(1)** seeks relief from LDC Section 34-1264(b)(1)a.1 which requires no establishment for the sale or service of alcoholic beverages for consumption on the premises be permitted closer than 500 feet to any religious facility; to allow the closest entrance of a building on the brewery campus to be located no less than 450 feet as measured from the nearest property line of Summit Church Gateway Campus to the closest public entrance. Staff recommends **APPROVAL** of the applicant's request.
2. **Deviation (2)** seeks relief from LDC Section 34-1263(e)(4) which requires any planned development, where the applicant is contemplating sale of alcoholic beverages for consumption off-site in an establishment which cannot meet the distance requirements of 500 feet to any religious facility; to allow the sale of alcoholic beverages to take place no less than 450 feet as measured from the nearest property line of Summit Church Gateway Campus to the closest public entrance of the brewery. Staff recommends **APPROVAL** of the applicant's request.
3. **Deviation (3)** seeks relief from LDC Section 10-415(b)(1)b.4. which requires commercial or industrial developments greater than ten acres in size that abut an arterial or collector road (Daniels Parkway) and have existing native trees within 50-feet of the right-of-way to provide a 50-foot right-of-way buffer for tree preservation; to allow a 15-foot Type 'D' buffer where development is proposed on the northeast corner of Daniels and Commerce Lakes. Staff recommends **APPROVAL** of the deviation **SUBJECT** to condition number 6.
4. **Deviation (4)** seeks relief from LDC Section 10-418(2)(a) which requires planted littoral shelf (PLS) shoreline length to be 25% of the total linear feet of the lake at control elevation; to eliminate this requirement as recommended action to minimize wildlife hazards within the 10,000 foot Hazardous Wildlife Zone criteria for airport operations and in accordance with the FAA Advisory

Circular 150/5200-33C. Staff recommends **APPROVAL** of the applicant's request **SUBJECT** to condition number 7.

5. **Deviation (5)** seeks relief from LDC Section 10-418(2)(c) to omit the required 20-foot-wide planted littoral shelf extending waterward of the control elevation at a depth no greater than 2 feet below the control elevation to minimize the potential for bird attractants. Staff recommends **APPROVAL** of the applicant's request subject to condition number 7.
6. **Deviation (6)** seeks relief from LDC Section 10-418(2)(d)(3), which allows native wetland trees to be substituted for up to 25% of the total number of herbaceous plants required, to allow for native wetland trees to be substituted for 100% of the required herbaceous plants. Staff recommends **APPROVAL** of the applicant's request **SUBJECT** to condition number 7.
7. **Deviation (7)** seeks relief from LDC Section 10-329(d)(4) which requires the lake bank slopes to be 6:1; to allow 4:1 slopes as recommended action to minimize wildlife hazards within the 10,000 foot Hazardous Wildlife Zone criteria for airport operations and in accordance with the FAA Advisory Circular 150/5200-33C. Staff recommends **APPROVAL** of the applicant's request.
8. **Deviation (8)** seeks relief from LDC Section 10-610(e) regarding parking lot interconnections which requires adjacent commercial uses to provide parking lot interconnections for automobile, bicycle and pedestrian traffic; to allow no interconnection between parking lots of the development on the parcels on the west and east side of Commerce Lake Drive. . Staff recommends **APPROVAL** of the applicant's request.

Lee County, Florida
Department of Community Development
Zoning Section
Staff Report

Case Number:	DCI2020-00018
Case Name:	FMBrew Campus MPD
Type of Case:	Major Planned Development
Area Affected by Request:	22.15 +/- acres
Date Sufficient:	May 4, 2021
Hearing Examiner Date:	July 1, 2021

Summary of Request and Recommendation:

Waldrop Engineering, P.A. on behalf of 1227 Holdings, LLC, has submitted an application to rezone the subject parcel from Airport Operations Planned Development (AOPD) to Mixed-Use Planned Development (MPD). The applicant seeks to:

- Develop up to 76,000 square feet of commercial, retail, industrial and warehousing uses.

The development will include manufacturing for a brewing facility, restaurant, cocktail lounge, outdoor recreation, and a food truck area on the eastern main campus parcel. The western parcel will be developed as stand-alone retail with drive thru service. The applicant is requesting approval of eight deviations as part of the rezoning request.

The applicant's request statement is attached as Attachment "L". The subject property is undeveloped and located at the northeast and northwest corners of Daniels Parkway and Commerce Lakes Drive. The property is currently part of the Airport Operations Planned Development (AOPD) and the STRAP number is 19-45-26-00-00002.0000. Lee County Ordinance 21-06 (Attachment "N") amended the Lee County Comprehensive Plan to change the Future Land Use Map from Airport Lands and Wetlands to New Community and Wetlands. The amendment has been forwarded to the State for adoption. It is located in the Gateway/Airport Planning Community. A legal description and sketch of the subject property is attached as Attachment "B."

Staff recommends **APPROVAL** of the request and the applicant's eight proposed deviations with conditions found in Attachment "D." Staff finds that the deviations will advance the objectives of the planned development while protecting public health, safety, and welfare in accordance with Land Development Code (LDC) Section 34-373(a)(9). The deviations are discussed in greater detail later in this report.

Property History and Character of the Area:

The subject property was rezoned from Agricultural (AG-2) and Airport Hazard District (AH) to Airport Operations Planned Development (AOPD) in Resolution Z-92-012 (Attachment “E”). In the approved resolution, the property was designated for use as Airport Support (AS) which included approved uses such as aircraft food services, automotive service stations, wireless communication facilities, emergency medical services, parking lots, and transportation services. The parcels were never developed for any of the approved uses. On June 27, 2019 the parcel was deemed surplus to Southwest International Airport’s (RSW) future aviation operations by the Board of County Commissioners, acting as the Lee County Port Authority Board. At that time Staff was directed to initiate amendments to the Future Land Use Map and other appropriate amendments to the Lee Plan to reflect the change of the airport boundary. The changes proposed by the County in CPA2019-00007 have been adopted by the Board of County Commissioners and are awaiting adoption by the State at the time of writing of this report.

The property is located on the north side of Daniels Parkway, a County-maintained arterial roadway with a speed limit of 50 miles-per-hour, and is bisected by Commerce Lakes Drive, a county-maintained local roadway with a speed limit of 30 miles-per-hour. The applicant is proposing access to both portions of the property from Commerce Lakes Drive, and an additional right-in/right-out access point is proposed on Daniels Parkway for the property east of Commerce Lakes Drive.

North, West & East

The subject property comes to a point where the property lines intersect adjacent to Daniels Parkway. The properties to the north are zoned Mixed Use Planned Development (MPD) on both sides of Commerce Lakes Drive. The parcel east of Commerce Lakes Drive abuts a conservation tract for Worthington Commerce Park. The smaller parcel west of Commerce Lakes Drive abuts the Summit Church, which is also part of Worthington Commerce Park. These properties are designated New Community and Wetlands on the Future Land Use Map of the Lee County Comprehensive Plan.

South

The subject property abuts Daniels Parkway to the south. Property zoned Airport Operations Planned Development (AOPD), which is designated Airport Lands on the Future Land Use Map of the Lee County Comprehensive Plan is located further south.

The subject parcel is zoned Airport Operations Planned Development (AOPD) and is designated Airport and Wetlands on the Future Land Use Map of the Lee County Comprehensive Plan. Case number CPA2019-00007 was adopted by the Lee County Board of County Commissioners to change the future land use of the subject parcel to New Community and Wetlands on June 2, 2021 (Attachment “N”), and is pending State adoption at the time of the drafting of this report. The subject parcel is in the Gateway/Airport Planning Community.

ANALYSIS:

The request is to rezone the subject parcel from Airport Operations Planned Development (AOPD) to Mixed Use Planned Development (MPD) to develop up to 76,000 square feet of commercial, retail, and industrial uses as depicted on the Master Concept Plan attached as Attachment “G”. The applicant is requesting eight deviations in conjunction with the rezoning request.

Section 34-612 of the Lee County Land Development Code describes the intent of the utilization of the Planned Development zoning district. The purpose of planned development zoning is to further implement the goals, objectives, and policies of the Lee Plan, while providing some degree of flexibility in the planning and design of proposed developments. LDC Section 34-145(d) establishes the review criteria for all rezoning requests. Before recommending approval of a 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.

For Planned Development rezoning requests, the Hearing Examiner must also find:

- a) The proposed use or mix of uses is appropriate at the proposed location;
- b) The recommended conditions provide sufficient safeguards to the public interest and are reasonably related to the impacts on the public’s interest expected from the proposed development; and
- c) That each requested deviation:
 - 1) Enhances the achievement of the objectives of the planned development; and
 - 2) Preserves and promotes the general intent of this Code to protect the public health, safety and welfare.

Compliance with the Lee Plan

The subject parcel is located in the Gateway/Airport Planning Community as defined in the Lee Plan. The Gateway Planning Community contains three discernible areas. These areas include the Gateway Area, Southwest Florida International Airport, and the area south and west of Gateway and the Airport, which is expected to be developed with high-tech and clean industry businesses. Although the subject property is owned by the Lee County Port Authority, it is within the Gateway area of the planning community. The Gateway area is anticipated to be a thriving, nearly built-out, mixed-use community with substantial population growth. The applicant is proposing a mixed-use planned development that will provide commercial and industrial uses as

well as employment potential to the expanding population in the Gateway area. Staff finds that the proposed planned development rezoning is in compliance with the Gateway/Airport Planning Community. Given the past history and location of the property, Staff finds that the proposed rezoning to a Mixed-Use Planned Development is in harmony with the Lee Plan vision for the area.

The following Lee Plan analysis has been conducted based on the proposed change to the future land use categories from Airport Lands and Wetlands to New Community and Wetlands in case number CPA2019-00007. The proposed amendment has been adopted by the Board of County Commissioners and has been forwarded to the State for adoption at the time of this report.

Objective 1.6 The New Community future land use designates areas that are suitable for the development of large-scale multi-use development in accordance with overall planned development. The New Community future land use designation provides a balance of residential and non-residential uses that do not negatively impact existing infrastructure or will be privately funded. The Lee Plan further enumerates several characteristics for new development:

1. The land will be developed under a well-conceived overall planned development;
2. The land can be served with all necessary facilities and services at no expense to the county. Uniform Community Development Districts and special taxing districts may be utilized toward achieving this objective;
3. Population, recreation, open space, educational, office, and research facilities are distributed in an orderly and attractive manner;
4. The land must be developed in such a manner as to protect environmentally sensitive areas;
5. The land must be developed as a free-standing community offering a complete range of land uses. The mix of land uses will be evaluated through buildout of the New Community to ensure developments include both residential and non-residential uses;
6. Off-site impacts must be mitigated;
7. On-site levels of service must meet the county-wide standards contained in this plan;
8. The land area must exceed a minimum of 2,000 acres to ensure an appropriate balance of land uses;

Although the proposed rezoning does not include residential uses, it is located in an area where residential uses are concentrated and does further balance the residential and non-residential uses in the area. The subject parcel is within the Gateway portion of the Gateway/Airport Planning Community which encompasses approximately 2,524 acres consistent with the minimum area for development. Additionally, the subject rezoning is proposing a privately funded multi-use development that will preserve a large wetland area that is connected to conservation lands to the north and creates a cohesive preservation area. For these reasons, Staff finds that the requested rezoning is consistent with Objective 1.6 of the Lee Plan.

Policy 1.7.1 At the time of drafting of this report, the parcel was in Airport Noise Zone “A”, as the property was owned by the Lee County Port Authority. As part of the comprehensive plan amendment (CPA2019-00007) the Airport Noise Zone will be revised so that a portion of the eastern parcel remains in Airport Noise Zone “C”, with the remainder of the property outside of

the Airport Noise Zone as shown on Attachment “F”. The change to Airport Noise Zone “C” allows new construction and land uses allowed by the Land Development Code. Land Development Code Section 34-1104(b)(2) requires the following condition for approval of planned developments in Airport Noise Zone “C”:

The developer, successor or assign acknowledges the property's proximity to Southwest Florida International Airport and the potential for noises created by and incidental to the operation of the airport as outlined in Land Development Code Section 34-1104. The developer, successor or assign acknowledges that a disclosure statement is required on plats, and in association documents for condominium, property owner and homeowner associations as outlined in Land Development Code Section 34-1104(b).

Objective 2.1 and Objective 2.2 detail the need to promote contiguous and compact growth patterns in areas where public facilities exist to contain urban sprawl, as well as minimize the impact to natural resources. The subject parcel was previously zoned AOPD to permit airport support uses, but was never developed. The subject property is bisected by Commerce Lakes Drive, a privately-maintained local roadway, which provides access and frontage to pieces of the property. Additionally, both properties abut Daniels Parkway, a county-maintained arterial road on the south side, which will provide right-in/right-out only access to the larger eastern parcel. The applicant has provided a protected species report as well as the required open space and buffering. For these reasons, the requested rezoning is consistent with Objective 2.1 and Objective 2.2 of the Lee Plan.

Goal 4 of the Lee Plan addresses general development standards such as water and sewer availability and protection of natural resources. The applicant has provided a potable water and sewer narrative attached as Attachment “H.” The Master Concept Plan submitted by the applicant (Attachment “G”) depicts the location of buffers, open space, and indigenous open space that complies with the Land Development Code. Staff finds that this request is consistent with Goal 4 of the Lee Plan.

Goal 6 – Commercial Land Uses

Policy 6.1 provides the review and evaluation criteria for application for commercial development:

1. Traffic and access impacts (rezoning and development orders);
2. Landscaping and detailed site planning (development orders);
3. Screening and buffering (planned development rezoning and development orders);
4. Availability and adequacy of services and facilities (rezoning and development orders);
5. Impact on adjacent land uses and surrounding neighborhoods (rezoning);
6. Proximity to other similar centers (rezoning); and
7. Environmental considerations (rezoning and development orders).

The subject property is located along an arterial roadway and is bisected by a local roadway which provides access to the parcels. The applicant has provided a traffic impact study that was reviewed

by the Department of Community Development. The findings of that review is attached as Attachment “I” and is summarized later in this report. The parcels adjacent to the subject parcel to the north are zoned mixed-use and consist of primarily commercial uses, light industrial uses, and conservation areas with the exception of the Summit Church on the western side of the property. Daniels Parkway abuts the property to the south with airport property further to the south. The proposed MPD zoning and schedule of uses is consistent with the area. The requested rezoning, if approved, would allow the continued expansion of the currently existing uses to the north, in an area where public services and facilities are in place. The Master Concept Plan provided by the applicant depicts the required buffering, open space and indigenous open space with the appropriate deviations. Therefore, the proposed rezoning is consistent with Lee Plan Policies 6.1.1, 6.1.4, 6.1.5, and 6.1.7.

Goal 7 – Industrial Uses

Policy 7.1.1 of the Lee Plan addresses the need for well-planned industrial development in suitable locations within the county, and describes several provisions required for approvals of industrial land uses:

1. The development must comply with local, state, and federal air, water, and noise pollution standards.
2. When located next to residential areas, industry must not generate noise levels incompatible with the residential development.
3. Bulk storage or production of toxic, explosive, or hazardous materials will not be permitted near residential areas.
4. Contamination of ground or surface water will not be permitted.
5. Applications for industrial development will be reviewed and evaluated as to:
 - a. air emissions (rezoning and development orders);
 - b. impact and effect on environmental and natural resources (rezoning and development orders);
 - c. effect on neighbors and surrounding land use (rezoning);
 - d. impacts on water quality and water needs (rezoning and development orders);
 - f. employment characteristics (rezoning);
 - g. fire and safety (rezoning and development orders);
 - h. noise and odor (rezoning and development orders);
 - i. buffering and screening, except properties within the Industrial Development future land use category adjacent to lands redesignated to the Urban Community future land use category by Ordinance 16-17 will retain their development potential and land development regulations (including buffers and setbacks) consistent with the requirements previous to the redesignation, as though the redesignated lands are non-residential in use (planned development rezoning and development orders);
 - j. impacts on transportation facilities and access points (rezoning and development orders);

- k. access to rail, major thoroughfares, air, and, if applicable, water (rezoning and development orders);
- l. utility needs (rezoning and development orders); and
- m. sewage collection and treatment (rezoning and development orders).

The industrial uses proposed by the applicant as part of this request are limited in nature and primarily related to the proposed brewing operation. The applicant is currently performing the identical operation on the property directly north of the subject parcel. The purpose of this rezoning is to expand the operation while providing commercial uses related to the brewing operation such as tap rooms, retail sales and a package store. The relocation and expansion of the operation from an adjacent parcel where the identical processes are currently taking place meet the requirements in **Policy 7.1.1** of the Lee Plan.

Policy 7.1.3 requires industrial land uses to be located in appropriate areas in consideration of site selection, access, utilities, proximity to related land uses, and compatibility. The subject property abuts light industrial type uses to the north and has access via Commerce Lakes Drive to Daniels Parkway. There are existing utilities available to the site and the applicant has provided a letter of availability from Lee County Utilities (Attachment “H”). For these reasons, the proposed rezoning, including light industrial type uses, meets the requirements of **Policy 7.1.3** of the Lee Plan.

Policy 7.1.6 requires land proposed for light industrial purposes located outside of certain industrial land uses to have adequate services and facilities, to not adversely impact surrounding land uses, and to protect natural resources. The subject property was rezoned from the Airport Hazard (AH) district to AOPD in Resolution number Z-92-012. In that resolution, the subject parcel was designed by the airport for Revenue Support (RS) type uses. This included uses such as restaurants, bars and lounges, hotel/motel, restaurants, warehousing, gasoline dispensing, offices, service station and parking lots. The zoning of the subject property was amended in Resolution Number Z-00-037, where it was designated as Airport Support (AS) and included uses such as aircraft food/catering, banks, nightclubs, parking lot, warehousing, restaurants, storage, and transportation services. The subject parcel is adjacent to industrial uses approved by Resolution Z-02-036. The uses proposed by the applicant, including light industrial uses, are consistent with the historical uses approved on the property. Based on the historical zoning record and being adjacent to the light industrial type uses approved in Resolution Z-02-036, Staff finds that the requested rezoning meets the requirements of **Policy 7.1.6** of the Lee Plan.

Policy 7.1.9 prohibits industrial development if it allows industrial traffic to travel through predominantly residential areas. The subject parcel is proposing access from Daniels Parkway and Commerce Lakes Drive. The access points do not require traffic to travel through residential areas, therefore the request meets the requirements of **Policy 7.1.9** of the Lee Plan.

Goal 11 – Mixed Use

Objective 11.1 encourages mixed use development at appropriate locations where sufficient infrastructure exists to support the development. The subject parcel is located in the Gateway Area where mixed-use developments have been permitted. The mixed uses proposed by the applicant

include commercial and light industrial uses. The subject property abut Daniels Parkway and is serviced by Lee County Utilities. For these reasons, Staff finds that the request meets the requirements of **Objective 11.1** of the Lee Plan.

Policy 61.3.6 of the Lee Plan requires developments to provide surface water management systems, acceptable programs for operation and maintenance, and post-development runoff conditions that reflect the natural surface water flow rate, direction, quality, hydroperiod, and drainage basin. At the time of local development order approval, the applicant will need to demonstrate that the design of the surface water management system complies with this policy. The proposed development will require a South Florida Water Management District Environmental Resource Permit.

Land Development Code Compliance and Deviations:

Section 34-411 of the Lee County Land Development Code requires all planned developments to be consistent with the Land Development Code except as approved through deviations during the planned development process.

The applicant has requested eight deviations as part of the proposed rezoning from the Land Development Code (LDC):

Deviation(1) seeks relief from LDC Section 34-1264(b)(1)a.1 which requires no establishment for the sale or service of alcoholic beverages for consumption on the premises be permitted closer than 500 feet to any religious facility; to seek a deviation to allow the closest entrance of a building on the brewery campus to be located no less than 450 feet as measured from the nearest property line of Summit Church Gateway Campus to the closest public entrance. Staff recommends **APPROVAL** of the applicant's request.

Deviation (2) seeks relief from LDC Section 34-1263(e)(4), which requires any planned development, where the applicant is contemplating the sale of alcoholic beverages for consumption off-site in an establishment which cannot meet the distance requirements of 500 feet to any religious facility; to seek a deviation to allow the sale of alcoholic beverages to take place no less than 450 feet as measured from the nearest property line of Summit Church Gateway Campus to the closest public entrance of the brewery. Staff recommends **APPROVAL** of the applicant's request.

Deviation (3) seeks relief from LDC Section 10-415(b)(1)b.4. which requires commercial or industrial developments greater than ten acres in size that abut an arterial or collector road (Daniels Parkway) and have existing native trees within 50 feet of the right-of-way, to provide a 50-foot right-of-way buffer for tree preservation; to allow a 15-foot Type 'D' buffer where development is proposed on the northeast corner of Daniels Parkway and Commerce Lakes Drive. Staff recommends **APPROVAL** of the deviation **SUBJECT** to the following condition:

Prior to the issuance of the initial development order, the landscape plans must depict the following 15-foot wide rights-of-way buffer abutting Daniels Parkway and Commerce Lakes Drive:

- a. Five South Florida Slash Pine (*Pinus elliottii* var. *densa*) per 100 lineal feet; and*
- b. Three clusters of Cabbage Palms (*Sabal palmetto*) with each cluster consisting of five Cabbage palms; and*
- c. Double staggered hedge consisting of cocoplum (*Chrysobalanus icaco*) and saw palmetto (*Serenoa repens*); and*
- d. Cabbage palms must be specified at staggered heights ranging from ten to fourteen-foot clear trunk in each cluster.*

Deviation (4) seeks relief from LDC Section 10-418(2)(a), which requires planted littoral shelf (PLS) shoreline length to be 25% of the total linear feet of the lake at control elevation; to eliminate this requirement as a recommended action to minimize wildlife hazards within the 10,000 foot Hazardous Wildlife Zone criteria for airport operations and in accordance with the FAA Advisory Circular 150/5200-33C. Staff recommends **APPROVAL** of the applicant's request **SUBJECT** to the following condition:

Prior to the issuance of an initial development order, the landscape plans must include the planted littoral shelf calculation to indicate how many littoral plants are required as a basis for the 100% wetland tree substitutions at a one wetland tree to 100 littoral plant ratio. The 20-foot planted littoral shelf and littorals are not required.

Deviation (5) seeks relief from LDC Section 10-418(2)(c) to omit the required 20-foot-wide planted littoral shelf extending waterward of the control elevation at a depth no greater than 2 feet below the control elevation to minimize the potential for bird attractants. Staff recommends **APPROVAL** of the applicant's request **SUBJECT** to the following condition:

Prior to the issuance of an initial development order, the landscape plans must include the planted littoral shelf calculation to indicate how many littoral plants are required as a basis for the 100% wetland tree substitutions at a one wetland tree to 100 littoral plant ratio. The 20-foot planted littoral shelf and littorals are not required.

Deviation (6) seeks relief from LDC Section 10-418(2)(d)(3), which allows native wetland trees to be substituted for up to 25% of the total number of herbaceous plants required, to allow for native wetland trees to be substituted for 100% of the required herbaceous plants. Staff recommends **APPROVAL** of the applicant's request **SUBJECT** to the following condition:

Prior to the issuance of an initial development order, the landscape plans must include the planted littoral shelf calculation to indicate how many littoral plants

are required as a basis for the 100% wetland tree substitutions at a one wetland tree to 100 littoral plant ratio. The 20-foot planted littoral shelf and littorals are not required.

Deviation (7) seeks relief from LDC Section 10-329(d)(4), which requires the lake bank slopes to be 6H:1V; to allow 4H:1V slopes as recommended action to minimize wildlife hazards within the 10,000 foot Hazardous Wildlife Zone criteria for airport operations and in accordance with the FAA Advisory Circular 150/5200-33C. Staff recommends **APPROVAL** of the applicant's request.

Deviation (8) seeks relief from LDC Section 10-610(e) regarding parking lot interconnections which requires adjacent commercial uses to provide parking lot interconnections for automobile, bicycle and pedestrian traffic; to allow no interconnection between parking lots of the development on the parcels on the west and east side of Commerce Lake Drive. Staff recommends **APPROVAL** of the applicant's request.

Staff finds that the deviations, as recommended and/or conditioned above, enhance the objectives of the planned development, preserve the general intent of the Land Development Code, and the protection of public safety, health, and welfare.

Parking Calculations

The applicant has provided parking calculations as part of the property development regulations and on the Master Concept Plan. The provided parking calculations are helpful in establishing that the proposed development does have the ability to provide onsite parking. These calculations are not required in the property development regulations or on the Master Concept Plan and can be finalized during the Development Order process. Staff recommends that the any references to parking calculations be removed from the Master Concept Plan and property development regulations. In reviewing the parking calculations, staff has found inconsistencies as they relate to the uses as well as concerns regarding the application of LDC Sec 34-2017(d) for the reservation of parking for future uses. Staff recommends that the use of *Manufacturing and light industrial* be applied for the proposed brewing portion and does not object to the warehousing use for areas reserved for storage of materials. Staff has revised the parking calculations in Attachment "L" to reflect the most conservative value by applying Manufacturing and light industrial uses for the entire 40,000 square feet. Staff has also removed any references to "reservation of spaces for future use" and "grassed parking". Staff further recommends that the MCP be revised to show the minimum number of parking spaces paved in accordance with LDC Section 34-2017(a) for high turnover parking lots. The LDC prohibits the use of grassed parking except for temporary parking lots.

The uses requested by the applicant are permitted in the MPD zoning district. The parcel is of sufficient size and has access to permit the development proposed in the Master Concept Plan while meeting the required site design elements, setbacks, open space and buffering with the approval of the deviations and conditions proposed.

Compatibility with existing and planned uses in the surrounding area:

The subject property is adjacent to an arterial roadway that is developed with commercial and industrial uses to the west of the site and residential uses to the east. The property across Daniels Parkway is owned by Lee County and is part of Airport Operations Planned Development. Development adjacent to the subject property is a mix of commercial and light industrial uses and undeveloped residential uses. The MCP provided by the applicant proposes a large area for conservation that connects to off-site conservation lands. For these reasons, Staff finds that the proposed rezoning to MPD is compatible with existing uses in the surrounding area.

Sufficient access to support the development and impacts on transportation facilities:

The applicant is proposing access from Commerce Lakes Drive in two locations to provide access to the Main Campus and the smaller eastern portion of the site. Commerce Lakes Drive is a privately-maintained local right-of-way and bisects the subject property. Additionally, the applicant has proposed a right-in/right-out access on to Daniels Parkway. The Department of Community Development has performed a Transportation Related Analysis which is attached as Attachment “I”. In that report, Staff concludes that Daniels Parkway and Gateway Boulevard will operate at an acceptable Level of Service with or without the proposed development. Daniels Parkway is a controlled access facility in accordance with LDC Section 10-298. The access proposed by the applicant is not a designated access point in Resolution Number 21-02-10 and an amendment to the resolution is required. Lee County Department of Transportation does not have an objection to the proposed access location and is in the process of amending the resolution at the time of drafting of this Staff Report. It is expected that the amendment will be presented to the Board of County Commissioners in August 2021. Staff recommends that any approval of the rezoning request include the following condition reflecting that the proposed access to Daniels Parkway requires an approved amendment to the controlled access resolution prior to Development Order approval.

Prior to issuance of a Development Order that includes access to Daniels Parkway, an approved amendment to the current controlled access resolution showing the proposed access location is required.

For these reasons, Staff finds that the proposed rezoning to MPD has sufficient access to support the development and does not impact existing transportation facilities.

Impacts to environmentally critical or sensitive areas and natural resources:

Lee County Environmental Staff reviewed the requested rezoning and deviations and their analysis is included as Attachment “J.” Staff has noted that a Protected Species Report (part of Attachment “J”) submitted by the applicant indicated that no protected species or signs of protected species were observed on the parcel. The submitted MCP is in compliance with the landscaping, open space, and indigenous open space requirements of the Land Development Code and the approved requested deviations. Environmental Staff has recommend approval of the requested deviations with conditions. The attached property development regulations have

included those recommendations. Staff finds that the requested rezoning does not impact environmentally critical or sensitive areas and natural resources.

Urban Services:

The applicant has provided a letter from Lee County Utilities that verifies that potable water and wastewater capacity is available. That letter is attached as Attachment “H.”. The subject property is currently within the Port Authority Fire District. It is expected that this will change to the South Trail Fire District. South Trail Fire Department Station 64 is approximately 1.4 miles west of the subject property and provides fire suppression, emergency medical services, rescue, and advanced life support. The subject parcel is served by the Central District of the Lee County Sheriff’s Department. Lee County Transit has reviewed the rezoning request and provided their analysis attached as Attachment “K.” Based on Lee Tran’s analysis, no additional improvements to transit facilities are required.

CONCLUSION:

Staff finds that the request is consistent with the Lee Plan and with the requirements of the Land Development Code. This request has been reviewed against the decision making criteria set forth in LDC Sec. 34-145(d)4, and staff has found the request:

- Complies with the Lee Plan;
- Meets this Code and other applicable County regulations or qualifies for deviations;
- Will provide access sufficient to support the proposed development intensity;
- Will be able to address expected impacts on transportation facilities in accordance with the requirements of the Land Development Code;
- 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.

In addition, staff has found:

- The proposed use or mix of uses is appropriate at the proposed location;
- The recommended conditions provide sufficient safeguards to the public interest and are reasonably related to the impacts on the public’s interest expected from the proposed development; and
- That each requested deviation:
 - Enhances the achievement of the objectives of the planned development; and
 - Preserves and promotes the general intent of this Code to protect the public health, safety and welfare.

Staff recommends **approval** of the request with the deviations and conditions attached.

ATTACHMENTS:

- A. Expert Witness Information
- B. Legal Description
- C. Maps: surrounding zoning, future land use and aerial photograph
- D. Recommended Conditions, Schedule of Uses, and Deviations
- E. Z-92-012 and Z-00-037
- F. Airport Noise Zone Map
- G. Master Concept Plan (revised April 05, 2021)
- H. Water and Sewer Narrative
- I. Traffic Analysis Memo (dated May 18, 2021)
- J. Environmental Staff Report and Protected Species Report
- K. Lee Tran Letter (dated February 26, 2021)
- L. Applicant's Request Statement
- M. Parking Exhibit
- N. Lee County Ordinance No. 21-06

DRI2021-00001
LEE TRAN SOUTH
COUNTY
A/K/A
CYPRESS TRACE
CENTER DRI

Staff Summary

CASE NUMBER & NAME: DRI2021-00001 / Lee Tran South County aka Cypress Trace Center DRI

REQUEST: Request for a change to the Cypress Trace Development of Regional Impact (#7-8384-45), consistent with Section 380.06(7) F.S., to remove 8.28± acres under ownership of Lee County from the boundaries of the DRI, reduce project intensity from 465,000 square feet to 416,230 square feet, and codify previously approved extensions to change the build-out date to January 21, 2029.

RESOLUTION NUMBER: Z-21-010

LOCATION: 13180 S Cleveland Ave., South Fort Myers Planning Community, Lee County, FL

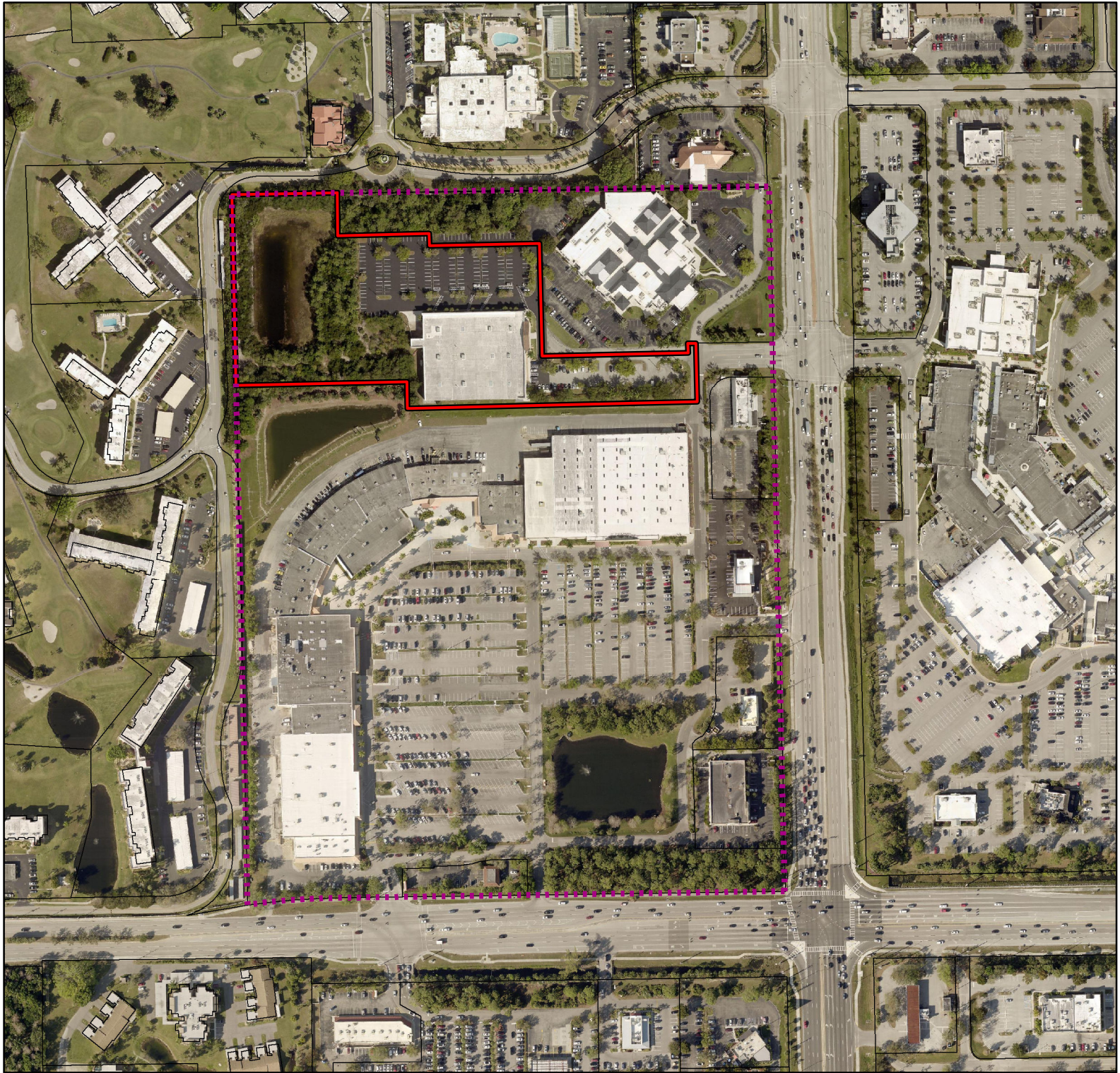
OWNER: DDRTC Cypress Trace LLC C/O: Developers Diversified Realty

APPLICANT: Cindy Sylvester

AGENT: Neale Montgomery
Pavese Law Firm
1833 Hendry Street
Fort Myers, FL 33901



HEARING EXAMINER
RECOMMENDATION: Approve

PARTICIPANTS: Open to the public



DRI2021-00001
Aerial

Legend

-  Subject Parcel
-  DRI Boundary



Summary of Hearing Examiner Recommendation

DRI2021-00001

CYPRESS TRACE CENTER DRI

(By Lee County Facilities)

Request: Amend the Cypress Trace Development of Regional Impact (DRI) Development Order to:

- Remove 8.28± acres from the development boundary;
- Reduce project intensity from 465,000 square feet to 416,230 square feet; and
- Codify previously approved extensions to change the build-out date to January 21, 2029.

Location: West of US 41, North of the US 41/Cypress Lake Drive intersection

South Fort Myers Planning Community
District 2

Recommendation: Approve

Hearing Examiner Remarks:

The requested amendment: (1) removes acreage from the DRI; (2) proportionally reduces project intensity; and (3) codifies recent extensions. Proposed revisions do not change substantive terms of DRI development approvals. The revisions are consistent with the Lee Plan and Land Development Code.

Detailed recommendation follows

OFFICE OF THE HEARING EXAMINER, LEE COUNTY, FLORIDA

HEARING EXAMINER RECOMMENDATION

REZONING: DRI2021-00001

Regarding: CYPRESS TRACE

Location: West of US 41, North of the US 41/Cypress Lake Drive intersection

I. Request:

Amend Cypress Trace Development of Regional Impact (DRI) Development Order pursuant to Florida Statutes §380.06(7).

The proposal amends the DRI to:

- Remove 8.28± acres from the development boundary;
- Reduce project intensity from 465,000 square feet to 416,230 square feet; and
- Codify previously approved extensions to change the build-out date to January 21, 2029.

The property's legal description is in Exhibit A.

II. Hearing Examiner Recommendation: Approve

III. Discussion:

Applicant seeks to remove a County owned parcel from the Cypress Trace DRI. The Lee County Elections Office currently occupies the site. Lee Tran proposes to utilize remaining portions of the property for a transit facility. Applicant proportionally reduced project intensity to offset land area reduction.

The DRI has been amended six times.¹ Applicant secured build-out extensions since the last amendment.² Staff recommends codifying the extension in this approval.³

¹ See Staff Report (Attachment E).

² See Staff Report (Attachment F).

³ See Staff Report (pg. 1).

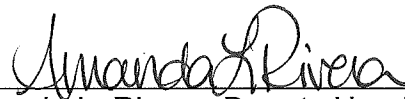
The requested changes to project boundaries and intensity do not alter the character of the DRI.⁴ Further, requested changes do not increase the project's impact to the community.⁵

The Hearing Examiner agrees with staff's recommendation of approval. Minor scrivener's errors should be addressed in the proposed DRI Development Order amendment before adoption.⁶

IV. Findings and Conclusions:

The proposed revisions are consistent with the Lee Plan and the Land Development Code (LDC). Accordingly, the requested amendment to the Cypress Trace DRI qualifies for approval pursuant to Florida Statutes and the LDC.⁷

Date of Recommendation: July 9, 2021



Amanda L. Rivera, Deputy 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 Sketch Map

Exhibit B Proposed Cypress Trace Seventh Amendment to DRI Development Order

Exhibit C Staff Report

⁴ The record does not contain a Map H for this project. The legal description in the Seventh Amendment to the DRI DO identifies and removes the 8.28± acre parcel from DRI boundaries. See Staff Report (Attachment D).

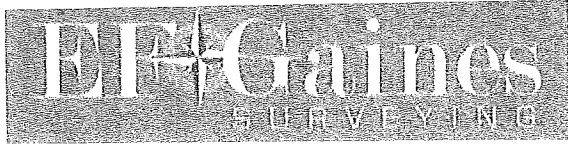
⁵ These changes will not affect the anticipated trip generation from the DRI. See Staff Report (Attachment B).

⁶ See Staff Report (Attachment D), attached here as Exhibit B. The acreage in Section H.2 should be confirmed. Current language states removal yields 5.52± acres for the northernmost parcel. Calculations suggest removal yields 6.52± acres. Footnote 1 should include May 22, 2019 as reflected in the Sixth DRI DO amendment.

⁷ LDC 34-145(d)(7) requires the Hearing Examiner make a determination regarding consistency of the request with F.S. §380.06(19)(e)(2). That provision was changed to F.S. §380.06(7) by the Florida Legislature in 2018. The Hearing Examiner finds the request is consistent with F.S. §380.06(7).

EXHIBIT A

Exhibit A



E.F. Gaines Surveying Services, Inc.
5235 Ramsey Way, Suite 10
Fort Myers, Florida 33907
(P) 239-418-0126 : (W) EFGaines.com

LEGAL DESCRIPTION

Lee County Elections Center Parcel (Per L.C.I.N. 2006000343971)

Section 23, Township 45 South, Range 24 East, Lee County, Florida

A tract or parcel of land lying in the northeast quarter (NE 1/4) of Section 23, Township 45 South, Range 24 East, Lee County, Florida, which tract or parcel is described as follows:

From the Southeast corner of said fraction of a section run S.89°08'16"W. along the south line of said fraction of a section for 131.82 feet to the west right-of-way (ROW) line of State Road 45 (U.S. 41-Tamiami Trail); thence run N.01°16'00"W. for 95.00 feet to the intersection of the north ROW line of Cypress Lake Drive and the west ROW line of State Road 45 (U.S. 41-Tamiami Trail); thence run S.89°08'16"W. along said north ROW line for 1095.00 feet to a point of curvature; thence run westerly along said north ROW line, along the arc of a curve to the left of radius 1860.00 feet (delta 06°56'42") (chord 225.32 feet) (chord bearing S.85°39'55"W.) for 225.46 feet; thence run N.01°16'00"W. (parallel with said ROW line) for 1276.23 feet to the Point of Beginning.

From said Point of Beginning continue N.01°16'00"W. for 469.92 feet; thence run N.89°08'16"E. for 258.98 feet; thence run S.00°51'44"E. for 105.09 feet; thence run N.88°44'00"E. for 224.75 feet; thence run S.01°16'00"E. for 30.00 feet; thence run N.88°44'00"E. for 270.02 feet; thence run S.01°16'00"E. for 277.47 feet; thence run N.88°44'00"E. for 358.97 feet; thence run N.01°16'00"W. for 23.80 feet; thence run N.88°44'00"E. for 20.00 feet; thence run S.01°16'00"E. for 144.33 feet; thence run S.88°44'00"W. for 711.97 feet; thence run N.01°16'00"W. for 65.00 feet; thence run S.88°44'00"W. for 420.00 feet to the Point of Beginning.

Containing 8.28 acres, more or less.

Bearings hereinabove mentioned are based on the centerline survey for state road no. 45.

Parcel subject to easements, restrictions, reservations and rights-of-way (recorded and unrecorded, written and unwritten)

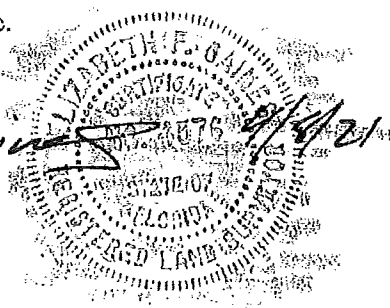
Prepared by:

E.F. Gaines Surveying Services, Inc.
Florida License No. 7165

A handwritten signature of Elizabeth F. Gaines in black ink, written over a circular professional seal.

Elizabeth F. Gaines, PSM
Florida License No. 4576

Sketch: EFG Drawing No. 0842-003 SD



REVIEWED
DRI2021-00001
Rick Burris, Principal
Planner
Lee County DCD/Planning
6/30/2021

NOTES

1. DISTANCES SHOWN HEREON ARE IN FEET AND DECIMALS THEREOF.
2. BEARINGS SHOWN HEREON ARE BASED ON THE WESTERLY RIGHT-OF-WAY LINE OF STATE ROAD 45 (U.S. 41 - TAMiami TRAIL) BEING N.01°16'00"W.
3. THIS IS A SKETCH TO ACCOMPANY A LEGAL DESCRIPTION (SEE ATTACHED). THIS IS NOT A BOUNDARY SURVEY.

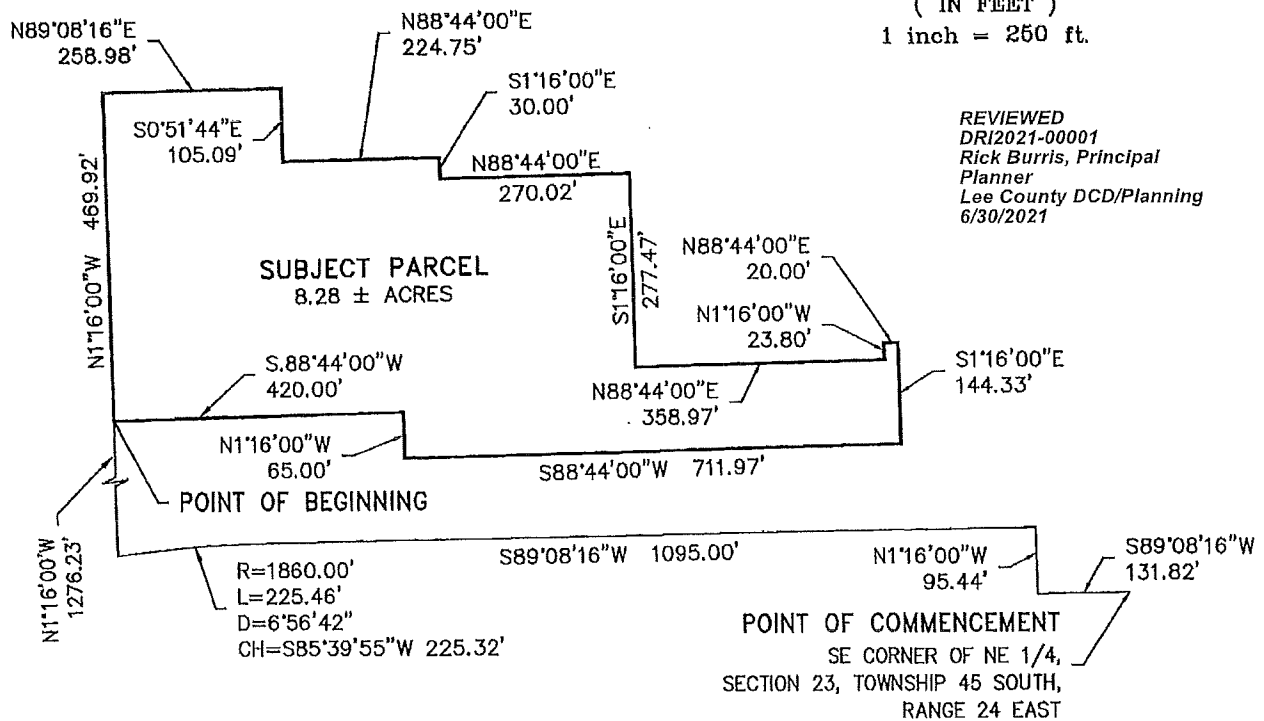


GRAPHIC SCALE



(IN FEET)

1 inch = 250 ft.



REVIEWED
DRI2021-00001
Rick Burris, Principal
Planner
Lee County DCD/Planning
6/30/2021

LEE COUNTY ELECTIONS CENTER PARCEL

This is a sketch to accompany a legal description (see attached) of a parcel of land lying in the northeast quarter of Section 23, Township 45 South, Range 24 East, Lee County, Florida.

Elizabeth F. Gaines, PSM
License No. 4576

Not valid without the signature and raised seal or Adobe electronic signature of Elizabeth F. Gaines, PSM shown above

Issue Date: 4/8/2021

Field Date: N/A

Checked: EFG

Drawn: KLG

Field: N/A

Scale: 1"=250'

Project No.: 0842

CAD File: 0842-003 SD

Sheet No. 1 of 1



E.F. Gaines
Surveying Services, Inc.
FL License No. LB7165
5235 Ramsey Way, Suite 10
Fort Myers, Florida 33907
Phone: 239-418-0126
Fax: 239-418-0127
Web: EFGaines.com

ADD2006-00054

PARENT PARCEL = 14.8 AC.

LOT 1

ROBB & STUCKY = 275,032 S.F.± (6.3 AC.±)

OPEN SPACE REQUIRED = 82,510 S.F. (1.8 AC.)
OPEN SPACE PROVIDED = 88,000 S.F.± (2.0 AC.±)

200 PARKING SPACES REQUIRED
200 PARKING SPACES PROVIDED

LOT 2

HOMEPLACE = 369,656 S.F.± (8.5 AC.±)

OPEN SPACE REQUIRED = 110,897 S.F. (2.5 AC.)
OPEN SPACE PROVIDED = 257,624 S.F.± (5.9 AC.±)

251 PARKING SPACES REQUIRED
254 PARKING SPACES PROVIDED

97-04-089-052

OWNER:

CNL RETAIL DEVELOPMENT
400 E. SOUTH STREET
ORLANDO, FLORIDA

AGENT/DEVELOPER:

CNL DEVELOPMENT
400 E. SOUTH STREET
ORLANDO, FLORIDA

STRAP NUMBER

23-45-24-00-001

ZONING:

C-1

SIZE OF PARCEL

14.8 ACRES

Lee County Elections Center Parcel removal from Cypress Trace DRI
Sketch Map

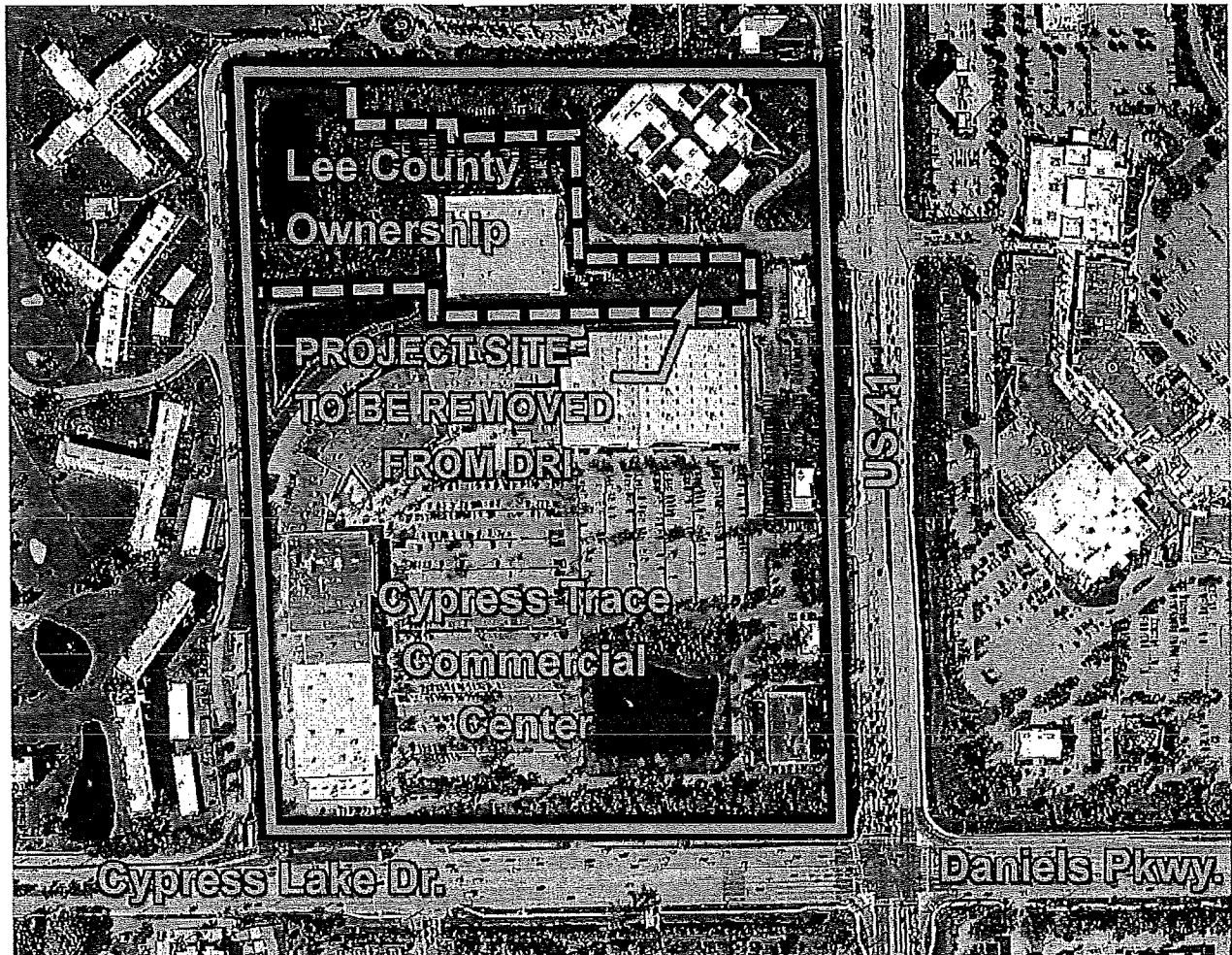


EXHIBIT B

SIXTH ~~SIXTH~~ SEVENTH DEVELOPMENT ORDER¹ AMENDMENT FOR

CYPRESS TRACE

A DEVELOPMENT OF REGIONAL IMPACT

#7-8384-45

Let It Be Known, that, pursuant to Section 380.06 of the Florida Statutes, the Board of County Commissioners of Lee County, Florida, heard at a public hearing on April 8, 1985, the Application for Development Approval for Cypress Trace Development Of Regional Impact, a commercial (shopping center) development which consisted of approximately 52.52 acres to be developed in accordance with the application filed on June 29, 1984, by Curtis A. Crenshaw, authorized representative of Southstar Associates, a Florida General partnership.

WHEREAS, the original Cypress Trace Development of Regional Impact (DRI) Development Order was approved by the Board of County Commissioners on April 8, 1985; and

WHEREAS, the DRI Development Order was first amended on October 10, 1988 to allow development of a 175,167 square foot automobile dealership in the northerly 14.8± acre portion of the DRI; and

WHEREAS, the DRI Development Order was amended a second time on October 21, 1996 by MRC Partners to reinstate the expired development order, extend the buildout/expiration date to April 7, 1998 (an 8 year extension), eliminate the auto dealership use and allow 130,000 square feet of commercial uses on the northern 14.8 acres, and limit the maximum peak hour trips generated by the site to 776; and

WHEREAS, the DRI Development Order was amended a third time on February 2, 1998, at the request of Capital Associates Realty Advisors, to allow an increase in the maximum retail commercial square footage on a 34.5 ± acre DRI (shopping center) parcel from 300,000 to 335,000 square feet; and

WHEREAS, the DRI Development Order was subsequently amended a fourth time on November 30, 1998 to extend the buildout/expiration date from April 7, 1998 to April 7, 2001; and

WHEREAS, the DRI Development Order was subsequently amended a fifth time

¹ This is a codification and restatement of all DRI Development orders rendered with respect to the Cypress Trace DRI, including actions taken on April 8, 1985, October 10, 1988, October 21, 1996, February 2, 1998, November 30, 1998 and March 18, 2002.

on March 18, 2002 to extend the buildout/expiration date from April 7, 2001 to December 31, 2005; and

~~WHEREAS, a Request to Change the DRI DO was filed by DDRTC Cypress Trace LLC, c/o Developers Diversified Realty on December 12, 2018, to allow an extension of the buildout/expiration date from December 31, 2005 to December 31, 2023; and~~

WHEREAS, the DRI Development Order was subsequently amended a sixth time on May 22, 2019 to allow an extension of the buildout/expiration date from December 31, 2005 to December 31, 2023; and

WHEREAS, a Request to Change the DRI DO was filed by Lee County, a Political Subdivision of the State of Florida, on February 18, 2021, to remove 8.28 acres under the ownership of Lee County from the DRI; and

WHEREAS, this action codifies extensions to the DRI DO approved by Florida Statutes, Section 252.363 from December 31, 2023 to January 21, 2029; and

WHEREAS, under Florida Statutes, Section 380.06(7)(a), a proposed change to a previously approved DRI shall be reviewed by the local government based on the standards and procedures in its adopted local comprehensive plan and adopted local land development regulations; and

WHEREAS, ~~on May 22, 2019, the Board of County Commissioners reviewed the proposed amendment change as required by Section 380.06(7), F.S. and found that the buildout/expiration date extensionremoval of the 8.28 acres does not create any additional regional impacts requiring mitigation; and~~

WHEREAS, the proposed change to the DRI Development Order is consistent with the Lee County Comprehensive Land Use Plan and applicable local land development regulations, as well as the State Comprehensive Plan, the Southwest Florida Regional Plan and the State Land Development Plan; and

WHEREAS, the Board of County Commissioners of Lee County, Florida has considered the report and recommendations of the Lee County Staff and the Hearing Examiner, and the documents and comments upon the record made before the Board in public hearing, and, after full consideration of these reports, recommendations, comments, and documents, the Board of County Commissioners of Lee County, Florida, hereby finds and determines that:

FINDINGS OF FACT

A. The Developer applicant originally proposed to develop a shopping center including approximately 436,000 square feet of commercial shopping center facilities on approximately 52.52 acres. The formal Application for Development Approval ("ADA")

requested approval of that size, acreage and use. The various regional issues were identified and analyzed based upon the ADA submitted. The proposed development ~~constitutes~~ constituted a shopping center (retail) Development of Regional Impact on the real property described as:

Two parcels of land in the northeast one-quarter of Section 23, Township 45 South, Range 24 East, Lee County, Florida, totaling 52.5 acres, more particularly described as follows:

In Section 23, Township 45 South, Range 24 East, Lee County, Florida

A tract or parcel of land lying in the Northeast Quarter (NE ¼) of Section 23, Township 45 South, Range 24 East, Lee County, Florida, described as follows:

From the Southeast corner of said fraction of a section, run S89°08'16"W along the South line of said fraction of a section for 131.82 feet to the West right-of-way line of SR 45 (US 41-Tamiami Trail);

THENCE run N01°16'00"W for 95.00 feet to the intersection of the North right-of-way line of Cypress Lake Drive, with the West right-of-way line of SR 45 (US 41-Tamiami Trail) and the POINT OF BEGINNING.

From said POINT OF BEGINNING run S89°08'16"W along said North right-of-way line for 1,095.00 feet to a POINT OF CURVATURE;

THENCE run Westerly along said North right-of-way line, along the arc of a curve to the left of radius 1,860.00 feet (delta angle of 06°56'42"-chord distance of 225.32 feet) for 225.46 feet;

THENCE run N01°16'00"E (parallel with said West right-of-way line) for 1,276.23 feet;

THENCE run N88°44'00"E for 420.00 feet;

THENCE run S01°16'00"E for 65.00 feet;

THENCE run N88°44'00"E for 711.97 feet;

THENCE run N01°16'00"W for 144.33 feet;

THENCE run N88°44'00"E for 188.00 feet to the West right-of-way of SR 45 (US 41-Tamiami Trail);

THENCE run S01°16'00"E along said West right-of-way line for 70.60 feet;

THENCE run S88°44'00"W along said South line for 143.00 feet to a POINT OF CURVATURE;

THENCE run Westerly, Southwesterly and Southerly along the arc of a curve to the left of radius 25.00 feet (delta angle of 90°00'00" - chord distance of 35.36 feet) for 39.27 feet to a POINT OF TANGENCY and the East line of a frontage road easement (40 feet

wide);
THENCE run N88°44'00" E for 168.00 feet to the West right-of-way
line;
THENCE S01°16'00"E for 981.23 feet to the POINT OF BEGINNING.

All in Lee County, Florida

The Board of County Commissioners approved 300,000 square feet of commercial shopping center floor area in 1985. The Second Development Order Amendment addressed the uses on the northern 14.8 acres. The third development order amendment permitted a commercial shopping center up to 335,000 square feet of gross floor area. As a result of the second and third DRI Development Order amendments a total of 465,000 square feet of retail commercial square footage was is permitted within the entire DRI.

B. The subject property has been zoned by the authority of Chapter 125, Florida Statutes, Chapter 61-2405, Laws of Florida (Special Acts), and the Lee County Zoning Regulations, as amended, in the C-1 District.

C. The Application for Development Approval was determined to be is consistent with the requirements of Section 380.06, Florida Statutes; and

D. The proposed development is not in an area designated as an Area of Critical State Concern pursuant to the provisions of Section 380.05, Florida Statutes; and

E. The proposed development has been reviewed by the Southwest Florida Regional Planning Council and is the subject of the report and recommendation adopted by that body, and subsequently forwarded to Lee County pursuant to the provisions of Section 380.06, Florida Statutes, and the proposed development is consistent with the report and recommendations of the Southwest Florida Regional Planning Council; and

F. The proposed development is consistent with the adopted Lee County Comprehensive Plan, subject to the following conditions.

G. The seventh amendment is a request to remove the 8.28 acres from the northern 14.8 acre parcel. The proposed change will not impact the findings and conditions for the property that remains in the Development of Regional Impact. The remaining property in the northern parcel is presently developed with retail (a home furnishing store). The proposed change will less and except the following 8.28 parcel from the DRI:

LESS AND EXCEPT a tract or parcel of land lying in the Northeast Quarter (NE ¼) of Section 23, Township 45 South, Range 24 East, Lee County, Florida which tract or parcel is described as follows:

From the Southeast corner of said fraction of a section, run S.89°08'16"W along the South line of said fraction of a section for 131.82 feet to the West right-of-way line of SR 45 (US 41-Tamiami Trail);

THENCE run N01°16'00"W for 95.00 feet to the intersection or the North ROW line of Cypress Lake Drive, with the West ROW line of SR 45 (US 41/Tamiami Trail);

THENCE run S.89°08'16"W along said North ROW line for 1095.00 feet to a POINT OF CURVATURE;

THENCE run westerly along said North ROW line along the arc of a curve to the left of radius 1860.00 feet (delta 06°56'42") (chord 225.32 feet) (chord bearing S.85°39'55"W.) for 225.46 feet;

THENCE run N.01°16'00"W. (parallel with said ROW line) for 1276.23 feet to the POINT OF BEGINNING.

From said POINT OF BEGINNING continue N.01°16'00"W. for 469.92 feet;

THENCE run N.89°08'16"E. for 258.98 feet;

THENCE run S.00°51'44"E. for 105.09 feet;

THENCE run N.88°44'00"E. for 224.75 feet;

THENCE run S.01°16'00"E. for 30.00 feet;

THENCE run N.88°44'00"E. for 270.02 feet;

THENCE run S.01°16'00"E. for 277.47 feet;

THENCE run N.88°44'00"E. for 358.97 feet;

THENCE run N.01°16'00"W. for 23.80 feet;

THENCE run N.88°44'00"E. for 20.00 feet;

THENCE run S.01°16'00"E. for 144.33 feet;

THENCE run S.88°44'00"W. for 711.97 feet;

THENCE run N.01°16'00"W. for 65.00 feet;

THENCE run S.88°44'00"W. for 420.00 feet to the POINT OF BEGINNING.

CONCLUSIONS OF LAW

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, in public meeting duly constituted and assembled that the requested amendments to the Cypress Trace Development of Regional Impact is hereby ordered APPROVED, subject to the following conditions, restrictions, and limitations:

A. COMMUNITY SERVICES

1. The developer was required to meet with the Chief of the South Trail Fire Department and the Director of the Lee County Division of Public Safety or his designee, prior to project construction, to discuss fire protection and Emergency Medical Services needs and measures to meet these needs.

2. The development was reviewed by Lee County prior to development, and satisfied the Lee County Division of Community Development prior to project construction, that there will be no adverse fiscal impacts (costs exceeding revenues) upon fire protection and Emergency Medical Service providers resulting from the development. New commercial square footage developed after January 1, 2019, must pay fire and EMS impact fees in effect at the time of building permit.

B. DRAINAGE/WATER QUALITY

1. The drainage system for the proposed project was permitted and installed to provide greater upland (dry) retention/detention of runoff prior to discharge into the on-site lake system. The additional square footage will be constructed in areas that are currently imperious, i.e., pavement, walkway or building. Areas of natural vegetation as described in Condition F. below may be used where feasible. Any changes in the drainage after January 1, 2019, must be consistent with any permit modifications required by the South Florida Water Management District.

2. The discharge structures must include a baffle, skimmer, or other suitable mechanism as determined by the Lee County Division of Environmental Protection Services for preventing oil and grease from discharging from retention/detention areas.

3. The drainage system must implement the design standards and "best management practices" outlined in the ADA and in all supplementary material.

4. The developer and/or his successor(s), must implement an on-going maintenance and monitoring program that regularly inspects, maintains and samples the stormwater drainage system. The program must be designed in consultation with the staffs of the Southwest Florida Regional Planning Council, the South Florida Water Management District, and Lee County. Final approval of the program rests with Lee County. The program must be redesigned, if necessary, to incorporate any County ordinances or policies relating to the Lakes Park drainage basin.

5. A regular program of vacuum sweeping of all parking lots must be utilized both during and after project construction.

6. The project is and will continue to must be served by a central sewage system.

7. The project is subject to all regulations of Lee County for the protection of the Lakes Regional Park Watershed and Lakes Regional Park water quality.

8. The developer must address the Land Development Code requirements of Lee County relative to drainage.

C. ENERGY

The developer must incorporate, at minimum, the following energy conservation features into all site plans and architectural programs or insure that the following features are implemented through deed restrictions and covenants with successors in title. All applications for site plan approvals, local development orders and building permits must be accompanied by a document detailing proposed compliance with these conditions. If deed restrictions or covenants are utilized to insure compliance, such documents must be approved by the Lee County Attorney's Office prior to recording.

These features are:

1. Provision of bicycle racks or storage facilities.
2. Location of bus stops, shelters, and other passenger and system accommodations for a transit system to serve the project area, in cooperation with the appropriate Lee County agencies. The 8.28 property removed by the County will further the transit system that serves the project area and citizens of Lee County.
3. Use of energy-efficient features in window design (e.g., tinting and exterior shading).
4. Installation of energy-efficient appliances and equipment.
5. Prohibition of deed restrictions or covenants that would prevent or unnecessarily hamper energy conservation efforts (e.g., building orientation and solar water heating systems).
6. Installation of energy-efficient lighting for streets, parking areas, and other interior and exterior public areas.
7. Installation of water closets with a maximum flush of 3.5 gallons and shower heads and faucets with a maximum flow rate of 3.0 gallons per minute (at 60 pounds of pressure per square inch) as specified in the Water Conservation Act, Section 553.14, Florida Statutes).
8. Selection, installation and maintenance of native plants, trees, and other vegetation and landscape design features, in order to reduce requirements for water, fertilizer, maintenance, and other needs, for all parking lot landscaping and required vegetated buffer areas.
9. Placement of native trees to provide shades in the warmer months while not overly reducing the benefits of sunlight in the cooler months, and to provide shade for streets and parking areas.
10. Orientation of structures, to reduce solar heat gain by walls and to utilize

the natural cooling effects of the wind wherever feasible.

11. Provision for structural shading (e.g., trellises, awnings, and roof overhangs) wherever practical when natural shading cannot be used effectively.

D. FLOODPLAINS/HURRICANE EVACUATION

1. The minimum finished floor elevations must be above the 100-year, 3-day stage with zero discharge or as required by the South Florida Water Management District, whichever is greater.

2. The developer was originally required to meet with the Lee County Division of Public Safety officials to discuss potential use of project common areas for storm shelter purposes, before the first certificate of occupancy is issued.

E. TRANSPORTATION

1. The developer caused to be constructed or paid the full cost for intersection improvements deemed necessary by the County Engineer for the project's existing access points onto U.S. 41 and Cypress Lake Drive. These improvements have been made. Any site related improvements required by the Land Development Code must be provided by the Developer.

2. The developer was required to construct, or cause to be constructed, two additional lanes on U.S. 41 from the terminus of six lanes north of Seven Lakes Boulevard/Big Pine Way to Daniels Parkway/Cypress Lake Drive. The developer's obligation includes the full costs of design/engineering, utility relocation (if needed) and construction, including turn lanes at the intersection of U.S. 41 with Daniels Parkway/Cypress Lake Drive, but not right-of-way. These improvements are in place.

3. The developer was required to pay the full costs of constructing a second left-turn lane on northbound U.S. 41 to westbound College Parkway. If the County Engineer determines that construction of a second left-turn lane is not feasible due to intersection geometrics or lack of right-of-way, the developer must pay the full costs of other improvements, such as repainting the inner through lane for left-turn movements, required to accommodate left-turns at this location. Payment of these costs are due at the time that a local Development Order is issued under Lee County regulations. The turn lane is in place.

4. The developer must pay a proportionate share of the costs of constructing two additional lanes, excluding right-of-way, on Daniels Parkway from the Bell Tower Mall entrance east of U.S. 41 to and including the intersection of Metro Parkway with Daniels Parkway. The developer's proportionate share will be determined by the County Engineer based on the project's share of the total traffic added to the roadway by all projects required by Development Orders to contribute to the cost of improvements on the

roadway. Payment is due at the time that a local Development Order is issued under Lee County regulations. Six lanes of Daniels Parkway are in place.

5. The developer must pay a proportionate share of the costs of constructing two additional lanes excluding right-of-way on Cypress Lake Drive from U.S. 41 to and including the intersection of Winkler Road with Cypress Lake Drive. The developer's proportionate share will be determined as described in Item E.4. Payment is due at the time that the first local Development Order is issued under Lee County regulations. The improvements have been made.

6. Nothing contained in this Development Order may be construed to exempt this development from participation in the funding, through Municipal Services Taxing Units (MSTU's) or other special assessment districts, of improvements to various state and County arterial and collector roads to the degree to which this development generates demand.

7. The development of commercial shopping center over 300,000 square feet of gross floor area on the southernmost 37.7-acre portion of the project and up to 465,000 416,230 square feet of gross floor area of the entire project must mitigate transportation impacts through the payment of road impact fees. Any proportionate share payments and improvements made pursuant to paragraphs 2, 3, 4, and 5 above or the alternative below were creditable against roads impact fees consistent with the requirements of Section 380.06, F.S. as indicated in alternatives paragraph 1.e. or 2. below.

ALTERNATIVES

1. In lieu of the obligations and payments required by E.1 through E.5 above, the developer must contribute a base amount of \$565,000 (in 1985 dollars) for the mitigation of adverse traffic impacts due to this project. Payment must be made subject to the provisions listed below.

a. The developer must design and construct, or cause to be designed and constructed, two additional lanes on U.S. 41 from the terminus of six lanes north of Seven Lakes Boulevard/Big Pine Way to Daniels Parkway/Cypress Lake Drive plus intersection improvements deemed necessary by the Lee County Engineer for the project's access points onto U.S. 41 and for the north leg of the U.S. 41/Daniels Parkway/Cypress Lake Drive intersection. The developer's contract(s) for the design and construction of these improvements must be reviewed and approved by the County Engineer. These improvements must be substantially completed to the satisfaction of the County Engineer prior to issuance of the first certificate of occupancy for this project.

b. Funds must be expended first for the U.S. 41 improvements specified in Alternative 1.a above, with the balance of the base amount of \$565,000 paid by the developer into a fund established by Lee County for the purpose of mitigating

other adverse impacts due to the project, including improvements described in E.3, E.4 and E.5 above, plus intersection improvements deemed necessary by the County Engineer for the projects access points onto Cypress Lake Drive. At the time that construction contracts are let for the specified improvements on U.S. 41, and after consultation and agreement with the County Engineer, the developer must pay an amount estimated to be the balance of the \$565,000 minus the cost for design and construction of the U.S. 41 improvements into the fund established by Lee County. Within one month of the completion of the U.S. 41 contracts, the County Engineer will determine the exact amount of this balance based on actual design and construction costs. The developer will receive a refund or make an additional payment to Lee County so that the total amount paid by the developer equals the base payment of \$565,000.

c. The base payment of \$565,000 (in 1985 dollars) is the amount that must be contributed by the developer for the mitigation of the adverse traffic impacts due to the proposed shopping center including up to 300,000 square feet of commercial shopping facilities. If this development is expanded to include additional square footage, the base amount of \$565,000 must be increased in a manner that will accurately reflect the impacts of the additional development.

d. If the construction contracts have not been let prior to October 1, 1985, the base payment of \$565,000 will be adjusted quarterly thereafter using the most current Construction Price Index (C.P.I.) published by the Engineer News Record (McGraw-Hill Publications) until the construction contracts are let. The base price index for these adjustments will be the price index in the Second Quarterly Cost Round-Up for 1985.

e. Whether or not Lee County adopts a Roads Impact Fee ordinance, the amount of this base payment remains the same (\$565,000), except for adjustments required by Alternative 1.c and 1.d above. This base payment will be substituted for the fee required under the new ordinance.

2. If the developer foregoes Alternative 1 and Lee County adopts a Roads Impact Fee ordinance before the first building permit is issued, this fee may be substituted for off-site improvements listed in E.3, E.4 and E.5 above. Site-related improvements remain the developer's responsibility and obligation. Payments already made for these off-site improvements will be credited toward the overall fee.

F. VEGETATION AND WILDLIFE

1. The developer must preserve no less than 15 percent of unaltered native vegetation, including understory, generally along the project's north, east, and south boundaries. These areas may be utilized as dry detention basins in the water management system to purify surface run-off. Plans for this preserve area must be submitted to the Lee County Community Development for approval as part of the local

development order process. The developer will be allowed to remove some existing native vegetation in areas designated for preservation in accordance with Section F of this Development Order and previous development approvals provided that, at minimum, an equivalent amount of acreage is provided as mitigation generally pursuant to the mitigation plan and map (Cypress Trace Freeland Auto Mall Preserve Location, dated October 5, 1988) on file with Department of Community Development except as modified below:

Prior to preliminary development order approval, the developer must submit a vegetation plan including a littoral shelf for the water retention lake shown on the site plan, as well as a 15 foot wide buffer along the western edge of the parking lot (to contain mature trees and shrubs; i.e., 15 foot high trees and 6 foot high shrubs with spacing pursuant to the mitigation plan). This plan is subject to review and approval by the Department of Community Development.

G. WATER SUPPLY

1. The developer must utilize water-conserving features in irrigation system design and use, including the use of native and/or low water use plants and turf, and other appropriate features.

H. OTHER

1. The southernmost 37.7± acre portion of this project may not exceed a total of 335,000 square feet of gross floor area of commercial shopping center uses. Nothing in this section precludes the owner of the 37.7 acre portion of the project from rebuilding the center consistent with this DRI Development Order, or seeking an increase in square footage, if needed, by filing an amendment to the DRI DO.

2. The northernmost 14.8 5.52± acre parcel may be developed in accordance with the following requirements:

a. Uses on the parcel are limited to the following, as defined in Chapter 34 of the Lee County Land Development Code:

Administrative Offices
ATM
Auto Parts Store (with and without installation)
Banks and Financial Establishments, Groups I and II
Boat Parts Store
Business Services, Groups I and II
Car Wash
Cleaning and Maintenance Services
Clothing Stores

Consumption on Premises
 Contractors and Builders, Groups I and II
 Convenience Food and Beverage Store
 Department Store
 Essential Services
 Excavation, Water Retention
 Food Stores, Groups I and II
 Hardware Store
 Hobby, Toy, Game Shop
 Household and Office Furnishings, Groups I and II
 Insurance Companies
 Laundromat
 Laundry and Dry Cleaning, Group I
 Lawn and Garden Supply Store
 Medical Office
 Non-Store Retailers, All Groups
 Package Store
 Paint, Glass and Wallpaper
 Parking Lot, Accessory
 Personal Services, Groups II, III and IV
 Pet Services
 Pet Shop
 Pharmacy
 Post Office
 Rental and Leasing Establishments, Groups I, II and III
 Repair Shops, Groups I and II
 Restaurants, Fast Food
 Restaurants, Groups I, II, III and IV
 Signs
~~Specialty~~ Specialty Retail Shop, Groups I, II, III and IV
 Storage, Indoor
 Storage, Open
 Studios
 Supermarket
 Used Merchandise Store, Groups I, II and III
 Vehicle and Equipment Dealers, Groups I, II, III and IV

b. Building areas may contain no more than ~~130,000~~ 81,230 square feet of gross floor area of the uses listed in subparagraph a. above;

~~c. No use or combination of uses will be permitted if those uses will cause development on this parcel to generate in excess of 776 peak hour vehicular trips;~~

~~dc.~~ The development must comply with all the terms of this Development

Order except Section E;

~~ed.~~ In lieu of the requirements in Section E, the Developer must pay road impact fees in accordance with Lee County Land Development Code, Chapter 1, Article VI, Division 2, as it may be amended from time to time; and

~~fe.~~ All development must be consistent with County zoning and development regulations.

3. The developer must construct and permanently maintain a cement block buffer wall, having a minimum height of six feet. Such wall must be constructed and maintained so as to buffer this project from all adjacent property which is being used for residential purposes.

BE IT FURTHER RESOLVED, by the Board of County Commissioners of Lee County, Florida, that:

1. This resolution constitutes the Development Order of this Board issued in response to the Development of Regional Impact Application for Development Approval filed by Teacher's Retirement Association of the State of Illinois.

2. All commitments and impact mitigating actions volunteered by the developer in the Application for Development Approval and supplementary documents and not in conflict with conditions or stipulations specifically enumerated above are hereby incorporated into this Development Order by reference. The commitments incorporated by reference are as binding on the developer as if the commitments were set forth herein.

3. This Development Order is binding upon the developer its heirs, assignees or successors in interest.

It is hereby declared that the terms and conditions set out in this document constitute a basis upon which the developer and County may rely in future actions necessary to implement fully the final development contemplated by this Development Order.

All conditions, restrictions, stipulations and safeguards contained in this Development Order may be enforced by either party hereto by action of law or equity and all costs of such proceedings, including reasonable attorney's fees will be paid by the defaulting party.

4. It is understood that any reference herein to any governmental agency will be construed to mean any future instrumentality which may be created and designated as successor in interest to, or which otherwise possesses any of the powers and duties of any referenced governmental agency in existence on the effective date of this

Development Order.

5. In the event that any portion or section of this Development Order is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision will in no manner affect the remaining portions or sections of the Development Order, which will remain in full force and effect provided the portion of the Development Order that is invalidated does not cause the remainder of the development area to be inconsistent with the purpose and intent this Development Order.

6. The approval granted by this Development Order is limited. This approval may not be construed to obviate the duty of the applicant to comply with all other applicable local or state review and permitting procedures.

7. Subsequent requests for local development permits will not require further review pursuant to Section 380.06, Florida Statutes, unless it is found by the Board of County Commissioners, a new unreviewed regional impact is identified.

8. This Development Order remains in effect until buildout on ~~December 31, 2023~~ January 21, 2029.

9. The Administrative Director of the Lee County Division of Community Development or his/her designee, is the local official responsible for assuring compliance with this Development Order.

10. Certified copies of this Development Order are to be forwarded to the developer and Department of Economic Opportunity. This Development Order is rendered as of the date of that transmittal, but will not be effective until the expiration of the statutory appeals period (45 days from rendition) or until the completion of any appellate proceeding, whichever time is greater. Upon this Development Order becoming effective, notice of its adoption must be recorded by the developer as provided in Chapter 380, Florida Statutes.

THE MOTION TO ADOPT the above resolution was offered by Commissioner _____, and seconded by Commissioner _____ and upon poll of the members present, the vote was as follows:

Kevin Ruane
Cecil Pendergrass
Ray Sandelli
Brian Hamman
Frank Mann

DULY PASSED AND ADOPTED this ____ day of _____, 2021.

BOARD OF COUNTY COMMISSIONERS
LEE COUNTY, FLORIDA

Kevin Ruane, Chairman

ATTEST:
Linda Doggett, Clerk

APPROVED AS TO FORM

County Attorney

LEE COUNTY, FLORIDA
DEPARTMENT OF COMMUNITY DEVELOPMENT
ZONING SECTION
STAFF REPORT

2021 JUL -2 PM 12:25

TYPE OF CASE: CHANGE TO THE DEVELOPMENT OF REGIONAL IMPACT
STATE DRI NUMBER: #7-8384-45
CASE NUMBER: DRI2021-00001

APPLICATION SUMMARY:

Applicant: Neale Montgomery of Pavese Law Firm, on behalf of Cindy Sylvester of Lee County Facilities, in reference to Cypress Trace Center Development of Regional Impact.

Request: Request for a change to the Cypress Trace Development of Regional Impact (DRI) to remove 8.28± acres from the from the development boundary.

Location: The subject property is located at the northwest corner of the intersection of South Cleveland Avenue and Cypress Lake Drive, South Fort Myers Planning Community, Lee County, FL. STRAP Number 23-45-24-49-00000.0010, 23-45-24-49-00000.0020, 23-45-24-49-00000.0030, 23-45-24-49-00000.0040, 23-45-24-49-00001.0020, 23-45-24-49-00000.002A, and 23-45-24-49-00001.002B.

RECOMMENDATION:

Staff recommends APPROVAL of this change to the Cypress Trace Development of Regional Impact (DRI) to remove 8.28± acres from the from the development boundary.

The amendment request meets the requirements of Florida Statutes §380.06(7)(a) and all other applicable Lee County Land Development Code and Lee County Comprehensive Plan requirements. In staff's opinion, the proposed amendment is found not to create a substantial change and is found to not create the likelihood of additional regional impact.

BACKGROUND INFORMATION AND ANALYSIS:

The applicant has proposed a change to the existing Development of Regional Impact (DRI) Development Order #7-8384-45. This amendment will remove 8.28± acres from the from the development boundary. As part of this request, the applicant has proportionally reduced the overall project intensity from 465,000 square feet to 416,230 square feet. The applicant has provided a draft amended DRI Development Order that enumerates the changes made by this request (Attachment C). Staff also proposes codification of the approved extensions to the DRI Development Order approved by ZEX2019-00037, ZEX2019-00040, and ZEX2019-00061 (Attachment D).

§380.06(7), Florida Statutes contains the statutory authority for changes to DRI Development Orders. This section states:

EXHIBIT C

“Notwithstanding any provision to the contrary in any development order, agreement, local comprehensive plan, or local land development regulation, any proposed change to a previously approved development of regional impact shall be reviewed by the local government based on the standards and procedures in its adopted local comprehensive plan and adopted local land development regulations, including, but not limited to, procedures for notice to the applicant and the public regarding the issuance of development orders.”

LDC Section 34-145(d)(7) establishes the local process for amendments to Developments of Regional Impacts, which include staff preparation of a report that provides analysis and recommendation to the Hearing Examiner, who then provides a recommendation to the Board of County Commissioners. The Board then takes into consideration the staff report and Hearing Examiner Recommendation during the course of a public hearing where the case is either approved or denied.

The proposed change to the Cypress Trace Development of Regional Impact (DRI) has been requested to remove property owned by Lee County from the DRI to allow for the underlying zoning district and its attendant regulations to be the governing use and development of the subject property. The property is currently occupied by Lee County Elections Office and part of the property is proposed to be developed with a transit facility.

Staff finds the proposed DRI Changes to be consistent with the Goals, Objectives, and Policies of the Lee Plan, as the uses and general development pattern are not significantly altered compared to the previous DRI approvals.

Surrounding Zoning and Land Use:

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

North

Property to the north is separated by Seven Lakes Boulevard and is zoned Commercial (C-1). This property is currently developed with a golf course club house and a multi-tenant office building.

East

Property to the east is separated by South Cleveland Avenue, and is zoned Commercial (C-1). This property is developed with Bell Tower Shops, which is part of the Villas South Development of Regional Impact, approved under DRI #9-74-006.

South

Property to the south is separated by Cypress Lakes Drive and is zoned Commercial Planned Development (CPD) and General Commercial (CG). This property is developed with a shopping center and is part of the Cypress Lake Center Development of Regional Impact, approved under DRI #7-8384-47.

West

Property to the west is zoned Residential Planned Development (RPD) and is part of the Leisure Village Seven Lakes Development of Regional Impact, approved under DRI #3-8586-61. This property is developed with a golf course and residential uses.

The subject property is designated as Intensive Development on the Lee County Future Land Use Map. This Future Land Use designation is defined in Policy 1.1.2 of the Lee Plan and promotes a

mixture of high intensity commercial uses and dense residential development. Additionally, the property is within the South Fort Myers Planning Community.

DRI Project History (Actions found in Attachment D)

The original DRI Development Order was approved by the Board of County Commissioners on April 8, 1985. The original Development Order approved 300,000 square feet of commercial shopping center uses on the 52.52 acre site.

The DRI was amended six times under resolutions ZAB-85-26A, Z-96-056, Z-97-086, Z-98-081, Z-02-007, and Z-19-012 (Attachment E). The Sixth DRI Development Order extended the build out date to December 31, 2023 for a maximum development intensity of 465,000 square feet. Zoning extensions ZEX2019-00037, ZEX2019-00040, and ZEX2019-00061 (Attachment F) have been approved to extend the build out date to January 21, 2029.

CONCLUSION:



Staff recommends **approval** of the proposed change to the DRI based upon consistency with upon Florida Statutes §380.06(7)(a). The change, as proposed, does not increase development intensity or density and will not have a significant impact on a regional level that would require additional conditions to be placed in the DRI Development Order. The proposed change, as requested, is consistent with the Land Development Code and the Lee Plan.

ATTACHMENTS:

- A. Maps
 - Zoning
 - Future Land Use
 - Aerial Photograph
 - Mixed Use Overlay
- B. Request Statement
- C. Applicant Proposed Seventh Amendment to the DRI Development Order
- D. Staff Proposed Seventh Amendment to the DRI Development Order
- E. Development of Regional Impact Development Orders
 - Original Development Order, Resolution ZAB-85-26
 - First Amendment, Resolution Number ZAB-85-26A
 - Second Amendment, Resolution Number Z-96-056
 - Third Amendment, Resolution Number Z-97-086
 - Fourth Amendment, Resolution Number Z-98-081
 - Fifth Amendment, Resolution Number Z-02-007
 - Sixth Amendment, Resolution Number Z-19-012
- F. DRI Extensions
 - ZEX2019-00037
 - ZEX2019-00040
 - ZEX2019-00061
- G. Legal Description

DRI2021-00001
Aerial

Legend

-  Subject Parcel
-  DRI Boundary

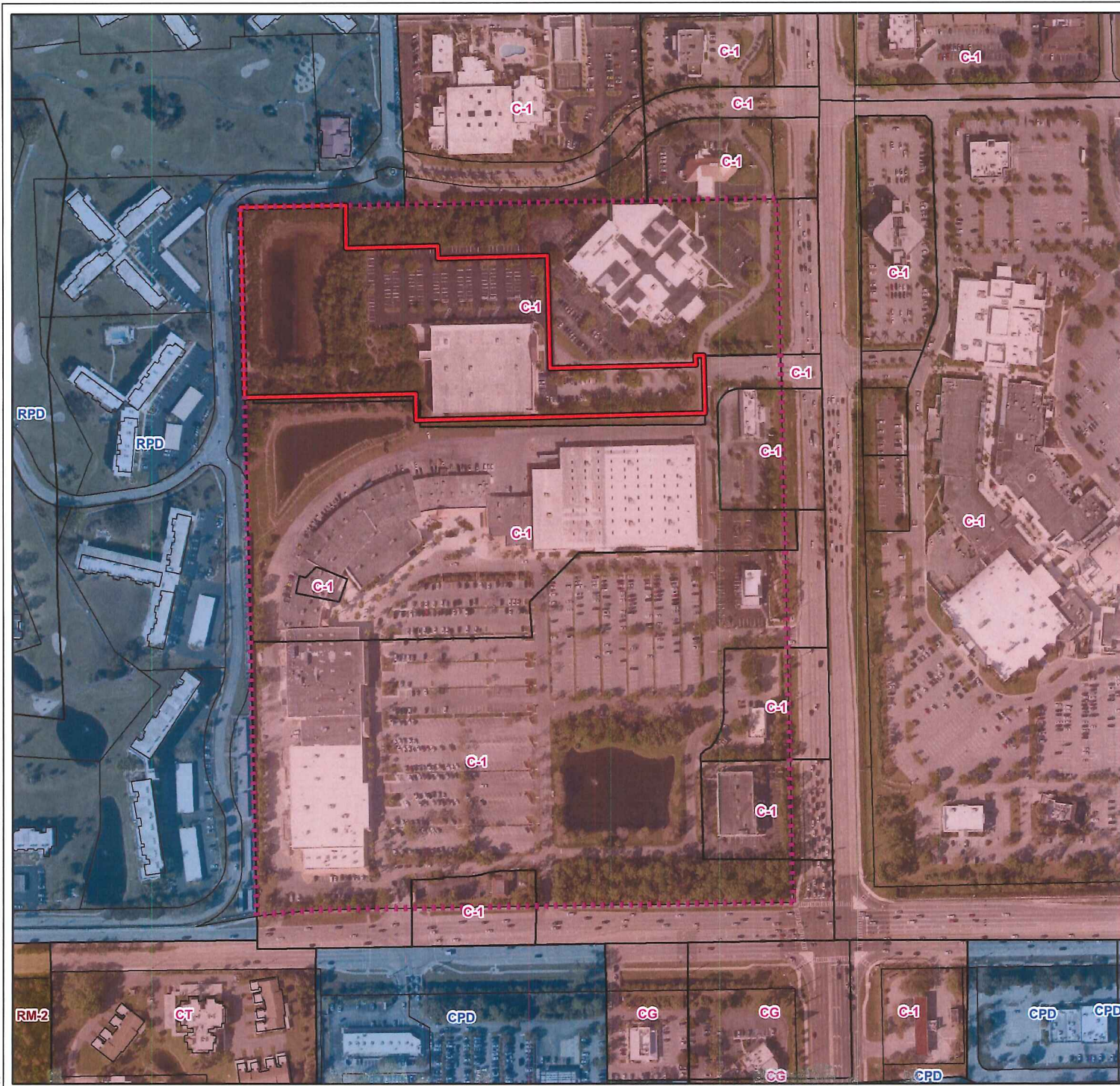


DRI2021-00001 Future Land Use

Legend



-  Subject Parcel
-  DRI Boundary
-  Intensive Development





DRI2021-00001 Zoning




Legend

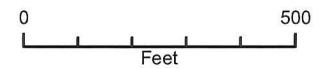
-  Subject Parcel
-  DRI Boundary



DRI2021-00001
Mixed Use Overlay

Legend

-  Subject Parcel
-  DRI Boundary
-  Mixed Use Overlay



ATTACHMENT B

Request Statement – Cypress Trace DRI

The applicant, Lee County, by and through Lee Tran, is seeking to amend the DRI DO for the Cypress Trace Development of Regional Impact, State DRI #7-8384-45. The DRI was approved April 8, 1985. The legal description for the DRI identified two parcels that combined to create the 52.52 acre development. The 1985 DRI DO only approved a 300,000 square foot commercial shopping center on a portion of the 52.52 acre site. The reduction in square footage was based on the newly adopted comprehensive plan which was approved after the DRI ADA was filed. The 1984 comprehensive plan included site location standards and the site location standards as applied limited the site to community commercial range of floor area. The portion of the property not devoted to shopping center uses was permitted to develop with uses other than commercial shopping center uses.

The DRI was amended, in the Second Development Order Amendment, adopted October 21, 1996. The 2nd DRI DO amended Section three, condition H. The amendment limited the 37.7 acre shopping center to 300,000 square feet, and identified the list of permitted uses on the norther 14.8 acre site. The 2nd development order amendment limited the peak hour trips on the northern parcel to 776 peak hour trips, and the building area was limited to no more than 130,000 square feet. The square footage on the shopping center portion of the DRI was increased to 335,000 square feet of gross floor area in the 3rd amendment. The application revisited the application of the site location standards. The transportation impacts of the increase were addressed by requiring the additional square footage to be mitigated through the payment of Roads Impact Fees. The Florida Administrative Code at the time of the original DRI approval included "shopping centers" as a DRI threshold use. The terminology was later changed to retail and service.

The fourth, fifth, and sixth amendments were for time extensions to the effective date of the DRI DO. The DRI O is in effect until December 31, 2023.

The Lee County Comprehensive Plan currently does not include site location standards that originally limited the shopping center square footage. Thus the restriction to 130,000 square feet on the northern parcel is no longer required under the Lee Plan.

The applicant is seeking a simple change to the Cypress Trace DRI. The applicant is seeking a change pursuant to Section 380.06(7), F.S. The change is the removal of the property under the ownership of Lee County. The County will seek to develop or redevelop the property consistent with the approved C-1 zoning. The local government is required to review the proposed change "based on the standards and procedures in its adopted local comprehensive plan and adopted local land development regulations." The applicant is not proposing any changes to the DRI DO except for the change to the legal description. As provided in Section 380.06(7), F.S. "development within the previously approved development of regional impact may continue, as approved, during the review in portions of the development which are not directly affected by the proposed change." The applicant is not proposing a

text change to the DRI DO to adjust or otherwise change the number of peak hour trips or the square footage for the northern parcel. The property is currently developed and the use has been determined to be consistent with the Lee Plan and traffic mitigation was provided. Should the existing use be amended in the future it will be evaluated under the comprehensive plan and land development code in effect at that time.

The applicant is seeking to construct a Lee Tran transfer station with parking for the transfer station. A transfer station is one where riders transfer from one bus to another bus in order to reach the ultimate destination. Since many riders will reach the facility by bus, parking will only be necessary for employees and the limited number of people who might be inclined to drive to the facility to take a bus. The mass transit depot (government owned) and the associated parking is permitted in the C-1 zoning.

The applicant will be required to submit for an approval under Chapter 10 of the Lee County Land Development Code. The traffic impacts of the proposed development will be reviewed and addressed through the development order process.

The property is located in the Intensive Development Future land use category, the most intense category in the Lee Plan. The County has already determined that the subject property is an appropriate location for commercial uses as required by Goal 6. Policy 6.1.1. will be considered at the time of local development order since the applicant is not seeking a rezoning.

Policy 6.1.2. applies to non-urban future land use categories, and is not applicable to the proposed change. Policy 6.1.4. requires compatibility with adjacent existing and proposed land uses and with existing and programmed public facilities. The Lee Tran improvements are part of the programmed public facilities designed to serve the urban areas of the county.

Policy 6.1.5. speaks to designing commercial to protect the carrying capacity of the roads and streets. One of the means of protecting the carrying capacity is to provide for mass transit. The site is already designed with a reverse access roads, limited access, and sharing of access. The proposed change will not open up new areas to premature, scattered or strip development. The change will promote the infill required by Policy 6.1.7.

Goal 39 submits that the county is to adopt planning practices and development regulations that fully link transportation and land use to achieve a multi-modal transportation system. The Lee Tran facility is a significant component of the multi-modal transportation system. Policy 39.2.1. requires future urban areas to have a balanced emphasis on various transportation components which includes

providing transit service with an emphasis on urban Mixed Use Overlay areas. The proposed Lee Tran facility is a necessary component of satisfying the requirements of Policy 39.2.1.

Historical Trip Generation Comparisons
for Uses on the Northernmost 14.8 acres of
Approved Cypress Trace DRI

PM Peak Trip Generation (ITE 5th)
130,000 sf
2nd Amendment, Z-96-056
Approved Cypress Trace DRI

PM Peak Trip Generation (1996)
121,000 sf
HomePlace/Robb & Stucky
Approved Development order 12/19/96

<u>Land Use</u>	<u>Trips</u>
Retail (Shopping Center 820)	En. = 388 Ex. = 388 Tot. = 776

<u>Land Use</u>	<u>Trips</u>
Gen Office (710) 18,000 sf	En. = 9 Ex. = 44 Tot. = 53
Furniture Store (890) 54,000 sf	En. = 8 Ex. = 13 Tot. = 21
General Merchandise 49,000 sf	En. = 118 Ex. = 118 Tot. = 236
Total 121,000 sf	En. = 135 Ex. = 175 Tot. = 310

FILE :	DATE : XX-XX-XX	NO.	REVISION	CARDNO, INC CIVIL ENGINEERS - LAND PLANNERS - CONTRACT ADMINISTRATORS 1821 Victoria Ave, Fort Myers FL 33901 Ph. 239-347-3330 Web: www.cardno.com	TIS ANALYSIS	EXHIBIT A-1 1
	SCALE : N.T.S.				CYPRESS TRACE DRI AND ELECTIONS BLG.	
	DESIGN: XXX					
	CAD : XXX					

Historical Trip Generation Comparisons
for Uses on the Northernmost 14.8 acres of
Approved Cypress Trace DRI

PM Peak Trip Generation (ITE 10th)
130,000 sf
2nd Amendment, Z-96-056
Cypress Trace DRI

<u>Land Use</u>	<u>Trips</u>
Retail (Shopping Center 820)	En. = 341 Ex. = 341 Tot. = 682

PM Peak Trip Generation (ITE 10th)
121,000 sf
HomePlace/Robb & Stucky

<u>Land Use</u>	<u>Trips</u>
Gen Office (710) 18,000 sf	En. = 4 Ex. = 18 Tot. = 22
Furniture Store (890) 54,000 sf	En. = 12 Ex. = 13 Tot. = 25
Department Store (875) 49,000 sf	En. = 48 Ex. = 48 Tot. = 96
Total 121,000 sf	En. = 64 Ex. = 79 Tot. = 143

PM Peak Trip Generation (ITE 10th)
49,000 sf
HomePlace
Elections Bldg.

<u>Land Use</u>	<u>Trips</u>
Department Store (875) 49,000 sf	En. = 48 Ex. = 48 Tot. = 96

FILE :	DATE : XX-XX-XX	NO. REVISION	CARDNO, INC CIVIL ENGINEERS - LAND PLANNERS - CONTRACT ADMINISTRATORS 1821 Victoria Ave, Fort Myers FL 33901 Ph. 239-347-3330 Web: www.cardno.com	TIS ANALYSIS	EXHIBIT A-2 1
	SCALE : N.T.S.			CYPRESS TRACE DRI	
	DESIGN: XXX			AND	
	CAD : XXX			ELECTIONS BLG.	

Scope of Project and Reasons for Request

In accordance with the Land Development Code (LDC), we are requesting a waiver from three submittal requirements for the amended DRI application without rezoning for the Cypress Trace DRI.

1. (34-202(b)(1)) Part 4, A and B. - Waiver of the DRI NOPC and Substantial Deviation.

Since original forms have been eliminated by legislative changes to the DRI statute, the applicant is requesting a change pursuant to Section 380.06(7), F.S.

2. (34-202(b)(5)(b)) - Waiver of the TIS requirement.

The DRI required intersection improvements deemed necessary at the project access points on US 41 and on Cypress Lake Drive. The access improvements were required before the first CO and are in place. The DRI required additional lanes on US 41 and Cypress Lake Drive which have been constructed. The improvements were required before the first CO. A turn lane and a proportionate payment was required before the local DO was issued. There was an alternative proportionate share payment condition included in the DRI as well as a condition that addressed what happened if impact fees were in place. The DRI DO included a limitation on the northern 14.8 acres of 130,000 s.f of the uses listed in the DRI. The DRI DO submitted that there is a limit of 776 peak hour trips on the 14.8 acre parcel. The property should not be subject to a trip cap or portion thereof or a square footage limitation as those conditions were based on the ITE manual in place at the time as well as the road network at the time. There have been substantial changes to the road network and Daniels Parkway and Cypress Lake Drive were an offset intersection when the DRI was approved. However, an updated analysis of total trips generated by the 10th edition ITE using the original home furnishing Home Goods s.f. will be provided. Furthermore, the total number of trips generated by Home Goods using the 10th edition ITE will be deducted from the 2nd amendment DRI. Analysis generated can be found in Exhibit A-1 and A-2.

3. (34-202(a)(5&6)) - Waiver of the requirement for a survey of the entire DRI.

The shopping center parcel and the north 14.8 acre parcel were described separately. The applicant is requesting a waiver of a survey of the entire DRI and the ability to provide a survey of the parcel to be removed from the DRI which is the property under the ownership of Lee County. The legal description and boundary survey of the Lee County parcel will be submitted with the DRI application. The applicant is providing a sketch of the entire DRI with the delineation of the parcel to be removed. Sketch is provided in Exhibit B.

Historical Trip Generation Comparisons
for Uses on the Northernmost 14.8 acres of
Approved Cypress Trace DRI

PM Peak Trip Generation (ITE 5th)
130,000 sf
2nd Amendment, Z-96-056
Approved Cypress Trace DRI

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	SCALE : N.T.S.			CYPRESS TRACE DRI AND ELECTIONS BLG.	
	DESIGN: XXX				
	CAD : XXX				

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for Uses on the Northernmost 14.8 acres of
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	SCALE : N.T.S.				CYPRESS TRACE DRI AND ELECTIONS BLG.	
	DESIGN: XXX					
	CAD : XXX					

PERIOD SETTING

Analysis Name : New Analysis
Project Name : Cypress Trace DRI - Legacy **No :**
Date: 2/18/2021 **City:** Fort Myers
State/Province: Florida **Zip/Postal Code:** 33901
Country: USA **Client Name:**
Analyst's Name: Kristina Connelly **Edition:** Trip Gen Manual, 10th Ed

Land Use	Independent Variable	Size	Time Period	Method	Entry	Exit	Total
820 - Shopping Center (General Urban/Suburban)	1000 Sq. Ft. GLA	130	Weekday, PM Peak Hour of Generator	Best Fit (LOG) $\ln(T) = 0.72\ln(X)$ +3.02	341 50%	341 50%	682

TRAFFIC REDUCTIONS

Land Use	Entry Reduction	Adjusted Entry	Exit Reduction	Adjusted Exit
820 - Shopping Center	0 %	341	0 %	341

EXTERNAL TRIPS

Land Use	External Trips	Pass-by%	Pass-by Trips	Non-pass-by Trips
820 - Shopping Center	682	0	0	682

ITE DEVIATION DETAILS

Weekday, PM Peak Hour of Generator

Landuse No deviations from ITE.

Methods No deviations from ITE.

External Trips 820 - Shopping Center (General Urban/Suburban)
 ITE does not recommend a particular pass-by% for this case.

SUMMARY

Total Entering	341
Total Exiting	341
Total Entering Reduction	0
Total Exiting Reduction	0
Total Entering Internal Capture Reduction	0
Total Exiting Internal Capture Reduction	0
Total Entering Pass-by Reduction	0
Total Exiting Pass-by Reduction	0
Total Entering Non-Pass-by Trips	341
Total Exiting Non-Pass-by Trips	341

PERIOD SETTING

Analysis Name : Weekday, Peak Hour of Adjacent Street Traffic, One Hour Between 4 and 6 p.m.
Project Name : 200061 HomePlace-Robb&Stucky **No :**
Date: 2/17/2021 **City:**
State/Province: **Zip/Postal Code:**
Country: **Client Name:**
Analyst's Name: **Edition:** Trip Gen Manual, 10th Ed

Land Use	Independent Variable	Size	Time Period	Method	Entry	Exit	Total
710 - General Office Building (General Urban/Suburban)	1000 Sq. Ft. GFA	18	Weekday, Peak Hour of Adjacent Street Traffic, One Hour Between 4 and 6 p.m.	Best Fit (LOG) $\ln(T) = 0.95\ln(X) + 0.36$	4 18%	18 82%	22
890 - Furniture Store (General Urban/Suburban)	1000 Sq. Ft. GFA	54	Weekday, Peak Hour of Adjacent Street Traffic, One Hour Between 4 and 6 p.m.	Best Fit (LOG) $\ln(T) = 0.85\ln(X) + -0.18$	12 48%	13 52%	25
875 - Department Store (General Urban/Suburban)	1000 Sq. Ft. GFA	49	Weekday, Peak Hour of Adjacent Street Traffic, One Hour Between 4 and 6 p.m.	Average 1.95	48 50%	48 50%	96

TRAFFIC REDUCTIONS

Land Use	Entry Reduction	Adjusted Entry	Exit Reduction	Adjusted Exit
710 - General Office Building	0 %	4	0 %	18
890 - Furniture Store	0 %	12	0 %	13
875 - Department Store	0 %	48	0 %	48

INTERNAL TRIPS

710 - General Office Building				890 - Furniture Store			
Exit	18	Demand Exit:	0 % (0)	Balanced: 0	Demand Entry:	0 % (0)	Entry 12
Entry	4	Demand Entry:	0 % (0)	Balanced: 0	Demand Exit:	0 % (0)	Exit 13

710 - General Office Building

Exit 18 Demand Exit: 0 % (0)

Balanced:
0

Demand Entry: 0 % (0)

Entry 48

Entry 4 Demand Entry: 0 % (0)

Balanced:
0

Demand Exit: 0 % (0)

Exit 48

890 - Furniture Store

Exit 13 Demand Exit: 0 % (0)

Balanced:
0

Demand Entry: 0 % (0)

Entry 48

Entry 12 Demand Entry: 0 % (0)

Balanced:
0

Demand Exit: 0 % (0)

Exit 48

875 - Department Store**710 - General Office Building**

	Total Trips	Internal Trips			External Trips
		890 - Furniture Store	875 - Department Store	Total	
Entry	4 (100%)	0 (0%)	0 (0%)	0 (0%)	4 (100%)
Exit	18 (100%)	0 (0%)	0 (0%)	0 (0%)	18 (100%)
Total	22 (100%)	0 (0%)	0 (0%)	0 (0%)	22 (100%)

890 - Furniture Store

	Total Trips	Internal Trips			External Trips
		710 - General Office Building	875 - Department Store	Total	
Entry	12 (100%)	0 (0%)	0 (0%)	0 (0%)	12 (100%)
Exit	13 (100%)	0 (0%)	0 (0%)	0 (0%)	13 (100%)
Total	25 (100%)	0 (0%)	0 (0%)	0 (0%)	25 (100%)

875 - Department Store

	Total Trips	Internal Trips			External Trips
		710 - General Office Building	890 - Furniture Store	Total	
Entry	48 (100%)	0 (0%)	0 (0%)	0 (0%)	48 (100%)
Exit	48 (100%)	0 (0%)	0 (0%)	0 (0%)	48 (100%)
Total	96 (100%)	0 (0%)	0 (0%)	0 (0%)	96 (100%)

EXTERNAL TRIPS

Land Use	External Trips	Pass-by%	Pass-by Trips	Non-pass-by Trips
710 - General Office Building	22	0	0	22
890 - Furniture Store	25	0	0	25
875 - Department Store	96	0	0	96

ITE DEVIATION DETAILS

Weekday, Peak Hour of Adjacent Street Traffic, One Hour Between 4 and 6 p.m.

Landuse No deviations from ITE.

Methods No deviations from ITE.

External Trips 710 - General Office Building (General Urban/Suburban)
ITE does not recommend a particular pass-by% for this case.

890 - Furniture Store (General Urban/Suburban)
The chosen pass-by% (0) is not provided by ITE. ITE recommends 53.

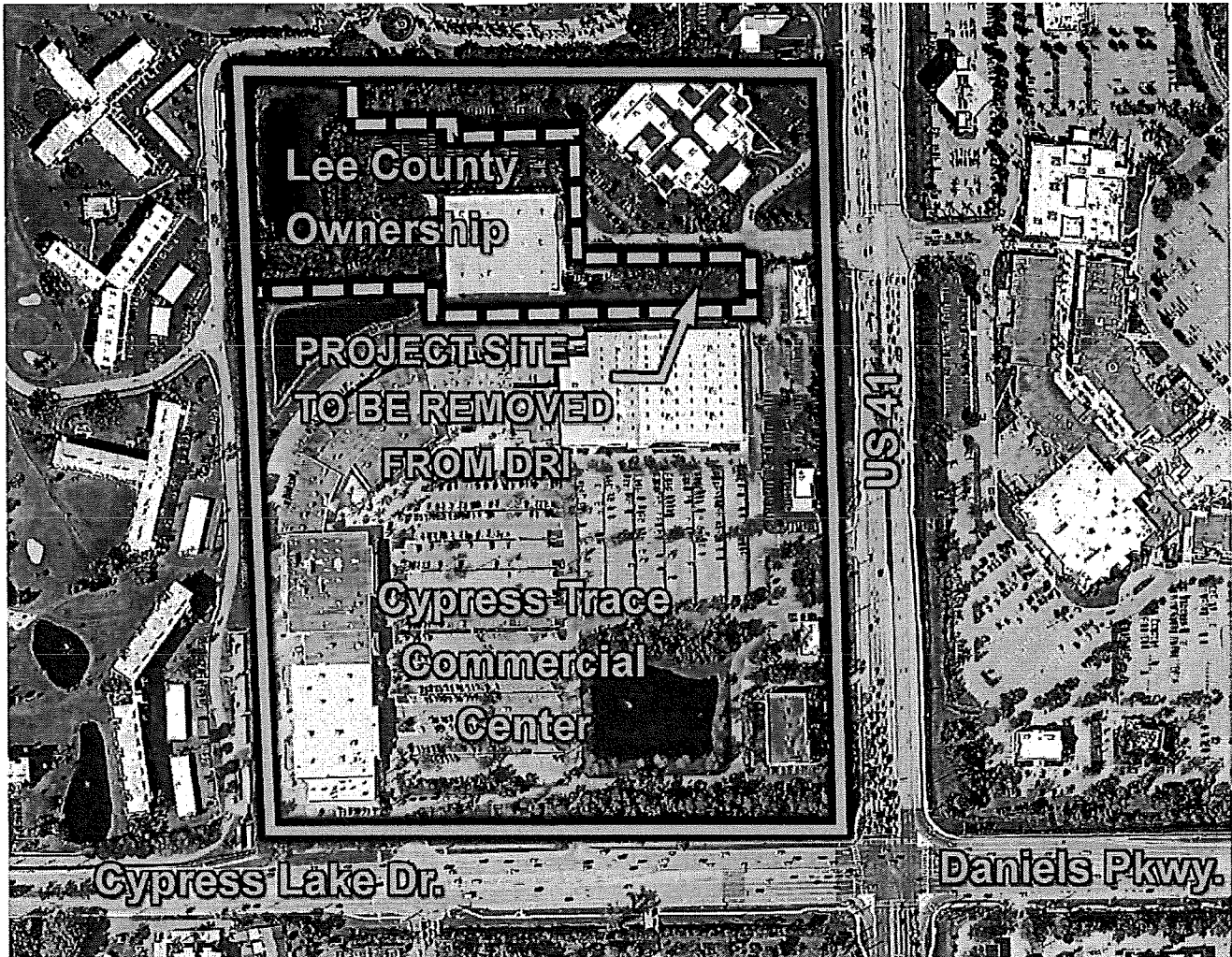
875 - Department Store (General Urban/Suburban)
ITE does not recommend a particular pass-by% for this case.

SUMMARY

Total Entering	64
Total Exiting	79
Total Entering Reduction	0
Total Exiting Reduction	0
Total Entering Internal Capture Reduction	0
Total Exiting Internal Capture Reduction	0
Total Entering Pass-by Reduction	0
Total Exiting Pass-by Reduction	0
Total Entering Non-Pass-by Trips	64
Total Exiting Non-Pass-by Trips	79

Exhibit B

Lee County Elections Center Parcel removal from Cypress Trace DRI
Sketch Map



ATTACHMENT C

SIXTH ~~SEVENTH~~ DEVELOPMENT ORDER¹
AMENDMENT
FOR

CYPRESS TRACE

A DEVELOPMENT OF REGIONAL IMPACT

#7-8384-45

Let It Be Known, that, pursuant to Section 380.06 of the Florida Statutes, the Board of County Commissioners of Lee County, Florida, heard at a public hearing on April 8, 1985, the Application for Development Approval for Cypress Trace Development Of Regional Impact, a commercial (shopping center) development which consisted of approximately 52.52 acres to be developed in accordance with the application filed on June 29, 1984, by Curtis A. Crenshaw, authorized representative of Southstar Associates, a Florida General partnership.

WHEREAS, the original Cypress Trace Development of Regional Impact (DRI) Development Order was approved by the Board of County Commissioners on April 8, 1985; and

WHEREAS, the DRI Development Order was first amended on October 10, 1988 to allow development of a 175,167 square foot automobile dealership in the northerly 14.8± acre portion of the DRI; and

WHEREAS, the DRI Development Order was amended a second time on October 21, 1996 by MRC Partners to reinstate the expired development order, extend the buildout/expiration date to April 7, 1998 (an 8 year extension), eliminate the auto dealership use and allow 130,000 square feet of commercial uses on the northern 14.8 acres, and limit the maximum peak hour trips generated by the site to 776; and

WHEREAS, the DRI Development Order was amended a third time on February 2, 1998, at the request of Capital Associates Realty Advisors, to allow an increase in the maximum retail commercial square footage on a 34.5 ± acre DRI (shopping center) parcel from 300,000 to 335,000 square feet; and

WHEREAS, the DRI Development Order was subsequently amended a fourth time on November 30, 1998 to extend the buildout/expiration date from April 7, 1998 to April 7, 2001; and

WHEREAS, the DRI Development Order was subsequently amended a fifth time

¹ This is a codification and restatement of all DRI Development orders rendered with respect to the Cypress Trace DRI, including actions taken on April 8, 1985, October 10, 1988, October 21, 1996, February 2, 1998, November 30, 1998 and March 18, 2002.

on March 18, 2002 to extend the buildout/expiration date from April 7, 2001 to December 31, 2005; and

~~WHEREAS, a Request to Change the DRI DO was filed by DDRTC Cypress Trace LLC, c/o Developers Diversified Realty on December 12, 2018, to allow an extension of the buildout/expiration date from December 31, 2005 to December 31, 2023; and~~

WHEREAS, the DRI Development Order was subsequently amended a sixth time on May 22, 2019 to allow an extension of the buildout/expiration date from December 31, 2005 to December 31, 2023; and

WHEREAS, a Request to Change the DRI DO was filed by Lee County, a Political Subdivision of the State of Florida, on February 18, 2021, to remove 8.28 acres under the ownership of Lee County from the DRI; and

WHEREAS, under Florida Statutes, Section 380.06(7)(a), a proposed change to a previously approved DRI shall be reviewed by the local government based on the standards and procedures in its adopted local comprehensive plan and adopted local land development regulations; and

WHEREAS, ~~on May 22, 2019, the Board of County Commissioners reviewed the proposed amendment change as required by Section 380.06(7), F.S. and found that the buildout/expiration date extension~~removal of the 8.28 acres ~~does not create any additional regional impacts requiring mitigation; and~~

WHEREAS, the proposed change to the DRI Development Order is consistent with the Lee County Comprehensive Land Use Plan and applicable local land development regulations, as well as the State Comprehensive Plan, the Southwest Florida Regional Plan and the State Land Development Plan; and

WHEREAS, the Board of County Commissioners of Lee County, Florida has considered the report and recommendations of the Lee County Staff and the Hearing Examiner, and the documents and comments upon the record made before the Board in public hearing, and, after full consideration of these reports, recommendations, comments, and documents, the Board of County Commissioners of Lee County, Florida, hereby finds and determines that:

FINDINGS OF FACT

A. The ~~Developer~~ applicant originally proposed to develop a shopping center including approximately 436,000 square feet of commercial shopping center facilities on approximately 52.52 acres. The formal Application for Development Approval ("ADA") requested approval of that size, acreage and use. The various regional issues were identified and analyzed based upon the ADA submitted. The proposed development

~~constitutes~~ constituted a shopping center (retail) Development of Regional Impact on the real property described as:

Two parcels of land in the northeast one-quarter of Section 23, Township 45 South, Range 24 East, Lee County, Florida, totaling 52.5 acres, more particularly described as follows:

In Section 23, Township 45 South, Range 24 East, Lee County, Florida

A tract or parcel of land lying in the Northeast Quarter (NE ¼) of Section 23, Township 45 South, Range 24 East, Lee County, Florida, described as follows:

From the Southeast corner of said fraction of a section, run S89°08'16"W along the South line of said fraction of a section for 131.82 feet to the West right-of-way line of SR 45 (US 41-Tamiami Trail);

THENCE run N01°16'00"W for 95.00 feet to the intersection of the North right-of-way line of Cypress Lake Drive, with the West right-of-way line of SR 45 (US 41-Tamiami Trail) and the POINT OF BEGINNING.

From said POINT OF BEGINNING run S89°08'16"W along said North right-of-way line for 1,095.00 feet to a POINT OF CURVATURE;

THENCE run Westerly along said North right-of-way line, along the arc of a curve to the left of radius 1,860.00 feet (delta angle of 06°56'42" - chord distance of 225.32 feet) for 225.46 feet;

THENCE run N01°16'00"E (parallel with said West right-of-way line) for 1,276.23 feet;

THENCE run N88°44'00"E for 420.00 feet;

THENCE run S01°16'00"E for 65.00 feet;

THENCE run N88°44'00"E for 711.97 feet;

THENCE run N01°16'00"W for 144.33 feet;

THENCE run N88°44'00"E for 188.00 feet to the West right-of-way of SR 45 (US 41-Tamiami Trail);

THENCE run S01°16'00"E along said West right-of-way line for 70.60 feet;

THENCE run S88°44'00"W along said South line for 143.00 feet to a POINT OF CURVATURE;

THENCE run Westerly, Southwesterly and Southerly along the arc of a curve to the left of radius 25.00 feet (delta angle of 90°00'00" - chord distance of 35.36 feet) for 39.27 feet to a POINT OF TANGENCY and the East line of a frontage road easement (40 feet wide);

THENCE run N88°44'00" E for 168.00 feet to the West right-of-way line;
THENCE S01°16'00"E for 981.23 feet to the POINT OF BEGINNING.

All in Lee County, Florida

The Board of County Commissioners approved 300,000 square feet of commercial shopping center floor area in 1985. The Second Development Order Amendment addressed the uses on the northern 14.8 acres. The third development order amendment permitted a commercial shopping center up to 335,000 square feet of gross floor area. As a result of the second and third DRI Development Order amendments a total of 465,000 square feet of retail commercial square footage was is permitted within the entire DRI.

B. The subject property has been zoned by the authority of Chapter 125, Florida Statutes, Chapter 61-2405, Laws of Florida (Special Acts), and the Lee County Zoning Regulations, as amended, in the C-1 District.

C. The Application for Development Approval was determined to be is consistent with the requirements of Section 380.06, Florida Statutes; and

D. The proposed development is not in an area designated as an Area of Critical State Concern pursuant to the provisions of Section 380.05, Florida Statutes; and

E. The proposed development has been reviewed by the Southwest Florida Regional Planning Council and is the subject of the report and recommendation adopted by that body, and subsequently forwarded to Lee County pursuant to the provisions of Section 380.06, Florida Statutes, and the proposed development is consistent with the report and recommendations of the Southwest Florida Regional Planning Council; and

F. The proposed development is consistent with the adopted Lee County Comprehensive Plan, subject to the following conditions.

G. The seventh amendment is a request to remove the 8.28 acres from the northern 14.8 acre parcel. The proposed change will not impact the findings and conditions for the property that remains in the Development of Regional Impact. The remaining property in the northern parcel is presently developed with retail (a home furnishing store). The proposed change will less and except the following 8.28 parcel from the DRI:

LESS AND EXCEPT a tract or parcel of land lying in the Northeast Quarter (NE ¼) of

Section 23, Township 45 South, Range 24 East, Lee County, Florida which tract or parcel is described as follows:

From the Southeast corner of said fraction of a section, run S.89°08'16"W along the South line of said fraction of a section for 131.82 feet to the West right-of-way line of SR 45 (US 41-Tamiami Trail);

THENCE run N01°16'00"W for 95.00 feet to the intersection or the North ROW line of Cypress Lake Drive, with the West ROW line of SR 45 (US 41/Tamiami Trail);

THENCE run S.89°08'16"W along said North ROW line for 1095.00 feet to a POINT OF CURVATURE;

THENCE run westerly along said North ROW line along the arc of a curve to the left of radius 1860.00 feet (delta 06°56'42") (chord 225.32 feet) (chord bearing S.85°39'55"W.) for 225.46 feet;

THENCE run N.01°16'00"W. (parallel with said ROW line) for 1276.23 feet to the POINT OF BEGINNING.

From said POINT OF BEGINNING continue N.01°16'00"W. for 469.92 feet;

THENCE run N.89°08'16"E. for 258.98 feet;

THENCE run S.00°51'44"E. for 105.09 feet;

THENCE run N.88°44'00"E. for 224.75 feet;

THENCE run S.01°16'00"E. for 30.00 feet;

THENCE run N.88°44'00"E. for 270.02 feet;

THENCE run S.01°16'00"E. for 277.47 feet;

THENCE run N.88°44'00"E. for 358.97 feet;

THENCE run N.01°16'00"W. for 23.80 feet;

THENCE run N.88°44'00"E. for 20.00 feet;

THENCE run S.01°16'00"E. for 144.33 feet;

THENCE run S.88°44'00"W. for 711.97 feet;

THENCE run N.01°16'00"W. for 65.00 feet;

THENCE run S.88°44'00"W. for 420.00 feet to the POINT OF BEGINNING.

CONCLUSIONS OF LAW

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, in public meeting duly constituted and assembled that the requested amendments to the Cypress Trace Development of Regional Impact is hereby ordered APPROVED, subject to the following conditions, restrictions, and limitations:

A. COMMUNITY SERVICES

1. The developer was required to meet with the Chief of the South Trail Fire Department and the Director of the Lee County Division of Public Safety or his designee, prior to project construction, to discuss fire protection and Emergency

Medical Services needs and measures to meet these needs.

2. The development was reviewed by Lee County prior to development, and satisfied the Lee County Division of Community Development prior to project construction, that there will be no adverse fiscal impacts (costs exceeding revenues) upon fire protection and Emergency Medical Service providers resulting from the development. New commercial square footage developed after January 1, 2019, must pay fire and EMS impact fees in effect at the time of building permit.

B. DRAINAGE/WATER QUALITY

1. The drainage system for the proposed project was permitted and installed to provide greater upland (dry) retention/detention of runoff prior to discharge into the on-site lake system. The additional square footage will be constructed in areas that are currently imperious, i.e., pavement, walkway or building. Areas of natural vegetation as described in Condition F. below may be used where feasible. Any changes in the drainage after January 1, 2019, must be consistent with any permit modifications required by the South Florida Water Management District.

2. The discharge structures must include a baffle, skimmer, or other suitable mechanism as determined by the Lee County Division of Environmental Protection Services for preventing oil and grease from discharging from retention/detention areas.

3. The drainage system must implement the design standards and "best management practices" outlined in the ADA and in all supplementary material.

4. The developer and/or his successor(s), must implement an on-going maintenance and monitoring program that regularly inspects, maintains and samples the stormwater drainage system. The program must be designed in consultation with the staffs of the Southwest Florida Regional Planning Council, the South Florida Water Management District, and Lee County. Final approval of the program rests with Lee County. The program must be redesigned, if necessary, to incorporate any County ordinances or policies relating to the Lakes Park drainage basin.

5. A regular program of vacuum sweeping of all parking lots must be utilized both during and after project construction.

6. The project is and will continue to must be served by a central sewage system.

7. The project is subject to all regulations of Lee County for the protection of the Lakes Regional Park Watershed and Lakes Regional Park water quality.

8. The developer must address the Land Development Code requirements of Lee County relative to drainage.

C. ENERGY

The developer must incorporate, at minimum, the following energy conservation features into all site plans and architectural programs or insure that the following features are implemented through deed restrictions and covenants with successors in title. All applications for site plan approvals, local development orders and building permits must be accompanied by a document detailing proposed compliance with these conditions. If deed restrictions or covenants are utilized to insure compliance, such documents must be approved by the Lee County Attorney's Office prior to recording.

These features are:

1. Provision of bicycle racks or storage facilities.
2. Location of bus stops, shelters, and other passenger and system accommodations for a transit system to serve the project area, in cooperation with the appropriate Lee County agencies. The 8.28 property removed by the County will further the transit system that serves the project area and citizens of Lee County.
3. Use of energy-efficient features in window design (e.g., tinting and exterior shading).
4. Installation of energy-efficient appliances and equipment.
5. Prohibition of deed restrictions or covenants that would prevent or unnecessarily hamper energy conservation efforts (e.g., building orientation and solar water heating systems).
6. Installation of energy-efficient lighting for streets, parking areas, and other interior and exterior public areas.
7. Installation of water closets with a maximum flush of 3.5 gallons and shower heads and faucets with a maximum flow rate of 3.0 gallons per minute (at 60 pounds of pressure per square inch) as specified in the Water Conservation Act, Section 553.14, Florida Statutes).
8. Selection, installation and maintenance of native plants, trees, and other vegetation and landscape design features, in order to reduce requirements for water, fertilizer, maintenance, and other needs, for all parking lot landscaping and required vegetated buffer areas.
9. Placement of native trees to provide shades in the warmer months while not overly reducing the benefits of sunlight in the cooler months, and to provide shade for streets and parking areas.

10. Orientation of structures, to reduce solar heat gain by walls and to utilize the natural cooling effects of the wind wherever feasible.

11. Provision for structural shading (e.g., trellises, awnings, and roof overhangs) wherever practical when natural shading cannot be used effectively.

D. FLOODPLAINS/HURRICANE EVACUATION

1. The minimum finished floor elevations must be above the 100-year, 3-day stage with zero discharge or as required by the South Florida Water Management District, whichever is greater.

2. The developer was originally required to meet with the Lee County Division of Public Safety officials to discuss potential use of project common areas for storm shelter purposes, before the first certificate of occupancy is issued.

E. TRANSPORTATION

1. The developer caused to be constructed or paid the full cost for intersection improvements deemed necessary by the County Engineer for the project's existing access points onto U.S. 41 and Cypress Lake Drive. These improvements have been made. Any site related improvements required by the Land Development Code must be provided by the Developer.

2. The developer was required to construct, or cause to be constructed, two additional lanes on U.S. 41 from the terminus of six lanes north of Seven Lakes Boulevard/Big Pine Way to Daniels Parkway/Cypress Lake Drive. The developer's obligation includes the full costs of design/engineering, utility relocation (if needed) and construction, including turn lanes at the intersection of U.S. 41 with Daniels Parkway/Cypress Lake Drive, but not right-of-way. These improvements are in place.

3. The developer was required to pay the full costs of constructing a second left-turn lane on northbound U.S. 41 to westbound College Parkway. If the County Engineer determines that construction of a second left-turn lane is not feasible due to intersection geometrics or lack of right-of-way, the developer must pay the full costs of other improvements, such as repainting the inner through lane for left-turn movements, required to accommodate left-turns at this location. Payment of these costs are due at the time that a local Development Order is issued under Lee County regulations. The turn lane is in place.

4. The developer must pay a proportionate share of the costs of constructing two additional lanes, excluding right-of-way, on Daniels Parkway from the Bell Tower Mall entrance east of U.S. 41 to and including the intersection of Metro Parkway with Daniels Parkway. The developer's proportionate share will be determined by the

County Engineer based on the project's share of the total traffic added to the roadway by all projects required by Development Orders to contribute to the cost of improvements on the roadway. Payment is due at the time that a local Development Order is issued under Lee County regulations. Six lanes of Daniels Parkway are in place.

5. The developer must pay a proportionate share of the costs of constructing two additional lanes excluding right-of-way on Cypress Lake Drive from U.S. 41 to and including the intersection of Winkler Road with Cypress Lake Drive. The developer's proportionate share will be determined as described in Item E.4. Payment is due at the time that the first local Development Order is issued under Lee County regulations. The improvements have been made.

6. Nothing contained in this Development Order may be construed to exempt this development from participation in the funding, through Municipal Services Taxing Units (MSTU's) or other special assessment districts, of improvements to various state and County arterial and collector roads to the degree to which this development generates demand.

7. The development of commercial shopping center over 300,000 square feet of gross floor area on the southernmost 37.7-acre portion of the project and up to 465,000 416,230 square feet of gross floor area of the entire project must mitigate transportation impacts through the payment of road impact fees. Any proportionate share payments and improvements made pursuant to paragraphs 2, 3, 4, and 5 above or the alternative below were creditable against roads impact fees consistent with the requirements of Section 380.06, F.S. as indicated in alternatives paragraph 1.e. or 2. below.

ALTERNATIVES

1. In lieu of the obligations and payments required by E.1 through E.5 above, the developer must contribute a base amount of \$565,000 (in 1985 dollars) for the mitigation of adverse traffic impacts due to this project. Payment must be made subject to the provisions listed below.

a. The developer must design and construct, or cause to be designed and constructed, two additional lanes on U.S. 41 from the terminus of six lanes north of Seven Lakes Boulevard/Big Pine Way to Daniels Parkway/Cypress Lake Drive plus intersection improvements deemed necessary by the Lee County Engineer for the project's access points onto U.S. 41 and for the north leg of the U.S. 41/Daniels Parkway/Cypress Lake Drive intersection. The developer's contract(s) for the design and construction of these improvements must be reviewed and approved by the County Engineer. These improvements must be substantially completed to the satisfaction of the County Engineer prior to issuance of the first certificate of occupancy for this project.

b. Funds must be expended first for the U.S. 41 improvements specified in Alternative 1.a above, with the balance of the base amount of \$565,000 paid by the developer into a fund established by Lee County for the purpose of mitigating other adverse impacts due to the project, including improvements described in E.3, E.4 and E.5 above, plus intersection improvements deemed necessary by the County Engineer for the projects access points onto Cypress Lake Drive. At the time that construction contracts are let for the specified improvements on U.S. 41, and after consultation and agreement with the County Engineer, the developer must pay an amount estimated to be the balance of the \$565,000 minus the cost for design and construction of the U.S. 41 improvements into the fund established by Lee County. Within one month of the completion of the U.S. 41 contracts, the County Engineer will determine the exact amount of this balance based on actual design and construction costs. The developer will receive a refund or make an additional payment to Lee County so that the total amount paid by the developer equals the base payment of \$565,000.

c. The base payment of \$565,000 (in 1985 dollars) is the amount that must be contributed by the developer for the mitigation of the adverse traffic impacts due to the proposed shopping center including up to 300,000 square feet of commercial shopping facilities. If this development is expanded to include additional square footage, the base amount of \$565,000 must be increased in a manner that will accurately reflect the impacts of the additional development.

d. If the construction contracts have not been let prior to October 1, 1985, the base payment of \$565,000 will be adjusted quarterly thereafter using the most current Construction Price Index (C.P.I.) published by the Engineer News Record (McGraw-Hill Publications) until the construction contracts are let. The base price index for these adjustments will be the price index in the Second Quarterly Cost Round-Up for 1985.

e. Whether or not Lee County adopts a Roads Impact Fee ordinance, the amount of this base payment remains the same (\$565,000), except for adjustments required by Alternative 1.c and 1.d above. This base payment will be substituted for the fee required under the new ordinance.

2. If the developer foregoes Alternative 1 and Lee County adopts a Roads Impact Fee ordinance before the first building permit is issued, this fee may be substituted for off-site improvements listed in E.3, E.4 and E.5 above. Site-related improvements remain the developer's responsibility and obligation. Payments already made for these off-site improvements will be credited toward the overall fee.

F. VEGETATION AND WILDLIFE

1. The developer must preserve no less than 15 percent of unaltered native vegetation, including understory, generally along the project's north, east, and south boundaries. These areas may be utilized as dry detention basins in the water management system to purify surface run-off. Plans for this preserve area must be submitted to the Lee County Community Development for approval as part of the local development order process. The developer will be allowed to remove some existing native vegetation in areas designated for preservation in accordance with Section F of this Development Order and previous development approvals provided that, at minimum, an equivalent amount of acreage is provided as mitigation generally pursuant to the mitigation plan and map (Cypress Trace Freeland Auto Mall Preserve Location, dated October 5, 1988) on file with Department of Community Development except as modified below:

Prior to preliminary development order approval, the developer must submit a vegetation plan including a littoral shelf for the water retention lake shown on the site plan, as well as a 15 foot wide buffer along the western edge of the parking lot (to contain mature trees and shrubs; i.e., 15 foot high trees and 6 foot high shrubs with spacing pursuant to the mitigation plan). This plan is subject to review and approval by the Department of Community Development.

G. WATER SUPPLY

1. The developer must utilize water-conserving features in irrigation system design and use, including the use of native and/or low water use plants and turf, and other appropriate features.

H. OTHER

1. The southernmost 37.7± acre portion of this project may not exceed a total of 335,000 square feet of gross floor area of commercial shopping center uses. Nothing in this section precludes the owner of the 37.7 acre portion of the project from rebuilding the center consistent with this DRI Development Order, or seeking an increase in square footage, if needed, by filing an amendment to the DRI DO.

2. The northernmost ~~44.8~~ 5.52± acre parcel may be developed in accordance with the following requirements:

a. Uses on the parcel are limited to the following, as defined in Chapter 34 of the Lee County Land Development Code:

Administrative Offices
ATM
Auto Parts Store (with and without installation)

Banks and Financial Establishments, Groups I and II
 Boat Parts Store
 Business Services, Groups I and II
 Car Wash
 Cleaning and Maintenance Services
 Clothing Stores
 Consumption on Premises
 Contractors and Builders, Groups I and II
 Convenience Food and Beverage Store
 Department Store
 Essential Services
 Excavation, Water Retention
 Food Stores, Groups I and II
 Hardware Store
 Hobby, Toy, Game Shop
 Household and Office Furnishings, Groups I and II
 Insurance Companies
 Laundromat
 Laundry and Dry Cleaning, Group I
 Lawn and Garden Supply Store
 Medical Office
 Non-Store Retailers, All Groups
 Package Store
 Paint, Glass and Wallpaper
 Parking Lot, Accessory
 Personal Services, Groups II, III and IV
 Pet Services
 Pet Shop
 Pharmacy
 Post Office
 Rental and Leasing Establishments, Groups I, II and III
 Repair Shops, Groups I and II
 Restaurants, Fast Food
 Restaurants, Groups I, II, III and IV
 Signs
~~Specialty~~ Specialty Retail Shop, Groups I, II, III and IV
 Storage, Indoor
 Storage, Open
 Studios
 Supermarket
 Used Merchandise Store, Groups I, II and III
 Vehicle and Equipment Dealers, Groups I, II, III and IV

b. Building areas may contain no more than ~~130,000~~ 81,230 square feet of gross floor area of the uses listed in subparagraph a. above;

~~e. No use or combination of uses will be permitted if those uses will cause development on this parcel to generate in excess of 776 peak hour vehicular trips;~~

ed. The development must comply with all the terms of this Development Order except Section E;

ed. In lieu of the requirements in Section E, the Developer must pay road impact fees in accordance with Lee County Land Development Code, Chapter 1, Article VI, Division 2, as it may be amended from time to time; and

fe. All development must be consistent with County zoning and development regulations.

3. The developer must construct and permanently maintain a cement block buffer wall, having a minimum height of six feet. Such wall must be constructed and maintained so as to buffer this project from all adjacent property which is being used for residential purposes.

BE IT FURTHER RESOLVED, by the Board of County Commissioners of Lee County, Florida, that:

1. This resolution constitutes the Development Order of this Board issued in response to the Development of Regional Impact Application for Development Approval filed by Teacher's Retirement Association of the State of Illinois.

2. All commitments and impact mitigating actions volunteered by the developer in the Application for Development Approval and supplementary documents and not in conflict with conditions or stipulations specifically enumerated above are hereby incorporated into this Development Order by reference. The commitments incorporated by reference are as binding on the developer as if the commitments were set forth herein.

3. This Development Order is binding upon the developer its heirs, assignees or successors in interest.

It is hereby declared that the terms and conditions set out in this document constitute a basis upon which the developer and County may rely in future actions necessary to implement fully the final development contemplated by this Development Order.

All conditions, restrictions, stipulations and safeguards contained in this Development Order may be enforced by either party hereto by action of law or equity and all costs of such proceedings, including reasonable attorney's fees will be paid by

the defaulting party.

4. It is understood that any reference herein to any governmental agency will be construed to mean any future instrumentality which may be created and designated as successor in interest to, or which otherwise possesses any of the powers and duties of any referenced governmental agency in existence on the effective date of this Development Order.

5. In the event that any portion or section of this Development Order is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision will in no manner affect the remaining portions or sections of the Development Order, which will remain in full force and effect provided the portion of the Development Order that is invalidated does not cause the remainder of the development area to be inconsistent with the purpose and intent this Development Order.

6. The approval granted by this Development Order is limited. This approval may not be construed to obviate the duty of the applicant to comply with all other applicable local or state review and permitting procedures.

7. Subsequent requests for local development permits will not require further review pursuant to Section 380.06, Florida Statutes, unless it is found by the Board of County Commissioners, a new unreviewed regional impact is identified.

8. This Development Order remains in effect until buildout on ~~December 31, 2023~~ January 21, 2029.

9. The Administrative Director of the Lee County Division of Community Development or his/her designee, is the local official responsible for assuring compliance with this Development Order.

10. Certified copies of this Development Order are to be forwarded to the developer and Department of Economic Opportunity. This Development Order is rendered as of the date of that transmittal, but will not be effective until the expiration of the statutory appeals period (45 days from rendition) or until the completion of any appellate proceeding, whichever time is greater. Upon this Development Order becoming effective, notice of its adoption must be recorded by the developer as provided in Chapter 380, Florida Statutes.

THE MOTION TO ADOPT the above resolution was offered by Commissioner _____, and seconded by Commissioner _____ and upon poll of the members present, the vote was as follows:

Kevin Ruane

Cecil Pendergrass
Ray Sandelli
Brian Hamman
Frank Mann

DULY PASSED AND ADOPTED this ____ day of _____, 2021.

BOARD OF COUNTY COMMISSIONERS
LEE COUNTY, FLORIDA

Kevin Ruane, Chairman

ATTEST:
Linda Doggett, Clerk

APPROVED AS TO FORM

County Attorney

ATTACHMENT D

~~SIXTH~~ SEVENTH DEVELOPMENT ORDER¹
AMENDMENT
FOR

CYPRESS TRACE

A DEVELOPMENT OF REGIONAL IMPACT

#7-8384-45

Let It Be Known, that, pursuant to Section 380.06 of the Florida Statutes, the Board of County Commissioners of Lee County, Florida, heard at a public hearing on April 8, 1985, the Application for Development Approval for Cypress Trace Development Of Regional Impact, a commercial (shopping center) development which consisted of approximately 52.52 acres to be developed in accordance with the application filed on June 29, 1984, by Curtis A. Crenshaw, authorized representative of Southstar Associates, a Florida General partnership.

WHEREAS, the original Cypress Trace Development of Regional Impact (DRI) Development Order was approved by the Board of County Commissioners on April 8, 1985; and

WHEREAS, the DRI Development Order was first amended on October 10, 1988 to allow development of a 175,167 square foot automobile dealership in the northerly 14.8± acre portion of the DRI; and

WHEREAS, the DRI Development Order was amended a second time on October 21, 1996 by MRC Partners to reinstate the expired development order, extend the buildout/expiration date to April 7, 1998 (an 8 year extension), eliminate the auto dealership use and allow 130,000 square feet of commercial uses on the northern 14.8 acres, and limit the maximum peak hour trips generated by the site to 776; and

WHEREAS, the DRI Development Order was amended a third time on February 2, 1998, at the request of Capital Associates Realty Advisors, to allow an increase in the maximum retail commercial square footage on a 34.5 ± acre DRI (shopping center) parcel from 300,000 to 335,000 square feet; and

WHEREAS, the DRI Development Order was subsequently amended a fourth time on November 30, 1998 to extend the buildout/expiration date from April 7, 1998 to April 7, 2001; and

WHEREAS, the DRI Development Order was subsequently amended a fifth time

¹ This is a codification and restatement of all DRI Development orders rendered with respect to the Cypress Trace DRI, including actions taken on April 8, 1985, October 10, 1988, October 21, 1996, February 2, 1998, November 30, 1998 and March 18, 2002.

on March 18, 2002 to extend the buildout/expiration date from April 7, 2001 to December 31, 2005; and

~~WHEREAS, a Request to Change the DRI DO was filed by DDRTC Cypress Trace LLC, c/o Developers Diversified Realty on December 12, 2018, to allow an extension of the buildout/expiration date from December 31, 2005 to December 31, 2023; and~~

WHEREAS, the DRI Development Order was subsequently amended a sixth time on May 22, 2019 to allow an extension of the buildout/expiration date from December 31, 2005 to December 31, 2023; and

WHEREAS, a Request to Change the DRI DO was filed by Lee County, a Political Subdivision of the State of Florida, on February 18, 2021, to remove 8.28 acres under the ownership of Lee County from the DRI; and

WHEREAS, this action codifies extensions to the DRI DO approved by Florida Statutes, Section 252.363 from December 31, 2023 to January 21, 2029; and

WHEREAS, under Florida Statutes, Section 380.06(7)(a), a proposed change to a previously approved DRI shall be reviewed by the local government based on the standards and procedures in its adopted local comprehensive plan and adopted local land development regulations; and

WHEREAS, ~~on May 22, 2019, the Board of County Commissioners reviewed the proposed amendment change as required by Section 380.06(7), F.S. and found that the buildout/expiration date extension~~removal of the 8.28 acres ~~does not create any additional regional impacts requiring mitigation; and~~

WHEREAS, the proposed change to the DRI Development Order is consistent with the Lee County Comprehensive Land Use Plan and applicable local land development regulations, as well as the State Comprehensive Plan, the Southwest Florida Regional Plan and the State Land Development Plan; and

WHEREAS, the Board of County Commissioners of Lee County, Florida has considered the report and recommendations of the Lee County Staff and the Hearing Examiner, and the documents and comments upon the record made before the Board in public hearing, and, after full consideration of these reports, recommendations, comments, and documents, the Board of County Commissioners of Lee County, Florida, hereby finds and determines that:

FINDINGS OF FACT

A. The Developer applicant originally proposed to develop a shopping center including approximately 436,000 square feet of commercial shopping center facilities on approximately 52.52 acres. The formal Application for Development Approval ("ADA")

requested approval of that size, acreage and use. The various regional issues were identified and analyzed based upon the ADA submitted. The proposed development ~~constitutes~~ constituted a shopping center (retail) Development of Regional Impact on the real property described as:

Two parcels of land in the northeast one-quarter of Section 23, Township 45 South, Range 24 East, Lee County, Florida, totaling 52.5 acres, more particularly described as follows:

In Section 23, Township 45 South, Range 24 East, Lee County, Florida

A tract or parcel of land lying in the Northeast Quarter (NE ¼) of Section 23, Township 45 South, Range 24 East, Lee County, Florida, described as follows:

From the Southeast corner of said fraction of a section, run S89°08'16"W along the South line of said fraction of a section for 131.82 feet to the West right-of-way line of SR 45 (US 41-Tamiami Trail);

THENCE run N01°16'00"W for 95.00 feet to the intersection of the North right-of-way line of Cypress Lake Drive, with the West right-of-way line of SR 45 (US 41-Tamiami Trail) and the POINT OF BEGINNING.

From said POINT OF BEGINNING run S89°08'16"W along said North right-of-way line for 1,095.00 feet to a POINT OF CURVATURE;

THENCE run Westerly along said North right-of-way line, along the arc of a curve to the left of radius 1,860.00 feet (delta angle of 06°56'42"-chord distance of 225.32 feet) for 225.46 feet;

THENCE run N01°16'00"E (parallel with said West right-of-way line) for 1,276.23 feet;

THENCE run N88°44'00"E for 420.00 feet;

THENCE run S01°16'00"E for 65.00 feet;

THENCE run N88°44'00"E for 711.97 feet;

THENCE run N01°16'00"W for 144.33 feet;

THENCE run N88°44'00"E for 188.00 feet to the West right-of-way of SR 45 (US 41-Tamiami Trail);

THENCE run S01°16'00"E along said West right-of-way line for 70.60 feet;

THENCE run S88°44'00"W along said South line for 143.00 feet to a POINT OF CURVATURE;

THENCE run Westerly, Southwesterly and Southerly along the arc of a curve to the left of radius 25.00 feet (delta angle of 90°00'00" - chord distance of 35.36 feet) for 39.27 feet to a POINT OF TANGENCY and the East line of a frontage road easement (40 feet

wide);
THENCE run N88°44'00" E for 168.00 feet to the West right-of-way
line;
THENCE S01°16'00"E for 981.23 feet to the POINT OF BEGINNING.

All in Lee County, Florida

The Board of County Commissioners approved 300,000 square feet of commercial shopping center floor area in 1985. The Second Development Order Amendment addressed the uses on the northern 14.8 acres. The third development order amendment permitted a commercial shopping center up to 335,000 square feet of gross floor area. As a result of the second and third DRI Development Order amendments a total of 465,000 square feet of retail commercial square footage was is permitted within the entire DRI.

B. The subject property has been zoned by the authority of Chapter 125, Florida Statutes, Chapter 61-2405, Laws of Florida (Special Acts), and the Lee County Zoning Regulations, as amended, in the C-1 District.

C. The Application for Development Approval was determined to be is consistent with the requirements of Section 380.06, Florida Statutes; and

D. The proposed development is not in an area designated as an Area of Critical State Concern pursuant to the provisions of Section 380.05, Florida Statutes; and

E. The proposed development has been reviewed by the Southwest Florida Regional Planning Council and is the subject of the report and recommendation adopted by that body, and subsequently forwarded to Lee County pursuant to the provisions of Section 380.06, Florida Statutes, and the proposed development is consistent with the report and recommendations of the Southwest Florida Regional Planning Council; and

F. The proposed development is consistent with the adopted Lee County Comprehensive Plan, subject to the following conditions.

G. The seventh amendment is a request to remove the 8.28 acres from the northern 14.8 acre parcel. The proposed change will not impact the findings and conditions for the property that remains in the Development of Regional Impact. The remaining property in the northern parcel is presently developed with retail (a home furnishing store). The proposed change will less and except the following 8.28 parcel from the DRI:

LESS AND EXCEPT a tract or parcel of land lying in the Northeast Quarter (NE ¼) of Section 23, Township 45 South, Range 24 East, Lee County, Florida which tract or parcel is described as follows:

From the Southeast corner of said fraction of a section, run S.89°08'16"W along the South line of said fraction of a section for 131.82 feet to the West right-of-way line of SR 45 (US 41-Tamiami Trail);
THENCE run N01°16'00"W for 95.00 feet to the intersection or the North ROW line of Cypress Lake Drive, with the West ROW line of SR 45 (US 41/Tamiami Trail);
THENCE run S.89°08'16"W along said North ROW line for 1095.00 feet to a POINT OF CURVATURE;
THENCE run westerly along said North ROW line along the arc of a curve to the left of radius 1860.00 feet (delta 06°56'42") (chord 225.32 feet) (chord bearing S.85°39'55"W.) for 225.46 feet;
THENCE run N.01°16'00"W. (parallel with said ROW line) for 1276.23 feet to the POINT OF BEGINNING.

From said POINT OF BEGINNING continue N.01°16'00"W. for 469.92 feet;
THENCE run N.89°08'16"E. for 258.98 feet;
THENCE run S.00°51'44"E. for 105.09 feet;
THENCE run N.88°44'00"E. for 224.75 feet;
THENCE run S.01°16'00"E. for 30.00 feet;
THENCE run N.88°44'00"E. for 270.02 feet;
THENCE run S.01°16'00"E. for 277.47 feet;
THENCE run N.88°44'00"E. for 358.97 feet;
THENCE run N.01°16'00"W. for 23.80 feet;
THENCE run N.88°44'00"E. for 20.00 feet;
THENCE run S.01°16'00"E. for 144.33 feet;
THENCE run S.88°44'00"W. for 711.97 feet;
THENCE run N.01°16'00"W. for 65.00 feet;
THENCE run S.88°44'00"W. for 420.00 feet to the POINT OF BEGINNING.

CONCLUSIONS OF LAW

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, in public meeting duly constituted and assembled that the requested amendments to the Cypress Trace Development of Regional Impact is hereby ordered APPROVED, subject to the following conditions, restrictions, and limitations:

A. COMMUNITY SERVICES

1. The developer was required to meet with the Chief of the South Trail Fire Department and the Director of the Lee County Division of Public Safety or his designee, prior to project construction, to discuss fire protection and Emergency Medical Services needs and measures to meet these needs.

2. The development was reviewed by Lee County prior to development, and satisfied the Lee County Division of Community Development prior to project construction, that there will be no adverse fiscal impacts (costs exceeding revenues) upon fire protection and Emergency Medical Service providers resulting from the development. New commercial square footage developed after January 1, 2019, must pay fire and EMS impact fees in effect at the time of building permit.

B. DRAINAGE/WATER QUALITY

1. The drainage system for the proposed project was permitted and installed to provide greater upland (dry) retention/detention of runoff prior to discharge into the on-site lake system. The additional square footage will be constructed in areas that are currently imperious, i.e., pavement, walkway or building. Areas of natural vegetation as described in Condition F. below may be used where feasible. Any changes in the drainage after January 1, 2019, must be consistent with any permit modifications required by the South Florida Water Management District.

2. The discharge structures must include a baffle, skimmer, or other suitable mechanism as determined by the Lee County Division of Environmental Protection Services for preventing oil and grease from discharging from retention/detention areas.

3. The drainage system must implement the design standards and "best management practices" outlined in the ADA and in all supplementary material.

4. The developer and/or his successor(s), must implement an on-going maintenance and monitoring program that regularly inspects, maintains and samples the stormwater drainage system. The program must be designed in consultation with the staffs of the Southwest Florida Regional Planning Council, the South Florida Water Management District, and Lee County. Final approval of the program rests with Lee County. The program must be redesigned, if necessary, to incorporate any County ordinances or policies relating to the Lakes Park drainage basin.

5. A regular program of vacuum sweeping of all parking lots must be utilized both during and after project construction.

6. The project is and will continue to must be served by a central sewage system.

7. The project is subject to all regulations of Lee County for the protection of the Lakes Regional Park Watershed and Lakes Regional Park water quality.

8. The developer must address the Land Development Code requirements of Lee County relative to drainage.

C. ENERGY

The developer must incorporate, at minimum, the following energy conservation features into all site plans and architectural programs or insure that the following features are implemented through deed restrictions and covenants with successors in title. All applications for site plan approvals, local development orders and building permits must be accompanied by a document detailing proposed compliance with these conditions. If deed restrictions or covenants are utilized to insure compliance, such documents must be approved by the Lee County Attorney's Office prior to recording.

These features are:

1. Provision of bicycle racks or storage facilities.
2. Location of bus stops, shelters, and other passenger and system accommodations for a transit system to serve the project area, in cooperation with the appropriate Lee County agencies. The 8.28 property removed by the County will further the transit system that serves the project area and citizens of Lee County.
3. Use of energy-efficient features in window design (e.g., tinting and exterior shading).
4. Installation of energy-efficient appliances and equipment.
5. Prohibition of deed restrictions or covenants that would prevent or unnecessarily hamper energy conservation efforts (e.g., building orientation and solar water heating systems).
6. Installation of energy-efficient lighting for streets, parking areas, and other interior and exterior public areas.
7. Installation of water closets with a maximum flush of 3.5 gallons and shower heads and faucets with a maximum flow rate of 3.0 gallons per minute (at 60 pounds of pressure per square inch) as specified in the Water Conservation Act, Section 553.14, Florida Statutes).
8. Selection, installation and maintenance of native plants, trees, and other vegetation and landscape design features, in order to reduce requirements for water, fertilizer, maintenance, and other needs, for all parking lot landscaping and required vegetated buffer areas.
9. Placement of native trees to provide shades in the warmer months while not overly reducing the benefits of sunlight in the cooler months, and to provide shade for streets and parking areas.
10. Orientation of structures, to reduce solar heat gain by walls and to utilize

the natural cooling effects of the wind wherever feasible.

11. Provision for structural shading (e.g., trellises, awnings, and roof overhangs) wherever practical when natural shading cannot be used effectively.

D. FLOODPLAINS/HURRICANE EVACUATION

1. The minimum finished floor elevations must be above the 100-year, 3-day stage with zero discharge or as required by the South Florida Water Management District, whichever is greater.

2. The developer was originally required to meet with the Lee County Division of Public Safety officials to discuss potential use of project common areas for storm shelter purposes, before the first certificate of occupancy is issued.

E. TRANSPORTATION

1. The developer caused to be constructed or paid the full cost for intersection improvements deemed necessary by the County Engineer for the project's existing access points onto U.S. 41 and Cypress Lake Drive. These improvements have been made. Any site related improvements required by the Land Development Code must be provided by the Developer.

2. The developer was required to construct, or cause to be constructed, two additional lanes on U.S. 41 from the terminus of six lanes north of Seven Lakes Boulevard/Big Pine Way to Daniels Parkway/Cypress Lake Drive. The developer's obligation includes the full costs of design/engineering, utility relocation (if needed) and construction, including turn lanes at the intersection of U.S. 41 with Daniels Parkway/Cypress Lake Drive, but not right-of-way. These improvements are in place.

3. The developer was required to pay the full costs of constructing a second left-turn lane on northbound U.S. 41 to westbound College Parkway. If the County Engineer determines that construction of a second left-turn lane is not feasible due to intersection geometrics or lack of right-of-way, the developer must pay the full costs of other improvements, such as repainting the inner through lane for left-turn movements, required to accommodate left-turns at this location. Payment of these costs are due at the time that a local Development Order is issued under Lee County regulations. The turn lane is in place.

4. The developer must pay a proportionate share of the costs of constructing two additional lanes, excluding right-of-way, on Daniels Parkway from the Bell Tower Mall entrance east of U.S. 41 to and including the intersection of Metro Parkway with Daniels Parkway. The developer's proportionate share will be determined by the County Engineer based on the project's share of the total traffic added to the roadway by all projects required by Development Orders to contribute to the cost of improvements on the

roadway. Payment is due at the time that a local Development Order is issued under Lee County regulations. Six lanes of Daniels Parkway are in place.

5. The developer must pay a proportionate share of the costs of constructing two additional lanes excluding right-of-way on Cypress Lake Drive from U.S. 41 to and including the intersection of Winkler Road with Cypress Lake Drive. The developer's proportionate share will be determined as described in Item E.4. Payment is due at the time that the first local Development Order is issued under Lee County regulations. The improvements have been made.

6. Nothing contained in this Development Order may be construed to exempt this development from participation in the funding, through Municipal Services Taxing Units (MSTU's) or other special assessment districts, of improvements to various state and County arterial and collector roads to the degree to which this development generates demand.

7. The development of commercial shopping center over 300,000 square feet of gross floor area on the southernmost 37.7-acre portion of the project and up to ~~465,000~~ 416,230 square feet of gross floor area of the entire project must mitigate transportation impacts through the payment of road impact fees. Any proportionate share payments and improvements made pursuant to paragraphs 2, 3, 4, and 5 above or the alternative below were creditable against roads impact fees consistent with the requirements of Section 380.06, F.S. as indicated in alternatives paragraph 1.e. or 2. below.

ALTERNATIVES

1. In lieu of the obligations and payments required by E.1 through E.5 above, the developer must contribute a base amount of \$565,000 (in 1985 dollars) for the mitigation of adverse traffic impacts due to this project. Payment must be made subject to the provisions listed below.

a. The developer must design and construct, or cause to be designed and constructed, two additional lanes on U.S. 41 from the terminus of six lanes north of Seven Lakes Boulevard/Big Pine Way to Daniels Parkway/Cypress Lake Drive plus intersection improvements deemed necessary by the Lee County Engineer for the project's access points onto U.S. 41 and for the north leg of the U.S. 41/Daniels Parkway/Cypress Lake Drive intersection. The developer's contract(s) for the design and construction of these improvements must be reviewed and approved by the County Engineer. These improvements must be substantially completed to the satisfaction of the County Engineer prior to issuance of the first certificate of occupancy for this project.

b. Funds must be expended first for the U.S. 41 improvements specified in Alternative 1.a above, with the balance of the base amount of \$565,000 paid by the developer into a fund established by Lee County for the purpose of mitigating

other adverse impacts due to the project, including improvements described in E.3, E.4 and E.5 above, plus intersection improvements deemed necessary by the County Engineer for the projects access points onto Cypress Lake Drive. At the time that construction contracts are let for the specified improvements on U.S. 41, and after consultation and agreement with the County Engineer, the developer must pay an amount estimated to be the balance of the \$565,000 minus the cost for design and construction of the U.S. 41 improvements into the fund established by Lee County. Within one month of the completion of the U.S. 41 contracts, the County Engineer will determine the exact amount of this balance based on actual design and construction costs. The developer will receive a refund or make an additional payment to Lee County so that the total amount paid by the developer equals the base payment of \$565,000.

c. The base payment of \$565,000 (in 1985 dollars) is the amount that must be contributed by the developer for the mitigation of the adverse traffic impacts due to the proposed shopping center including up to 300,000 square feet of commercial shopping facilities. If this development is expanded to include additional square footage, the base amount of \$565,000 must be increased in a manner that will accurately reflect the impacts of the additional development.

d. If the construction contracts have not been let prior to October 1, 1985, the base payment of \$565,000 will be adjusted quarterly thereafter using the most current Construction Price Index (C.P.I.) published by the Engineer News Record (McGraw-Hill Publications) until the construction contracts are let. The base price index for these adjustments will be the price index in the Second Quarterly Cost Round-Up for 1985.

e. Whether or not Lee County adopts a Roads Impact Fee ordinance, the amount of this base payment remains the same (\$565,000), except for adjustments required by Alternative 1.c and 1.d above. This base payment will be substituted for the fee required under the new ordinance.

2. If the developer foregoes Alternative 1 and Lee County adopts a Roads Impact Fee ordinance before the first building permit is issued, this fee may be substituted for off-site improvements listed in E.3, E.4 and E.5 above. Site-related improvements remain the developer's responsibility and obligation. Payments already made for these off-site improvements will be credited toward the overall fee.

F. VEGETATION AND WILDLIFE

1. The developer must preserve no less than 15 percent of unaltered native vegetation, including understory, generally along the project's north, east, and south boundaries. These areas may be utilized as dry detention basins in the water management system to purify surface run-off. Plans for this preserve area must be submitted to the Lee County Community Development for approval as part of the local

development order process. The developer will be allowed to remove some existing native vegetation in areas designated for preservation in accordance with Section F of this Development Order and previous development approvals provided that, at minimum, an equivalent amount of acreage is provided as mitigation generally pursuant to the mitigation plan and map (Cypress Trace Freeland Auto Mall Preserve Location, dated October 5, 1988) on file with Department of Community Development except as modified below:

Prior to preliminary development order approval, the developer must submit a vegetation plan including a littoral shelf for the water retention lake shown on the site plan, as well as a 15 foot wide buffer along the western edge of the parking lot (to contain mature trees and shrubs; i.e., 15 foot high trees and 6 foot high shrubs with spacing pursuant to the mitigation plan). This plan is subject to review and approval by the Department of Community Development.

G. WATER SUPPLY

1. The developer must utilize water-conserving features in irrigation system design and use, including the use of native and/or low water use plants and turf, and other appropriate features.

H. OTHER

1. The southernmost 37.7± acre portion of this project may not exceed a total of 335,000 square feet of gross floor area of commercial shopping center uses. Nothing in this section precludes the owner of the 37.7 acre portion of the project from rebuilding the center consistent with this DRI Development Order, or seeking an increase in square footage, if needed, by filing an amendment to the DRI DO.

2. The northernmost ~~14.8~~ 5.52± acre parcel may be developed in accordance with the following requirements:

a. Uses on the parcel are limited to the following, as defined in Chapter 34 of the Lee County Land Development Code:

Administrative Offices
ATM
Auto Parts Store (with and without installation)
Banks and Financial Establishments, Groups I and II
Boat Parts Store
Business Services, Groups I and II
Car Wash
Cleaning and Maintenance Services
Clothing Stores

Consumption on Premises
 Contractors and Builders, Groups I and II
 Convenience Food and Beverage Store
 Department Store
 Essential Services
 Excavation, Water Retention
 Food Stores, Groups I and II
 Hardware Store
 Hobby, Toy, Game Shop
 Household and Office Furnishings, Groups I and II
 Insurance Companies
 Laundromat
 Laundry and Dry Cleaning, Group I
 Lawn and Garden Supply Store
 Medical Office
 Non-Store Retailers, All Groups
 Package Store
 Paint, Glass and Wallpaper
 Parking Lot, Accessory
 Personal Services, Groups II, III and IV
 Pet Services
 Pet Shop
 Pharmacy
 Post Office
 Rental and Leasing Establishments, Groups I, II and III
 Repair Shops, Groups I and II
 Restaurants, Fast Food
 Restaurants, Groups I, II, III and IV
 Signs
~~Specialty~~ Specialty Retail Shop, Groups I, II, III and IV
 Storage, Indoor
 Storage, Open
 Studios
 Supermarket
 Used Merchandise Store, Groups I, II and III
 Vehicle and Equipment Dealers, Groups I, II, III and IV

b. Building areas may contain no more than ~~130,000~~ 81,230 square feet of gross floor area of the uses listed in subparagraph a. above;

~~c. No use or combination of uses will be permitted if those uses will cause development on this parcel to generate in excess of 776 peak hour vehicular trips;~~

dc. The development must comply with all the terms of this Development

Order except Section E;

ed. In lieu of the requirements in Section E, the Developer must pay road impact fees in accordance with Lee County Land Development Code, Chapter 1, Article VI, Division 2, as it may be amended from time to time; and

fe. All development must be consistent with County zoning and development regulations.

3. The developer must construct and permanently maintain a cement block buffer wall, having a minimum height of six feet. Such wall must be constructed and maintained so as to buffer this project from all adjacent property which is being used for residential purposes.

BE IT FURTHER RESOLVED, by the Board of County Commissioners of Lee County, Florida, that:

1. This resolution constitutes the Development Order of this Board issued in response to the Development of Regional Impact Application for Development Approval filed by Teacher's Retirement Association of the State of Illinois.

2. All commitments and impact mitigating actions volunteered by the developer in the Application for Development Approval and supplementary documents and not in conflict with conditions or stipulations specifically enumerated above are hereby incorporated into this Development Order by reference. The commitments incorporated by reference are as binding on the developer as if the commitments were set forth herein.

3. This Development Order is binding upon the developer its heirs, assignees or successors in interest.

It is hereby declared that the terms and conditions set out in this document constitute a basis upon which the developer and County may rely in future actions necessary to implement fully the final development contemplated by this Development Order.

All conditions, restrictions, stipulations and safeguards contained in this Development Order may be enforced by either party hereto by action of law or equity and all costs of such proceedings, including reasonable attorney's fees will be paid by the defaulting party.

4. It is understood that any reference herein to any governmental agency will be construed to mean any future instrumentality which may be created and designated as successor in interest to, or which otherwise possesses any of the powers and duties of any referenced governmental agency in existence on the effective date of this

Development Order.

5. In the event that any portion or section of this Development Order is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision will in no manner affect the remaining portions or sections of the Development Order, which will remain in full force and effect provided the portion of the Development Order that is invalidated does not cause the remainder of the development area to be inconsistent with the purpose and intent this Development Order.

6. The approval granted by this Development Order is limited. This approval may not be construed to obviate the duty of the applicant to comply with all other applicable local or state review and permitting procedures.

7. Subsequent requests for local development permits will not require further review pursuant to Section 380.06, Florida Statutes, unless it is found by the Board of County Commissioners, a new unreviewed regional impact is identified.

8. This Development Order remains in effect until buildout on ~~December 31, 2023~~ January 21, 2029.

9. The Administrative Director of the Lee County Division of Community Development or his/her designee, is the local official responsible for assuring compliance with this Development Order.

10. Certified copies of this Development Order are to be forwarded to the developer and Department of Economic Opportunity. This Development Order is rendered as of the date of that transmittal, but will not be effective until the expiration of the statutory appeals period (45 days from rendition) or until the completion of any appellate proceeding, whichever time is greater. Upon this Development Order becoming effective, notice of its adoption must be recorded by the developer as provided in Chapter 380, Florida Statutes.

THE MOTION TO ADOPT the above resolution was offered by Commissioner _____, and seconded by Commissioner _____ and upon poll of the members present, the vote was as follows:

Kevin Ruane
Cecil Pendergrass
Ray Sandelli
Brian Hamman
Frank Mann

DULY PASSED AND ADOPTED this ____ day of _____, 2021.

BOARD OF COUNTY COMMISSIONERS
LEE COUNTY, FLORIDA

Kevin Ruane, Chairman

ATTEST:
Linda Doggett, Clerk

APPROVED AS TO FORM

County Attorney

ATTACHMENT E

MEMORANDUM
FROM
THE OFFICE OF
ZONING AND DEVELOPMENT REVIEW DIVISION

DATE: June 17, 1986
TO: Resolution File FROM: *William M. Spikowski*
William M. Spikowski

RE: Cypress Trace D.R.I. - State D.R.I. Number 7-8384-45

The Application for Development Approval for the Cypress Trace D.R.I. did not include any requests for rezoning; therefore no zoning resolution is necessary.

Attached is a copy of the D.R.I. Development Order issued by the Board of County Commissioners on April 8, 1985, which contains the Board's official actions in response to this request.

DEVELOPMENT ORDER
FOR
CYPRESS TRACE
A DEVELOPMENT OF REGIONAL IMPACT

#7-8384-45

LET IT BE KNOWN, THAT, PURSUANT TO SECTION 380.06 OF THE FLORIDA STATUTES, THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, HAS HEARD, AT A PUBLIC HEARING CONVENED ON THE EIGHTEENTH (18th) DAY OF MARCH, 1985 THE APPLICATION FOR DEVELOPMENT APPROVAL FOR CYPRESS TRACE, A COMMERCIAL (SHOPPING CENTER) DEVELOPMENT CONSISTING OF APPROXIMATELY 52.52 ACRES TO BE DEVELOPED IN ACCORDANCE WITH THE APPLICATION FILED ON JUNE 29, 1984, BY CURTIS A. CRENSHAW, AUTHORIZED REPRESENTATIVE OF SOUTH-STAR ASSOCIATES, A FLORIDA GENERAL PARTNERSHIP, FOR SAID DEVELOPMENT.

WHEREAS, the Board of County Commissioners of Lee County, Florida has considered the report and recommendations of the Southwest Florida Regional Planning Council, the Lee County Administrative Staff, and the documents and comments upon the record made before the Board in public hearing, and, after full consideration of said reports, recommendations, comments, and documents, the Board of County Commissioners of Lee County, Florida, hereby finds and determines that:

FINDINGS OF FACT

A. The applicant originally proposed to develop a shopping center including approximately 436,000 square feet of commercial shopping center facilities on approximately 52.52 acres. The formal Application for Development Approval ("ADA") submitted requested approval of that size, acreage and use. The various regional issues were identified and analyzed based upon the ADA submitted. As set out in condition H. below, the Lee County Comprehensive Plan, which was adopted subsequent to the filing of the ADA, requires a reduction of the commercial shopping center facilities to 300,000 square feet or less to provide for consistency with that Plan. The proposed development, as reduced, constitutes a shopping center Development of Regional Impact on the real property described as:

Two parcels of land in the northeast one-quarter of Section 23, Township 45 South, Range 24 East, Lee County, Florida, totaling 52.5 acres, more particularly described as follows:

Commence at the southeast corner of the northeast one-quarter of Section 23, Township 45 South, Range 24 East; thence S. 89°08'20" W. along the south-line of the north one-half of said Section 23 for 132.01 feet to an intersection with the westerly

right-of-way line of S.R. 45 (Tamiami Trail) as shown on the right-of-way map for Daniels Road dated December, 1975 and the southeast corner of that certain parcel of land as described in Official Record Book 777 at Pages 712 and 713 of the Public Records of Lee County, Florida; thence northerly along the east line of said parcel and along said westerly right-of-way line for the following described three (3) courses: (1) N. 01° 16' 00" W. for 95.00 feet to an intersection with the northerly right-of-way line of Cypress Lake Drive, (2) thence continue N 01° 16' 00" W for a distance of 874.50 feet to the Point of Beginning of the herein described parcel of land; (3) thence continue N 01° 16' 00" W for a distance of 445.50 feet to the southeast corner of that certain parcel of land as described in Official Record Book 667 at Page 635 of said Public Records; thence continue N 01° 16' 00" W along the easterly line of said parcel and along said westerly right-of-way line for 412.50 feet to an intersection with the north line of said parcel; thence S 89° 08' 20" W along said north line for 1320.00 feet to an intersection with the west line of said parcel; thence S 01° 16' 00" E along said west line for 412.50 feet to the northwest corner of the aforementioned parcel as described in Official Record Book 777 at Pages 712 and 713 of said Public Records; thence continue S 01° 16' 00" E along the west line of said parcel for 662.50 feet; thence N 88° 44' 00" E for a distance of 653.00 feet; thence proceed N 01° 16' 00" W for distance of 86.33 feet; thence continue N 43° 44' 00" E for a distance of 171.58 feet; thence N 88° 44' 00" E for 545.64 feet to the Point of Beginning. Said parcel of land situate, lying and being in Lee County, Florida, containing 29.42 acres, more or less, subject to easements and dedications of record.

Commence at the southeast corner of the northeast one-quarter of Section 23, Township 45 South, Range 24 East; thence S 89° 08' 20" W along the south line of the north one-half of said Section 23 for 132.01 feet to an intersection with the westerly right-of-way line of S.R. 45 (Tamiami Trail) as shown on the right-of-way map for Daniels Road dated December, 1975 and the southeast corner of that certain parcel of land as described in Official Record Book 777 at Pages 712 and 713 of the Public Records of Lee County, Florida; thence northerly along the east line of said parcel and along said westerly right-of-way line for the following described course: N 01° 16' 00" W for 95.00 feet to an intersection with the northerly right-of-way line of Cypress Lake Drive, said point being the Point of Beginning for the herein described parcel of land comprised of Tracts 1 & 11 denoted on this survey sketch; thence continue N 01° 16' 00" W for a distance of 874.50 feet; thence proceed S 88° 44' 00" W for a distance of 545.64 feet; thence proceed S 43° 44' 00" E for a distance of 171.58 feet; thence proceed S 01° 16' 00" E for a distance of 86.33 feet; thence proceed S 88° 44' 00" W for a distance of 653.00 feet; thence proceed S 01° 16' 00" E for a distance of 671.43 feet to the north right-of-way of Cypress Lake Drive; thence proceed along a curve to the northeast having a radius of 1860.00 feet, having a chain bearing of N 85° 39' 57" E and a chain distance of 225.28 feet; thence N 89° 08' 20" E for a

distance of 1094.84 feet to the Point of Beginning, said parcel containing 23.11 acres, plus or minus, and subject to a 20 foot water and sewer easement on the western property line of this property.

B. The subject property has been zoned by the authority of Chapter 125, Florida Statutes, Chapter 61-2405, Laws of Florida (Special Acts), and the Lee County Zoning Regulations, as amended, in the C-1 District.

C. The Application for Development Approval is consistent with the requirements of Chapter 380.06, Florida Statutes; and

D. The proposed development is not in an area designated as an Area of Critical State Concern pursuant to the provisions, of Chapter 380.05, Florida Statutes; and

E. The proposed development has been reviewed by the Southwest Florida Regional Planning Council and is the subject of the report and recommendations adopted by that body on January 17, 1985, and subsequently forwarded to Lee County pursuant to the provisions of Chapter 380.06, Florida Statutes, and the proposed development is consistent with this report and recommendations of the Southwest Florida Regional Planning Council; and

F. The proposed development is consistent with the adopted Lee County Comprehensive Plan, subject to the following conditions A through H.

CONCLUSIONS OF LAW

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, in public meeting duly constituted and assembled this Eighteenth (18th) Day of March, 1985, and continued until April 8, 1985, that the Development of Regional Impact Application for Development Approval submitted by Southstar Associates, referred to hereinafter as "developer"; is hereby ordered APPROVED, subject to the following conditions, restrictions, and limitations:

A COMMUNITY SERVICES

1. The developer shall meet with the Chief of the South Trail Fire Department and the Director of the Lee County Division of Public Safety or his designee, prior to project construction, to discuss fire protection and Emergency Medical Service needs and measures to meet these needs.

2. The developer must demonstrate, to the satisfaction of the Lee County Division of Community Development prior to project construction, that there will be no adverse fiscal impacts (costs exceeding revenues) upon fire protection and Emergency Medical Service providers resulting from the development.

B. DRAINAGE/WATER QUALITY

1. The drainage system for the proposed project must be redesigned to provide greater upland (dry) retention/detention of runoff prior to discharge into the on-site lake system. Areas of natural vegetation as described in condition F. below may be used where feasible.

2. The discharge structures shall include a baffle, skimmer, or other mechanism suitable as determined by the Lee County Division of Environmental Protection Services for preventing oil and grease from discharging from retention/detention areas.

3. The drainage system shall implement the design standards and "best management practices" outlined in the ADA and in all supplementary material.

4. The developer and/or his successor(s), shall implement an on-going maintenance and monitoring program that regularly inspects, maintains and samples the stormwater drainage system. The program shall be designed in consultation with the staffs of the Southwest Florida Regional Planning Council, the South Florida Water Management District, and Lee County. Final approval of the program rests with Lee County. The program shall be redesigned, if necessary, to incorporate any County ordinances and/or policies relating to the Lakes Park drainage basin.

5. A regular program of vacuum sweeping of all parking lots shall be utilized both during and after project construction.

6. The project shall be served by a central sewage system.

7. The project shall be subject to all regulations of Lee County for the protection of the Lakes Regional Park Watershed and Lakes Regional Park water quality.

C. ENERGY

The developer shall incorporate, as a minimum, the following energy conservation features into all site plans and architectural programs or insure that the following features are implemented through deed restrictions and covenants with successors in title. All applications for site plan approvals, local development orders and building permits shall be accompanied by a document detailing proposed compliance with these conditions. If deed restrictions or covenants are utilized to insure compliance, such documents shall be approved by the Lee County Attorney's Office prior to recording.

These features are:

1. Provision of bicycle racks or storage facilities.

2. Location of bus stops, shelters, and other passenger and system accommodations for a transit system to serve the project area, in cooperation with the appropriate Lee County agencies.

3. Use of energy-efficient features in window design (e.g., tinting and exterior shading).

4. Installation of energy-efficient appliances and equipment.

5. Prohibition of deed restrictions or covenants that would prevent or unnecessarily hamper energy conservation efforts (e.g., building orientation and solar water heating systems).

6. Installation of energy-efficient lighting for streets, parking areas, and other interior and exterior public areas.

7. Installation of water closets with a maximum flush of 3.5 gallons and shower heads and faucets with a maximum flow rate of 3.0 gallons per minute (at 60 pounds of pressure per square inch) as specified in the Water Conservation Act, Chapter 553.14, F.S.)

8. Selection, installation and maintenance of native plants, trees, and other vegetation and landscape design features, in order to reduce requirements for water, fertilizer, maintenance, and other needs, for all parking lot landscaping and required vegetated buffer areas.

9. Placement of native trees to provide shade in the warmer months while not overly reducing the benefits of sunlight in the cooler months, and to provide shade for streets and parking areas.

10. Orientation of structures, to reduce solar heat gain by walls and to utilize the natural cooling effects of the wind wherever feasible.

11. Provision for structural shading (e.g., trellises, awnings, and roof overhangs) wherever practical when natural shading cannot be used effectively.

D. FLOODPLAINS/HURRICANE EVACUATION

1. The minimum finished floor elevations shall be above the 100-year, 3-day stage with zero discharge or as required by the South Florida Water Management District, whichever is greater.

2. The developer shall meet with Lee County Division of Public Safety officials to discuss potential use of project common areas for storm shelter purposes, before the first certificate of occupancy is issued.

right-of-way line of S.R. 45 (Tamiami Trail) as shown on the right-of-way map for Daniels Road dated December, 1975 and the southeast corner of that certain parcel of land as described in Official Record Book 777 at Pages 712 and 713 of the Public Records of Lee County, Florida; thence northerly along the east line of said parcel and along said westerly right-of-way line for the following described three (3) courses: (1) N. 01° 16' 00" W. for 95.00 feet to an intersection with the northerly right-of-way line of Cypress Lake Drive, (2) thence continue N 01° 16' 00" W for a distance of 874.50 feet to the Point of Beginning of the herein described parcel of land; (3) thence continue N 01° 16' 00" W for a distance of 445.50 feet to the southeast corner of that certain parcel of land as described in Official Record Book 667 at Page 635 of said Public Records; thence continue N 01° 16' 00" W along the easterly line of said parcel and along said westerly right-of-way line for 412.50 feet to an intersection with the north line of said parcel; thence S 89° 08' 20" W along said north line for 1320.00 feet to an intersection with the west line of said parcel; thence S 01° 16' 00" E along said west line for 412.50 feet to the northwest corner of the aforementioned parcel as described in Official Record Book 777 at Pages 712 and 713 of said Public Records; thence continue S 01° 16' 00" E along the west line of said parcel for 662.50 feet; thence N 88° 44' 00" E for a distance of 653.00 feet; thence proceed N 01° 16' 00" W for distance of 86.33 feet; thence continue N 43° 44' 00" E for a distance of 171.58 feet; thence N 88° 44' 00" E for 545.64 feet to the Point of Beginning. Said parcel of land situate, lying and being in Lee County, Florida, containing 29.42 acres, more or less, subject to easements and dedications of record.

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E. TRANSPORTATION

1. The developer shall construct, cause to be constructed or pay the full costs for intersection improvements deemed necessary by the County Engineer for the project's access points onto U.S. 41 and Cypress Lake Drive. These improvements shall be made prior to the issuance of the first certificate of occupancy for the project.
2. The developer shall construct, or cause to be constructed, two additional lanes on U.S. 41 from the terminus of six lanes north of Seven Lakes Blvd./Big Pine Way to Daniels Road/Cypress Lake Drive. The developer's obligation shall include the full costs of design/engineering, utility relocation (if needed) and construction, including turn lanes at the intersection of U.S. 41 with Daniels Road/Cypress Lake Drive, but not right-of-way. These improvements shall be made prior to the issuance of the first certificate of occupancy for the project.
3. The developer shall pay the full costs of constructing a second left-turn lane on northbound U.S. 41 to westbound College Parkway. If the County Engineer determines that construction of a second left-turn lane is not feasible due to intersection geometrics or lack of right-of-way, the developer shall pay the full costs of other improvements, such as repainting the inner through lane for left-turn movements, required to accommodate left-turns at this location. Payment of these costs shall be due at the time that a local Development Order is issued under Lee County regulations.
4. The developer shall pay a proportionate share of the costs of constructing two additional lanes, excluding right-of-way, on Daniels Road from the Bell Tower Mall entrance east of U.S. 41 to and including the intersection of Metro Parkway with Daniels Road. The developer's proportionate share shall be determined by the County Engineer based on the project's share of the total traffic added to the roadway by all projects required by Development Orders to contribute to the cost of improvements on the roadway. Payment shall be due at the time that a local Development Order is issued under Lee County regulations.
5. The developer shall pay a proportionate share of the costs of constructing two additional lanes excluding right-of-way on Cypress Lake Drive from U.S. 41 to and including the intersection of Winkler Road with Cypress Lake Drive. The developer's proportionate share shall be determined as described in Item E.4. Payment shall be due at the time that the first local Development Order is issued under Lee County regulations.
6. Nothing contained in this Development Order shall be construed to exempt this development from participation in the funding, through Municipal Services Taxing Units (MSTU's) or other special assessment districts, of improvements to various state and County arterial and collector roads to the degree to which this development generates demand.

ALTERNATIVES

1. In lieu of the obligations and payments required by E.1 through E.5 above, the developer shall contribute a base amount of \$565,000 (in 1985 dollars) for the mitigation of adverse traffic impacts due to this project. Payment shall be made subject to the provisions listed below:

- a. The developer shall design and construct, or cause to be designed and constructed, two additional lanes on U.S. 41 from the terminus of six lanes north of Seven Lakes Boulevard/Big Pine Way to Daniels Road/Cypress Lake Drive plus intersection improvements deemed necessary by the Lee County Engineer for the project's access points onto U.S. 41 and for the north leg of the U.S. 41/Daniels Road/Cypress Lake Drive intersection. The developer's contract(s) for the design and construction of these improvements shall be reviewed and approved by the County Engineer. These improvements shall be substantially completed to the satisfaction of the County Engineer prior to issuance of the first certificate of occupancy for this project.
- b. Funds shall be expended first for the U.S. 41 improvements specified in Alternative 1.a above, with the balance of the base amount of \$565,000 paid by the developer into a fund established by Lee County for the purpose of mitigating other adverse impacts due to the project, including improvements described in E.3, E.4 and E.5 above, plus intersection improvements deemed necessary by the County Engineer for the projects access points onto Cypress Lake Drive. At the time that construction contracts are let for the specified improvements on U.S. 41, and after consultation and agreement with the County Engineer, the developer shall pay an amount estimated to be the balance of the \$565,000 minus the cost for design and construction of the U.S. 41 improvements into the fund established by Lee County. Within one month of the completion of the U.S. 41 contracts, the County Engineer shall determine the exact amount of this balance based on actual design and construction costs. The developer shall receive a refund or make an additional payment to Lee County so that the total amount paid by the developer equals the base payment of \$565,000.
- c. The base payment of \$565,000 (in 1985 dollars) is the amount that shall be contributed by the developer for the mitigation of the adverse traffic impacts due to the proposed shopping center including up to 300,000 square feet of commercial shopping facilities. If this development is expanded to include additional square footage, the base amount of \$565,000 shall be increased in a manner that will accurately reflect the impacts of the additional development.

- d. If the construction contracts have not been let prior to October 1, 1985, the base payment of \$565,000 shall be adjusted quarterly thereafter using the most current Construction Price Index (C.P.I.) published by the Engineer News Record (McGraw-Hill Publications) until the construction contracts are let. The base price index for these adjustments shall be the price index in the Second Quarterly Cost Round-Up for 1985.
- e. Whether or not Lee County adopts a Roads Impact Fee ordinance, the amount of this base payment shall remain the same (\$565,000), except for adjustments required by Alternative 1.c and 1.d above. This base payment shall be substituted for the fee required under the new ordinance.
2. If the developer foregoes Alternative 1 and Lee County adopts a Roads Impact Fee ordinance before the first building permit is issued, this fee may be substituted for off-site improvements listed in E.3, E.4 and E.5 above. Site-related improvements shall remain the developer's responsibility and obligation. Payments already made for these off-site improvements shall be credited toward the overall fee.

F. VEGETATION AND WILDLIFE

1. The developer shall preserve no less than 15 percent of unaltered native vegetation, including understory, generally along the project's north, east, and south boundaries. These areas may be utilized as dry detention basins in the water management system to purify surface run-off. Plans for this preserve area shall be submitted to the Lee County Planning Department for approval as part of the site plan approval process.

G. WATER SUPPLY

1. The developer shall utilize water-conserving features in irrigation system design and use, including the use of native and/or low water use plants and turf, and other appropriate features.

H. OTHER

1. The project shall not exceed a total of 300,000 square feet of commercial shopping center uses, as defined in the Lee County Comprehensive Plan (adopted November 16, 1984) for "community commercial" use, on pages III-57 and III-58, in order to remain consistent with the Comprehensive Plan. The undeveloped portion of the 52.52 acre site, created by this reduction in size of the commercial shopping center uses, may be developed, with uses other than commercial shopping center uses, subject to the following conditions:

- (i) consistency with the Comprehensive Plan, the applicable Land Use Classification and Zoning District Regulations;

- (ii) a substantial deviation determination pursuant to 380.06(17), Florida Statutes;
- (iii) applicable local development order review, requirements and impact assessments.

2. The developer shall construct and permanently maintain a cement block buffer wall, having a minimum height of six (6) feet. Such wall shall be constructed and maintained so as to buffer this project from all adjacent property which is being used for residential purposes.

BE IT FURTHER RESOLVED, by the Board of County Commissioners of Lee County, Florida, that:

1. This resolution shall constitute the Development Order of this Board issued in response to the Development of Regional Impact Application for Development Approval filed by Southstar Associates.

2. All commitments and impact mitigating actions volunteered by the developer in the Application for Development Approval and supplementary documents and not in conflict with conditions or stipulations specifically enumerated above are hereby incorporated into this Development Order by reference. The commitments incorporated by references are as binding on the developer as if the commitments were set forth herein.

3. This Development Order shall be binding upon the developer and their heirs, assignees or successors in interest.

It is hereby declared that the terms and conditions set out in this document constitute a basis upon which the developer and County may rely in future actions necessary to implement fully the final development contemplated by this Development Order.

All conditions, restrictions, stipulations and safeguards contained in this Development Order may be enforced by either party hereto by action at law or equity and all costs of such proceedings, including reasonable attorney's fees shall be paid by the defaulting party.

4. It is understood that any reference herein to any governmental agency shall be construed to mean any future instrumentality which may be created and designated as successor in interest to, or which otherwise possesses any of the powers and duties of any referenced governmental agency in existence on the effective date of this Development Order.

5. In the event that any portion or section of this Development Order is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or sections of the Development Order which shall remain in full force and effect provided that the portion of the Development Order which is

invalidated does not cause the remainder of the development area to be inconsistent with the purpose and intent of Lee County adopting this Development Order.

6. The approval granted by this Development Order is limited. Such approval shall not be construed to obviate the duty of the applicant to comply with all other applicable local or state review and permitting procedures.

7. Subsequent requests for local development permits shall not require further review pursuant to Section 380.06, Florida Statutes, unless it is found by the Board of County Commissioners, after due notice and hearing, that one or more of the following is present:

(a) A substantial deviation from the terms or conditions of this Development Order, or other changes to the approved development plans which create a reasonable likelihood of adverse regional impacts or other regional impacts which were not evaluated in the review by the Southwest Florida Regional Planning Council; or

(b) An expiration of the period of effectiveness of this development order as provided herein.

Upon a finding that either of the above is present, the Board shall order a termination of all development activity until such time as a new DRI Application for Development Approval has been submitted, reviewed and approved in accordance with Section 380.06, Florida Statutes, and all local approvals have been obtained.

8. This Development Order shall remain in effect for a period of five (5) years from the date of its rendition, provided that this effective period may be extended by this Board for a period of two years upon a finding of excusable delay in any proposed development activity and that conditions have not changed sufficiently to warrant further consideration of the development. In the event the developer fails to commence significant physical development of that property identified in this development order within five (5) years from the date of rendition of this Development Order, development approval shall terminate and the development shall be subject to further consideration. Significant physical development shall include obtaining a Certificate of Completion on some substantial portion of the project.

9. The Administrative Director of the Lee County Division of Community Development or his/her designee, shall be the local official responsible for assuring compliance with this Development Order.

10. The developer, or his successor(s) in title to the undeveloped portion of the subject property, shall submit a report annually to the Lee County Board of County Commissioners,

the Southwest Florida Regional Planning Council, the State and/or planning agency, and all affected permit agencies. This report shall describe the state of development and compliance as of the date of submission, and shall further be consistent with the rules of the State land planning agency. The first monitoring report shall be submitted to the Administrative Director of the Division of Community Development not later than April 1, 1986, and further reporting shall be submitted not later than January 1st of subsequent calendar years. Failure to comply with this reporting procedure is governed by Sec. 380.06 (16) F.S. and the developer shall so inform any successor in title to any undeveloped portion of the real property covered by this Development Order.

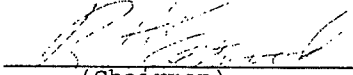
11. Certified copies of this Development Order are to be forwarded to the Southwest Florida Regional Planning Council, the developer, and appropriate state agencies. This Development Order is rendered as of the date of that transmittal, but shall not be effective until the expiration of the statutory appeals period (45 days from rendition) or until the completion of any appellate proceedings, whichever time is greater. Upon this Development Order becoming effective, notice of its adoption shall be recorded by the developer as provided in Chapter 380, Florida Statutes.

THE MOTION TO ADOPT the above resolution was offered by Commissioner Goss and seconded by Commissioner Eastwood and upon poll of the members present, the vote was as follows:

Commissioner Goss	Aye
Commissioner Eastwood	Aye
Commissioner Wallace	Nay
Commissioner Fussell	Absent
Commissioner Slusher	Aye

DULY PASSED AND ADOPTED this 8th day of April, 1985.


BOARD OF COUNTY COMMISSIONERS
LEE COUNTY, FLORIDA


(Chairman)

ATTEST:
Charlie Green, Clerk


Deputy Clerk

APPROVED AS TO FORM


County Attorney

original
file copy

DEVELOPMENT ORDER

FOR .

CYPRESS TRACE

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Commence at the southeast corner of the northeast one-quarter of Section 23, Township 45 South, Range 24 East; thence S. 89°08'20" W. along the south line of the north one-half of said Section 23 for 132.01 feet to an intersection with the westerly

right-of-way line of S.R. 45 (Tamiami Trail) as shown on the right-of-way map for Daniels Road dated December, 1975 and the southeast corner of that certain parcel of land as described in Official Record Book 777 at Pages 712 and 713 of the Public Records of Lee County, Florida; thence northerly along the east line of said parcel and along said westerly right-of-way line for the following described three (3) courses: (1) N. 01° 16' 00" W. for 95.00 feet to an intersection with the northerly right-of-way line of Cypress Lake Drive, (2) thence continue N 01° 16' 00" W for a distance of 874.50 feet to the Point of Beginning of the herein described parcel of land; (3) thence continue N 01° 16' 00" W for a distance of 445.50 feet to the southeast corner of that certain parcel of land as described in Official Record Book 667 at Page 635 of said Public Records; thence continue N 01° 16' 00" W along the easterly line of said parcel and along said westerly right-of-way line for 412.50 feet to an intersection with the north line of said parcel; thence S 89° 08' 20" W along said north line for 1320.00 feet to an intersection with the west line of said parcel; thence S 01° 16' 00" E along said west line for 412.50 feet to the northwest corner of the aforementioned parcel as described in Official Record Book 777 at Pages 712 and 713 of said Public Records; thence continue S 01° 16' 00" E along the west line of said parcel for 662.50 feet; thence N 88° 44' 00" E for a distance of 653.00 feet; thence proceed N 01° 16' 00" W for distance of 86.33 feet; thence continue N 43° 44' 00" E for a distance of 171.58 feet; thence N 88° 44' 00" E for 545.64 feet to the Point of Beginning. Said parcel of land situate, lying and being in Lee County, Florida, containing 29.42 acres, more or less, subject to easements and dedications of record.

Commence at the southeast corner of the northeast one-quarter of Section 23, Township 45 South, Range 24 East; thence S 89° 08' 20" W along the south line of the north one-half of said Section 23 for 132.01 feet to an intersection with the westerly right-of-way line of S.R. 45 (Tamiami Trail) as shown on the right-of-way map for Daniels Road dated December, 1975 and the southeast corner of that certain parcel of land as described in Official Record Book 777 at Pages 712 and 713 of the Public Records of Lee County, Florida; thence northerly along the east line of said parcel and along said westerly right-of-way line for the following described course: N 01° 16' 00" W for 95.00 feet to an intersection with the northerly right-of-way line of Cypress Lake Drive, said point being the Point of Beginning for the herein described parcel of land comprised of Tracts 1 & 11 denoted on this survey sketch; thence continue N 01° 16' 00" W for a distance of 874.50 feet; thence proceed S 88° 44' 00" W for a distance of 545.64 feet; thence proceed S 43° 44' 00" E for a distance of 171.58 feet; thence proceed S 01° 16' 00" E for a distance of 86.33 feet; thence proceed S 88° 44' 00" W for a distance of 653.00 feet; thence proceed S 01° 16' 00" E for a distance of 671.43 feet to the north right-of-way of Cypress Lake Drive; thence proceed along a curve to the northeast having a radius of 1860.00 feet, having a chain bearing of N 85° 39' 57" E and a chain distance of 225.28 feet; thence N 89° 08' 20" E for a

distance of 1094.84 feet to the Point of Beginning, said parcel containing 23.11 acres, plus or minus, and subject to a 20 foot water and sewer easement on the western property line of this property.

B. The subject property has been zoned by the authority of Chapter 125, Florida Statutes, Chapter 61-2405, Laws of Florida (Special Acts), and the Lee County Zoning Regulations, as amended, in the C-1 District.

C. The Application for Development Approval is consistent with the requirements of Chapter 380.06, Florida Statutes; and

D. The proposed development is not in an area designated as an Area of Critical State Concern pursuant to the provisions of Chapter 380.05, Florida Statutes; and

E. The proposed development has been reviewed by the Southwest Florida Regional Planning Council and is the subject of the report and recommendations adopted by that body on January 17, 1985, and subsequently forwarded to Lee County pursuant to the provisions of Chapter 380.06, Florida Statutes, and the proposed development is consistent with this report and recommendations of the Southwest Florida Regional Planning Council; and

F. The proposed development is consistent with the adopted Lee County Comprehensive Plan, subject to the following conditions A through H.

CONCLUSIONS OF LAW

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, in public meeting duly constituted and assembled this Eighteenth (18th) Day of March, 1985, and continued until April 8, 1985, that the Development of Regional Impact Application for Development Approval submitted by Southstar Associates, referred to hereinafter as "developer"; is hereby ordered APPROVED, subject to the following conditions, restrictions, and limitations:

A COMMUNITY SERVICES

1. The developer shall meet with the Chief of the South Trail Fire Department and the Director of the Lee County Division of Public Safety or his designee, prior to project construction, to discuss fire protection and Emergency Medical Service needs and measures to meet these needs.

2. The developer must demonstrate, to the satisfaction of the Lee County Division of Community Development prior to project construction, that there will be no adverse fiscal impacts (costs exceeding revenues) upon fire protection and Emergency Medical Service providers resulting from the development.

B. DRAINAGE/WATER QUALITY

1. The drainage system for the proposed project must be redesigned to provide greater upland (dry) retention/detention of runoff prior to discharge into the on-site lake system. Areas of natural vegetation as described in condition F. below may be used where feasible.

2. The discharge structures shall include a baffle, skimmer, or other mechanism suitable as determined by the Lee County Division of Environmental Protection Services for preventing oil and grease from discharging from retention/detention areas.

3. The drainage system shall implement the design standards and "best management practices" outlined in the ADA and in all supplementary material.

4. The developer and/or his successor(s), shall implement an on-going maintenance and monitoring program that regularly inspects, maintains and samples the stormwater drainage system. The program shall be designed in consultation with the staffs of the Southwest Florida Regional Planning Council, the South Florida Water Management District, and Lee County. Final approval of the program rests with Lee County. The program shall be redesigned, if necessary, to incorporate any County ordinances and/or policies relating to the Lakes Park drainage basin.

5. A regular program of vacuum sweeping of all parking lots shall be utilized both during and after project construction.

6. The project shall be served by a central sewage system.

7. The project shall be subject to all regulations of Lee County for the protection of the Lakes Regional Park Watershed and Lakes Regional Park water quality.

C. ENERGY

The developer shall incorporate, as a minimum, the following energy conservation features into all site plans and architectural programs or insure that the following features are implemented through deed restrictions and covenants with successors in title. All applications for site plan approvals, local development orders and building permits shall be accompanied by a document detailing proposed compliance with these conditions. If deed restrictions or covenants are utilized to insure compliance, such documents shall be approved by the Lee County Attorney's Office prior to recording.

These features are:

1. Provision of bicycle racks or storage facilities.

2. Location of bus stops, shelters, and other passenger and system accommodations for a transit system to serve the project area, in cooperation with the appropriate Lee County agencies.

3. Use of energy-efficient features in window design (e.g., tinting and exterior shading).

4. Installation of energy-efficient appliances and equipment.

5. Prohibition of deed restrictions or covenants that would prevent or unnecessarily hamper energy conservation efforts (e.g., building orientation and solar water heating systems).

6. Installation of energy-efficient lighting for streets, parking areas, and other interior and exterior public areas.

7. Installation of water closets with a maximum flush of 3.5 gallons and shower heads and faucets with a maximum flow rate of 3.0 gallons per minute (at 60 pounds of pressure per square inch) as specified in the Water Conservation Act, Chapter 553.14, F.S.)

8. Selection, installation and maintenance of native plants, trees, and other vegetation and landscape design features, in order to reduce requirements for water, fertilizer, maintenance, and other needs, for all parking lot landscaping and required vegetated buffer areas.

9. Placement of native trees to provide shade in the warmer months while not overly reducing the benefits of sunlight in the cooler months, and to provide shade for streets and parking areas.

10. Orientation of structures, to reduce solar heat gain by walls and to utilize the natural cooling effects of the wind wherever feasible.

11. Provision for structural shading (e.g., trellises, awnings, and roof overhangs) wherever practical when natural shading cannot be used effectively.

D. FLOODPLAINS/HURRICANE EVACUATION

1. The minimum finished floor elevations shall be above the 100-year, 3-day stage with zero discharge or as required by the South Florida Water Management District, whichever is greater.

2. The developer shall meet with Lee County Division of Public Safety officials to discuss potential use of project common areas for storm shelter purposes, before the first certificate of occupancy is issued.

E. TRANSPORTATION

1. The developer shall construct, cause to be constructed or pay the full costs for intersection improvements deemed necessary by the County Engineer for the project's access points onto U.S. 41 and Cypress Lake Drive. These improvements shall be made prior to the issuance of the first certificate of occupancy for the project.

2. The developer shall construct, or cause to be constructed, two additional lanes on U.S. 41 from the terminus of six lanes north of Seven Lakes Blvd./Big Pine Way to Daniels Road/Cypress Lake Drive. The developer's obligation shall include the full costs of design/engineering, utility relocation (if needed) and construction, including turn lanes at the intersection of U.S. 41 with Daniels Road/Cypress Lake Drive, but not right-of-way. These improvements shall be made prior to the issuance of the first certificate of occupancy for the project.

3. The developer shall pay the full costs of constructing a second left-turn lane on northbound U.S. 41 to westbound College Parkway. If the County Engineer determines that construction of a second left-turn lane is not feasible due to intersection geometrics or lack of right-of-way, the developer shall pay the full costs of other improvements, such as repainting the inner through lane for left-turn movements, required to accommodate left-turns at this location. Payment of these costs shall be due at the time that a local Development Order is issued under Lee County regulations.

4. The developer shall pay a proportionate share of the costs of constructing two additional lanes, excluding right-of-way, on Daniels Road from the Bell Tower Mall entrance east of U.S. 41 to and including the intersection of Metro Parkway with Daniels Road. The developer's proportionate share shall be determined by the County Engineer based on the project's share of the total traffic added to the roadway by all projects required by Development Orders to contribute to the cost of improvements on the roadway. Payment shall be due at the time that a local Development Order is issued under Lee County regulations.

5. The developer shall pay a proportionate share of the costs of constructing two additional lanes excluding right-of-way on Cypress Lake Drive from U.S. 41 to and including the intersection of Winkler Road with Cypress Lake Drive. The developer's proportionate share shall be determined as described in Item E.4. Payment shall be due at the time that the first local Development Order is issued under Lee County regulations.

6. Nothing contained in this Development Order shall be construed to exempt this development from participation in the funding, through Municipal Services Taxing Units (MSTU's) or other special assessment districts, of improvements to various state and County arterial and collector roads to the degree to which this development generates demand.

ALTERNATIVES

1. In lieu of the obligations and payments required by E.1 through E.5 above, the developer shall contribute a base amount of \$565,000 (in 1985 dollars) for the mitigation of adverse traffic impacts due to this project. Payment shall be made subject to the provisions listed below:

- a. The developer shall design and construct, or cause to be designed and constructed, two additional lanes on U.S. 41 from the terminus of six lanes north of Seven Lakes Boulevard/Big Pine Way to Daniels Road/Cypress Lake Drive plus intersection improvements deemed necessary by the Lee County Engineer for the project's access points onto U.S. 41 and for the north leg of the U.S. 41/Daniels Road/Cypress Lake Drive intersection. The developer's contract(s) for the design and construction of these improvements shall be reviewed and approved by the County Engineer. These improvements shall be substantially completed to the satisfaction of the County Engineer prior to issuance of the first certificate of occupancy for this project.
- b. Funds shall be expended first for the U.S. 41 improvements specified in Alternative 1.a above, with the balance of the base amount of \$565,000 paid by the developer into a fund established by Lee County for the purpose of mitigating other adverse impacts due to the project, including improvements described in E.3, E.4 and E.5 above, plus intersection improvements deemed necessary by the County Engineer for the projects access points onto Cypress Lake Drive. At the time that construction contracts are let for the specified improvements on U.S. 41, and after consultation and agreement with the County Engineer, the developer shall pay an amount estimated to be the balance of the \$565,000 minus the cost for design and construction of the U.S. 41 improvements into the fund established by Lee County. Within one month of the completion of the U.S. 41 contracts, the County Engineer shall determine the exact amount of this balance based on actual design and construction costs. The developer shall receive a refund or make an additional payment to Lee County so that the total amount paid by the developer equals the base payment of \$565,000.
- c. The base payment of \$565,000 (in 1985 dollars) is the amount that shall be contributed by the developer for the mitigation of the adverse traffic impacts due to the proposed shopping center including up to 300,000 square feet of commercial shopping facilities. If this development is expanded to include additional square footage, the base amount of \$565,000 shall be increased in a manner that will accurately reflect the impacts of the additional development.

- d. If the construction contracts have not been let prior to October 1, 1985, the base payment of \$565,000 shall be adjusted quarterly thereafter using the most current Construction Price Index (C.P.I.) published by the Engineer News Record (McGraw-Hill Publications) until the construction contracts are let. The base price index for these adjustments shall be the price index in the Second Quarterly Cost Round-Up for 1985.
- e. Whether or not Lee County adopts a Roads Impact Fee ordinance, the amount of this base payment shall remain the same (\$565,000), except for adjustments required by Alternative 1.c and 1.d above. This base payment shall be substituted for the fee required under the new ordinance.

2. If the developer foregoes Alternative 1 and Lee County adopts a Roads Impact Fee ordinance before the first building permit is issued, this fee may be substituted for off-site improvements listed in E.3, E.4 and E.5 above. Site-related improvements shall remain the developer's responsibility and obligation. Payments already made for these off-site improvements shall be credited toward the overall fee.

F. VEGETATION AND WILDLIFE

1. The developer shall preserve no less than 15 percent of unaltered native vegetation, including understory, generally along the project's north, east, and south boundaries. These areas may be utilized as dry detention basins in the water management system to purify surface run-off. Plans for this preserve area shall be submitted to the Lee County Planning Department for approval as part of the site plan approval process.

G. WATER SUPPLY

1. The developer shall utilize water-conserving features in irrigation system design and use, including the use of native and/or low water use plants and turf, and other appropriate features.

H. OTHER

1. The project shall not exceed a total of 300,000 square feet of commercial shopping center uses, as defined in the Lee County Comprehensive Plan (adopted November 16, 1984) for "community commercial" use, on pages III-57 and III-58, in order to remain consistent with the Comprehensive Plan. The undeveloped portion of the 52.52 acre site, created by this reduction in size of the commercial shopping center uses, may be developed, with uses other than commercial shopping center uses, subject to the following conditions:

- (i) consistency with the Comprehensive Plan, the applicable Land Use Classification and Zoning District Regulations;

- (ii) a substantial deviation determination pursuant to 380.06(17), Florida Statutes;
- (iii) applicable local development order review, requirements and impact assessments.

2. The developer shall construct and permanently maintain a cement block buffer wall, having a minimum height of six (6) feet. Such wall shall be constructed and maintained so as to buffer this project from all adjacent property which is being used for residential purposes.

BE IT FURTHER RESOLVED, by the Board of County Commissioners of Lee County, Florida, that:

1. This resolution shall constitute the Development Order of this Board issued in response to the Development of Regional Impact Application for Development Approval filed by Southstar Associates.

2. All commitments and impact mitigating actions volunteered by the developer in the Application for Development Approval and supplementary documents and not in conflict with conditions or stipulations specifically enumerated above are hereby incorporated into this Development Order by reference. The commitments incorporated by references are as binding on the developer as if the commitments were set forth herein.

3. This Development Order shall be binding upon the developer and their heirs, assignees or successors in interest.

It is hereby declared that the terms and conditions set out in this document constitute a basis upon which the developer and County may rely in future actions necessary to implement fully the final development contemplated by this Development Order.

All conditions, restrictions, stipulations and safeguards contained in this Development Order may be enforced by either party hereto by action at law or equity and all costs of such proceedings, including reasonable attorney's fees shall be paid by the defaulting party.

4. It is understood that any reference herein to any governmental agency shall be construed to mean any future instrumentality which may be created and designated as successor in interest to, or which otherwise possesses any of the powers and duties of any referenced governmental agency in existence on the effective date of this Development Order.

5. In the event that any portion or section of this Development Order is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or sections of the Development Order which shall remain in full force and effect provided that the portion of the Development Order which is

invalidated does not cause the remainder of the development area to be inconsistent with the purpose and intent of Lee County adopting this Development Order.

6. The approval granted by this Development Order is limited. Such approval shall not be construed to obviate the duty of the applicant to comply with all other applicable local or state review and permitting procedures.

7. Subsequent requests for local development permits shall not require further review pursuant to Section 380.06, Florida Statutes, unless it is found by the Board of County Commissioners, after due notice and hearing, that one or more of the following is present:

(a) A substantial deviation from the terms or conditions of this Development Order, or other changes to the approved development plans which create a reasonable likelihood of adverse regional impacts or other regional impacts which were not evaluated in the review by the Southwest Florida Regional Planning Council; or

(b) An expiration of the period of effectiveness of this development order as provided herein.

Upon a finding that either of the above is present, the Board shall order a termination of all development activity until such time as a new DRI Application for Development Approval has been submitted, reviewed and approved in accordance with Section 380.06, Florida Statutes, and all local approvals have been obtained.

8. This Development Order shall remain in effect for a period of five (5) years from the date of its rendition, provided that this effective period may be extended by this Board for a period of two years upon a finding of excusable delay in any proposed development activity and that conditions have not changed sufficiently to warrant further consideration of the development. In the event the developer fails to commence significant physical development of that property identified in this development order within five (5) years from the date of rendition of this Development Order, development approval shall terminate and the development shall be subject to further consideration. Significant physical development shall include obtaining a Certificate of Completion on some substantial portion of the project.

9. The Administrative Director of the Lee County Division of Community Development or his/her designee, shall be the local official responsible for assuring compliance with this Development Order.

10. The developer, or his successor(s) in title to the undeveloped portion of the subject property, shall submit a report annually to the Lee County Board of County Commissioners,

the Southwest Florida Regional Planning Council, the State and/or planning agency, and all affected permit agencies. This report shall describe the state of development and compliance as of the date of submission, and shall further be consistent with the rules of the State land planning agency. The first monitoring report shall be submitted to the Administrative Director of the Division of Community Development not later than April 1, 1986, and further reporting shall be submitted not later than January 1st of subsequent calendar years. Failure to comply with this reporting procedure is governed by Sec. 380.06 (16) F.S. and the developer shall so inform any successor in title to any undeveloped portion of the real property covered by this Development Order.

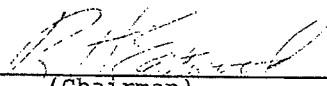
11. Certified copies of this Development Order are to be forwarded to the Southwest Florida Regional Planning Council, the developer, and appropriate state agencies. This Development Order is rendered as of the date of that transmittal, but shall not be effective until the expiration of the statutory appeals period (45 days from rendition) or until the completion of any appellate proceedings, whichever time is greater. Upon this Development Order becoming effective, notice of its adoption shall be recorded by the developer as provided in Chapter 380, Florida Statutes.

THE MOTION TO ADOPT the above resolution was offered by Commissioner Goss and seconded by Commissioner Eastwood and upon poll of the members present, the vote was as follows:

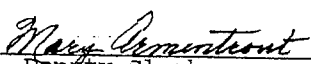
Commissioner Goss	Aye
Commissioner Eastwood	Aye
Commissioner Wallace	Nay
Commissioner Fussell	Absent
Commissioner Slusher	Aye

DULY PASSED AND ADOPTED this 8th day of April, 1985.

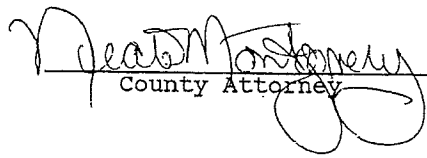
BOARD OF COUNTY COMMISSIONERS
LEE COUNTY, FLORIDA


(Chairman)

ATTEST:
Charlie Green, Clerk


Deputy Clerk

APPROVED AS TO FORM


County Attorney

(124-DD)

ATTACHMENT E

MEMORANDUM
FROM
THE OFFICE OF
ZONING AND DEVELOPMENT REVIEW DIVISION

DATE: October 10, 1988

TO: Norma A. Gluck

FROM: Mary Gibbs

RE: Cypress Trace D.R.I. State DRI # 7-8384-45

Attached is a copy of the Ordinance issued by the Board of County Commissioners on October 10, 1988 which contains the Board's official action in response to this request for a finding of "Substantial Deviation" or "No Substantial Deviation" from the approved Cypress Trace Development of Regional Impact Development Order issued by Lee County on April 8, 1985.

RESOLUTION NUMBER ZAB-85-26A

State DRI # 7-8384-45

(0215z/5)

OR2028

PG4573

DEVELOPMENT ORDER AMENDMENT

FOR

2549532

CYPRESS TRACE

A DEVELOPMENT OF REGIONAL IMPACT

#7-8384-45

WHEREAS, the Cypress Trace DRI Development Order adopted by the Board of County Commissioners on April 8, 1985 did not specify any particular uses for the northerly portion of the site; and

WHEREAS, under Chapter 380.06(19) Florida Statutes, as well as the terms of the DRI Development Order for Cypress Trace, any proposed change must be reviewed and evaluated to determine whether the change is or is not a substantial deviation from the original Development Order; and

WHEREAS, an amended Development Order must be issued by the Board of County Commissioners irrespective of the substantial deviation finding; and

WHEREAS, the new owner of the northerly portion of this site desires to construct a use on this that has not previously been approved;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, THAT THE AMENDMENTS SET FORTH BELOW TO THE "DEVELOPMENT OF REGIONAL IMPACT DEVELOPMENT ORDER" FOR CYPRESS TRACE, ADOPTED BY THE BOARD ON APRIL 8, 1985, DO NOT CONSTITUTE A SUBSTANTIAL DEVIATION FROM THE ORIGINAL DEVELOPMENT ORDER.

NOW, THEREFORE, BE IT FURTHER ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, THAT THE "DEVELOPMENT OF REGIONAL IMPACT DEVELOPMENT ORDER" FOR CYPRESS TRACE, ADOPTED BY THE BOARD ON APRIL 8, 1985, IS AMENDED AS DESCRIBED BELOW:

Section One:

This Development Order amendment covers the subject property as described in the following legal description (the northerly 14.8 acres of the total 52.52 acre site):

Within platted subdivision, recorded in official Plat Books of Lee County:

A tract or parcel of land lying in the Northeast Quarter (NE 1/4) of Section 23, Township 45 South, Range 24 East, Lee County, Florida, described as follows:

51.00
BILLED

RECORD VERIFIED - CHARLIE GREEN, CLERK
3/11/86
3/11/86

From the Southeast corner of said fraction of a section, run S.89°08'16"W. along the South line of said fraction of a section for 131.82 feet to the West right-of-way line of State Road 45 (U.S. 41-Tamiami Trail); THENCE run N.01°16'00"W. for 95.00 feet to the intersection of the North right-of-way line of Cypress Lake Drive, with the West right-of-way line of State Road 45 (U.S. 41-Tamiami Trail); run S.89°08'16"W. along said North right-of-way line for 1095.00 feet to a Point of Curvature; THENCE run Westerly along said North right-of-way line, along the arc of a curve to the left of radius 1860.00 feet (delta angle of 06°56'42" - chord distance of 225.32 feet) for 225.46 feet; THENCE run N.01°16'00"W. (parallel with said West right-of-way line) for 1276.23 feet to the POINT OF BEGINNING.

From said POINT OF BEGINNING continue N.01°16'00"W. for 469.92 feet; THENCE run N.89°08'16"E. (parallel with the South line of said fraction of a section) for 1320.00 feet to the West right-of-way line of State Road 45 (U.S. 41 - Tamiami Trail); THENCE run S.01°16'00"E. along said West right-of-way line for 381.27 feet; THENCE run S.88°44'00"W. for 188.00 feet; THENCE run S.01°16'00"E. for 144.33 feet; THENCE run S.88°44'00"W. for 711.97 feet; THENCE run N.01°16'00"W. for 65.00 feet; THENCE run S.88°44'00"W. for 420.00 feet to the POINT OF BEGINNING.

TOGETHER WITH an easement for ingress and egress over and across the following described property:

A tract or parcel of land lying in the Northeast Quarter (NE 1/4) of Section 23, Township 45 South, Range 24 East, Lee County, Florida, described as follows:

From the Southeast corner of said fraction of a section, run S.89°08'16"W. along the South line of said fraction of a section for 131.82 feet to the West right-of-way line of State Road 45 (U.S. 41 - Tamiami Trail); THENCE run N.01°16'00"W. for 95.00 feet to the intersection of the North right-of-way line of Cypress Lake Drive with the West right-of-way line of State Road 45 (U.S. 41 - Tamiami Trail); THENCE continue N.01°16'00"W. along said West right-of-way line for 1281.23 feet to the POINT OF BEGINNING.

From said POINT OF BEGINNING continue N.01°16'00"W. for 70.00 feet; THENCE run S.88°44'00"W. for 188.00 feet; THENCE run S.01°16'00"E. for 70.00 feet; THENCE run N.88°44'00"E. for 188.00 feet to the POINT OF BEGINNING. All in Lee County, Florida.

Section Two:

The scope of this review was limited to the examination of a new and used automobile dealership including parts, mechanical and body shops located on the above-described northerly 14.8-acre tract. Any alterations to the existing developed portions of Cypress Trace shall require additional review of regional and local issues; and possible additional Development Order Amendments at the time the changes are reviewed and acted upon.

Section Three:

The following conditions of the Cypress Trace Development Order are hereby amended by deleting the items struck through and inserting the underscored portions as follows (all other conditions of the Development Order remain in full force and effect):

H. OTHER

1. The project shall not exceed a total of 300,000 square feet of commercial shopping center uses, as defined in the Lee County Comprehensive Plan (adopted November 16, 1984) for "community commercial" use, on pages III-57 and III-58, in order to remain consistent with the Comprehensive Plan. The undeveloped portion of the 52.52 acre site, created by this reduction in size of the commercial shopping center uses, may be developed as an automobile dealership (Vehicle and Equipment Dealers, Group I as defined in the 1986 Lee County Zoning Regulations) with customary accessory uses permitted in the C-1 zoning district subject to the following conditions:

- i) building areas shall contain no more than 175,176 square feet of floor area; including covered display;
- ii) the development shall comply with all of the terms of this development order except Section E;
- iii) in lieu of the requirements in Section E, the developer shall pay road impact fees in accordance with Lee County Ordinance 85-23, as it may be amended from time to time;
- iv) all development shall be consistent with County zoning and development regulations.

B. DRAINAGE

8. Prior to Preliminary Development Order approval, the developer shall submit a detailed surface water management plan identifying detention/retention areas, discharge control structures and a maintenance and monitoring program. This plan shall be subject to review and approval by the Lee County Department of Community Development.

F. VEGETATION AND WILDLIFE

1. The developer shall preserve no less than 15 percent of unaltered native vegetation, including understory, generally along the project's north, east, and south boundaries. These areas may be utilized as dry retention basins in the water management system to purify surface run-off. Plans for this preserve area shall be submitted to the Lee County Planning Department for

approval as part of the site plan approval process. The developer shall be allowed to remove some existing native vegetation in areas designated for preservation in accordance with Section F of this development order and previous development approvals provided that, at the minimum, an equivalent amount of acreage is provided as mitigation generally pursuant to the mitigation plan and map (Cypress Trace Freeland AutoMall Preserve Location, dated October 5, 1988) on file with the Department of Community Development except as modified below:

Prior to preliminary local development order approval, the developer shall submit a vegetation plan including a littoral shelf for the water retention lake shown on the site plan, as well as a 15-foot buffer along the western edge of the parking lot (to contain mature trees and shrubs; i.e., 15-foot high trees and 6-foot high shrubs with spacing pursuant to the mitigation plan). This plan is subject to review and approval by the Department of Community Development.

Section Four:

The wording in item 11 on page 11 of the original development order is modified as follows:

11. Certified copies of the Development Order Amendment are to be forwarded to the Southwest Florida Regional Planning Council, the developer, and appropriate state agencies. This Development Order is rendered as of the date of that transmittal, but shall not be effective until the expiration of the statutory appeals period (45 days from rendition) or until the completion of any appellate proceedings, which ever time is greater. Upon this Development Order becoming effective, notice of its adoption shall be recorded by the developer as provided in Chapter 380, Florida Statutes.

THE MOTION TO ADOPT the above Development Order Amendment was offered by Commissioner Charles L. Bigelow, Jr. and seconded by Commissioner John Manning and upon poll of the members present, the vote was as follows:

Commissioner Manning	AYE
Commissioner Bigelow	AYE
Commissioner Wallace	AYE
Commissioner Fussell	AYE
Commissioner Slisher	ABSENT

UR2028

104011

DULY PASSED AND ADOPTED this 10th day of October, 1988.

BOARD OF COUNTY COMMISSIONERS
LEE COUNTY, FLORIDA



Charlie Green, Clerk

Lisa L. Pierce
Deputy Clerk

By: Dick Russell
(Chairman)

APPROVED AS TO FORM

By: [Signature]
County Attorney's Office

FILED

NOV 04 88

CLERK, CIRCUIT COURT
BY L. Pierce D.C.

State of Florida
County of Lee

I, Charlie Green, Clerk of the Circuit Court in and for said County and State do hereby certify that the foregoing is a true and photostatic copy of Development Order Amendment for Cypress Trace, A Development of Regional Impact, adopted by the Board of Lee County Commissioners on October 10, 1988.

Given under my hand and official seal at Fort Myers, Florida, this 4th day of November, A.D. 1988.

Charlie Green, Clerk

By Lisa L. Pierce D.C.

CYPRESS TRACE
FREELAND AUTO MALL
PRESERVE LOCATION & MANAGEMENT

Brondstetter & Winesett

October 5, 1988

COASTPLAN, INC.
Richard W. Workman
President

The area of the parcel designated in the Lee County Development order as Preserve (2.28 acres) is proposed to be relocated, in part, to facilitate water management requirements and provide a buffer to adjacent property residential uses. A portion of the preserve (.85 acres) is to remain in place as shown on the preserve location map. In this area exotic vegetation (Melaleuca and Schinus) will be removed. The natural scrubby pine flatwood vegetation growing in this area will be maintained.

Of the originally designated preserve area 1.43 acres is proposed for development. To mitigate for loss of this portion of preserve, an area of Melaleuca invaded pine flatwood on the west end of the parcel will be cleared of Melaleuca and Brazilian pepper and planted to create a hardwood hammock plant community. For diversity of habitat an additional area of .85 acre within this plant community will be created. This will consist of a .5 acre retention pond and .35 acre littoral marsh around the water body.

The mixed hardwood hammock will be created by removing all invasive exotic vegetation in the area as previously outlined in the Cypres Trace, Freeland Parcel, Preserve Management paper and grading the area as needed to the appropriate elevation. Existing native tree and shrub associations will be left in place where practicable. The Melaleuca will be chipped and used as mulch to cover bare soils. The area will then be planted with native trees at the rate of one per 20 feet and native shrubs at one per 10 feet. The plantings will be clustered in groupings modeled on natural system plant sociology.

Where feasible, native trees and shrubs on the portion of the parcel to be cleared for development will be moved to the restored

preserve area. All other trees and shrubs will be nursery-grown plants.

All trees will be 4' tall or greater and shrubs will be one gallon nursery-grown container size or greater. Species to be used to create the mixed hardwood hammock will be from the following list:

Trees

- laurel oak - Quercus laurifolia
- live oak - Q. virginiana
- slash pine - Pinus elliottii var. densa
- dahoon holly - Ilex cassine
- sweet bay - Magnolia virginiana
- red bay - Persea borbonia
- sweet gum - Liquidambar styraciflua
- persimmon - Diospyros virginiana
- wild tamarind - Lysiloma latisiliquum
- gumbo limbo - Bursera simarubra

Shrubs

- wax myrtle - Myrica cerifera
- rapanea - Myrsine quianensis
- marlberry - Ardisia escallonioides
- wild olive - Forestiera segregata
- coral bean - Erythrina herbacea
- wild coffee - Psychotria nervosa
- American beauty berry - Callicarpa americana
- cocoplum - Chrysobalanus icaco
- blueberry - Vaccinium myrsinites

Species to be used to create the littoral marsh will include:

pickerelweed	- <u>Pontederia cordata</u>
arrowhead	- <u>Sagittaria</u> sp.
soft-stem bulrush	- <u>Scirpus validus</u>
leather fern	- <u>Acrostichum danaeifolium</u>

Plantings within both the littoral marsh and the mixed hardwood hammock will consist of a species mix. No one species will comprise more than 30% from each vegetation category for the hardwood hammocks. No one species will comprise more than 30% of the vegetation used to create the littoral marsh. Plant survival of 80% is guaranteed for a minimum of three years. If 80% of the planted vegetation does not survive, additional vegetation will be planted to achieve an 80% survival.

Trees and shrubs were selected for wildlife attracting value in developed area landscapes as described in the FGFWFC booklet, "Planting a Refuge for Wildlife". With these wildlife food plants, native tree and shrub cover, and the diversity of lifeforms created, this landscape will provide productive habitat for wildlife. The wildlife species accommodated will change through time as the plant communities change.

The exotic plant species Brazilian pepper (Schinus terebinthifolius) and Melaleuca quinquenervia will be removed from the entire property. Measures will be taken to control the re-invasion of these invasive exotic species for a minimum of three years.

The parking lot bordering on the east boundary of the restored preserve area will have sod placed next to the pavement to provide a buffer of "controlled" vegetation to make the natural

vegetation less psychologically threatening. The preserve location map shows the proposed interface of these areas.

The triangle area on the east end of the parcel that is discussed in the development order as an area to be restored with natural vegetation is proposed to be included in the restored preserve area on the west end of the parcel. This translocation allows for a slightly greater area to be restored.

Preserve Area Acreage Summary

Lee County D.O. Preserve Area

1. Restoration triangle and buffer	- 1 acre
2. Preserve area	- <u>2.28 acres</u>
TOTAL	- 3.28 acres

Proposed Preserve Relocation

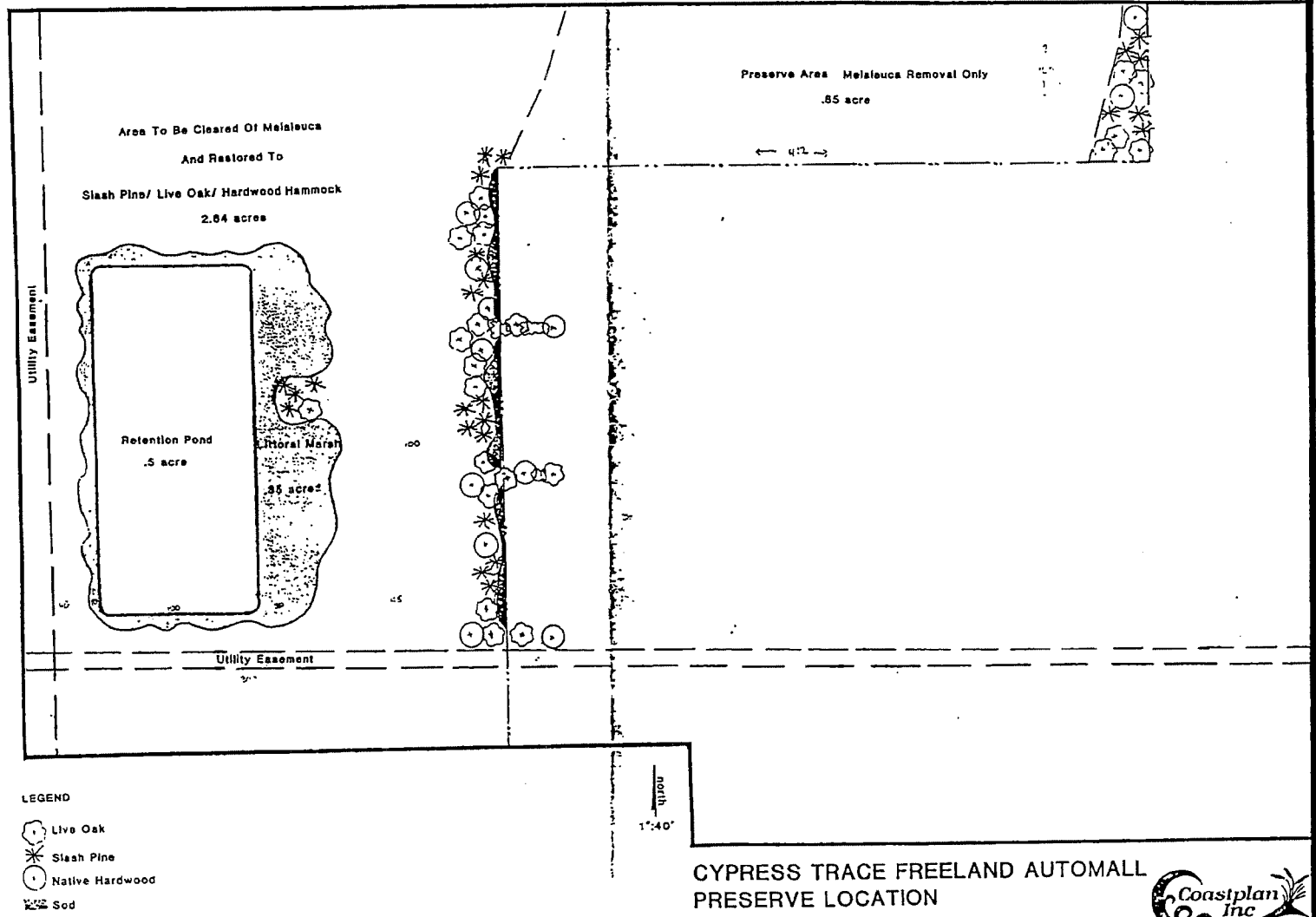
1. Preserve to remain as in D.O.	- .85 acre
2. Portion proposed for development	- 1.43
3. Restored area to preserve	- 2.64 acres
4. Retention pond	- .50 acre
5. Littoral marsh	- <u>.35 acre</u>
TOTAL	- 4.34 acres

PG4583

OR2028

RECORDED & RETURNED VERIFIED
Charles
CLERK CIRCUIT
LEE COUNTY

Nov 10 - 3 43 PM '88



RESOLUTION NUMBER Z-96-056

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

WHEREAS, South Gate Motors, Inc., represented by MRC Partners, filed an application for an amendment to the Development of Regional Impact (DRI) Development Order for Cypress Trace DRI; and

WHEREAS, the subject property is located at 13170 South Cleveland Avenue, and is described more particularly as:

LEGAL DESCRIPTION: In Section 23, Township 45 South, Range 24 East, Lee County, Florida:

A tract or parcel of land lying in the Northeast Quarter (NE¼) of Section 23, Township 45 South, Range 24 East, Lee County, Florida described as follows:

From the Southeast corner of said fraction of a Section, run S89°08'16"W along the South line of said fraction of a Section for 131.82 feet to the West right-of-way line of SR 45 (US 41 - Tamiami Trail);

THENCE run N01°16'00"W for 95.00 feet to the intersection of the North right-of-way line of Cypress Lake Drive, with the West right-of-way line of SR 45 (US 41 - Tamiami Trail);

THENCE run S89°08'16"W along said North right-of-way line for 1,095.00 feet to a Point of Curvature;

THENCE run Westerly along said North right-of-way line, along the arc of a curve to the left of radius 1,860.00 feet (delta angle of 06°50'42" - chord distance of 225.32 feet) for 225.46 feet;

THENCE run N01°16'00"W (parallel with said West right-of-way line) for 1,276.23 feet to the POINT OF BEGINNING.

From said POINT OF BEGINNING continue N01°16'00"W for 469.92 feet;

THENCE run N89°08'16"E (parallel with the South line of said fraction of a section) for 1,320.00 feet to the West right-of-way line of SR 45 (US 41 - Tamiami Trail);

THENCE run S01°16'00"E along said West right-of-way line for 381.27 feet;

THENCE run S88°44'00"W for 188.00 feet;

THENCE run S01°16'00"E for 144.33 feet;

THENCE run S88°44'00"W for 711.97 feet;

THENCE run N01°16'00"W for 65.00 feet;

THENCE run S88°44'00"W for 420.00 feet to the POINT OF BEGINNING.

TOGETHER WITH:

An easement for ingress and egress over and across the following described property:

A tract or parcel of land lying in the Northeast Quarter (NE¼) of Section 23, Township 45 South, Range 24 East, Lee County, Florida, described as follows:

From the Southeast corner of said fraction of a section run S89°08'16"W along the South line of said fraction of a section for 131.82 feet to the West right-of-way line of SR 45 (US 41 - Tamiami Trail);

THENCE run N01°16'00"W for 95.00 feet to the intersection of the North right-of-way line of Cypress Lake Drive with the West right-of-way line of SR 45 (US 41 - Tamiami Trail);

THENCE continue N01°16'00"W along said West right-of-way line for 1,281.23 feet to the POINT OF BEGINNING.

From said POINT OF BEGINNING continue N01°16'00"W for 70.00 feet;

THENCE run S88°44'00"W for 188.00 feet;

THENCE run S01°16'00"E for 70.00 feet;

THENCE run N88°44'00"E for 188.00 feet to the POINT OF BEGINNING.

WHEREAS, the applicant has indicated the property's current STRAP number is 23-45-24-00-00001.0020; and

WHEREAS, South Gate Motors, Inc., the owner of the subject parcel, authorized MRC Partners and Humphrey & Knott, P.A. to act as agent to pursue this zoning application; and

WHEREAS, a public hearing was advertised and held on September 10, 1996 before the Lee County Hearing Examiner who gave full consideration of the evidence available; and

WHEREAS, a public hearing was advertised and held on October 21, 1996 before the Lee County Board of County Commissioners who gave full and complete consideration to the recommendations of staff, the Hearing Examiner, the documents on file with the county, and the testimony of all interested persons.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS, that the Board **APPROVES** the Applicant's request for an Amendment to the Development of Regional Impact Development Order for Cypress Trace DRI and **MAKES A FINDING OF NO SUBSTANTIAL DEVIATION**, as that term is utilized in Section 380.06(19), Florida Statutes.

FINDINGS AND CONCLUSIONS:

The following findings and conclusions were made in conjunction with the approval of the requested DRI amendment:

1. The applicant has proved entitlement to the DRI Amendment by demonstrating compliance with the Lee Plan, the Land Development Code, and other applicable codes and regulations.

2. The requested DRI Amendment:

- a) meets or exceeds all performance and locational standards set forth for the potential uses allowed by the request;
 - b) is consistent with the densities, intensities and general uses set forth in the Lee Plan;
 - c) is compatible with existing or planned uses in the surrounding area; and
 - d) will not adversely affect environmentally critical areas and natural resources.
3. Approval of the request will not place an undue burden upon existing transportation or planned infrastructure facilities and the site will be served by streets with the capacity to carry traffic generated by the development.
4. The amendment does not constitute a Substantial Deviation to the previous approval and does not require additional DRI review.

The foregoing resolution was adopted by the Lee County Board of County Commissioners upon a motion by Commissioner John E. Manning, and seconded by Commissioner John E. Albion and, upon being put to a vote, the result was as follows:

John E. Manning	Aye
Douglas R. St. Cerny	Aye
Ray Judah	Aye
Andrew W. Coy	Aye
John E. Albion	Aye

DULY PASSED AND ADOPTED this 21st day of October, A.D., 1996.

ATTEST
CHARLIE GREEN, CLERK

BY Charlie Green
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: [Signature]
Chairman

Approved as to form by: [Signature]
County Attorney's Office

FILED

OCT 23 1996

CASE NO. 96-06-271.04Z.01.01
G:\LIZONING\RECYRPSRES.RES

CLERK CIRCUIT COURT
BY ebp D.C.

RESOLUTION NO. Z-96-056
Page 3 of 3

SECOND DEVELOPMENT ORDER
AMENDMENT
FOR
CYPRESS TRACE
A DEVELOPMENT OF REGIONAL IMPACT
STATE DRI #7-8384-45
COUNTY CASE #96-06-271.04Z 01.01

WHEREAS, ON JUNE 28, 1996, MRC PARTNERS, A FLORIDA GENERAL PARTNERSHIP, REQUESTED AN AMENDMENT TO THE CYPRESS TRACE DEVELOPMENT ORDER, WHICH WAS ADOPTED BY THE LEE COUNTY BOARD OF COUNTY COMMISSIONERS ON APRIL 8, 1985, AND AMENDED ON OCTOBER 10, 1988; AND

WHEREAS, the applicant is requesting to amend conditions of the Development Order including the expiration date of the DRI, the permitted uses, and maximum allowed square footage on a 14.8± acre portion of the site; and

WHEREAS, under Florida Statutes, Section 380.06, the proposed changes must be reviewed and evaluated to determine whether they constitute a substantial deviation from the terms of the existing Development Order; and

WHEREAS, the Board of County Commissioners has reviewed the proposed Amendment and finds the changes do not constitute a substantial deviation if development proceeds as conditioned in this Development Order; and

WHEREAS, the proposed changes to the Cypress Trace DRI Development Order described herein are consistent with the adopted Comprehensive Land Use Plan of Lee County and applicable local land development regulations; and

WHEREAS, the proposed changes to the Cypress Trace DRI Development Order are consistent with the State Comprehensive Plan, the Southwest Florida Regional Plan, and the State Land Development Plan.

NOW, THEREFORE, LET IT BE RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA that the amended Development Order for Cypress Trace DRI is further amended as follows with the new language underlined and deletions struck through. All other portions of the original Development Order (as previously amended) will remain in full force and effect.

Development Order Amendment for Cypress Trace

SECTION ONE

The legal description of the property to which the Amendment pertains is as follows:

LEGAL DESCRIPTION: In Section 23, Township 45 South, Range 24 East, Lee County, Florida:

A tract or parcel of land lying in the Northeast Quarter (NE¼) of Section 23, Township 45 South, Range 24 East, Lee County, Florida described as follows:
From the Southeast corner of said fraction of a Section, run S89°08'16"W along the South line of said fraction of a Section for 131.82 feet to the West right-of-way line of SR 45 (US 41 - Tamiami Trail);
THENCE run N01°16'00"W for 95.00 feet to the intersection of the North right-of-way line of Cypress Lake Drive, with the West right-of-way line of SR 45 (US 41 - Tamiami Trail);
THENCE run S89°08'16"W along said North right-of-way line for 1,095.00 feet to a Point of Curvature;
THENCE run Westerly along said North right-of-way line, along the arc of a curve to the left of radius 1,860.00 feet (delta angle of 06°50'42" - chord distance of 225.32 feet) for 225.46 feet;
THENCE run N01°16'00"W (parallel with said West right-of-way line) for 1,276.23 feet to the POINT OF BEGINNING.
From said POINT OF BEGINNING continue N01°16'00"W for 469.92 feet;
THENCE run N89°08'16"E (parallel with the South line of said fraction of a section) for 1,320.00 feet to the West right-of-way line of SR 45 (US 41 - Tamiami Trail);
THENCE run S01°16'00"E along said West right-of-way line for 381.27 feet;
THENCE run S88°44'00"W for 188.00 feet;
THENCE run S01°16'00"E for 144.33 feet;
THENCE run S88°44'00"W for 711.97 feet;
THENCE run N01°16'00"W for 65.00 feet;
THENCE run S88°44'00"W for 420.00 feet to the POINT OF BEGINNING.

Together with an easement for ingress and egress over and across the following described property:

A tract or parcel of land lying in the Northeast Quarter (NE¼) of Section 23, Township 45 South, Range 24 East, Lee County, Florida, described as follows:

From the Southeast corner of said fraction of a section run S89°08'16"W along the South line of said fraction of a section for 131.82 feet to the West right-of-way line of SR 45 (US 41 - Tamiami Trail);

Development Order Amendment for Cypress Trace

THENCE run N01°16'00"W for 95.00 feet to the intersection of the North right-of-way line of Cypress Lake Drive with the West right-of-way line of SR 45 (US 41 - Tamiami Trail);
THENCE continue N01°16'00"W along said West right-of-way line for 1,281.23 feet to the POINT OF BEGINNING.
From said POINT OF BEGINNING continue N01°16'00"W for 70.00 feet;
THENCE run S88°44'00"W for 188.00 feet;
THENCE run S01°16'00"E for 70.00 feet;
THENCE run N88°44'00"E for 188.00 feet to the POINT OF BEGINNING.
All in Lee County, Florida.

SECTION TWO

Section A of the Findings of Fact in the original Development Order (as amended) is hereby revised to read as follows:

A. The Applicant originally proposed to develop a shopping center including approximately 436,000 square feet of commercial shopping center facilities on approximately 52.52 acres. The formal Application for Development Approval ("ADA") submitted requested approval of that size, acreage and use. The various regional issues were identified and analyzed based upon the ADA submitted. As set out in condition H, below, the Lee County Comprehensive Plan, which was adopted subsequent to the filing of the ADA, requires a reduction of the commercial shopping facilities to 399,900 square feet or less to provide for consistency with that Plan. The proposed development, as reduced, constitutes a shopping center Development of Regional Impact on the real property described as: (no change to legal description in original Development Order).

SECTION THREE

Condition H of the original Development Order (as amended) is hereby revised to read as follows:

H. OTHER

1. The southernmost 37.7± acre portion of this project shall not exceed a total of 300,000 square feet of commercial shopping center uses. Nothing in this section precludes the owner of the 37.7 acres portion of the project from rebuilding the center consistent with this DRI DO, or seeking an increase in square footage, if needed, by the filing of a Notice of Proposed Change, as defined in the Lee County Comprehensive Plan (adopted November 16, 1984) for "community-commercial" use, on pages III-57 and III-58, in order to remain consistent with the Comprehensive Plan. The undeveloped portion of the 52.52-acre site, created by this reduction in size of the commercial shopping center uses, may be developed as an automobile dealership (Vehicle and Equipment Dealers, Group I;

Development Order Amendment for Cypress Trace

as defined in the 1986 Lee County Zoning Regulations) with customary accessory uses permitted in the C-1 zoning district subject to the following conditions:

- i) ~~building areas shall contain no more than 175,176 square feet of floor area, including covered display;~~
- ii) ~~the development shall comply with all of the terms of this Development Order except Section E;~~
- iii) ~~in lieu of the requirements in Section E, the Developer shall pay road impact fees in accordance with Lee County Ordinance 85-23, as it may be amended from time to time;~~
- iv) ~~all development shall be consistent with County zoning and development regulations;~~

1. The northernmost 14.8± acre parcel may be developed in accordance with the following requirements:

- a. Uses on the parcel will be limited to the following, as defined in Chapter 34 of the Lee County Land Development Code:

Administrative Offices

ATM

Auto Parts Store (with and without installation)

Banks and Financial Establishments, Groups I and II

Boat Parts Store

Business Services, Groups I and II

Car Wash

Cleaning and Maintenance Services

Clothing Stores

Consumption on Premises

Contractors and Builders, Groups I and II

Convenience Food and Beverage Store

Department Store

Essential Services

Excavation, Water Retention

Food Stores, Groups I and II

Hardware Store

Hobby, Toy, Game Shop

Household and Office Furnishings, Groups I and II

Insurance Companies

Laundromat

Development Order Amendment for Cypress Trace

Laundry and Dry Cleaning, Group I
Lawn and Garden Supply Store
Medical Office
Non-Store Retailers, All Groups
Package Store
Paint, Glass and Wallpaper
Parking Lot, Accessory
Personal Services, Groups II, III and IV
Pet Services
Pet Shop
Pharmacy
Post Office
Rental and Leasing Establishments, Groups I, II and III
Repair Shops, Groups I and II
Restaurants, Fast Food
Restaurants, Groups I, II, III and IV
Signs
Specialty Retail Shop, Groups I, II, III and IV
Storage, Indoor
Storage, Open
Studios
Supermarket
Used Merchandise Store, Groups I, II and III
Vehicle and Equipment Dealers, Groups I, II, III and IV

- b. Building areas may contain no more than 130,000 square feet of gross floor area of the uses listed in subparagraph a. above.
- c. No use or combination of uses will be permitted if those uses will cause development on this parcel to generate in excess of 776 peak hour vehicular trips;
- d. The development must comply with all the terms of this Development order except Section E;
- e. In lieu of the requirements in Section E, the Developer must pay road impact fees in accordance with Lee County Land Development Code, Chapter 1, Article VI, Division 2, as it may be amended from time to time; and
- f. All development must be consistent with County zoning and development regulations.

SECTION FOUR

Paragraph 8 on page 10 of the original Development Order (as amended) is hereby revised to read as follows:

8. This Development Order will remain in effect ~~until April 7, 1998 for a period of five (5) years from the date of its rendition, provided that this effective period may be extended by this Board for a period of two years upon a finding of excusable delay in any proposed development activity, and that conditions have not changed sufficiently to warrant further consideration of the development. In the event the Developer fails to commence significant physical development of that property identified in this Development Order within five (5) years from the date of rendition of this Development Order, development approval shall terminate and the development shall be subject to further consideration. Significant physical development shall include obtaining a Certificate of Completion on some substantial portion of the project.~~

SECTION FIVE

The County will transmit certified copies of this Development Order to the Southwest Florida Regional Planning Council, the Developer, and appropriate state agencies. This Development Order is rendered as of the date of that transmittal, but will not be effective until the expiration of the statutory appeals period (45 days from rendition) or until the completion of any appellate proceedings, whichever time is greater. Upon this Development Order Amendment becoming effective, notice of its adoption must be recorded by the applicant as provided in Chapter 380, Florida Statutes.

Development Order Amendment for Cypress Trace

THE MOTION TO ADOPT the above amendments to the Development Order was offered by Commissioner John E. Manning, and seconded by Commissioner John E. Albion and, upon poll of the members present, the vote was as follows:

John E. Manning	Aye
Douglas R. St.Cerny	Aye
Ray Judah	Aye
Andrew W. Coy	Aye
John E. Albion	Aye

DULY PASSED AND ADOPTED this 21st day of October, A.D., 1996.

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: *John E. Manning*
Chairman

ATTEST: *Charlie Green*
CHARLIE GREEN, CLERK

BY: *David J. Pierce*
Deputy Clerk

Approved as to form by:

Dannal Marie Collins
County Attorney's Office

FILED

OCT 23 1996

CLERK CIRCUIT COURT
BY *lp* D.C.

State of Florida
County of Lee

I Charlie Green, Clerk of the Circuit Court for Lee County, Florida, do hereby certify this document to be a true and correct copy of the original document filed in the Minutes Department.

Given under my hand and official seal at Fort Myers, Florida, this 22nd day of October, A.D. 1996

CHARLIE GREEN, CLERK
BY *David J. Pierce*
Deputy Clerk

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

WHEREAS, CAPITAL ASSOCIATES REALTY ADVISORS, filed a Notice of Proposed Change to a DRI Development Order in reference to the Cypress Trace Development of Regional Impact (DRI); and

WHEREAS, the property subject to the DRI Development Order Amendment is located at 13300 South Cleveland Avenue, and is described more particularly as:

LEGAL DESCRIPTION: In Section 23, Township 45 South, Range 24 East, Lee County, Florida:

A tract or parcel of land lying in the Northeast Quarter (NE¼) of Section 23, Township 45 South, Range 24 East, Lee County, Florida, described as follows:

From the Southeast corner of said fraction of a section, run S89°08'16"W along the South line of said fraction of a section for 131.82 feet to the West right-of-way line of SR 45 (US 41 - Tamiami Trail);

THENCE run N01°16'00"W for 95.00 feet to the intersection of the North right-of-way line of Cypress Lake Drive, with the West right-of-way line of SR 45 (US 41 - Tamiami Trail) and the POINT OF BEGINNING.

From said POINT OF BEGINNING run S89°08'16"W along said North right-of-way line for 1,095.00 feet to a POINT OF CURVATURE;

THENCE run Westerly along said North right-of-way line, along the arc of a curve to the left of radius 1,860.00 feet (delta angle of 06°56'42" - chord distance of 225.32 feet) for 225.46 feet;

THENCE run N01°16'00"E (parallel with said West right-of-way line) for 1,276.23 feet;

THENCE run N88°44'00"E for 420.00 feet;

THENCE run S01°16'00"E for 65.00 feet;

THENCE run N88°44'00"E for 711.97 feet;

THENCE run N01°16'00"W for 144.33 feet;

THENCE run N88°44'00"E for 188.00 feet to the West right-of-way of SR 45 (US 41 - Tamiami Trail);

THENCE run S01°16'00"E along said West right-of-way line for 70.60 feet;

THENCE run S88°44'00"W along said South line for 143.00 feet to a POINT OF CURVATURE;

THENCE run Westerly, Southwesterly and Southerly along the arc of a curve to the left of radius 25.00 feet (delta angle of 90°00'00" - chord distance of 35.36 feet) for 39.27 feet to a POINT OF TANGENCY and the East line of a frontage road easement (40 feet wide);

THENCE run S01°16'00"E, along said East line 275.00 feet;

THENCE run N88°44'00"E for 168.00 feet to the West right-of-way line;

THENCE S01°16'00"E for 981.23 feet to the POINT OF BEGINNING.

Consisting of 34.5 acres, and

WHEREAS, the applicant has indicated the property's current STRAP number is 23-45-24-49-00000-0010 ; and

WHEREAS, Teachers Retirement System of the State of Illinois, the owner of the subject parcel, authorized Capital Associates Realty Advisors to act as agent to pursue this amendment to the Cypress Trace DRI; and

WHEREAS, the requested amendment sought to add 35,000 square feet of retail commercial space to the southern portion of the DRI within the impervious areas of the existing strip shopping center;

WHEREAS, a public hearing was advertised and held on December 3, 1997 before the Lee County Hearing Examiner in Case No. 96-06-271.04Z 02.01, who gave full consideration to the evidence available; and

WHEREAS, a public hearing was advertised and held on February 2, 1998, before the Lee County Board of County Commissioners who gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents on file with the County, and the testimony of all interested persons.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS, that the Board **APPROVES** the proposed third amendment to the Cypress Trace Development of Regional Impact (DRI) Development Order; and makes a finding of no substantial deviation.

SECTION A. SITE PLAN AND DRI DEVELOPMENT ORDER:

A copy of the DRI Development Order Amendment and a reduced copy of the Site Plan are attached and incorporated into this resolution by reference.

SECTION B. FINDINGS AND CONCLUSIONS:

The following findings and conclusions were made in conjunction with the approval of the amendment to the DRI Development Order:

1. The property is part of the Cypress Trace Development of Regional Impact, approved in 1985 for a total of 300,000 square feet of commercial shopping center uses on the subject property.
2. The DRI Development Order was amended in 1988 and 1996.
3. The Applicant has shown entitlement to the requested DRI amendment by demonstrating compliance with the Lee Plan, the Land Development Code, other applicable Lee County codes or regulations, and Section 380.06(19), Florida Statutes.
4. The DRI amendment, as conditioned:
 - a. will meet or exceed all zoning performance and locational standards set forth for the potential uses allowed by the request;
 - b. is consistent with the densities, intensities and general uses set forth in the Lee Plan;
 - c. is compatible with existing or planned uses in the surrounding area;
 - d. will not place an undue burden upon existing transportation or planned infrastructure facilities, and the development will be served by streets with the capacity to carry any additional traffic it generates; and
 - e. will not result in a decrease in open space or other preserved areas of the site because the additional square footage will be built on existing impervious areas.

5. The traffic impacts for the 300,000 square feet of retail commercial uses have already been mitigated in accordance with the DRI approval. Mitigation for any increased traffic created by the additional 35,000 square feet will be adequately addressed by the Road Impact Fee Regulations set forth in the Lee County Land Development Code.
6. The proposed use or mix of uses is appropriate at the subject location.
7. The recommended conditions to the DRI Development Order and other applicable regulations provide sufficient safeguard to the public interest.
8. The recommended conditions are reasonably related to the impacts on the public interest created by or expected from the additional retail development.
9. Urban services, as defined in the Lee Plan, are available and adequate to serve the additional retail square footage.
10. The 35,000 square foot increase in retail square footage does not constitute a Substantial Deviation from the original DRI Development Order approval, as described in Section 380.06(19), Florida Statutes, and will not result in unmitigated impacts.
11. The requested DRI amendment does not constitute a substantial deviation from the original DRI Development Order approvals.

The foregoing resolution was adopted by the Lee County Board of County Commissioners upon a motion by Commissioner Ray Judah, and seconded by Commissioner John E. Albion and, upon being put to a vote, the result was as follows:

John E. Manning	Aye
Douglas R. St. Cerny	Aye
Ray Judah	Aye
Andrew W. Coy	Aye
John E. Albion	Aye

DULY PASSED AND ADOPTED this 2nd day of February, 1998.

ATTEST:
CHARLIE GREEN, CLERK

BY: *Anna S. Pierce*
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

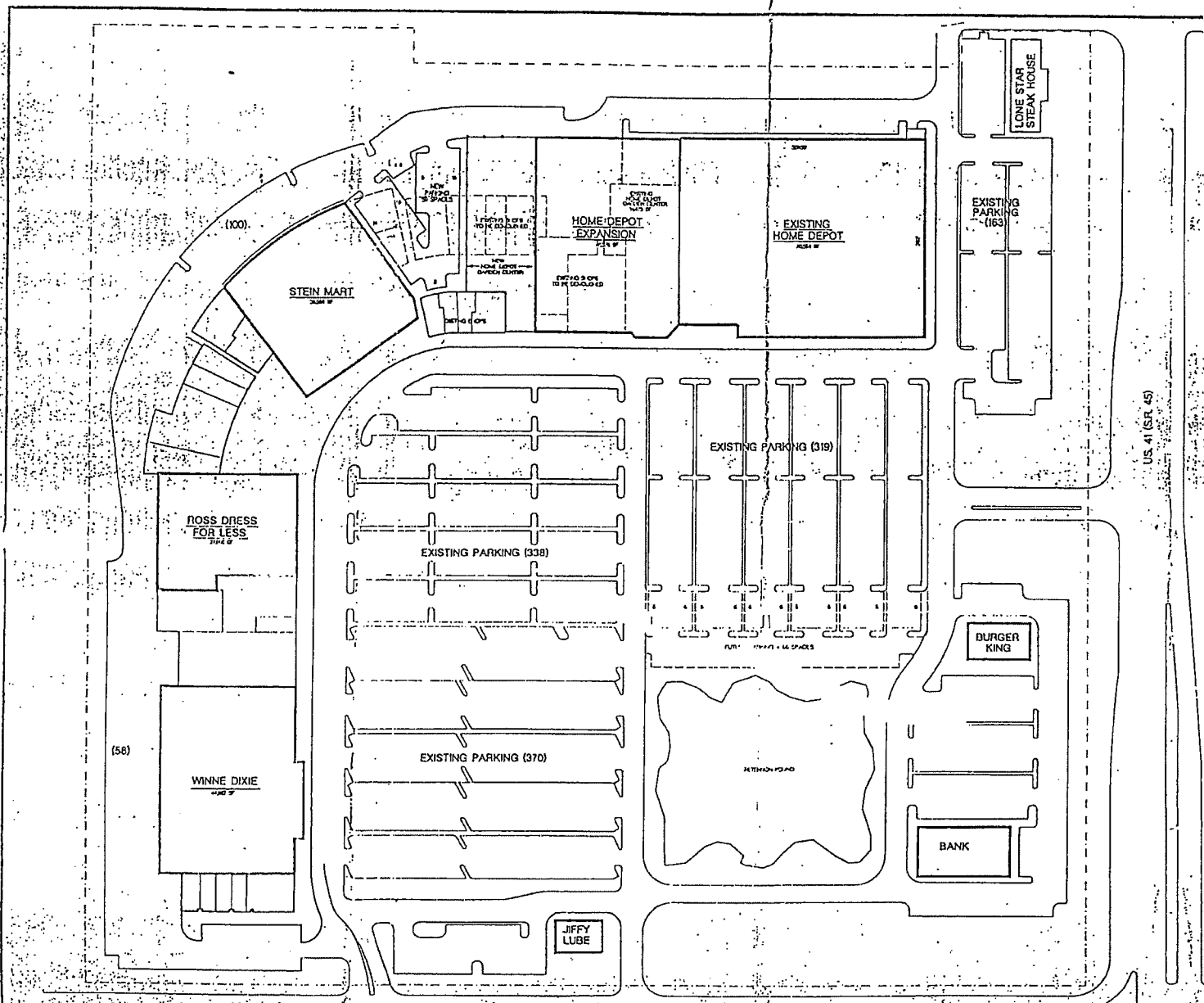
BY: *J. Manning*
Chairman

Approved as to form by:

Connie Ann Collins
County Attorney's Office

MINUTES DEPARTMENT

FILED FEB 4 1998



CONCEPTUAL SITE PLAN

If Home Depot does not follow through with their plans for an expansion, an expansion of the center will still take place in an area that is already impervious and in the general location of the in-line center.

Parking Summary

Parking Required	
Existing Retail (50/1000)	1312 sp
Home Depot Expansion	46378 sq
21050 sq shops lost	
25328 sq net gain	127 sp
New Total Req'd	1439 sp
Parking Shown	
Existing Parking Shown	1348 sp
New Parking	59 sp
Potential Future Parking	66 sp
	1271 sp

APPROVED

RECEIVED
AUG 14 1997
PERMIT CENTER

site plan
scale: 1" = 60'

PROJECT # 94-06-571-042 0220
PROJECT TYPE 16

THIRD DEVELOPMENT ORDER
AMENDMENT
FOR
CYPRESS TRACE
A DEVELOPMENT OF REGIONAL IMPACT
STATE DRI #7-8384-45
COUNTY CASE #96-06-271.04Z 02.01

LET IT BE KNOWN, THAT, IN ACCORDANCE WITH SECTION 380.06 OF THE FLORIDA STATUTES, THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA HEARD AT A PUBLIC HEARING CONVENED ON FEBRUARY 2, 1998, THE REQUEST TO AMEND THE CYPRESS TRACE DEVELOPMENT OF REGIONAL IMPACT DEVELOPMENT ORDER, A COMMERCIAL DEVELOPMENT CONSISTING OF APPROXIMATELY 52.52 ACRES.

WHEREAS, the original Cypress Trace DRI Development Order was approved on approximately 52.52 acres by the Board of County Commissioners on April 8, 1985; and

WHEREAS the DRI Development Order was subsequently amended on October 10, 1988 to allow for the development of an automobile dealership on the northerly +/- 14 acre portion of the DRI; and

WHEREAS, the DRI Development Order was amended a second time on October 21, 1996 by MRC Partners to reinstate the expired development order, establish a termination date of April 1998, add new commercial uses, and change the approved use on the +/- 14 acre parcel within the DRI; and

WHEREAS, on August 14, 1997, Capital Associates Realty Advisors, requested to amend the Cypress Trace DRI Development Order a third time to increase the maximum allowed retail commercial square footage on a +/- 34.5 acre parcel within the DRI from 300,000 to 335,000; and

WHEREAS, under Florida Statutes, Section 380.06, the proposed change must be reviewed and evaluated to determine whether it constitutes a substantial deviation from the terms of the existing Development Order; and

WHEREAS, the proposed change to the DRI Development Order described herein is consistent with the adopted Comprehensive Land Use Plan of Lee County and applicable local land development regulations; and

WHEREAS, the proposed change to the DRI Development Order is consistent with the State Comprehensive Plan, the Southwest Florida Regional Plan, and the State Land Development Plan; and

WHEREAS, the Board of County Commissioners has reviewed the proposed Amendment and finds the change does not constitute a substantial deviation if development proceeds as conditioned in this Development Order.

NOW, THEREFORE, LET IT BE RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA that the Development Order for Cypress Trace DRI is further amended as follows with the new language underlined and deletions struck through. All other portions of the Development Order (as previously amended) will remain in full force and effect.

SECTION ONE

The legal description of the property to which the Amendment pertains is as follows:

LEGAL DESCRIPTION: In Section 23, Township 45 South, Range 24 East, Lee County, Florida:

A tract or parcel of land lying in the Northeast Quarter (NE¼) of Section 23, Township 45 South, Range 24 East, Lee County, Florida, described as follows:

From the Southeast corner of said fraction of a section, run S89°08'16"W along the South line of said fraction of a section for 131.82 feet to the West right-of-way line of SR 45 (US 41 - Tamiami Trail);
THENCE run N01°16'00"W for 95.00 feet to the intersection of the North right-of-way line of Cypress Lake Drive, with the West right-of-way line of SR 45 (US 41 - Tamiami Trail) and the POINT OF BEGINNING.

From said POINT OF BEGINNING run S89°08'16"W along said North right-of-way line for 1,095.00 feet to a POINT OF CURVATURE;
THENCE run Westerly along said North right-of-way line, along the arc of a curve to the left of radius 1,860.00 feet (delta angle of 06°56'42" - chord distance of 225.32 feet) for 225.46 feet;
THENCE run N01°16'00"E (parallel with said West right-of-way line) for 1,276.23 feet;
THENCE run N88°44'00"E for 420.00 feet;
THENCE run S01°16'00"E for 65.00 feet;
THENCE run N88°44'00"E for 711.97 feet;
THENCE run N01°16'00"W for 144.33 feet;

THENCE run N88°44'00"E for 188.00 feet to the West right-of-way of SR 45 (US 41 - Tamiami Trail);
THENCE run S01°16'00"E along said West right-of-way line for 70.60 feet;
THENCE run S88°44'00"W along said South line for 143.00 feet to a POINT OF CURVATURE;
THENCE run Westerly, Southwesterly and Southerly along the arc of a curve to the left of radius 25.00 feet (delta angle of 90°00'00" - chord distance of 35.36 feet) for 39.27 feet to a POINT OF TANGENCY and the East line of a frontage road easement (40 feet wide);
THENCE run S01°16'00"E, along said East line 275.00 feet;
THENCE run N88°44'00"E for 168.00 feet to the West right-of-way line;
THENCE S01°16'00"E for 981.23 feet to the POINT OF BEGINNING.
All in Lee County, Florida.

SECTION TWO

Section A of the Findings of Fact in the original Development Order (as amended) is hereby revised to read as follows:

A. The Applicant originally proposed to develop a shopping center including approximately 436,000 square feet of commercial shopping center facilities on approximately 52.52 acres. The formal Application for Development Approval (ADA) submitted requested approval of that size, acreage and use. The various regional issues were identified and analyzed based upon the ADA submitted. The proposed development constitutes a shopping center Development of Regional Impact on the real property described as:

(no change to legal description in original Development Order)

The Board of County Commissioners approved 300,000 square feet of commercial shopping center floor area in 1985. This third development order amendment will permit a commercial shopping center with up to 335,000 square feet of gross floor area. This increase will result in a total of 465,000 square feet of retail commercial square footage within the entire DRI.

SECTION THREE

Condition B of the original Development Order (as amended) is hereby revised to read as follows:

B. DRAINAGE/WATER QUALITY

1. The drainage system for the proposed project must be redesigned to provide greater upland (dry) retention/detention of runoff prior to discharge into the on-site lake system. The additional square footage will be constructed in areas that are currently impervious, i.e. pavement, walkway, or building. Areas of natural vegetation as described in condition F. below may be used where feasible.

2. The discharge must include a baffle, skimmer, or other suitable mechanism as determined by the Lee County Division of Environmental Protection Services for preventing oils and grease from discharging from retention/detention areas.

SECTION FOUR

E. TRANSPORTATION

7. The development of commercial shopping center over 300,000 square feet of gross floor area on the southernmost 37.7 acre portion of the project and up to 465,000 square feet of gross floor area of the entire project must mitigate transportation impacts through the payment of road impact fees.

SECTION FIVE

H. OTHER

1. The southernmost 37.7 acre portion of this project may not exceed a total of 335,000 square feet of gross floor area of commercial shopping center uses. Nothing in this section precludes the owner of the 37.7 acre portion of the project from rebuilding the center consistent with this DRI DO, or seeking an increase in square footage, if needed, by filing a Notice of Proposed Change.

THE MOTION TO ADOPT the above amendments to the Development Order was offered by Commissioner Ray Judah, and seconded by Commissioner John E. Albion and, upon poll of the members present, the vote was as follows:

John E. Manning	Aye
Douglas R. St. Cerny	Aye
Ray Judah	Aye
Andrew W. Coy	Aye
John E. Albion	Aye

DULY PASSED AND ADOPTED this 2nd day of February, 1998.

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: *J. Manning*
Chairman

ATTEST:
CHARLIE GREEN, CLERK

BY: *Joan S. Pierce*
Deputy Clerk

Approved as to form by:

Danna Marie Collins
County Attorney's Office

State of Florida
County of Lee

I, Charlie Green, Clerk of the Circuit Court for Lee County, Florida, do hereby certify this document to be a true and correct copy of the original document filed in the Minutes Department.

Given under my hand and official seal at Fort Myers, Florida, this 5th day of February, A.D. 1998.

CHARLIE GREEN, CLERK

BY: *Joan S. Pierce*
Deputy Clerk

MINUTES DEPARTMENT
FILED FEB 4 1998

RESOLUTION NUMBER Z-98-081

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

WHEREAS, Capital Associates Realty Advisors filed an application in reference to Cypress Trace Development of Regional Impact (DRI) to amend the DRI Development Order on behalf of the property owners, Teacher's Retirement System of the State of Illinois, in accordance with the Lee County Land Development Code (LDC); and

WHEREAS, a public hearing was advertised and held on October 29, 1998 before the Lee County Zoning Hearing Examiner, who gave full consideration to the evidence in the record for Case #96-06-271.04Z 03.01; and

WHEREAS, a second public hearing was advertised and held on November 30, 1998, before the Lee County Board of Commissioners, who gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents in the record and the testimony of all interested persons.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS:

SECTION A - REQUEST

The applicant made the following requests with respect to the property described in Exhibit A:

1. Amend the Cypress Trace DRI Development Order #7-8384-45, as amended, to extend the buildout date; and
2. Find that the proposed change does not constitute a substantial deviation under the provisions of Section 380.06(19), Florida Statutes.

The Lee County Board of County Commissioners APPROVES the Applicant's requests, in accordance with the conditions specified in Section B.

SECTION B - CONDITIONS:

1. The development of this project must be in compliance with the Cypress Trace DRI Development Order #7-8384-45, as amended, and the DRI Master Land Use Plan.
2. The original zoning resolutions and any amending resolutions for all parcels contained within the Cypress Trace DRI, remain in full force and effect.

SECTION C - EXHIBITS:

The following exhibits are attached to this resolution and incorporated by reference:

- Exhibit A: The legal description and STRAP numbers of the property.
- Exhibit B: Zoning Map
- Exhibit C: Fourth Development Order Amendment For Cypress Trace.

SECTION D - FINDINGS AND CONCLUSIONS:

1. The applicant has proven entitlement to amend the DRI Development Order by demonstrating compliance with the Lee Plan, the Land Development Code, and any other applicable code or regulation.
2. The requested amendment, as conditioned:
 - a. meets or exceeds all performance and locational standards set forth for the potential uses allowed by the request;
 - b. is consistent with the densities, intensities and general uses set forth in the Lee Plan;
 - c. is compatible with existing or planned uses in the surrounding area; and
 - d. will not adversely affect environmentally critical areas or natural resources.
3. Approval of the request will not place an undue burden upon existing transportation or planned infrastructure facilities and the development will be served by streets with the capacity to carry the traffic the development generates.
4. The proposed use or mix of uses is appropriate at the subject location.
5. The recommended conditions to the Development Order and other applicable regulations provide sufficient safeguard to the public interest.
6. The recommended conditions are reasonably related to the impacts on the public interest created by or expected from the proposed development.
7. Urban services, as defined in the Lee Plan, are, or will be, available and adequate to serve the proposed land use.
8. The requested amendment to the Development Order does not constitute a substantial deviation pursuant to Section 380.06(19), Florida Statutes.

The foregoing resolution was adopted by the Lee County Board of Commissioners by a motion by Commissioner Andrew Coy, and seconded by Commissioner Douglas St. Cerny and, upon being put to a vote, the result was as follows:

John E. Manning	Absent
Douglas R. St. Cerny	Aye
Ray Judah	Aye
Andrew Coy	Aye
John E. Albion	Absent

DULY PASSED AND ADOPTED this 30th day of November, 1998.

ATTEST:
CHARLIE GREEN, CLERK

BY: *Charlie Green*
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: *Ray Judah*
Chairman

Approved as to form by:

David E. Albert 12/2/98
County Attorney's Office

MINUTES DEPARTMENT

lp
FILED DEC 03 1998

EXHIBIT "A"

LEGAL DESCRIPTION

Two parcels of land in the Northeast Quarter (NE¼) of Section 23, Township 45 South, Range 24 East, Lee County, Florida, totaling 52.5 acres, more particularly described as follows:

Commence at the Southeast corner of the Northeast Quarter (NE¼) of Section 23, Township 45 South, Range 24 East;

THENCE S89°08'20"W along the South line of the North Half (N½) of said Section 23 for 132.01 feet to an intersection with the Westerly right-of-way line of S.R. 45 (Tamiami Trail) as shown on the right-of-way map for Daniels Road dated December, 1975 and the Southeast corner of that certain parcel of land as described in Official Record Book 777 at Pages 712 and 713 of the Public Records of Lee County, Florida;

THENCE Northerly along the East line of said parcel and along said Westerly right-of-way line for the following described three (3) courses:

(1) THENCE N01°16'00"W for 95.00 feet to an intersection with the Northerly right-of-way line of Cypress Lake Drive;

(2) THENCE continue N01°16'00"W for a distance of 874.50 feet to the POINT OF BEGINNING of the herein described parcel of land;

(3) THENCE continue N01°16'00"W for a distance of 445.50 feet to the Southeast corner of that certain parcel of land as described in Official Record Book 667 at Page 635 of said Public Records; THENCE continue N01°16'00"W along the Easterly line of said parcel and along said Westerly right-of-way line for 412.50 feet to an intersection with the North line of said parcel;

THENCE S89°08'20"W along said North line for 1,320.00 feet to an intersection with the West line of said parcel;

THENCE S01°16'00"E along said West line for 412.50 feet to the Northwest corner of the aforementioned parcel as described in Official Record Book 777 at Pages 712 and 713 of said Public Records;

THENCE continue S01°16'00"E along the West line of said parcel for 662.50 feet;

THENCE N88°44'00"E for a distance of 653.00 feet;

THENCE proceed N01°16'00"W for distance of 86.33 feet;

THENCE continue N43°44'00"E for a distance of 171.58 feet;

THENCE N88°44'00"E for 545.64 feet to the POINT OF BEGINNING. Said parcel of land situate, lying and being in Lee County, Florida, containing 29.42 acres, more or less, subject to easements and dedications of record.

Commence at the Southeast corner of the Northeast Quarter (NE¼) of Section 23, Township 45 South, Range 24 East;

THENCE S89°08'20"W along the South line of the North Half (N½) of said Section 23 for 132.01 feet to an intersection with the Westerly right-of-way line of S.R. 45 (Tamiami Trail) as shown on the right-of-way map for Daniels Road dated December, 1975 and the Southeast corner of that certain parcel of land as described in Official Record Book 777 at Pages 712 and 713 of the Public Records of Lee County, Florida;

THENCE Northerly along the East line of said parcel and along said Westerly right-of-way line for the following described course:

N01°16'00"W for 95.00 feet to an intersection with the Northerly right-of-way line of Cypress Lake Drive, said point being the POINT OF BEGINNING for the herein described parcel of land comprised of Tracts 1 & 11 denoted on this survey sketch;
THENCE continue N01°16'11"W for a distance of 874.50 feet;
THENCE proceed S88°44'00"W for a distance of 545.64 feet;
THENCE proceed S43°44'00"E for a distance of 171.58 feet;
THENCE proceed S01°16'00"E for a distance of 86.33 feet;
THENCE proceed S88°44'00"W for a distance of 653.00 feet;
THENCE proceed S01°16'00"E for a distance of 671.43 feet to the North right-of-way of Cypress Lake Drive;
THENCE proceed along a curve to the Northeast having a radius of 1,860.00 feet, having a chain bearing of N 85°39'57" E and a chain distance of 225.28 feet;
THENCE N89°08'20"E for a distance of 1,094.84 feet to the POINT OF BEGINNING, said parcel containing 23.11 acres, plus or minus, and subject to a 20 foot water and sewer easement on the western property line of this property.

The applicant has indicated that the STRAP numbers for the subject property are: 23-45-24-49-00000.0010, 23-45-24-49-00000.0020, 23-45-24-49-00000.0030, 23-45-24-49-00000.0040, 23-45-24-49-0000A.00CE, 23-45-24-00-00001.0020 and 23-45-24-00-00001.002A.

ZONING MAP

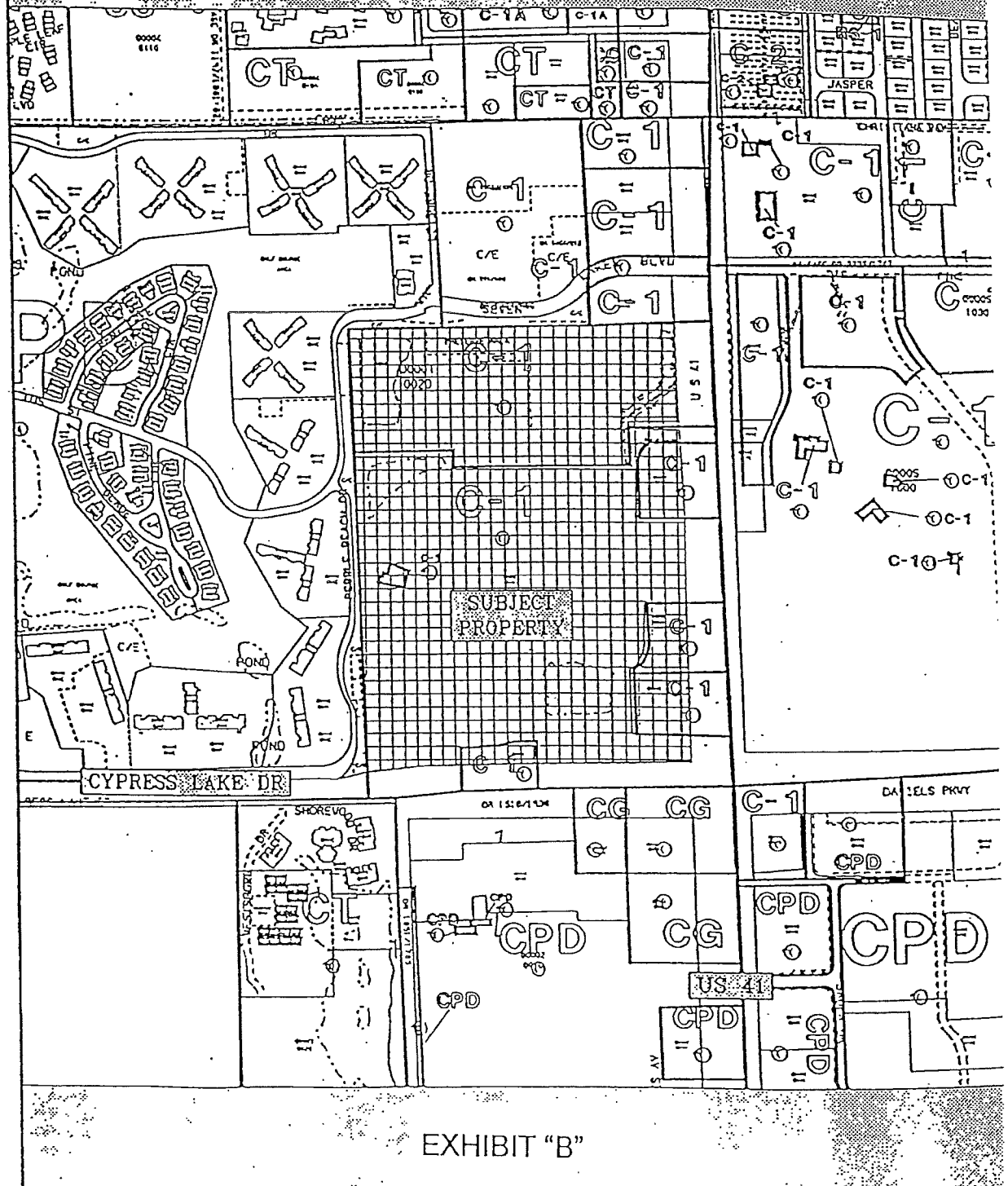


EXHIBIT "B"

FOURTH DEVELOPMENT ORDER
AMENDMENT
FOR
CYPRESS TRACE
A DEVELOPMENT OF REGIONAL IMPACT

#7-8384-45

LET IT BE KNOWN, THAT, PURSUANT TO SECTION 380.06 OF THE FLORIDA STATUTES, THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, HAS HEARD, AT A PUBLIC HEARING CONVENED ON NOVEMBER 30, 1998, THE APPLICATION TO AMEND THE DEVELOPMENT APPROVAL FOR CYPRESS TRACE, A COMMERCIAL (SHOPPING CENTER) DEVELOPMENT CONSISTING OF APPROXIMATELY 52.52 ACRES TO BE DEVELOPED IN ACCORDANCE WITH THE APPLICATION FILED ON APRIL 7, 1998, BY CAPITAL ASSOCIATES REALTY ADVISERS, AUTHORIZED REPRESENTATIVE OF TEACHER'S RETIREMENT ASSOCIATION OF THE STATE OF ILLINOIS.

WHEREAS, the original Cypress Trace DRI Development Order, encompassing 52.52 acres, was approved by the Board of County Commissioners on April 8, 1985; and

WHEREAS, the DRI Development Order was subsequently amended on October 10, 1988 to allow development of an automobile dealership in the northerly ±14 acre portion of the DRI; and

WHEREAS, the DRI Development Order was amended a second time on October 21, 1996 by MRC Partners to reinstate the expired development order, establish a termination date of April 1998, add new commercial uses and change the approved use on the northerly ±14 acre portion of the DRI; and

WHEREAS, at the request of Capital Associates Realty Advisors, the DRI Development Order was amended a third time on February 2, 1998 to allow an increase in the maximum retail commercial square footage on a ±34.5 acre DRI parcel from 300,000 to 335,000 square feet; and

WHEREAS, Capital Associates Realty Advisors filed a fourth application to amend the DRI Development Order on April 7, 1998 to extend the effective date of the DRI from April 7, 1998 to April 7, 2001; and

WHEREAS, the Board of County Commissioners of Lee County, Florida desire to adopt a codified Development Order to consolidate all of the past actions taken in regard to this approved development; and

WHEREAS, Florida Statutes, Section 380.06 requires a proposed change to be reviewed and evaluated to determine whether it constitutes a substantial deviation from the terms of the existing Development Order; and

WHEREAS, the proposed change to the DRI Development Order is consistent with the Lee County Comprehensive Land Use Plan and applicable local land development regulations, as well as the State Comprehensive Plan, the Southwest Florida Regional Plan and the State Land Development Plan; and

WHEREAS, the Board of County Commissioners of Lee County, Florida has considered the report and recommendations of the Southwest Florida Regional Planning Council, the Lee County Administrative Staff, and the documents and comments upon the record made before the Board in public hearing, and, after full consideration of these reports, recommendations, comments, and documents, the Board of County Commissioners of Lee County, Florida, hereby finds and determines that:

FINDINGS OF FACT

A. The applicant originally proposed to develop a shopping center including approximately 436,000 square feet of commercial shopping center facilities on approximately 52.52 acres. The formal Application for Development Approval ("ADA") submitted requested approval of that size, acreage and use. The various regional issues were identified and analyzed based upon the ADA submitted. The proposed development constitutes a shopping center Development of Regional Impact on the real property described as:

Two parcels of land in the northeast one-quarter of Section 23, Township 45 South, Range 24 East, Lee County, Florida, totaling 52.5 acres, more particularly described as follows:

In Section 23, Township 45 South, Range 24 East, Lee County, Florida

A tract or parcel of land lying in the Northeast Quarter (NE ¼) of Section 23, Township 45 South, Range 24 East, Lee County, Florida, described as follows:

From the Southeast corner of said fraction of a section, run S89°08'16"W along the South line of said fraction of a section for 131.82 feet to the West right-of-way line of SR 45 (US 41-Tamiami Trail);
THENCE run N01°16'00"W for 95.00 feet to the intersection or the North right-of-way line of Cypress Lake Drive, with the West right-of-way line of SR 45 (US 41-Tamiami Trail) and the POINT OF BEGINNING.

From said POINT OF BEGINNING run S89°08'16"W along said North right-of-way line for 1,095.00 feet to a POINT OF CURVATURE;
 THENCE run Westerly along said North right-of-way line, along the arc of a curve to the left of radius 1,860.00 feet (delta angle of 06°56'42"-chord distance of 225.32 feet) for 225.46 feet;
 THENCE run N01°16'00"E (parallel with said West right-of-way line) for 1,276.23 feet;
 THENCE run N88°44'00"E for 420.00 feet;
 THENCE run S01°16'00"E for 65.00 feet;
 THENCE run N88°44'00"E for 711.97 feet;
 THENCE run N01°16'00"W for 144.33 feet;
 THENCE run N88°44'00"E for 188.00 feet to the West right-of-way of SR 45 (US 41-Tamiami Trail);
 THENCE run S01°16'00"E along said West right-of-way line for 70.60 feet;
 THENCE run S88°44'00"W along said South line for 143.00 feet to a POINT OF CURVATURE;
 THENCE run Westerly, Southwesterly and Southerly along the arc of a curve to the left of radius 25.00 feet (delta angle of 90°00'00" - chord distance of 35.36 feet) for 39.27 feet to a POINT OF TANGENCY and the East line of a frontage road easement (40 feet wide);
 THENCE run N88°44'00" E for 168.00 feet to the West right-of-way line;
 THENCE S01°16'00"E for 981.23 feet to the POINT OF BEGINNING.
 All in Lee County, Florida

The Board of County Commissioners approved 300,000 square feet of commercial shopping center floor area in 1985. ~~This~~ The third development order amendment ~~will permitted~~ a commercial shopping center up to 335,000 square feet of gross floor area. ~~This increase will~~ As a result in of the DRI Development Order amendments a total of 465,000 square feet of retail commercial square footage is permitted within the entire DRI.

B. The subject property has been zoned by the authority of Chapter 125, Florida Statutes, Chapter 61-2405, Laws of Florida (Special Acts), and the Lee County Zoning Regulations, as amended, in the C-1 District.

C. The Application for Development Approval is consistent with the requirements of ~~Chapter~~ Section 380.06, Florida Statutes; and

D. The proposed development is not in an area designated as an Area of Critical State Concern pursuant to the provisions of ~~Chapter~~ Section 380.05, Florida Statutes; and

E. The proposed development has been reviewed by the Southwest Florida Regional Planning Council and is the subject of the report and recommendation adopted by that body on January 17, 1985, and subsequently forwarded to Lee County pursuant

to the provisions of ~~Chapter~~ Section 380.06, Florida Statutes, and the proposed development is consistent with ~~this~~ the report and recommendations of the Southwest Florida Regional Planning Council; and

F. The proposed development is consistent with the adopted Lee County Comprehensive Plan, subject to the following conditions ~~A through H~~.

CONCLUSIONS OF LAW

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, in public meeting duly constituted and assembled on November 30, 1998 that the Development of Regional Impact Application for Development Approval submitted by Teacher's Association of the State of Illinois, referred to hereinafter as "developer", is hereby ordered APPROVED, subject to the following conditions, restrictions, and limitations:

A. COMMUNITY SERVICES

1. The developer ~~shall~~ must meet with the Chief of the South Trail Fire Department and the Director of the Lee County Division of Public Safety or his designee, prior to project construction, to discuss fire protection and Emergency Medical Services needs and measures to meet these needs.

2. The developer must demonstrate, to the satisfaction of the Lee County Division of Community Development prior to project construction, that there will be no adverse fiscal impacts (costs exceeding revenues) upon fire protection and Emergency Medical Service providers resulting from the development.

B. DRAINAGE/WATER QUALITY

1. The drainage system for the proposed project must be redesigned to provide greater upland (dry) retention/detention of runoff prior to discharge into the on-site lake system. The additional square footage will be constructed in areas that are currently imperious, i.e., pavement, walkway or building. Areas of natural vegetation as described in condition F. below may be used where feasible.

2. The discharge structures must include a baffle, skimmer, or other suitable mechanism ~~suitable~~ as determined by the Lee County Division of Environmental Protection Services for preventing oil and grease from discharging from retention/detention areas.

3. The drainage system ~~shall~~ must implement the design standards and "best management practices" outlined in the ADA and in all supplementary material.

4. The developer and/or his successor(s), ~~shall~~ must implement an on-going maintenance and monitoring program that regularly inspects, maintains and samples the stormwater drainage system. The program ~~shall~~ must be designed in consultation with the

staffs of the Southwest Florida Regional Planning Council, the South Florida Water Management District, and Lee County. Final approval of the program rests with Lee County. The program ~~shall~~ must be redesigned, if necessary, to incorporate any County ordinances ~~and/or~~ policies relating to the Lakes Park drainage basin.

5. A regular program of vacuum sweeping of all parking lots ~~shall~~ must be utilized both during and after project construction.

6. The project ~~shall~~ must be served by a central sewage system.

7. The project ~~shall be~~ is subject to all regulations of Lee County for the protection of the Lakes Regional Park Watershed and Lakes Regional Park water quality.

8. Prior to Preliminary Development Order approval, the developer ~~shall~~ must submit a detailed surface water management plan identifying detention/retention areas, discharge control structures and a maintenance and monitoring program. This plan ~~shall be~~ is subject to review and approval by the Lee County Department of Community Development.

C. ENERGY

The developer ~~shall~~ must incorporate, ~~as-a~~ at minimum, the following energy conservation features into all site plans and architectural programs or insure that the following features are implemented through deed restrictions and covenants with successors in title. All applications for site plan approvals, local development orders and building permits ~~shall~~ must be accompanied by a document detailing proposed compliance with these conditions. If deed restrictions or covenants are utilized to insure compliance, such documents ~~shall~~ must be approved by the Lee County Attorney's Office prior to recording.

These features are:

1. Provision of bicycle racks or storage facilities.
2. Location of bus stops, shelters, and other passenger and system accommodations for a transit system to serve the project area, in cooperation with the appropriate Lee County agencies.
3. Use of energy-efficient features in window design (e.g., tinting and exterior shading).
4. Installation of energy-efficient appliances and equipment.
5. Prohibition of deed restrictions or covenants that would prevent or unnecessarily hamper energy conservation efforts (e.g., building orientation and solar water heating systems).

6. Installation of energy-efficient lighting for streets, parking areas, and other interior and exterior public areas.

7. Installation of water closets with a maximum flush of 3.5 gallons and shower heads and faucets with a maximum flow rate of 3.0 gallons per minute (at 60 pounds of pressure per square inch) as specified in the Water Conservation Act, Chapter Section 553.14, F.S.

8. Selection, installation and maintenance of native plants, trees, and other vegetation and landscape design features, in order to reduce requirements for water, fertilizer, maintenance, and other needs, for all parking lot landscaping and required vegetated buffer areas.

9. Placement of native trees to provide shades in the warmer months while not overly reducing the benefits of sunlight in the cooler months, and to provide shade for streets and parking areas.

10. Orientation of structures, to reduce solar heat gain by walls and to utilize the natural cooling effects of the wind wherever feasible.

11. Provision for structural shading (e.g., trellises, awnings, and roof overhangs) wherever practical when natural shading cannot be used effectively.

D. FLOODPLAINS/HURRICANE EVACUATION

1. The minimum finished floor elevations ~~shall~~ must be above the 100-year, 3-day stage with zero discharge or as required by the South Florida Water Management District, whichever is greater.

2. The developer ~~shall~~ must meet the Lee County Division of Public Safety officials to discuss potential use of project common areas for storm shelter purposes, before the first certificate of occupancy is issued.

E. TRANSPORTATION

1. The developer ~~shall~~ must construct, cause to be constructed or pay the full costs for intersection improvements deemed necessary by the County Engineer for the project's access points onto U.S. 41 and Cypress Lake Drive. These improvements ~~shall~~ must be made prior to the issuance of the first certificate of occupancy for the project.

2. The developer ~~shall~~ must construct, or cause to be constructed, two additional lanes on U.S. 41 from the terminus of six lanes north of Seven Lakes Blvd./Big Pine Way to Daniels Road Parkway/Cypress Lake Drive. The developer's obligation ~~shall~~ includes the full costs of design/engineering, utility relocation (if needed) and construction, including turn lanes at the intersection of U.S. 41 with Daniels Road Parkway/Cypress Lake

Drive, but not right-of-way. These improvements ~~shall~~ must be made prior to the issuance of the first certificate of occupancy for the project.

3. The developer ~~shall~~ must pay the full costs of constructing a second left-turn lane on northbound U.S. 41 to westbound College Parkway. If the County Engineer determines that construction of a second left-turn lane is not feasible due to intersection geometrics or lack of right-of-way, the developer ~~shall~~ must pay the full costs of other improvements, such as repainting the inner through lane for left-turn movements, required to accommodate left-turns at this location. Payment of these costs ~~shall be~~ are due at the time that a local Development Order is issued under Lee County regulations.

4. The developer ~~shall~~ must pay a proportionate share of the costs of constructing two additional lanes, excluding right-of-way, on Daniels Road Parkway from the Bell Tower Mall entrance east of U.S. 41 to and including the intersection of Metro Parkway with Daniels Road Parkway. The developer's proportionate share ~~shall will~~ be determined by the County Engineer based on the project's share of the total traffic added to the roadway by all projects required by Development Orders to contribute to the cost of improvements on the roadway. Payment ~~shall be~~ is due at the time that a local Development Order is issued under Lee County regulations.

5. The developer ~~shall~~ must pay a proportionate share of the costs of constructing two additional lanes excluding right-of-way on Cypress Lake Drive from U.S. 41 to and including the intersection of Winkler Road with Cypress Lake Drive. The developer's proportionate share ~~shall will~~ be determined as described in Item E.4. Payment ~~shall be~~ is due at the time that the first local Development Order is issued under Lee County regulations.

6. Nothing contained in this Development Order ~~shall may~~ be construed to exempt this development from participation in the funding, through Municipal Services Taxing Units (MSTU's) or other special assessment districts, of improvements to various state and County arterial and collector roads to the degree to which this development generates demand.

7. The development of commercial shopping center over 300,000 square feet of gross floor area on the southernmost 37.7 acre portion of the project and up to 465,000 square feet of gross floor area of the entire project must mitigate transportation impacts through the payment of road impact fees.

ALTERNATIVES

1. In lieu of the obligations and payments required by E.1 through E.5 above, the developer ~~shall~~ must contribute a base amount of \$565,000 (in 1985 dollars) for the mitigation of adverse traffic impacts due to this project. Payment ~~shall~~ must be made subject to the provisions listed below.

- a. The developer ~~shall~~ must design and construct, or cause to be designed and constructed, two additional lanes on U.S. 41 from the terminus of six lanes north of Seven Lakes Boulevard/Big Pine Way to Daniels Road Parkway/Cypress Lake Drive plus intersection improvements deemed necessary by the Lee County Engineer for the project's access points onto U.S. 41 and for the north leg of the U.S. 41/Daniels Road Parkway/Cypress Lake Drive intersection. The developer's contract(s) for the design and construction of these improvements ~~shall~~ must be reviewed and approved by the County Engineer. These improvements ~~shall~~ must be substantially completed to the satisfaction of the County Engineer prior to issuance of the first certificate of occupancy for this project.
- b. Funds ~~shall~~ must be expended first for the U.S. 41 improvements specified in Alternative 1.a above, with the balance of the base amount of \$565,000 paid by the developer into a fund established by Lee County for the purpose of mitigating other adverse impacts due to the project, including improvements described in E.3, E.4 and E.5 above, plus intersection improvements deemed necessary by the County Engineer for the projects access points onto Cypress Lake Drive. At the time that construction contracts are let for the specified improvements on U.S. 41, and after consultation and agreement with the County Engineer, the developer ~~shall~~ must pay an amount estimated to be the balance of the \$565,000 minus the cost for design and construction of the U.S. 41 improvements into the fund established by Lee County. Within one month of the completion of the U.S. 41 contracts, the County Engineer ~~shall~~ will determine the exact amount of this balance based on actual design and construction costs. The developer ~~shall~~ will receive a refund or make an additional payment to Lee County so that the total amount paid by the developer equals the base payment of \$565,000.
- c. The base payment of \$565,000 (in 1985 dollars) is the amount that ~~shall~~ must be contributed by the developer for the mitigation of the adverse traffic impacts due to the proposed shopping center including up to 300,000 square feet of commercial shopping facilities. If this development is expanded to include additional square footage, the base amount of \$565,000 ~~shall~~ must be increased in a manner that will accurately reflect the impacts of the additional development.
- d. If the construction contracts have not been let prior to October 1, 1985, the base payment of \$565,000 ~~shall~~ will be adjusted quarterly thereafter using the most current Construction Price Index (C.P.I.) published by the Engineer News Record (McGraw-Hill Publications) until the construction contracts are let. The base price index for these adjustments ~~shall~~ will be the price index in the Second Quarterly Cost Round-Up for 1985.

- e. Whether or not Lee County adopts a Roads Impact Fee ordinance, the amount of this base payment ~~shall~~ remains the same (\$565,000), except for adjustments required by Alternative 1.c and 1.d above. This base payment ~~shall~~ will be substituted for the fee required under the new ordinance.

2. If the developer foregoes Alternative 1 and Lee County adopts a Roads Impact Fee ordinance before the first building permit is issued, this fee may be substituted for off-site improvements listed in E.3, E.4 and E.5 above. Site-related improvements ~~shall~~ remain the developer's responsibility and obligation. Payments already made for these off-site improvements ~~shall~~ will be credited toward the overall fee.

F. VEGETATION AND WILDLIFE

1. The developer ~~shall~~ must preserve no less than 15 percent of unaltered native vegetation, including understory, generally along the project's north, east, and south boundaries. These areas may be utilized as dry detention basins in the water management system to purify surface run-off. Plans for this preserve area ~~shall~~ must be submitted to the Lee County Planning Department for approval as part of the site plan approval process. The developer ~~shall~~ will be allowed to remove some existing native vegetation in areas designated for preservation in accordance with Section F of this Development Order and previous development approvals provided that, at the minimum, an equivalent amount of acreage is provided as mitigation generally pursuant to the mitigation plan and map (Cypress Trace Freeland Auto Mall Preserve Location, dated October 5, 1988) on file with Department of Community Development except as modified below:

Prior to preliminary development order approval, the developer ~~shall~~ must submit a vegetation plan including a littoral shelf for the water retention lake shown on the site plan, as well as a 15 foot buffer along the western edge of the parking lot (to contain mature trees and shrubs; i.e., 15 foot high trees and 6 foot high shrubs with spacing pursuant to the mitigation plan). This plan is subject to review and approval by the Department of Community Development.

G. WATER SUPPLY

1. The developer ~~shall~~ must utilize water-conserving features in irrigation system design and use, including the use of native and/or low water use plants and turf, and other appropriate features.

H. OTHER

1. The southernmost 37.7± acre portion of this project ~~shall~~ may not exceed a total of 335,000 square feet of gross floor area of commercial shopping center uses.

Nothing in this section precludes the owner of the 37.7 acre portion of the project from rebuilding the center consistent with this DRI DO, or seeking an increase in square footage, if needed, by filing a Notice of Proposed Change.

- ~~(i) consistency with the Comprehensive Plan, the applicable Land Use Classification and Zoning District Regulations;~~
- ~~(ii) a substantial deviation determination pursuant to 380.06(17), Florida Statutes;~~
- ~~(iii) applicable local development order review, requirements and impact assessments;~~

2. The northernmost 14.8± acre parcel may be developed in accordance with the following requirements:

- a. Uses on the parcel are limited to the following, as defined in Chapter 34 of the Lee County Land Development Code:

Administrative Offices
ATM
Auto Parts Store (with and without installation)
Banks and Financial Establishments, Groups I and II
Boat Parts Store
Business Services, Groups I and II
Car Wash
Cleaning and Maintenance Services
Clothing Stores
Consumption on Premises
Contractors and Builders, Groups I and II
Convenience Food and Beverage Store
Department Store
Essential Services
Excavation, Water Retention
Food Stores, Groups I and II
Hardware Store
Hobby, Toy, Game Shop
Household and Office Furnishings, Groups I and II
Insurance Companies
Laundromat
Laundry and Dry Cleaning, Group I
Lawn and Garden Supply Store
Medical Office
Non-Store Retailers, All Groups
Package Store
Paint, Glass and Wallpaper

Parking Lot, Accessory
 Personal Services, Groups II, III and IV
 Pet Services
 Pet Shop
 Pharmacy
 Post Office
 Rental and Leasing Establishments, Groups I, II and III
 Repair Shops, Groups I and II
 Restaurants, Fast Food
 Restaurants, Groups I, II, III and IV
 Signs
 Speciality Retail Shop, Groups I, II, III and IV
 Storage, Indoor
 Storage, Open
 Studios
 Supermarket
 Used Merchandise Store, Groups I, II and III
 Vehicle and Equipment Dealers, Groups I, II, III and IV

- b. Building areas may contain no more than 130,000 square feet of gross floor area of the uses listed in subparagraph a. above;
- c. No use or combination of uses will be permitted if those uses will cause development on this parcel to generate in excess of 776 peak hour vehicular trips;
- d. The development must comply with all the terms of this Development Order except Section E;
- e. In lieu of the requirements in Section E, the Developer must pay road impact fees in accordance with Lee County Land Development Code, Chapter 1, Article VI, Division 2, as it may be amended from time to time; and
- f. All development must be consistent with County zoning and development regulations.

23. The developer ~~shall~~ must construct and permanently maintain a cement block buffer wall, having a minimum height of six (6) feet. Such wall ~~shall~~ must be constructed and maintained so as to buffer this project from all adjacent property which is being used for residential purposes.

BE IT FURTHER RESOLVED, by the Board of County Commissioners of Lee County, Florida, that:

1. This resolution ~~shall~~ constitutes the Development Order of this Board issued in response to the Development of Regional Impact Application for Development Approval filed by ~~Southstar Associates~~ Teacher's Retirement Association of the State of Illinois.

2. All commitments and impact mitigating actions volunteered by the developer in the Application for Development Approval and supplementary documents and not in conflict with conditions or stipulations specifically enumerated above are hereby incorporated into this Development Order by reference. The commitments incorporated by reference are as binding on the developer as if the commitments were set forth herein.

3. This Development Order ~~shall be~~ is binding upon the developer ~~and their~~ its heirs, assignees or successors in interest.

It is hereby declared that the terms and conditions set out in this document constitute a basis upon which the developer and County may rely in future actions necessary to implement fully the final development contemplated by this Development Order.

All conditions, restrictions, stipulations and safeguards contained in this Development Order may be enforced by either party hereto by action of law or equity and all costs of such proceedings, including reasonable attorney's fees ~~shall~~ will be paid by the defaulting party.

4. It is understood that any reference herein to any governmental agency ~~shall~~ will be construed to mean any future instrumentality which may be created and designated as successor in interest to, or which otherwise possesses any of the powers and duties of any referenced governmental agency in existence on the effective date of this Development Order.

5. In the event that any portion or section of this Development Order is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision ~~shall~~ will in no manner affect the remaining portions or sections of the Development Order, which ~~shall~~ will remain in full force and effect provided ~~that~~ the portion of the Development Order which that is invalidated does not cause the remainder of the development area to be inconsistent with the purpose and intent of ~~Lee County adopting~~ this Development Order.

6. The approval granted by this Development Order is limited. ~~Such~~ This approval ~~shall~~ may not be construed to obviate the duty of the applicant to comply with all other applicable local or state review and permitting procedures.

7. Subsequent requests for local development permits ~~shall~~ will not require further review pursuant to Section 380.06, Florida Statutes, unless it is found by the Board of County Commissioners, after due notice and hearing, that one or more of the following is present:

(a) A substantial deviation from the terms or conditions of this Development Order, or other changes to the approved development plans, which create a reasonable likelihood of adverse regional impacts or other regional impacts which that were not evaluated in the review by the Southwest Florida Regional Planning Council; or

(b) An expiration of the period of effectiveness of this development order as provided herein.

Upon a finding that either of the above is present, the Board ~~shall~~ may order a termination of all development activity until such time as a new DRI Application for Development Approval has been submitted, reviewed and approved in accordance with Section 380.06, Florida Statutes, and all local approvals have been obtained.

8. This Development Order ~~shall~~ remain in effect until April 7, ~~1998~~ 2001.

9. The Administrative Director of the Lee County Division of Community Development or his/her designee, ~~shall be~~ is the local official responsible for assuring compliance with this Development Order.

10. The developer, or his successor(s) in title to the undeveloped portion of the subject property, ~~shall~~ must submit a report annually to the Lee County Board of County Commissioners, the Southwest Florida Regional Planning Council, the State and/or planning agency, and all affected permit agencies. This report ~~shall~~ must describe the state of development and compliance as of the date of submission, and ~~shall further~~ be consistent with the rules of the State land planning agency. The first monitoring report ~~shall~~ must be submitted to the Administrative Director of the Division of Community Development not later than April 1, 1986, and further reporting ~~shall~~ must be submitted not later than January 1st of subsequent calendar years. Failure to comply with this reporting procedure is governed by Sec. 380.06(16) F.S. and the developer ~~shall~~ must so inform any successor in title to any undeveloped portion of the real property covered by this Development Order.

11. Certified copies of this Development Order are to be forwarded to the Southwest Florida Regional Planning Council, the developer, and appropriate state agencies. This Development Order is rendered as of the date of that transmittal, but ~~shall~~ will not be effective until the expiration of the statutory appeals period (45 days from rendition) or until the completion of any appellate proceeding, whichever time is greater. Upon this Development Order becoming effective, notice of its adoption ~~shall~~ must be recorded by the developer as provided in Chapter 380, Florida Statutes.

THE MOTION TO ADOPT the above resolution was offered by Commissioner Andrew Coy, and seconded by Commissioner Douglas St. Cerny and upon poll of the members present, the vote was as follows:

John Manning	Absent
John Albion	Aye
Ray Judah	Aye
Douglas St. Cerny	Aye
Andrew Coy	Absent

DULY PASSED AND ADOPTED this 30th day of November, 1998.

BOARD OF COUNTY COMMISSIONERS
LEE COUNTY, FLORIDA

Ray Judah
(Chairman)

ATTEST:
Charlie Green, Clerk

Charlie Green
Clerk

APPROVED AS TO FORM

David E. [Signature] 12/2/98
County Attorney

State of Florida
County of Lee

I, Charlie Green, Clerk of the Circuit Court for Lee County, Florida, do hereby certify this document to be a true and correct copy of the original document filed in the Minutes Department.

Given under my hand and official seal at Fort Myers, Florida, this 4th day of December, 1998.

CHARLIE GREEN, CLERK

Mary [Signature]
Deputy Clerk

FILED DEC 03 1998

lp

MINUTES DEPARTMENT

FINALDRI
11/30/98

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

WHEREAS, an application was filed by the property owner, Capri/Capital Advisors LLC (f/k/a Capital Associates Realty Advisors), to amend the Development of Regional Impact (DRI), in reference to Cypress Trace; and,

WHEREAS, a public hearing was advertised and held on January 23, 2002, before the Lee County Zoning Hearing Examiner, who gave full consideration to the evidence in the record for Case #DRI2001-00002; and

WHEREAS, a second public hearing was advertised and held on March 18, 2001 before the Lee County Board of Commissioners, who gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents on record and the testimony of all interested persons.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS:

SECTION A. REQUEST

The applicant filed a request to amend the Cypress Trace DRI Development Order #7-8384-45 to:

- a. amend Condition 8 to extend the buildout date from April 7, 2001 to December 31, 2005; and
- b. determine whether the proposed change constitutes a substantial deviation under the provisions of Section 380.06(19), Florida Statutes requiring further Development of Regional Impact review.

The property is located in the Intensive Development Land Use Category and legally described in attached Exhibit A. The request to amend the development order is APPROVED.

SECTION B. EXHIBITS:

The following exhibits are attached to this resolution and incorporated by reference:

- Exhibit A: The legal description and STRAP number of the property.
Exhibit B: Zoning Map (with the subject parcel indicated)
Exhibit C: Fifth Development Order Amendment

SECTION C. FINDINGS AND CONCLUSIONS:

1. The applicant has proven entitlement to the amendment by demonstrating compliance with the Lee Plan, the LDC, F.S. §380.06(19) and any other applicable code or regulation.
2. The amendment, as approved:
 - a. meets or exceeds all performance and locational standards set forth for the potential uses allowed by the request; and,
 - b. is consistent with the densities, intensities and general uses set forth in the Lee Plan; and,
 - c. is compatible with existing or planned uses in the surrounding area; and,
 - d. will not place an undue burden upon existing transportation or planned infrastructure facilities and will be served by streets with the capacity to carry traffic generated by the development; and,
 - e. will not adversely affect environmentally critical areas or natural resources.
3. The proposed use or mix of uses is appropriate at the subject location.
4. Urban services, as defined in the Lee Plan, are, or will be, available and adequate to serve the proposed land use.
5. Extension of the buildout date totals more than seven years, and is presumed to be a Substantial Deviation under Section 380.06(19), Florida Statutes.
6. The presumption of Substantial Deviation has been successfully rebutted by evidence that the extension does not create new or additional unmitigated regional impacts.
7. The applicant's traffic study reveals that in 2005 none of the surrounding roads will be adversely or significantly impacted by this development. (A find of adverse and significant impact is a prerequisite for determining new or additional regional traffic impacts.)

The foregoing resolution was adopted by the Lee County Board of Commissioners upon the motion of Commissioner Ray Judah, seconded by Commissioner Douglas St. Cerny and, upon being put to a vote, the result was as follows:

Robert P. Janes	<u>Aye</u>
Douglas R. St. Cerny	<u>Aye</u>
Ray Judah	<u>Aye</u>
Andrew W. Coy	<u>Aye</u>
John E. Albion	<u>Aye</u>

DULY PASSED AND ADOPTED this 18th day of March, 2002.

ATTEST:
CHARLIE GREEN, CLERK

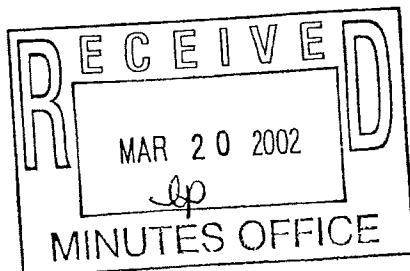
BY: *Mia J. Pierce*
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: *[Signature]*
Chairman

Approved as to form by:

Rawn Caldwell
County Attorney's Office



Banks Engineering, Inc.

Professional Engineers, Planners & Land Surveyors
FORT MYERS ♦ NAPLES ♦ SARASOTA

DESCRIPTION
OF A
PARCEL OF LAND
LYING IN

SECTION 23, TOWNSHIP 45 SOUTH, RANGE 24 EAST
LEE COUNTY, FLORIDA

CYPRESS TRACE DRI

RECEIVED
DEC 07 2001

ZONING COUNTER

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN THE NORTHEAST QUARTER OF SECTION 23, TOWNSHIP 45 SOUTH, RANGE 24 EAST, INCLUDING ALL OF CYPRESS TRACE SHOPPING CENTER, A SUBDIVISION RECORDED IN PLAT BOOK 42, AT PAGES 43 THROUGH 44 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA AND BEING FURTHER BOUND AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID CYPRESS TRACE SHOPPING CENTER, THE SAME BEING AN INTERSECTION WITH THE WEST RIGHT-OF-WAY LINE OF STATE ROAD NO. 45, U.S. 41 – TAMiami TRAIL (WIDTH VARIES) AND THE NORTH RIGHT-OF-WAY LINE OF CYPRESS LAKE DRIVE (WIDTH VARIES); THENCE S.89°08'16"W. ALONG THE SOUTH LINE OF SAID CYPRESS TRACE SHOPPING CENTER AND THE NORTH LINE OF SAID CYPRESS LAKE DRIVE FOR 1095.00 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 1860.00 FEET; THENCE WESTERLY ALONG SAID CURVE AND SAID SOUTH AND NORTH LINE THROUGH A CENTRAL ANGLE OF 06°56'42" FOR 225.46 FEET TO THE SOUTHWEST CORNER OF SAID CYPRESS TRACE SHOPPING CENTER AND AN INTERSECTION WITH A LINE PARALLEL WITH AND 1319.97 FEET WEST OF (AS MEASURED ON A PERPENDICULAR) SAID WEST RIGHT-OF-WAY LINE; THENCE N.01°16'00"W. ALONG SAID PARALLEL LINE AND THE WEST LINE OF SAID CYPRESS TRACE SHOPPING CENTER FOR 1746.15 FEET (PASSING THROUGH THE NORTHWEST CORNER OF SAID CYPRESS TRACE SHOPPING CENTER AT 1276.23 FEET) TO AN INTERSECTION WITH A LINE PARALLEL WITH AND 1827.46 FEET NORTH OF (AS MEASURED ON A PERPENDICULAR) THE SOUTH LINE OF SAID NORTHEAST QUARTER; THENCE N.89°08'16"E. ALONG SAID PARALLEL LINE FOR 1320.00 FEET TO AN INTERSECTION WITH SAID WEST RIGHT-OF-WAY LINE; THENCE S.01°16'00"E. ALONG SAID WEST RIGHT-OF-WAY LINE FOR 381.27 FEET TO THE NORTHEAST CORNER OF SAID CYPRESS TRACE SHOPPING CENTER; THENCE CONTINUE S.01°16'00"E. ALONG SAID WEST RIGHT-OF-WAY LINE AND THE EAST LINE OF SAID CYPRESS TRACE SHOPPING CENTER FOR 70.00 FEET; THENCE CONTINUE S.01°16'00"E. ALONG SAID WEST RIGHT-OF-WAY LINE FOR 300.00 FEET; THENCE CONTINUE S.01°16'00"E. ALONG SAID WEST RIGHT-OF-WAY LINE AND SAID EAST LINE OF CYPRESS TRACE SHOPPING CENTER FOR 981.23 TO THE POINT OF BEGINNING.

PARCEL CONTAINS 52.52 ACRES, MORE OR LESS.

SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS-OF-WAY OF RECORD.

BEARINGS ARE BASED ON THE WEST LINE OF STATE ROAD NO. 45, U.S. 41 – TAMiami TRAIL AS BEARING S.01°16'00"E.

S:\Jobs\CYPRESS\TRACE\DRI_DESC_SKT.doc
S:\Jobs\CYPRESS\TRACE\DRI_DESC_SKT.dwg
S:\Jobs\CYPRESS\TRACE\DRI\map

Applicant's Legal Checked

by Jm 1/14/02

SHEET 1 OF 2

DRI 2001-00002

10511 Six Mile Cypress Pkwy, Suite 101, Ft Myers, Florida 33912 • (941) 939-5490 • Fax (941) 939-2923

EXHIBIT A

SKETCH OF DESCRIPTION

OF
A TRACT OR PARCEL OF LAND LYING IN
SECTION 23, TOWNSHIP 45 SOUTH, RANGE 24 EAST
LEE COUNTY, FLORIDA
(CYPRESS TRACE DRI)



1" = 300'

RECEIVED
DEC 07 2001

ZONING COUNTER

LEGEND:

- ⊕ INDICATES CENTERLINE
- DRI INDICATES DEVELOPMENT OF REGIONAL IMPACT
- (1) INDICATES CURVE NUMBER 1 FROM CURVE DATA SETS
- NO. INDICATES NUMBER
- P.B. INDICATES PLAT BOOK
- PG. INDICATES PAGE
- PC INDICATES POINT OF CURVE

NOTES:

- 1.) SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS-OF-WAY OF RECORD.
- 2.) BEARINGS ARE BASED ON THE WEST LINE OF STATE ROAD NO. 45 (U.S. 41 - TAMiami TRAIL) AS BEARING S.01°16'00"E.

HATCH LEGEND:

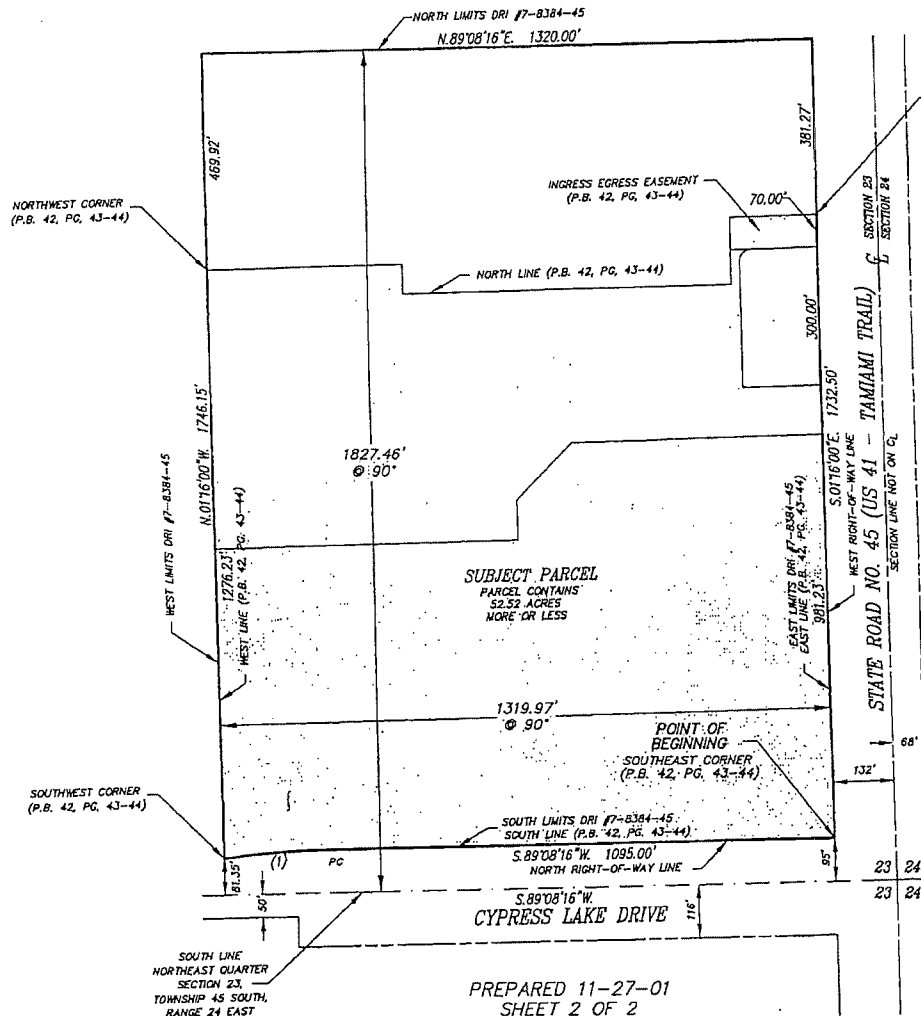
- CYPRESS TRACE SHOPPING CENTER (P.B. 42, PG. 43-44)

SEE SHEET 1 FOR COMPLETE
METES AND BOUNDS DESCRIPTION.

THIS SKETCH OF DESCRIPTION
IS NOT A BOUNDARY SURVEY

Richard M. Pitt
RICHARD M. PITT
REGISTERED LAND SURVEYOR
FLORIDA CERTIFICATION NO. 4009

- THIS SKETCH OF DESCRIPTION IS NOT VALID
WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED
SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.



Curve number 1
Radius= 1860.00'
Delta= 06°55'42"
Arc= 225.46'
Chord= 225.32'
Chord Brg.= S.85°39'55\"W.

S:\C000\CTDR1.MAP
S:\J005\CYPRESS TRACE DRI_DESC_SKT.DOC
S:\J005\CYPRESS TRACE DRI_DESC_SKT.LWG

SOUTH LINE
NORTHEAST QUARTER
SECTION 23
TOWNSHIP 45 SOUTH
RANGE 24 EAST

PREPARED 11-27-01
SHEET 2 OF 2

DRI 2001-00002

EXHIBIT "A"
LEGAL DESCRIPTION
Property located in Lee County, Florida

The applicant has indicated that the STRAP number for the subject property is: 23-45-24-49-00000.0010; 23-45-24-49-00000.0020; 23-45-24-49-00000.0030; 23-45-24-49-00000.0040; 23-45-24-49-0000A.00CE; 23-45-24-00-00001.0020; & 23-45-24-00-00001.002A

ZONING MAP

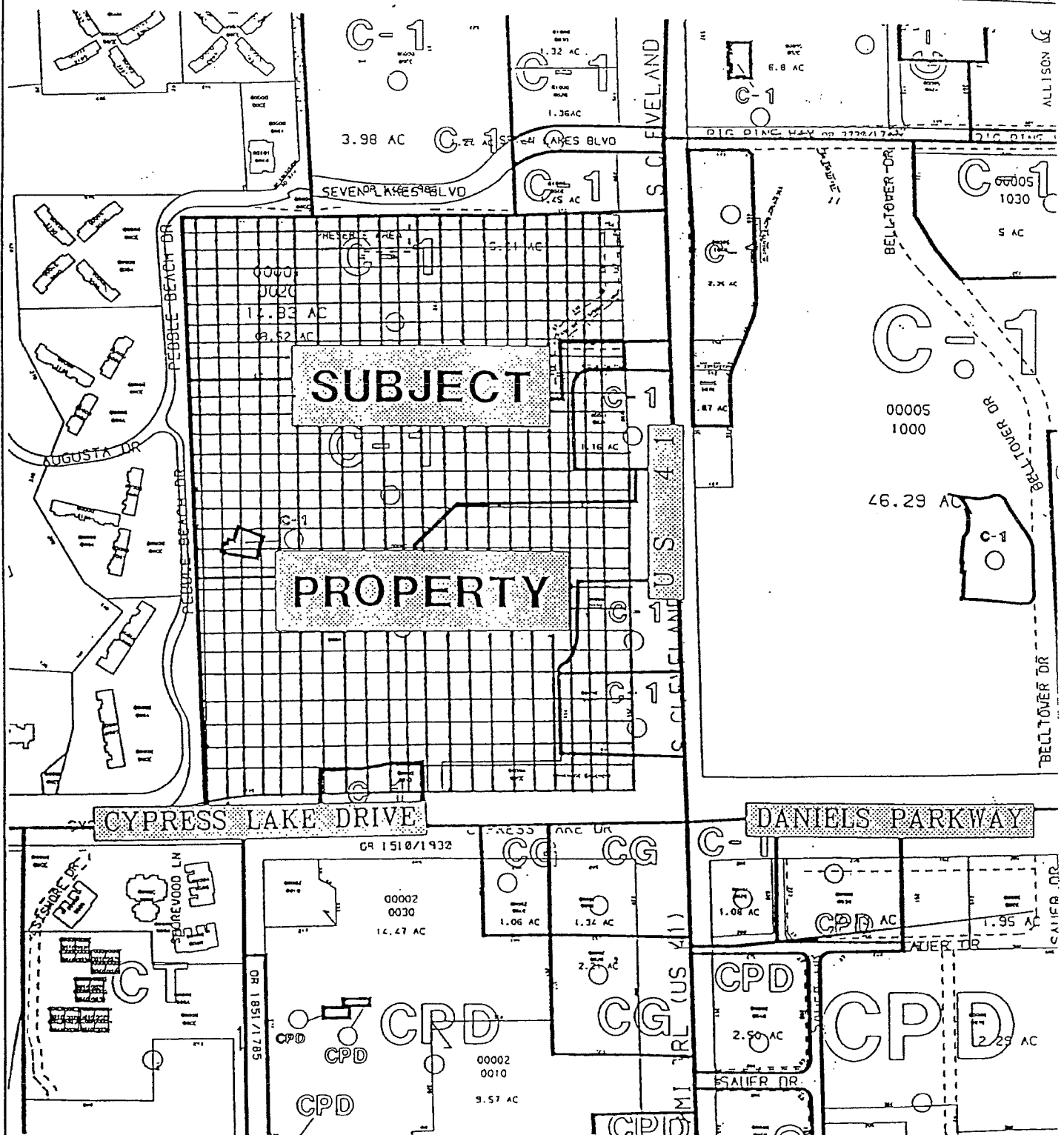


EXHIBIT C

FIFTH DEVELOPMENT ORDER¹
AMENDMENT
FOR
CYPRESS TRACE
A DEVELOPMENT OF REGIONAL IMPACT

#7-8384-45

Let It Be Known, that, pursuant to Section 380.06 of the Florida Statutes, the Board of County Commissioners of Lee County, Florida, heard at a public hearing on April 8, 1985, the Application for Development Approval for Cypress Trace Development Of Regional Impact, a commercial (shopping center) development consisting of approximately 52.52 acres to be developed in accordance with the application filed on June 29, 1984, by Curtis A. Crenshaw, authorized representative of Southstar Associates, a Florida General partnership.

WHEREAS, the original Cypress Trace Development of Regional Impact (DRI) Development Order was approved by the Board of County Commissioners on April 8, 1985; and

WHEREAS, the DRI Development Order was first amended on October 10, 1988 to allow development of a 175,167 square foot automobile dealership in the northerly 14.8± acre portion of the DRI; and

WHEREAS, the DRI Development Order was amended a second time on October 21, 1996 by MRC Partners to reinstate the expired development order, extend the buildout/expiration date to April 7, 1998 (an 8 year extension), eliminate the auto dealership use and allow 130,000 square feet of commercial uses, and limit the maximum peak hour trips generated by the site to 776; and

WHEREAS, the DRI Development Order was amended a third time on February 2, 1998, at the request of Capital Associates Realty Advisors, to allow an increase in the maximum retail commercial square footage on a 34.5 ± acre DRI parcel from 300,000 to 335,000 square feet; and

WHEREAS, the DRI Development Order was subsequently amended a fourth time on November 30, 1998 to extend the buildout/expiration date from April 7, 1998 to April 7, 2001; and

¹ This is a codification and restatement of all DRI Development orders rendered with respect to the Cypress Trace DRI, including actions taken on April 8, 1985, October 10, 1988, October 21, 1996, February 2, 1998, November 30, 1998 and March 18, 2002.

WHEREAS, a Notice of Proposed Change was filed by Capri/Capital Associates (aka Realty Advisors) on April 6, 2001 to allow an extension of the buildout/expiration date from April 7, 2001 to December 31, 2005 (a cumulative extension total of seven years, eight months and 23 days); and

WHEREAS, Florida Statutes, Section 380.06 requires a proposed change to be reviewed and evaluated to determine whether it constitutes a substantial deviation from the terms of the existing Development Order; and

WHEREAS, under Florida Statutes, Section 380.06(19)(c), an extension of the project's buildout, termination or expiration date by seven or more years is presumed to be a substantial deviation, however, the presumption may be rebutted by clear and convincing evidence; and

WHEREAS, on March 18, 2002, the Board of County Commissioners reviewed the proposed amendment and found that the buildout/expiration date extension does not create additional regional impacts requiring mitigation; and

WHEREAS, the proposed change to the DRI Development Order is consistent with the Lee County Comprehensive Land Use Plan and applicable local land development regulations, as well as the State Comprehensive Plan, the Southwest Florida Regional Plan and the State Land Development Plan; and

WHEREAS, the Board of County Commissioners of Lee County, Florida has considered the report and recommendations of the Southwest Florida Regional Planning Council, the Lee County Administrative Staff, and the documents and comments upon the record made before the Board in public hearing, and, after full consideration of these reports, recommendations, comments, and documents, the Board of County Commissioners of Lee County, Florida, hereby finds and determines that:

FINDINGS OF FACT

A. The applicant originally proposed to develop a shopping center including approximately 436,000 square feet of commercial shopping center facilities on approximately 52.52 acres. The formal Application for Development Approval ("ADA") requested approval of that size, acreage and use. The various regional issues were identified and analyzed based upon the ADA submitted. The proposed development constitutes a shopping center Development of Regional Impact on the real property described as:

Two parcels of land in the northeast one-quarter of Section 23, Township 45 South, Range 24 East, Lee County, Florida, totaling 52.5 acres, more particularly described as follows:

In Section 23, Township 45 South, Range 24 East, Lee County, Florida

A tract or parcel of land lying in the Northeast Quarter (NE ¼) of Section 23, Township 45 South, Range 24 East, Lee County, Florida, described as follows:

From the Southeast corner of said fraction of a section, run S89°08'16"W along the South line of said fraction of a section for 131.82 feet to the West right-of-way line of SR 45 (US 41-Tamiami Trail);

THENCE run N01°16'00"W for 95.00 feet to the intersection of the North right-of-way line of Cypress Lake Drive, with the West right-of-way line of SR 45 (US 41-Tamiami Trail) and the POINT OF BEGINNING.

From said POINT OF BEGINNING run S89°08'16"W along said North right-of-way line for 1,095.00 feet to a POINT OF CURVATURE;

THENCE run Westerly along said North right-of-way line, along the arc of a curve to the left of radius 1,860.00 feet (delta angle of 06°56'42"-chord distance of 225.32 feet) for 225.46 feet;

THENCE run N01°16'00"E (parallel with said West right-of-way line) for 1,276.23 feet;

THENCE run N88°44'00"E for 420.00 feet;

THENCE run S01°16'00"E for 65.00 feet;

THENCE run N88°44'00"E for 711.97 feet;

THENCE run N01°16'00"W for 144.33 feet;

THENCE run N88°44'00"E for 188.00 feet to the West right-of-way of SR 45 (US 41-Tamiami Trail);

THENCE run S01°16'00"E along said West right-of-way line for 70.60 feet;

THENCE run S88°44'00"W along said South line for 143.00 feet to a POINT OF CURVATURE;

THENCE run Westerly, Southwesterly and Southerly along the arc of a curve to the left of radius 25.00 feet (delta angle of 90°00'00" - chord distance of 35.36 feet) for 39.27 feet to a POINT OF TANGENCY and the East line of a frontage road easement (40 feet wide);

THENCE run N88°44'00" E for 168.00 feet to the West right-of-way line;

THENCE S01°16'00"E for 981.23 feet to the POINT OF BEGINNING.

All in Lee County, Florida

The Board of County Commissioners approved 300,000 square feet of commercial shopping center floor area in 1985. The third development order amendment permitted a commercial shopping center up to 335,000 square feet of gross floor area. As a result of the DRI Development Order amendments a total of 465,000 square feet of retail commercial square footage is permitted within the entire DRI.

B. The subject property has been zoned by the authority of Chapter 125, Florida Statutes, Chapter 61-2405, Laws of Florida (Special Acts), and the Lee County Zoning Regulations, as amended, in the C-1 District.

C. The Application for Development Approval is consistent with the requirements of Section 380.06, Florida Statutes; and

D. The proposed development is not in an area designated as an Area of Critical State Concern pursuant to the provisions of Section 380.05, Florida Statutes; and

E. The proposed development has been reviewed by the Southwest Florida Regional Planning Council and is the subject of the report and recommendation adopted by that body on ~~January 17, 1985~~, and subsequently forwarded to Lee County pursuant to the provisions of Section 380.06, Florida Statutes, and the proposed development is consistent with the report and recommendations of the Southwest Florida Regional Planning Council; and

F. The proposed development is consistent with the adopted Lee County Comprehensive Plan, subject to the following conditions.

CONCLUSIONS OF LAW

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, in public meeting duly constituted and assembled that the requested amendments to the Cypress Trace Development of Regional Impact is hereby ordered APPROVED, subject to the following conditions, restrictions, and limitations:

A. COMMUNITY SERVICES

1. The developer must meet with the Chief of the South Trail Fire Department and the Director of the Lee County Division of Public Safety or his designee, prior to project construction, to discuss fire protection and Emergency Medical Services needs and measures to meet these needs.

2. The developer must demonstrate, to the satisfaction of the Lee County Division of Community Development prior to project construction, that there will be no adverse fiscal impacts (costs exceeding revenues) upon fire protection and Emergency Medical Service providers resulting from the development.

B. DRAINAGE/WATER QUALITY

1. The drainage system for the proposed project must be redesigned to provide greater upland (dry) retention/detention of runoff prior to discharge into the on-site lake system. The additional square footage will be constructed in areas that are currently

imperious, i.e., pavement, walkway or building. Areas of natural vegetation as described in Condition F. below may be used where feasible.

2. The discharge structures must include a baffle, skimmer, or other suitable mechanism as determined by the Lee County Division of Environmental Protection Services for preventing oil and grease from discharging from retention/detention areas.

3. The drainage system must implement the design standards and "best management practices" outlined in the ADA and in all supplementary material.

4. The developer and/or his successor(s), must implement an on-going maintenance and monitoring program that regularly inspects, maintains and samples the stormwater drainage system. The program must be designed in consultation with the staffs of the Southwest Florida Regional Planning Council, the South Florida Water Management District, and Lee County. Final approval of the program rests with Lee County. The program must be redesigned, if necessary, to incorporate any County ordinances or policies relating to the Lakes Park drainage basin.

5. A regular program of vacuum sweeping of all parking lots must be utilized both during and after project construction.

6. The project must be served by a central sewage system.

7. The project is subject to all regulations of Lee County for the protection of the Lakes Regional Park Watershed and Lakes Regional Park water quality.

8. Prior to Preliminary Development Order approval, the developer must submit a detailed surface water management plan identifying detention/retention areas, discharge control structures and a maintenance and monitoring program. This plan is subject to review and approval by the Lee County Department of Community Development.

C. ENERGY

The developer must incorporate, at minimum, the following energy conservation features into all site plans and architectural programs or insure that the following features are implemented through deed restrictions and covenants with successors in title. All applications for site plan approvals, local development orders and building permits must be accompanied by a document detailing proposed compliance with these conditions. If deed restrictions or covenants are utilized to insure compliance, such documents must be approved by the Lee County Attorney's Office prior to recording.

These features are:

1. Provision of bicycle racks or storage facilities.

2. Location of bus stops, shelters, and other passenger and system accommodations for a transit system to serve the project area, in cooperation with the appropriate Lee County agencies.

3. Use of energy-efficient features in window design (e.g., tinting and exterior shading).

4. Installation of energy-efficient appliances and equipment.

5. Prohibition of deed restrictions or covenants that would prevent or unnecessarily hamper energy conservation efforts (e.g., building orientation and solar water heating systems).

6. Installation of energy-efficient lighting for streets, parking areas, and other interior and exterior public areas.

7. Installation of water closets with a maximum flush of 3.5 gallons and shower heads and faucets with a maximum flow rate of 3.0 gallons per minute (at 60 pounds of pressure per square inch) as specified in the Water Conservation Act, Section 553.14, F.S. Florida Statutes).

8. Selection, installation and maintenance of native plants, trees, and other vegetation and landscape design features, in order to reduce requirements for water, fertilizer, maintenance, and other needs, for all parking lot landscaping and required vegetated buffer areas.

9. Placement of native trees to provide shades in the warmer months while not overly reducing the benefits of sunlight in the cooler months, and to provide shade for streets and parking areas.

10. Orientation of structures, to reduce solar heat gain by walls and to utilize the natural cooling effects of the wind wherever feasible.

11. Provision for structural shading (e.g., trellises, awnings, and roof overhangs) wherever practical when natural shading cannot be used effectively.

D. FLOODPLAINS/HURRICANE EVACUATION

1. The minimum finished floor elevations must be above the 100-year, 3-day stage with zero discharge or as required by the South Florida Water Management District, whichever is greater.

2. The developer must meet the Lee County Division of Public Safety officials to discuss potential use of project common areas for storm shelter purposes, before the first certificate of occupancy is issued.

E. TRANSPORTATION

1. The developer must construct, cause to be constructed or pay the full cost for intersection improvements deemed necessary by the County Engineer for the project's access points onto U.S. 41 and Cypress Lake Drive. These improvements must be made prior to the issuance of the first certificate of occupancy for the project.

2. The developer must construct, or cause to be constructed, two additional lanes on U.S. 41 from the terminus of six lanes north of Seven Lakes Blvd. ~~Boulevard~~/Big Pine Way to Daniels Parkway/Cypress Lake Drive. The developer's obligation includes the full costs of design/engineering, utility relocation (if needed) and construction, including turn lanes at the intersection of U.S. 41 with Daniels Parkway/Cypress Lake Drive, but not right-of-way. These improvements must be made prior to the issuance of the first certificate of occupancy for the project.

3. The developer must pay the full costs of constructing a second left-turn lane on northbound U.S. 41 to westbound College Parkway. If the County Engineer determines that construction of a second left-turn lane is not feasible due to intersection geometrics or lack of right-of-way, the developer must pay the full costs of other improvements, such as repainting the inner through lane for left-turn movements, required to accommodate left-turns at this location. Payment of these costs are due at the time that a local Development Order is issued under Lee County regulations.

4. The developer must pay a proportionate share of the costs of constructing two additional lanes, excluding right-of-way, on Daniels Parkway from the Bell Tower Mall entrance east of U.S. 41 to and including the intersection of Metro Parkway with Daniels Parkway. The developer's proportionate share will be determined by the County Engineer based on the project's share of the total traffic added to the roadway by all projects required by Development Orders to contribute to the cost of improvements on the roadway. Payment is due at the time that a local Development Order is issued under Lee County regulations.

5. The developer must pay a proportionate share of the costs of constructing two additional lanes excluding right-of-way on Cypress Lake Drive from U.S. 41 to and including the intersection of Winkler Road with Cypress Lake Drive. The developer's proportionate share will be determined as described in Item E.4. Payment is due at the time that the first local Development Order is issued under Lee County regulations.

6. Nothing contained in this Development Order may be construed to exempt this development from participation in the funding, through Municipal Services Taxing Units (MSTU's) or other special assessment districts, of improvements to various state and County arterial and collector roads to the degree to which this development generates demand.

7. The development of commercial shopping center over 300,000 square feet

of gross floor area on the southernmost 37.7-acre portion of the project and up to 465,000 square feet of gross floor area of the entire project must mitigate transportation impacts through the payment of road impact fees.

ALTERNATIVES

1. In lieu of the obligations and payments required by E.1 through E.5 above, the developer must contribute a base amount of \$565,000 (in 1985 dollars) for the mitigation of adverse traffic impacts due to this project. Payment must be made subject to the provisions listed below.

a. The developer must design and construct, or cause to be designed and constructed, two additional lanes on U.S. 41 from the terminus of six lanes north of Seven Lakes Boulevard/Big Pine Way to Daniels Parkway/Cypress Lake Drive plus intersection improvements deemed necessary by the Lee County Engineer for the project's access points onto U.S. 41 and for the north leg of the U.S. 41/Daniels Parkway/Cypress Lake Drive intersection. The developer's contract(s) for the design and construction of these improvements must be reviewed and approved by the County Engineer. These improvements must be substantially completed to the satisfaction of the County Engineer prior to issuance of the first certificate of occupancy for this project.

b. Funds must be expended first for the U.S. 41 improvements specified in Alternative 1.a above, with the balance of the base amount of \$565,000 paid by the developer into a fund established by Lee County for the purpose of mitigating other adverse impacts due to the project, including improvements described in E.3, E.4 and E.5 above, plus intersection improvements deemed necessary by the County Engineer for the projects access points onto Cypress Lake Drive. At the time that construction contracts are let for the specified improvements on U.S. 41, and after consultation and agreement with the County Engineer, the developer must pay an amount estimated to be the balance of the \$565,000 minus the cost for design and construction of the U.S. 41 improvements into the fund established by Lee County. Within one month of the completion of the U.S. 41 contracts, the County Engineer will determine the exact amount of this balance based on actual design and construction costs. The developer will receive a refund or make an additional payment to Lee County so that the total amount paid by the developer equals the base payment of \$565,000.

c. The base payment of \$565,000 (in 1985 dollars) is the amount that must be contributed by the developer for the mitigation of the adverse traffic impacts due to the proposed shopping center including up to 300,000 square feet of commercial shopping facilities. If this development is expanded to include additional square footage, the base amount of \$565,000 must be increased in a manner that will accurately reflect the impacts of the additional development.

d. If the construction contracts have not been let prior to October 1, 1985, the base payment of \$565,000 will be adjusted quarterly thereafter using the most current Construction Price Index (C.P.I.) published by the Engineer News Record (McGraw-Hill Publications) until the construction contracts are let. The base price index for these adjustments will be the price index in the Second Quarterly Cost Round-Up for 1985.

e. Whether or not Lee County adopts a Roads Impact Fee ordinance, the amount of this base payment remains the same (\$565,000), except for adjustments required by Alternative 1.c and 1.d above. This base payment will be substituted for the fee required under the new ordinance.

2. If the developer foregoes Alternative 1 and Lee County adopts a Roads Impact Fee ordinance before the first building permit is issued, this fee may be substituted for off-site improvements listed in E.3, E.4 and E.5 above. Site-related improvements remain the developer's responsibility and obligation. Payments already made for these off-site improvements will be credited toward the overall fee.

F. VEGETATION AND WILDLIFE

1. The developer must preserve no less than 15 percent of unaltered native vegetation, including understory, generally along the project's north, east, and south boundaries. These areas may be utilized as dry detention basins in the water management system to purify surface run-off. Plans for this preserve area must be submitted to the Lee County Planning Department for approval as part of the site plan approval process. The developer will be allowed to remove some existing native vegetation in areas designated for preservation in accordance with Section F of this Development Order and previous development approvals provided that, at minimum, an equivalent amount of acreage is provided as mitigation generally pursuant to the mitigation plan and map (Cypress Trace Freeland Auto Mall Preserve Location, dated October 5, 1988) on file with Department of Community Development except as modified below:

Prior to preliminary development order approval, the developer must submit a vegetation plan including a littoral shelf for the water retention lake shown on the site plan, as well as a 15 foot wide buffer along the western edge of the parking lot (to contain mature trees and shrubs; i.e., 15 foot high trees and 6 foot high shrubs with spacing pursuant to the mitigation plan). This plan is subject to review and approval by the Department of Community Development.

G. WATER SUPPLY

1. The developer must utilize water-conserving features in irrigation system design and use, including the use of native and/or low water use plants and turf, and other appropriate features.

H. OTHER

1. The southernmost 37.7±-acre portion of this project may not exceed a total of 335,000 square feet of gross floor area of commercial shopping center uses. Nothing in this section precludes the owner of the 37.7 acre portion of the project from rebuilding the center consistent with this DRI ~~DO~~ Development Order, or seeking an increase in square footage, if needed, by filing a Notice of Proposed Change.

2. The northernmost 14.8± acre parcel may be developed in accordance with the following requirements:

a. Uses on the parcel are limited to the following, as defined in Chapter 34 of the Lee County Land Development Code:

- Administrative Offices
- ATM
- Auto Parts Store (with and without installation)
- Banks and Financial Establishments, Groups I and II
- Boat Parts Store
- Business Services, Groups I and II
- Car Wash
- Cleaning and Maintenance Services
- Clothing Stores
- Consumption on Premises
- Contractors and Builders, Groups I and II
- Convenience Food and Beverage Store
- Department Store
- Essential Services
- Excavation, Water Retention
- Food Stores, Groups I and II
- Hardware Store
- Hobby, Toy, Game Shop
- Household and Office Furnishings, Groups I and II
- Insurance Companies
- Laundromat
- Laundry and Dry Cleaning, Group I
- Lawn and Garden Supply Store
- Medical Office
- Non-Store Retailers, All Groups
- Package Store
- Paint, Glass and Wallpaper
- Parking Lot, Accessory
- Personal Services, Groups II, III and IV
- Pet Services
- Pet Shop

Pharmacy
Post Office
Rental and Leasing Establishments, Groups I, II and III
Repair Shops, Groups I and II
Restaurants, Fast Food
Restaurants, Groups I, II, III and IV
Signs
Speciality Retail Shop, Groups I, II, III and IV
Storage, Indoor
Storage, Open
Studios
Supermarket
~~Used Merchandise Store, Groups I, II and III~~
Vehicle and Equipment Dealers, Groups I, II, III and IV

b. Building areas may contain no more than 130,000 square feet of gross floor area of the uses listed in subparagraph a. above;

c. No use or combination of uses will be permitted if those uses will cause development on this parcel to generate in excess of 776 peak hour vehicular trips;

d. The development must comply with all the terms of this Development Order except Section E;

e. In lieu of the requirements in Section E, the Developer must pay road impact fees in accordance with Lee County Land Development Code, Chapter 1, Article VI, Division 2, as it may be amended from time to time; and

f. All development must be consistent with County zoning and development regulations.

3. The developer must construct and permanently maintain a cement block buffer wall, having a minimum height of six (6) feet. Such wall must be constructed and maintained so as to buffer this project from all adjacent property which is being used for residential purposes.

BE IT FURTHER RESOLVED, by the Board of County Commissioners of Lee County, Florida, that:

1. This resolution constitutes the Development Order of this Board issued in response to the Development of Regional Impact Application for Development Approval filed by Teacher's Retirement Association of the State of Illinois.

2. All commitments and impact mitigating actions volunteered by the developer

in the Application for Development Approval and supplementary documents and not in conflict with conditions or stipulations specifically enumerated above are hereby incorporated into this Development Order by reference. The commitments incorporated by reference are as binding on the developer as if the commitments were set forth herein.

3. This Development Order is binding upon the developer its heirs, assignees or successors in interest.

It is hereby declared that the terms and conditions set out in this document constitute a basis upon which the developer and County may rely in future actions necessary to implement fully the final development contemplated by this Development Order.

All conditions, restrictions, stipulations and safeguards contained in this Development Order may be enforced by either party hereto by action of law or equity and all costs of such proceedings, including reasonable attorney's fees will be paid by the defaulting party.

4. It is understood that any reference herein to any governmental agency will be construed to mean any future instrumentality which may be created and designated as successor in interest to, or which otherwise possesses any of the powers and duties of any referenced governmental agency in existence on the effective date of this Development Order.

5. In the event that any portion or section of this Development Order is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision will in no manner affect the remaining portions or sections of the Development Order, which will remain in full force and effect provided the portion of the Development Order that is invalidated does not cause the remainder of the development area to be inconsistent with the purpose and intent this Development Order.

6. The approval granted by this Development Order is limited. This approval may not be construed to obviate the duty of the applicant to comply with all other applicable local or state review and permitting procedures.

7. Subsequent requests for local development permits will not require further review pursuant to Section 380.06, Florida Statutes, unless it is found by the Board of County Commissioners, after due notice and hearing, that one or more of the following is present:

(a) A substantial deviation from the terms or conditions of this Development Order, or other changes to the approved development plans, which create a reasonable likelihood of adverse regional impacts or other regional impacts that were not evaluated in the review by the Southwest Florida Regional Planning Council; or

(b). An expiration of the period of effectiveness of this development order as provided herein.

Upon a finding that either of the above is present, the Board may order a termination of all development activity until such time as a new DRI Application for Development Approval has been submitted, reviewed and approved in accordance with Section 380.06, Florida Statutes, and all local approvals have been obtained.

8. This Development Order remains in effect until ~~April 7, 2004~~ buildout on December 31, 2005.

9. The Administrative Director of the Lee County Division of Community Development or his/her designee, is the local official responsible for assuring compliance with this Development Order.

10. The developer, or his successor(s) in title to the undeveloped portion of the subject property, must submit a report annually to the Lee County Board of County Commissioners, the Southwest Florida Regional Planning Council, the State and/or planning agency, and all affected permit agencies. This report must describe the state of development and compliance as of the date of submission, and be consistent with the rules of the State land planning agency. The first monitoring report must be submitted to the Administrative Director of the Division of Community Development not later than April 1, 1986, and further reporting must be submitted not later than January 1st of subsequent calendar years. Failure to comply with this reporting procedure is governed by Section 380.06(16) F.S. Florida Statutes and the developer must so inform any successor in title to any undeveloped portion of the real property covered by this Development Order.

11. Certified copies of this Development Order are to be forwarded to the Southwest Florida Regional Planning Council, the developer, and appropriate state agencies. This Development Order is rendered as of the date of that transmittal, but will not be effective until the expiration of the statutory appeals period (45 days from rendition) or until the completion of any appellate proceeding, whichever time is greater. Upon this Development Order becoming effective, notice of its adoption must be recorded by the developer as provided in Chapter 380, Florida Statutes.

THE MOTION TO ADOPT the above resolution was offered by Commissioner Ray Judah, and seconded by Commissioner Douglas St. Cerny and upon poll of the members present, the vote was as follows:

Robert P. Janes	Aye
Douglas St. Cerny	Aye
Ray Judah	Aye
Andrew W. Coy	Aye
John Albion	Aye

DULY PASSED AND ADOPTED this 18th day of March, 2002.



ATTEST:
Charlie Green, Clerk

Spa S. Pierce
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
LEE COUNTY, FLORIDA

[Signature]
Chairman

APPROVED AS TO FORM

[Signature]
County Attorney

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

WHEREAS, an application was filed by the property owner, DDRTC Cypress Trace LLC, c/o Developers Diversified Realty, to amend the Development of Regional Impact (DRI) in reference to Cypress Trace DRI; and

WHEREAS, the Lee County Department of Community Development prepared and provided a Staff Report in response to the request, along with a recommendation to approve the request; and

WHEREAS, a public hearing was advertised and held on May 22, 2019, before the Lee County Board of Commissioners; and

WHEREAS, the Lee County Board of Commissioners gave full and complete consideration to the recommendations of the staff, the documents in the record for DRI2018-10004 and the testimony of all interested persons.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS:

SECTION A. REQUEST:

The applicant filed a request to amend the Development of Regional Impact to extend the buildout/expiration date from December 31, 2005 to December 31, 2023.

The subject property is located in the Intensive Development Future Land Use Category and legally described in attached Exhibit "A."

The request is APPROVED.

SECTION B. EXHIBITS:

The following exhibits are attached to this resolution and incorporated by reference:

- Exhibit A: Legal description the property
- Exhibit B: Zoning Map (with the subject parcel indicated)
- Exhibit C: Sixth Amendment of the Cypress Trace DRI Development Order

SECTION C. FINDINGS AND CONCLUSIONS:

1. The request is consistent with Florida Statutes §380.06(7)(a).
2. The change as proposed does not increase development intensity or density and will not have a significant impact on a regional level that would require additional conditions to be placed in the DRI Development Order.

3. The proposed changes, as requested, are consistent with the Land Development Code and the Lee Plan.

SECTION D. SCRIVENER'S ERRORS

The Board intends that this resolution can be renumbered or relettered and typographical errors that do not affect the intent and are consistent with the Board's action can be corrected with the authorization of the County Manager or his designee, without the need for a public hearing.

Commissioner Pendergrass made a motion to adopt the foregoing resolution, seconded by Commissioner Manning. The vote was as follows:

Adopted by unanimous consent.

John Manning	Aye
Cecil Pendergrass	Aye
Vacant	—
Brian Hamman	Aye
Frank Mann	Absent

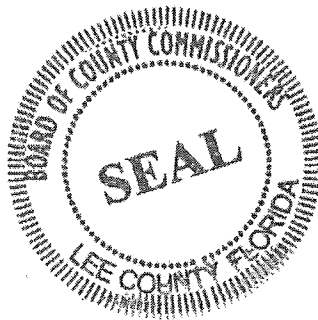
DULY PASSED AND ADOPTED this 22nd day of May, 2019.

ATTEST:
LINDA DOGGETT, CLERK

BY: Melinda Butler
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: Brian Hamman
Brian Hamman, Vice Chair



APPROVED AS TO FORM FOR THE
RELIANCE OF LEE COUNTY ONLY

Michael D. Jacob
Deputy County Attorney
County Attorney's Office

RECEIVED
MINUTES OFFICE
2019 MAY 31 PM 1:54

CASE NUMBER: DRI2018-10004

LEGAL DESCRIPTION

LOT 1, CYPRESS TRACE SHOPPING CENTER, A SUBDIVISION,
LOCATED IN SECTION 23, TOWNSHIP 45, RANGE 24 EAST AS
RECORDED IN PLAT BOOK 42, PAGES 43 AND 44 OF THE PUBLIC
RECORDS OF LEE COUNTY, FLORIDA.

STRAP NUMBER

23-45-24-49-00000.0010



Applicant's Legal Checked
by 12/13 12/16/18

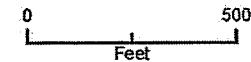
EXHIBIT A



DRI2018-10004 Zoning

Legend

-  Subject Parcel
-  Parcel Boundary



SIXTH DEVELOPMENT ORDER¹
AMENDMENT
FOR
CYPRESS TRACE
A DEVELOPMENT OF REGIONAL IMPACT

#7-8384-45

Let It Be Known, that, pursuant to Section 380.06 of the Florida Statutes, the Board of County Commissioners of Lee County, Florida, heard at a public hearing on April 8, 1985, the Application for Development Approval for Cypress Trace Development Of Regional Impact, a commercial (shopping center) development consisting of approximately 52.52 acres to be developed in accordance with the application filed on June 29, 1984, by Curtis A. Crenshaw, authorized representative of Southstar Associates, a Florida General partnership.

WHEREAS, the original Cypress Trace Development of Regional Impact (DRI) Development Order was approved by the Board of County Commissioners on April 8, 1985; and

WHEREAS, the DRI Development Order was first amended on October 10, 1988 to allow development of a 175,167 square foot automobile dealership in the northerly 14.8± acre portion of the DRI; and

WHEREAS, the DRI Development Order was amended a second time on October 21, 1996 by MRC Partners to reinstate the expired development order, extend the buildout/expiration date to April 7, 1998 (an 8 year extension), eliminate the auto dealership use and allow 130,000 square feet of commercial uses, and limit the maximum peak hour trips generated by the site to 776; and

WHEREAS, the DRI Development Order was amended a third time on February 2, 1998, at the request of Capital Associates Realty Advisors, to allow an increase in the maximum retail commercial square footage on a 34.5 ± acre DRI parcel from 300,000 to 335,000 square feet; and

WHEREAS, the DRI Development Order was subsequently amended a fourth time on November 30, 1998 to extend the buildout/expiration date from April 7, 1998 to April 7, 2001; and

¹ This is a codification and restatement of all DRI Development orders rendered with respect to the Cypress Trace DRI, including actions taken on April 8, 1985, October 10, 1988, October 21, 1996, February 2, 1998, November 30, 1998, and March 18, 2002 and May 22, 2019.

WHEREAS, the DRI Development Order was subsequently amended a fifth time on March 18, 2002 to extend the buildout/expiration date from April 7, 2001 to December 31, 2005; and

~~WHEREAS, a Notice of Proposed Change was filed by Capri/Capital Associates (aka Realty Advisors) on April 6, 2001 to allow an extension of the buildout/expiration date from April 7, 2001 to December 31, 2005 (a cumulative extension total of seven years, eight months and 23 days); and~~

~~WHEREAS, Florida Statutes, Section 380.06 requires a proposed change to be reviewed and evaluated to determine whether it constitutes a substantial deviation from the terms of the existing Development Order; and~~

~~WHEREAS, under Florida Statutes, Section 380.06(19)(c), an extension of the project's buildout, termination or expiration date by seven or more years is presumed to be a substantial deviation, however, the presumption may be rebutted by clear and convincing evidence; and~~

~~WHEREAS, on March 18, 2002, the Board of County Commissioners reviewed the proposed amendment and found that the buildout/expiration date extension does not create additional regional impacts requiring mitigation; and~~

WHEREAS, a Request to Change the DRI DO was filed by DDRTC Cypress Trace LLC, c/o Developers Diversified Realty on December 12, 2018, to allow an extension of the buildout/expiration date from December 2005 to December 31, 2023; and

WHEREAS, under Florida Statutes, Section 380.06(7)(a), a proposed change to a previously approved DRI shall be reviewed by the local government based on the standards and procedures in its adopted local comprehensive plan and adopted local land development regulations; and

WHEREAS, on May 22, 2019, the Board of County Commissioners reviewed the proposed amendment and found that the buildout/expiration date extension does not create additional regional impacts requiring mitigation; and

WHEREAS, the proposed change to the DRI Development Order is consistent with the Lee County Comprehensive Land Use Plan and applicable local land development regulations, as well as the State Comprehensive Plan, the Southwest Florida Regional Plan and the State Land Development Plan; and

WHEREAS, the Board of County Commissioners of Lee County, Florida has considered the report and recommendations of the Southwest Florida Regional Planning Council, the Lee County Administrative Staff, and the documents and comments upon the record made before the Board in public hearing, and, after full consideration of these reports, recommendations, comments, and documents, the Board of County Commissioners of Lee County, Florida, hereby finds and determines that:

FINDINGS OF FACT

A. The applicant originally proposed to develop a shopping center including approximately 436,000 square feet of commercial shopping center facilities on approximately 52.52 acres. The formal Application for Development Approval ("ADA") requested approval of that size, acreage and use. The various regional issues were identified and analyzed based upon the ADA submitted. The proposed development constitutes a shopping center (retail) Development of Regional Impact on the real property described as:

Two parcels of land in the northeast one-quarter of Section 23, Township 45 South, Range 24 East, Lee County, Florida, totaling 52.5 acres, more particularly described as follows:

In Section 23, Township 45 South, Range 24 East, Lee County, Florida

A tract or parcel of land lying in the Northeast Quarter (NE ¼) of Section 23, Township 45 South, Range 24 East, Lee County, Florida, described as follows:

From the Southeast corner of said fraction of a section, run S89°08'16"W along the South line of said fraction of a section for 131.82 feet to the West right-of-way line of SR 45 (US 41-Tamiami Trail);

THENCE run N01°16'00"W for 95.00 feet to the intersection of the North right-of-way line of Cypress Lake Drive, with the West right-of-way line of SR 45 (US 41-Tamiami Trail) and the POINT OF BEGINNING.

From said POINT OF BEGINNING run S89°08'16"W along said North right-of-way line for 1,095.00 feet to a POINT OF CURVATURE;

THENCE run Westerly along said North right-of-way line, along the arc of a curve to the left of radius 1,860.00 feet (delta angle of 06°56'42"-chord distance of 225.32 feet) for 225.46 feet;

THENCE run N01°16'00"E (parallel with said West right-of-way line) for 1,276.23 feet;

THENCE run N88°44'00"E for 420.00 feet;

THENCE run S01°16'00"E for 65.00 feet;

THENCE run N88°44'00"E for 711.97 feet;

THENCE run N01°16'00"W for 144.33 feet;

THENCE run N88°44'00"E for 188.00 feet to the West right-of-way of SR 45 (US 41-Tamiami Trail);

THENCE run S01°16'00"E along said West right-of-way line for 70.60 feet;

THENCE run S88°44'00"W along said South line for 143.00 feet to a POINT OF CURVATURE;

THENCE run Westerly, Southwesterly and Southerly along the arc of a curve to the left of radius 25.00 feet (delta angle of 90°00'00" -

chord distance of 35.36 feet) for 39.27 feet to a POINT OF TANGENCY and the East line of a frontage road easement (40 feet wide);
THENCE run N88°44'00" E for 168.00 feet to the West right-of-way line;
THENCE S01°16'00"E for 981.23 feet to the POINT OF BEGINNING.
All in Lee County, Florida

The Board of County Commissioners approved 300,000 square feet of commercial shopping center floor area in 1985. The third development order amendment permitted a commercial shopping center up to 335,000 square feet of gross floor area. As a result of the DRI Development Order amendments, a total of 465,000 square feet of retail commercial square footage is permitted within the entire DRI.

B. The subject property has been zoned by the authority of Chapter 125, Florida Statutes, Chapter 61-2405, Laws of Florida (Special Acts), and the Lee County Zoning Regulations, as amended, in the C-1 District.

C. The Application for Development Approval is consistent with the requirements of Section 380.06, Florida Statutes; and

D. The proposed development is not in an area designated as an Area of Critical State Concern pursuant to the provisions of Section 380.05, Florida Statutes; and

E. The proposed development has been reviewed by the Southwest Florida Regional Planning Council and is the subject of the report and recommendation adopted by that body, and subsequently forwarded to Lee County pursuant to the provisions of Section 380.06, Florida Statutes, and the proposed development is consistent with the report and recommendations of the Southwest Florida Regional Planning Council; and

F. The proposed development is consistent with the adopted Lee County Comprehensive Plan, subject to the following conditions.

CONCLUSIONS OF LAW

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, in public meeting duly constituted and assembled that the requested amendments to the Cypress Trace Development of Regional Impact is hereby ordered APPROVED, subject to the following conditions, restrictions, and limitations:

A. COMMUNITY SERVICES

1. The developer ~~must~~ was required to meet with the Chief of the South Trail Fire Department and the Director of the Lee County Division of Public Safety or his designee, prior to project construction, to discuss fire protection and Emergency Medical Services needs and measures to meet these needs.

2. ~~The developer must demonstrate, to the satisfaction of development was reviewed by Lee County prior to development, and satisfied the Lee County Division of Community Development prior to project construction, that there will be no adverse fiscal impacts (costs exceeding revenues) upon fire protection and Emergency Medical Service providers resulting from the development. New commercial square footage developed after January 1, 2019, must pay fire and EMS impact fees in effect at the time of building permit.~~

B. DRAINAGE/WATER QUALITY

1. ~~The drainage system for the proposed project must be redesigned was permitted and installed to provide greater upland (dry) retention/detention of runoff prior to discharge into the on-site lake system. The additional square footage will be constructed in areas that are currently imperious, i.e., pavement, walkway or building. Areas of natural vegetation as described in Condition F. below may be used where feasible. Any changes in the drainage after January 1, 2019, must be consistent with any permit modifications required by the South Florida Water Management District.~~

2. The discharge structures must include a baffle, skimmer, or other suitable mechanism as determined by the Lee County Division of Environmental Protection Services for preventing oil and grease from discharging from retention/detention areas.

3. The drainage system must implement the design standards and "best management practices" outlined in the ADA and in all supplementary material.

4. The developer and/or his successor(s), must implement an on-going maintenance and monitoring program that regularly inspects, maintains and samples the stormwater drainage system. The program must be designed in consultation with the staffs of the Southwest Florida Regional Planning Council, the South Florida Water Management District, and Lee County. Final approval of the program rests with Lee County. The program must be redesigned, if necessary, to incorporate any County ordinances or policies relating to the Lakes Park drainage basin.

5. A regular program of vacuum sweeping of all parking lots must be utilized both during and after project construction.

6. The project ~~must is and will continue to~~ be served by a central sewage system.

7. The project is subject to all regulations of Lee County for the protection of the Lakes Regional Park Watershed and Lakes Regional Park water quality.

8. ~~Prior to Preliminary Development Order approval, t~~The developer must submit a detailed surface water management plan identifying detention/retention areas, discharge control structures and a maintenance and monitoring program. This plan is subject to review and approval by the Lee County Department of Community Development address the Land Development Code requirements of Lee County relative to drainage.

C. ENERGY

The developer must incorporate, at minimum, the following energy conservation features into all site plans and architectural programs or insure that the following features are implemented through deed restrictions and covenants with successors in title. All applications for site plan approvals, local development orders and building permits must be accompanied by a document detailing proposed compliance with these conditions. If deed restrictions or covenants are utilized to insure compliance, such documents must be approved by the Lee County Attorney's Office prior to recording.

These features are:

1. Provision of bicycle racks or storage facilities.
2. Location of bus stops, shelters, and other passenger and system accommodations for a transit system to serve the project area, in cooperation with the appropriate Lee County agencies.
3. Use of energy-efficient features in window design (e.g., tinting and exterior shading).
4. Installation of energy-efficient appliances and equipment.
5. Prohibition of deed restrictions or covenants that would prevent or unnecessarily hamper energy conservation efforts (e.g., building orientation and solar water heating systems).
6. Installation of energy-efficient lighting for streets, parking areas, and other interior and exterior public areas.
7. Installation of water closets with a maximum flush of 3.5 gallons and shower heads and faucets with a maximum flow rate of 3.0 gallons per minute (at 60 pounds of pressure per square inch) as specified in the Water Conservation Act, Section 553.14, Florida Statutes).
8. Selection, installation and maintenance of native plants, trees, and other vegetation and landscape design features, in order to reduce requirements for water, fertilizer, maintenance, and other needs, for all parking lot landscaping and required vegetated buffer areas.
9. Placement of native trees to provide shades in the warmer months while not overly reducing the benefits of sunlight in the cooler months, and to provide shade for streets and parking areas.
10. Orientation of structures, to reduce solar heat gain by walls and to utilize the natural cooling effects of the wind wherever feasible.

11. Provision for structural shading (e.g., trellises, awnings, and roof overhangs) wherever practical when natural shading cannot be used effectively.

D. FLOODPLAINS/HURRICANE EVACUATION

1. The minimum finished floor elevations must be above the 100-year, 3-day stage with zero discharge or as required by the South Florida Water Management District, whichever is greater.

2. The developer ~~must~~ was originally required to meet with the Lee County Division of Public Safety officials to discuss potential use of project common areas for storm shelter purposes, before the first certificate of occupancy is issued.

E. TRANSPORTATION

1. The developer ~~must construct, caused to be constructed or pay~~ paid the full cost for intersection improvements deemed necessary by the County Engineer for the project's existing access points onto U.S. 41 and Cypress Lake Drive. These improvements ~~must be have been made prior to the issuance of the first certificate of occupancy for the project. Any site related improvements required by the Land Development Code must be provided by the Developer.~~

2. The developer ~~must~~ was required to construct, or cause to be constructed, two additional lanes on U.S. 41 from the terminus of six lanes north of Seven Lakes Boulevard/Big Pine Way to Daniels Parkway/Cypress Lake Drive. The developer's obligation includes the full costs of design/engineering, utility relocation (if needed) and construction, including turn lanes at the intersection of U.S. 41 with Daniels Parkway/Cypress Lake Drive, but not right-of-way. These improvements ~~must be made prior to the issuance of the first certificate of occupancy for the project~~ are in place.

3. The developer ~~must~~ was required to pay the full costs of constructing a second left-turn lane on northbound U.S. 41 to westbound College Parkway. If the County Engineer determines that construction of a second left-turn lane is not feasible due to intersection geometrics or lack of right-of-way, the developer must pay the full costs of other improvements, such as repainting the inner through lane for left-turn movements, required to accommodate left-turns at this location. Payment of these costs are due at the time that a local Development Order is issued under Lee County regulations. The turn lane is in place.

4. The developer must pay a proportionate share of the costs of constructing two additional lanes, excluding right-of-way, on Daniels Parkway from the Bell Tower Mall entrance east of U.S. 41 to and including the intersection of Metro Parkway with Daniels Parkway. The developer's proportionate share will be determined by the County Engineer based on the project's share of the total traffic added to the roadway by all projects required by Development Orders to contribute to the cost of improvements on the roadway. Payment is due at the time that a local Development Order is issued under Lee County regulations. Six lanes of Daniels Parkway are in place.

5. The developer must pay a proportionate share of the costs of constructing two additional lanes excluding right-of-way on Cypress Lake Drive from U.S. 41 to and including the intersection of Winkler Road with Cypress Lake Drive. The developer's proportionate share will be determined as described in Item E.4. Payment is due at the time that the first local Development Order is issued under Lee County regulations. The improvements have been made.

6. Nothing contained in this Development Order may be construed to exempt this development from participation in the funding, through Municipal Services Taxing Units (MSTU's) or other special assessment districts, of improvements to various state and County arterial and collector roads to the degree to which this development generates demand.

7. The development of commercial shopping center over 300,000 square feet of gross floor area on the southernmost 37.7-acre portion of the project and up to 465,000 square feet of gross floor area of the entire project must mitigate transportation impacts through the payment of road impact fees. Any proportionate share payments and improvements made pursuant to paragraphs 2, 3, 4 and 5 above or the alternative below were creditable against roads impact fees consistent with the requirements of Section 380.06, F.S. as indicated in alternatives paragraph 1.e. or 2. Below.

ALTERNATIVES

1. In lieu of the obligations and payments required by E.1 through E.5 above, the developer must contribute a base amount of \$565,000 (in 1985 dollars) for the mitigation of adverse traffic impacts due to this project. Payment must be made subject to the provisions listed below.

a. The developer must design and construct, or cause to be designed and constructed, two additional lanes on U.S. 41 from the terminus of six lanes north of Seven Lakes Boulevard/Big Pine Way to Daniels Parkway/Cypress Lake Drive plus intersection improvements deemed necessary by the Lee County Engineer for the project's access points onto U.S. 41 and for the north leg of the U.S. 41/Daniels Parkway/Cypress Lake Drive intersection. The developer's contract(s) for the design and construction of these improvements must be reviewed and approved by the County Engineer. These improvements must be substantially completed to the satisfaction of the County Engineer prior to issuance of the first certificate of occupancy for this project.

b. Funds must be expended first for the U.S. 41 improvements specified in Alternative 1.a above, with the balance of the base amount of \$565,000 paid by the developer into a fund established by Lee County for the purpose of mitigating other adverse impacts due to the project, including improvements described in E.3, E.4 and E.5 above, plus intersection improvements deemed necessary by the County Engineer for the projects access points onto Cypress Lake Drive. At the time that construction contracts are let for the specified improvements on U.S. 41, and after consultation and agreement with the County Engineer, the developer must pay an amount estimated to be the balance of the \$565,000 minus the cost

for design and construction of the U.S. 41 improvements into the fund established by Lee County. Within one month of the completion of the U.S. 41 contracts, the County Engineer will determine the exact amount of this balance based on actual design and construction costs. The developer will receive a refund or make an additional payment to Lee County so that the total amount paid by the developer equals the base payment of \$565,000.

c. The base payment of \$565,000 (in 1985 dollars) is the amount that must be contributed by the developer for the mitigation of the adverse traffic impacts due to the proposed shopping center including up to 300,000 square feet of commercial shopping facilities. If this development is expanded to include additional square footage, the base amount of \$565,000 must be increased in a manner that will accurately reflect the impacts of the additional development.

d. If the construction contracts have not been let prior to October 1, 1985, the base payment of \$565,000 will be adjusted quarterly thereafter using the most current Construction Price Index (C.P.I.) published by the Engineer News Record (McGraw-Hill Publications) until the construction contracts are let. The base price index for these adjustments will be the price index in the Second Quarterly Cost Round-Up for 1985.

e. Whether or not Lee County adopts a Roads Impact Fee ordinance, the amount of this base payment remains the same (\$565,000), except for adjustments required by Alternative 1.c and 1.d above. This base payment will be substituted for the fee required under the new ordinance.

2. If the developer foregoes Alternative 1 and Lee County adopts a Roads Impact Fee ordinance before the first building permit is issued, this fee may be substituted for off-site improvements listed in E.3, E.4 and E.5 above. Site-related improvements remain the developer's responsibility and obligation. Payments already made for these off-site improvements will be credited toward the overall fee.

F. VEGETATION AND WILDLIFE

1. The developer must preserve no less than 15 percent of unaltered native vegetation, including understory, generally along the project's north, east, and south boundaries. These areas may be utilized as dry detention basins in the water management system to purify surface run-off. Plans for this preserve area must be submitted to the Lee County Planning Department Community Development for approval as part of the ~~site plan approval~~ local development order process. The developer will be allowed to remove some existing native vegetation in areas designated for preservation in accordance with Section F of this Development Order and previous development approvals provided that, at minimum, an equivalent amount of acreage is provided as mitigation generally pursuant to the mitigation plan and map (Cypress Trace Freeland Auto Mall Preserve Location, dated October 5, 1988) on file with Department of Community Development except as modified below:

Prior to preliminary development order approval, the developer must submit a vegetation plan including a littoral shelf for the water retention lake shown on the site plan, as well as a 15 foot wide buffer along the western edge of the parking lot (to contain mature trees and shrubs; i.e., 15 foot high trees and 6 foot high shrubs with spacing pursuant to the mitigation plan). This plan is subject to review and approval by the Department of Community Development.

G. WATER SUPPLY

1. The developer must utilize water-conserving features in irrigation system design and use, including the use of native and/or low water use plants and turf, and other appropriate features.

H. OTHER

1. The southernmost 37.7±-acre portion of this project may not exceed a total of 335,000 square feet of gross floor area of commercial shopping center uses. Nothing in this section precludes the owner of the 37.7-acre portion of the project from rebuilding the center consistent with this DRI Development Order, or seeking an increase in square footage, if needed, by filing a Notice of Proposed Changean amendment to the DRI DO.

2. The northernmost 14.8± acre parcel may be developed in accordance with the following requirements:

a. Uses on the parcel are limited to the following, as defined in Chapter 34 of the Lee County Land Development Code:

- Administrative Offices
- ATM
- Auto Parts Store (with and without installation)
- Banks and Financial Establishments, Groups I and II
- Boat Parts Store
- Business Services, Groups I and II
- Car Wash
- Cleaning and Maintenance Services
- Clothing Stores
- Consumption on Premises
- Contractors and Builders, Groups I and II
- Convenience Food and Beverage Store
- Department Store
- Essential Services
- Excavation, Water Retention
- Food Stores, Groups I and II
- Hardware Store
- Hobby, Toy, Game Shop
- Household and Office Furnishings, Groups I and II
- Insurance Companies

Laundromat
Laundry and Dry Cleaning, Group I
Lawn and Garden Supply Store
Medical Office
Non-Store Retailers, All Groups
Package Store
Paint, Glass and Wallpaper
Parking Lot, Accessory
Personal Services, Groups II, III and IV
Pet Services
Pet Shop
Pharmacy
Post Office
Rental and Leasing Establishments, Groups I, II and III
Repair Shops, Groups I and II
Restaurants, Fast Food
Restaurants, Groups I, II, III and IV
Signs
Specialty Retail Shop, Groups I, II, III and IV
Storage, Indoor
Storage, Open
Studios
Supermarket
Used Merchandise Store, Groups I, II and III
Vehicle and Equipment Dealers, Groups I, II, III and IV

b. Building areas may contain no more than 130,000 square feet of gross floor area of the uses listed in subparagraph a. above;

c. No use or combination of uses will be permitted if those uses will cause development on this parcel to generate in excess of 776 peak hour vehicular trips;

d. The development must comply with all the terms of this Development Order except Section E;

e. In lieu of the requirements in Section E, the Developer must pay road impact fees in accordance with Lee County Land Development Code, Chapter 1, Article VI, Division 2, as it may be amended from time to time; and

f. All development must be consistent with County zoning and development regulations.

3. The developer must construct and permanently maintain a cement block buffer wall, having a minimum height of six feet. Such wall must be constructed and maintained so as to buffer this project from all adjacent property which is being used for residential purposes.

BE IT FURTHER RESOLVED, by the Board of County Commissioners of Lee County, Florida, that:

1. This resolution constitutes the Development Order of this Board issued in response to the Development of Regional Impact Application for Development Approval filed by Teacher's Retirement Association of the State of Illinois.

2. All commitments and impact mitigating actions volunteered by the developer in the Application for Development Approval and supplementary documents and not in conflict with conditions or stipulations specifically enumerated above are hereby incorporated into this Development Order by reference. The commitments incorporated by reference are as binding on the developer as if the commitments were set forth herein.

3. This Development Order is binding upon the developer its heirs, assignees or successors in interest.

It is hereby declared that the terms and conditions set out in this document constitute a basis upon which the developer and County may rely in future actions necessary to implement fully the final development contemplated by this Development Order.

All conditions, restrictions, stipulations and safeguards contained in this Development Order may be enforced by either party hereto by action of law or equity and all costs of such proceedings, including reasonable attorney's fees will be paid by the defaulting party.

4. It is understood that any reference herein to any governmental agency will be construed to mean any future instrumentality which may be created and designated as successor in interest to, or which otherwise possesses any of the powers and duties of any referenced governmental agency in existence on the effective date of this Development Order.

5. In the event that any portion or section of this Development Order is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision will in no manner affect the remaining portions or sections of the Development Order, which will remain in full force and effect provided the portion of the Development Order that is invalidated does not cause the remainder of the development area to be inconsistent with the purpose and intent this Development Order.

6. The approval granted by this Development Order is limited. This approval may not be construed to obviate the duty of the applicant to comply with all other applicable local or state review and permitting procedures.

7. Subsequent requests for local development permits will not require further review pursuant to Section 380.06, Florida Statutes, unless it is found by the Board of County Commissioners, after due notice and hearing, that one or more of the following is present: a new unreviewed regional impact is identified.

~~a. A substantial deviation from the terms or conditions of this Development Order, or other changes to the approved development plans, which create a reasonable likelihood of adverse regional impacts or other regional impacts that were not evaluated in the review by the Southwest Florida Regional Planning Council; or~~

~~b. An expiration of the period of effectiveness of this development order as provided herein.~~

~~Upon a finding that either of the above is present, the Board may order a termination of all development activity until such time as a new DRI Application for Development Approval has been submitted, reviewed and approved in accordance with Section 380.06, Florida Statutes, and all local approvals have been obtained.~~

8. This Development Order remains in effect until buildout on December 31, 20052023.

9. The Administrative Director of the Lee County Division of Community Development or his/her designee, is the local official responsible for assuring compliance with this Development Order.

~~10. The developer, or his successor(s) in title to the undeveloped portion of the subject property, must submit a report annually to the Lee County Board of County Commissioners, the Southwest Florida Regional Planning Council, the State and/or planning agency, and all affected permit agencies. This report must describe the state of development and compliance as of the date of submission, and be consistent with the rules of the State land planning agency. The first monitoring report must be submitted to the Administrative Director of the Division of Community Development not later than April 1, 1986, and further reporting must be submitted not later than January 1st of subsequent calendar years. Failure to comply with this reporting procedure is governed by Section 380.06(16) Florida Statutes and the developer must so inform any successor in title to any undeveloped portion of the real property covered by this Development Order.~~

140. Certified copies of this Development Order are to be forwarded to the Southwest Florida Regional Planning Council, the developer, and appropriate state agencies Department of Economic Opportunity. This Development Order is rendered as of the date of that transmittal, but will not be effective until the expiration of the statutory appeals period (45 days from rendition) or until the completion of any appellate proceeding, whichever time is greater. Upon this Development Order becoming effective, notice of its adoption must be recorded by the developer as provided in Chapter 380, Florida Statutes.

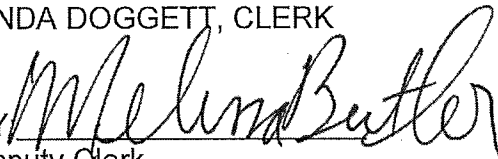
THE MOTION TO ADOPT the above resolution was offered by Commissioner Pendergrass, and seconded by Commissioner Manning and upon poll of the members present, the vote was as follows:

John Manning	Aye
Cecil Pendergrass	Aye
Vacant	
Brian Hamman	Aye
Frank Mann	Absent

DULY PASSED AND ADOPTED this 22nd day of May, 2019.

ATTEST:
LINDA DOGGETT, CLERK

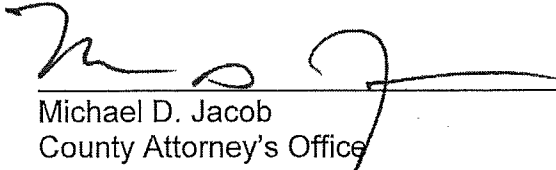
BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: 
Deputy Clerk

BY: 
Brian Hamman, Vice Chair



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


Michael D. Jacob
County Attorney's Office

RECEIVED
MINUTES OFFICE

2019 MAY 31 PM 1:53

ATTACHMENT F



Direct Dial Number: 239-533-8585

John Manning
District One

Cecil L. Pendergrass
District Two

Larry Kiker
District Three

Brian Hamman
District Four

Frank Mann
District Five

Roger Desjarlais
County Manager

Richard Wm. Wesch
County Attorney

Donna Marie Collins
Hearing Examiner

December 5, 2019

Neale Montgomery
Pavese Law Firm
1833 Hendry Street
P.O. Drawer 1507
Fort Myers, Florida 33902

RE: ZEX2019-00037, Cypress Trace DRI
State DRI #7-8384-45
FS 252.363
Office of the Governor Executive Order (EO) 17-146 (Opioid Epidemic)

Dear Ms. Montgomery:

Lee County acknowledges receipt of your request for extension of the build out date, commencement and completion dates, and any required mitigation as provided for under Florida Statute 252.363. The extension provided under Florida Statute 252.363 is the result of the Office of the Governor Executive Order (EO) 17-146 (Opioid Epidemic), extended by Executive Orders 17-177, 17-78, 17-230, 17-285, 17-329, 18-47, 18-110, 18-177, 18-235, 18-279, 18-362, and 19-36 declared a State of Emergency for a period of 700 days.. Pursuant to that Executive Order and Florida Statute 252.363, Lee County recognizes the length of time related to this extension is for a period of 6 months, plus 700 days for State DRI #7-8384-45.

Based upon the most recent DRI Development Order build-out date, as extended by previous extensions, of January 26, 2026, the final build-out date has been extended to June 25, 2028.

Lee County will not issue a codified Amendment to the DRI Development Order at this time. In the future, if the DRI Development Order is amended, Lee County will amend the DRI Development to provide for the extension. Please keep a copy of this letter for your records and submit this letter with the next application for a Notice of Proposed Change for this DRI so that the time extension can be included in the amended DRI Development Order. If the DRI Development Order is not amended before the expiration date, please ensure you have a copy of this letter to prove entitlement to the extension provided under this Executive Order.

If you have any questions, please do not hesitate to contact me.

Sincerely,
DEPARTMENT OF COMMUNITY DEVELOPMENT
Zoning Section

Audra Ennis
Zoning Manager

cc: Michael Jacob, Managing Assistant County Attorney
Zoning File



Direct Dial Number: 239-533-8585

John Manning
District One

Cecil L. Pendergrass
District Two

Larry Kiker
District Three

Brian Hamman
District Four

Frank Mann
District Five

Roger Desjarlais
County Manager

Richard Wm. Wesch
County Attorney

Donna Marie Collins
Hearing Examiner

December 5, 2019

Neale Montgomery
Pavese Law Firm
1833 Hendry Street
P.O. Drawer 1507
Fort Myers, Florida 33902

RE: ZEX2019-00040, Cypress Trace DRI
State DRI #7-8384-45
FS 252.363
Office of the Governor Executive Order (EO) 17-235 (Hurricane Irma)

Dear Ms. Montgomery:

Lee County acknowledges receipt of your request for extension of the build out date, commencement and completion dates, and any required mitigation as provided for under Florida Statute 252.363. The extension provided under Florida Statute 252.363 is the result of the Office of the Governor Executive Order (EO) 17-235 (Hurricane Irma), extended by Executive Orders 17-287, 17-330, 18-15, 18-122, 18-149, 18-182, 18-213, 18-237, 18-361, and 19-34 declared a State of Emergency for a period of 575 days. Pursuant to that Executive Order and Florida Statute 252.363, Lee County recognizes the length of time related to this extension is for a period of 6 months, plus 575 days for State DRI #7-8384-45.

Based upon the most recent DRI Development Order build-out date of December 31, 2023, the final build-out date has been extended to January 26, 2026.

Lee County will not issue a codified Amendment to the DRI Development Order at this time. In the future, if the DRI Development Order is amended, Lee County will amend the DRI Development to provide for the extension. Please keep a copy of this letter for your records and submit this letter with the next application for a Notice of Proposed Change for this DRI so that the time extension can be included in the amended DRI Development Order. If the DRI Development Order is not amended before the expiration date, please ensure you have a copy of this letter to prove entitlement to the extension provided under this Executive Order.

If you have any questions, please do not hesitate to contact me.

Sincerely,
DEPARTMENT OF COMMUNITY DEVELOPMENT
Zoning Section

Audra Ennis
Zoning Manager

cc: Michael Jacob, Managing Assistant County Attorney
Zoning File



Direct Dial Number: 239-533-8585

John Manning
District One

Cecil L. Pendergrass
District Two

Larry Kiker
District Three

Brian Hamman
District Four

Frank Mann
District Five

Roger Desjarlais
County Manager

Richard Wm. Wesch
County Attorney

Donna Marie Collins
Hearing Examiner

June 25, 2020

Amy Thibaut
Pavese Law Firm
1833 Hendry Street
P.O. Drawer 1507
Fort Myers, Florida 33902

RE: ZEX2019-00061, Cypress Trace DRI
State DRI #7-8384-45
FS 252.363
Office of the Governor Executive Order (EO) 19-189 (Hurricane Dorian)

Dear Ms. Thibaut:

Lee County acknowledges receipt of your request for extension of the build out date, commencement and completion dates, and any required mitigation as provided for under Florida Statute 252.363. The extension provided under Florida Statute 252.363 is the result of the Office of the Governor Executive Order (EO) 19-189 (Hurricane Dorian), amended by Executive Orders 19-190 and 19-206 declared a State of Emergency for a period of 23 days. Pursuant to that Executive Order and Florida Statute 252.363, Lee County recognizes the length of time related to this extension is for a period of 6 months, plus 23 days for State DRI #7-8384-45.

Based upon the most recent DRI Development Order build-out date of December 31, 2023, the final build-out date has been extended to January 21, 2029.

Lee County will not issue a codified Amendment to the DRI Development Order at this time. In the future, if the DRI Development Order is amended, Lee County will amend the DRI Development to provide for the extension. Please keep a copy of this letter for your records and submit this letter with the next application for a Notice of Proposed Change for this DRI so that the time extension can be included in the amended DRI Development Order. If the DRI Development Order is not amended before the expiration date, please ensure you have a copy of this letter to prove entitlement to the extension provided under this Executive Order.

If you have any questions, please do not hesitate to contact me.

Sincerely,
DEPARTMENT OF COMMUNITY DEVELOPMENT
Zoning Section

Audra Ennis
Zoning Manager

cc: Michael Jacob, Deputy County Attorney
Zoning File



E.F. Gaines Surveying Services, Inc.
 5235 Ramsey Way, Suite 10
 Fort Myers, Florida 33907
 (P) 239-418-0126 : (W) EFGaines.com

LEGAL DESCRIPTION

Lee County Elections Center Parcel (Per L.C.I.N. 2006000343971)

Section 23, Township 45 South, Range 24 East, Lee County, Florida

A tract or parcel of land lying in the northeast quarter (NE 1/4) of Section 23, Township 45 South, Range 24 East, Lee County, Florida, which tract or parcel is described as follows:

From the Southeast corner of said fraction of a section run S.89°08'16"W. along the south line of said fraction of a section for 131.82 feet to the west right-of-way (ROW) line of State Road 45 (U.S. 41-Tamiami Trail); thence run N.01°16'00"W. for 95.00 feet to the intersection of the north ROW line of Cypress Lake Drive and the west ROW line of State Road 45 (U.S. 41-Tamiami Trail); thence run S.89°08'16"W. along said north ROW line for 1095.00 feet to a point of curvature; thence run westerly along said north ROW line, along the arc of a curve to the left of radius 1860.00 feet (delta 06°56'42") (chord 225.32 feet) (chord bearing S.85°39'55"W.) for 225.46 feet; thence run N.01°16'00"W. (parallel with said ROW line) for 1276.23 feet to the Point of Beginning.

From said Point of Beginning continue N.01°16'00"W. for 469.92 feet; thence run N.89°08'16"E. for 258.98 feet; thence run S.00°51'44"E. for 105.09 feet; thence run N.88°44'00"E. for 224.75 feet; thence run S.01°16'00"E. for 30.00 feet; thence run N.88°44'00"E. for 270.02 feet; thence run S.01°16'00"E. for 277.47 feet; thence run N.88°44'00"E. for 358.97 feet; thence run N.01°16'00"W. for 23.80 feet; thence run N.88°44'00"E. for 20.00 feet; thence run S.01°16'00"E. for 144.33 feet; thence run S.88°44'00"W. for 711.97 feet; thence run N.01°16'00"W. for 65.00 feet; thence run S.88°44'00"W. for 420.00 feet to the Point of Beginning.

Containing 8.28 acres, more or less.

Bearings hereinabove mentioned are based on the centerline survey for state road no. 45.

Parcel subject to easements, restrictions, reservations and rights-of-way (recorded and unrecorded, written and unwritten)

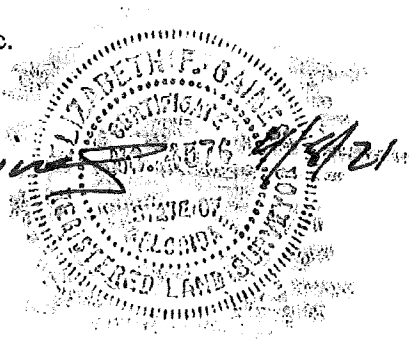
Prepared by:

E.F. Gaines Surveying Services, Inc.
 Florida License No. 7165

A handwritten signature in black ink, appearing to read 'Elizabeth F. Gaines'.

Elizabeth F. Gaines, PSM
 Florida License No. 4576

Sketch: EFG Drawing No. 0842-003 SD



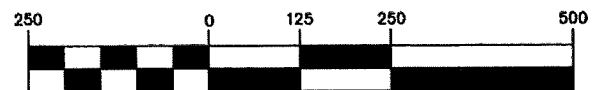
REVIEWED
 DRI2021-00001
 Rick Burris, Principal
 Planner
 Lee County DCD/Planning
 6/30/2021

NOTES

1. DISTANCES SHOWN HEREON ARE IN FEET AND DECIMALS THEREOF.
2. BEARINGS SHOWN HEREON ARE BASED ON THE WESTERLY RIGHT-OF-WAY LINE OF STATE ROAD 45 (U.S. 41 - TAMiami TRAIL) BEING N.01°16'00"W.
3. THIS IS A SKETCH TO ACCOMPANY A LEGAL DESCRIPTION (SEE ATTACHED). THIS IS NOT A BOUNDARY SURVEY.

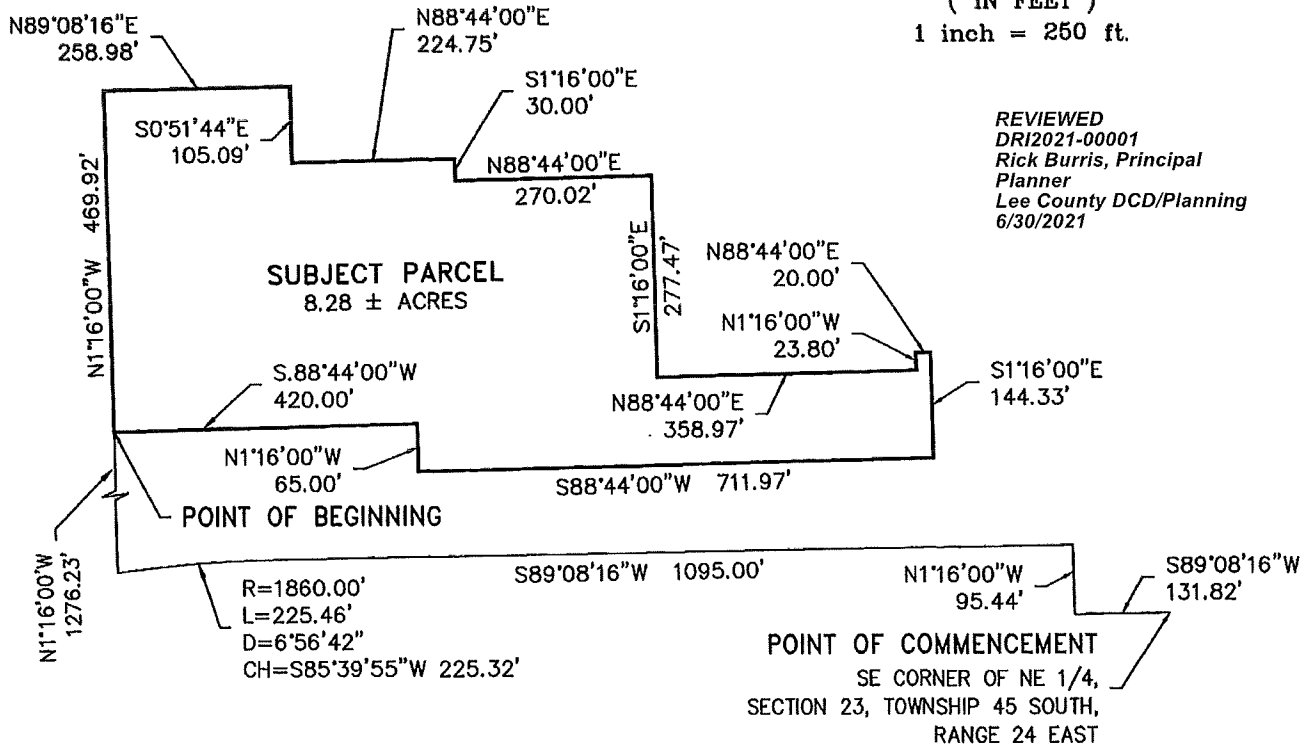


GRAPHIC SCALE



(IN FEET)

1 inch = 250 ft.



REVIEWED
DRI2021-00001
Rick Burris, Principal
Planner
Lee County DCD/Planning
6/30/2021

LEE COUNTY ELECTIONS CENTER PARCEL

This is a sketch to accompany a legal description (see attached) of a parcel of land lying in the northeast quarter of Section 23, Township 45 South, Range 24 East, Lee County, Florida.

Elizabeth F. Gaines, PSM
License No. 4576

Not valid without the signature and raised seal or Adobe electronic signature of Elizabeth F. Gaines, PSM shown above

Issue Date: 4/8/2021

Field Date: N/A

Checked: EFG

Drawn: KLG

Field: N/A

Scale: 1"=250'

Project No.: 0842

CAD File: 0842-003 SD

Sheet No. 1 of 1



E.F. Gaines
Surveying Services, Inc.

FL License No. LB7165
5235 Ramsey Way, Suite 10
Fort Myers, Florida 33907
Phone: 239-418-0126
Fax: 239-418-0127
Web: EFGaines.com

ADD2006-00054

PARENT PARCEL = 14.8 AC.

LOT 1

ROBB & STUCKY = 275,032 S.F.± (6.3 AC.±)

OPEN SPACE REQUIRED = 82,510 S.F. (1.8 AC.)
OPEN SPACE PROVIDED = 88,000 S.F.± (2.0 AC.±)

200 PARKING SPACES REQUIRED
200 PARKING SPACES PROVIDED

LOT 2

HOMEPLACE = 369,656 S.F.± (8.5 AC.±)

OPEN SPACE REQUIRED = 110,897 S.F. (2.5 AC.)
OPEN SPACE PROVIDED = 257,624 S.F.± (5.9 AC.±)

251 PARKING SPACES REQUIRED
254 PARKING SPACES PROVIDED

97-04-089-052

OWNER:

CNL RETAIL DEVELOPMENT
400 E. SOUTH STREET
ORLANDO, FLORIDA

AGENT/DEVELOPER:

CNL DEVELOPMENT
400 E. SOUTH STREET
ORLANDO, FLORIDA

STRAP NUMBER

23-45-24-00-001

ZONING:

C-1

SIZE OF PARCEL

14.8 ACRES

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 no public comment concerning the proposed amendment at the BoCC transmittal hearing.

BoCC Transmittal Hearing:

A motion was made to **transmit** CPA2021-00001. The motion was called and passed 5-0.

State Reviewing Agency Objections, Recommendations, and Comments:

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

- Florida Department of Economic Opportunity (DEO)
- Florida Fish and Wildlife Conservation Commission (FWC)
- Florida Department of Environmental Protection (DEP)
- Florida Department of Transportation (FDOT)

There were no objections or comments concerning the proposed amendments.

Changes Proposed After the Transmittal Hearing:

In addition to the text and map amendments previously reviewed and transmitted, staff is recommending additional amendments to Policies 7.1.2 and 7.1.6 to address an internal inconsistency.

The intent of both policies is to ensure industrial uses are compatible with adjacent uses. However, Policy 7.1.6 is inconsistent with the remainder of the Lee Plan based on its limitation of industrial uses in specific locations clearly intended to have industrial uses. This revision does not change the overall intent of the Lee Plan and how industrial uses are treated within Lee County. These amendments are included in Attachment 1 and discussed in Part 4 of the staff report.

Staff Recommendation:

Staff recommends that the BoCC **adopt** the amendment as attached to the staff report.

LEE COUNTY ORDINANCE NO. _____

Lee Plan 2045 Update
(CPA2021-00001)

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 AMENDMENT PERTAINING TO THE LEE PLAN 2045 UPDATE (CPA2021-00001) APPROVED DURING A PUBLIC HEARING; PROVIDING FOR PURPOSE, INTENT, AND SHORT TITLE; AMENDMENTS TO ADOPTED TEXT, MAPS AND TABLES; LEGAL EFFECT OF “THE LEE PLAN”; PERTAINING TO MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING; 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 April 26, 2021; and,

WHEREAS, the Board held a public hearing for the transmittal of the proposed amendment on June 2, 2021. At that hearing, the Board approved a motion to send, and did later send, proposed amendment pertaining to Lee Plan 2045 Update (CPA2021-00001) to the reviewing agencies set forth in Section 163.3184(1)(c), F.S. for review and comment; and,

WHEREAS, at the June 2, 2021 meeting, the Board announced its intention to hold a public hearing after the receipt of the reviewing agencies’ written comments; and,

WHEREAS, on August 18, 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 text, map and table 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 "Lee Plan 2045 Update Ordinance (CPA2021-00001)."**

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 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, known as Lee Plan 2045 Update (CPA2021-00001).

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 (text amendments), Exhibit B (map amendments) and Exhibit C (table amendments).

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 18th day of August 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

Exhibits Adopted by BOCC August 18, 2021

Exhibit A: Adopted revisions to Text

Exhibit B: Adopted revisions to Maps 1, 3A, 3B, 3C, 3H, 3I, 6, 16

Exhibit C: Adopted revisions to Table 1(b)

EXHIBIT A 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 2045 when the population is 2030. ~~Given the projected to be increase in population (to 979,000 1,056,600 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.
- The county's public facilities will be maintained at adequate levels of service, partly by the construction of new facilities and partly by the use of new methods to conserve the capacity of existing facilities.
- The county's natural resources will be protected 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 continue to be diversified in order to increase the percentage of high-paying jobs, reduce tax burdens on residents, and enhance the stability of the county community. Traditional industries, such as agriculture, commercial fishing, tourism, and construction,

will continue to play a significant role in the county's economy alongside new industries anticipated in 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.

II. Future Land Use

POLICY 1.1.1: 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. 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).

POLICY 1.1.2: The Intensive Development future land use category is areas are located along major arterial roads, in Fort Myers, North Fort Myers, East Fort Myers west of I-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, areas with this designation they are well suited to accommodate high densities and intensities. Planned Mixed use development 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 benefit 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 of is 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 1.1.3: The Central Urban future land use category 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 city 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 have, which has or will have, the greatest range and highest levels of public services. 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 future land use category area with future Future development in this category is encouraged to be developed as a mixed-use, as described in Objective 11.1, where appropriate. This category has a standard density range is 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 (15 du/acre). The maximum total density may be increased to twenty dwelling units per acre (20 du/acre) utilizing Greater Pine Island Transfer of Development Units.

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 industrially (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 1.1.7: 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 1.1.9: 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 1.1.14 1.7.11: The Burnt Store Marina Village future land use category ~~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: 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 1.1.15 1.6.1: ~~The New Community future land use category are~~ are of lands that can be ~~are~~ capable of being 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 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. 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). ~~New Communities will not exceed a~~ The residential density is ~~of~~ one unit per 2.5 gross acres (1 du/2.5 acres) except within the Gateway/Airport Planning District, where a residential density ~~ies~~ of up to six dwelling units per gross acre (6 du/acre) may be permitted.

Remainder of policy is unchanged.

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

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.~~

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 1.7.6: ~~The Planning Communities-Districts 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 District 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 Community District 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, When updating the planning horizon, the county must conduct a comprehensive evaluation of the Planning Community Districts Map and the Acreage Allocation Table will be conducted, 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 2.1.3: All land use categories and Planning Community Districts Map areas permit the consideration of churches and schools (except in Wetlands and Airport Noise Zones A and B), 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.

POLICY 2.2.2: ~~Map 1 of the The 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 Lee Plan's 2045 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~~

~~3. 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.~~

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 2.9: SCENIC CORRIDORS. ~~By 1995, formally consider the establishment of specialized~~ Consider establishing special design standards along specified arterial and collector roads.

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

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.

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

Remainder of policy is unchanged.

POLICY 6.1.11: 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 7.1.2: Industrial developments requiring rezoning and meeting Development of County Impact (DCI) thresholds must be developed as planned developments except if located within the Mixed Use Overlay or the Industrial Development, Tradeport, or Industrial Interchange future land use categories. The planned development must be designed to arrange uses as an integrated and cohesive unit in order to:
Remainder of policy is unchanged.

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 7.1.6:** Land that is located outside of the Industrial Development, Tradeport, and Industrial Interchange areas but within the designated future urban areas may be developed for light industrial purposes so long as adequate services and facilities are available, the use will not adversely impact surrounding land uses, and natural resources are protected, if one of the following conditions is met:~~

- ~~a. The parcel is located in the Intensive Development, Central Urban, or Urban Community land use categories, was zoned IL or IG prior to the adoption of the 1984 Lee Plan, and does not exceed 50 acres in size (unless it is adjacent to other existing or designated industrial lands); or~~
- ~~b. The parcel is located in the Intensive Development, Central Urban, Urban Community, General Interchange, Industrial Commercial Interchange, or University Village Interchange land use categories, and is zoned as a Planned Development.~~

OBJECTIVE 9.1: Place existing active and passive agricultural uses, that are zoned AG, have an agricultural exemption from the property appraiser's office, and are located outside of areas anticipated for urban use during the life of the plan on an agricultural overlay. Non-contiguous parcels less than 100 acres in size will not be included on this Overlay. ~~A bi-annual review of this map will be conducted to track changes in the inventory of agriculturally used land in the non-urban areas of Lee County.~~

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 9.1.6:** 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 9.2.1: 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 public services 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 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 future land use category 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 Florida Forever the Florida Conservation and Recreational Land Program (CARL), 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 13.2.1: 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 future land use category must be reviewed as a PRFPD. Development of County Impact, Private Recreation Facilities Planned Development. (Ordinance No. 99-16, 18-18)

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 13.2.7: 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 13.2.12:** 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 13.4.7: Any Private Recreational Facilities proposed within the DR/GR future 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 126.1-117.1. Compliance with these policies must be demonstrated during development order approval.

OBJECTIVE 13.8: GOLF COURSE PERFORMANCE STANDARDS. The location, design and operation of golf courses located within the Private Recreational Facilities Overlay 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 ~~through 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 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 25.9.2: Direct new development and redevelopment in Lehigh Acres to areas that can be reasonably expected to receive ~~urban~~ public services and infrastructure during the planning horizon.

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)

POLICY 33.1.2: The DR/GR Priority Restoration Strategy consists of ~~overlay depicts~~ 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 ~~Policy 1.7.7 and~~ Map 1, Page 4).
Remainder of policy is unchanged.

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 Landscaping Plantings with low irrigation requirements in Common Elements.

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~~ the Public Facilities Level of Service and Concurrence report. The report will identify existing traffic conditions ~~(based on the latest year's traffic counts), a one-year 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 37.3.3: All proposed development activity (calculated from approved local development order applications - requests) will be inventoried against the available roadway capacity under existing conditions

(as identified in the annual Public Facilities Level of Service and Concurrency report). ~~capacity monitoring report based on existing conditions.~~

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

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 Communities Overlay (See Policy ~~33.2.433.3.4~~). The study will include a financing strategy for the identified improvements, including participation in a Proportionate Share Program.

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 areas, future suburban areas, or future 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, the Lee County Greenways ~~and Multi-Purpose Recreational Trails 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 42.1.1: The county will participate in the MPO ~~and Regional Planning Council~~ planning processes for 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 all incorporated areas of Lee County ~~Sanibel, Cape Coral, Fort Myers Beach, Bonita Springs, and Fort Myers~~, and state roads and county roads shared with adjacent counties.

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.~~

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 Ten Year Water Supply Development Projects Table, potable water resources, and water conservation.

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 Florida Department of Environmental Protection, the Florida Department of Health Department of Health and Rehabilitative Services, 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 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)

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 future urban areas, future suburban areas and future Urban, Suburban and non-urban areas.

POLICY 67.1.1: The county will ~~work in collaboration~~ with the Lee County School 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 67.1.5: Lee County will provide input on the continued development of Florida Gulf Coast University by coordinating ~~coordinate with the State Board of Regents on the development of the Florida Gulf Coast University through the Campus Master Plan process, and the required Development Agreement, and through~~ other means of intergovernmental coordination.

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 69.3.1: 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 Right-to-Know Act of 1986 (EPCRA) (42 U.S.C. § 11004).

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.

V. PARKS, RECREATION AND OPEN SPACE

POLICY 83.3.1: 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. 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 and properties.

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

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 Walkways & Bikeways ~~Bikeways/Walkways Facilities~~ Plan where feasible.

POLICY 85.1.5: ~~The county will e~~ 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 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 87.2.5:** Lee County will implement the Matanzas Harbor Plan by encouraging private/public coordination.~~

~~**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.~~

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 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 128.1.1: Commercial and government-operated multi-slip docking facilities located in a water-dependent overlay (see Map 12) may be rezoned to marine-oriented districts 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 these facilities and to prevent their conversion of these facilities to non-water-dependent uses without a public hearing.

~~**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.~~

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~~ and Estuarine Sanctuaries (NOAA)

Remainder of policy is unchanged.

~~**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.~~

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. Work 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.~~

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 135.1.11: The Lee County Office of Equal Opportunity will be responsible for compliance with the county's Equal Opportunity in Housing Ordinance ~~Fair Housing 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 Advisory Committee, Community Action/Neighborhood District Agency, and the Neighborhood District Committee(s) to ensure effective public participation in the housing planning process.

OBJECTIVE 135.2: ~~RURAL AND FARMWORKER HOUSING.~~ ~~To provide suitable and affordable housing for farmworkers. 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.~~

~~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 135.4.8: 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)~~ F.S. 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 135.4.13:~~ ~~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.~~

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

~~***~~

~~**POLICY 135.5.1:** Mobile homes are permitted in all future 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.~~

~~**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. ~~773.083~~ 723.062 Governmental Action Affecting the Removal of Mobile Home Owners.~~

~~***~~

~~**POLICY 135.6.1:** Housing for special needs is permitted in all future 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.~~

~~***~~

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

~~*****~~

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 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 144.1.1: Lee County will maintain a historic preservation guide 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 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 145.2.2: Lee County may ~~will exert every effort to enter into an interlocal agreements with the incorporated municipalities to share functions of the within Lee County to perform shared functions with~~ the Historic Preservation Board.

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.~~

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.

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, Lee County will pursue the dispute resolution 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.~~

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

XI. ECONOMIC ELEMENT

POLICY 158.3.7: ~~Lee County will promote and coordinate the Lee County/Fort Myers Enterprise Zones.~~

POLICY 158.5.3: Lee County will encourage the Lee County School District, ~~Edison State College~~ Florida Southwestern State College, 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.

XII. GLOSSARY

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

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

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.~~

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.

FREEWAY – ~~The term freeway as used herein and as defined by the 1985 Highway Capacity Manual, Special Report 209, is a~~ A multilane ~~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.~~

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.

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

~~**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.~~

~~**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.~~

URBAN PUBLIC SERVICES - The requisite services, facilities, capital improvements, and infrastructure necessary to support growth and development at levels of urban density and intensity. Urban Public 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.

Table 1(a)

Clarifications and Exceptions:

⁸ 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.

¹³ See Objectives 33.2 and 33.3 Policies 33.3.2, 33.3.3, and 33.3.4 for potential density adjustments ~~resulting from concentration or transfer of development rights.~~

- ¹⁸ 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).
- ¹⁹ 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).

EXHIBIT B



- **Map 1, Page 3**
 - Deleted
- **Map 3A**
 - Existing
 - Proposed
- **Map 3B**
 - Existing
 - Proposed
- **Map 3C**
 - Existing
 - Proposed
- **Map 3H**
 - Deleted
- **Map 3I**
 - Deleted
- **Map 6**
 - Existing
 - Proposed
- **Map 16**
 - Changes
 - Existing
 - Proposed

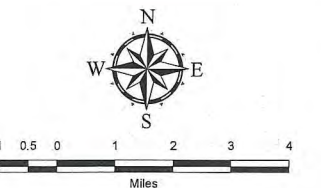
SPECIAL TREATMENT AREAS

Deleted

Lee County Development of Regional Impact Activities

- 9 Sandpiper Cove
- 11 Cypress Lake Land Trust
- 14 Villas South
- 21 The Estuaries
- 23 SouthWest Florida International Airport
- 25 Spring Creek PUD/DRI
- 26 Cape Coral Unit 86 (withdrawn)
- 31 Three Oaks
- 33 Burnt Store Marina South
- 34 Bonita Bay
- 37 River's Edge Yacht and Country Club
- 38 Interlaken
- 39 The Forest and the Oaks
- 41 Buccanier Mobile Estates Expansion
- 47 Edison Mall Expansion
- 52 Tarpon Point Marina
- 53 Gateway
- 54 The Habitat
- 57 Stoneybrook/Corkscrew Pines
- 58 Pine Lakes Country Club (Withdrawn)
- 60 The Parklands
- 62 Cypress Trace Shopping Center
- 63 Timberland and Tiburon
- 64 Cypress Lake Center
- 65 Metro Park
- 69 Boardwalk Caper
- 71 Alico Interchange Park
- 72 Springs Plaza Expansion
- 77 Leisure Village Seven Lakes Residential
- 79 Healthpark Florida
- 82 Deep Lagoon Marina
- 84 Jetport Interstate Commerce Park
- 86 Omni Interstate Park
- 90 Woods Edge
- 92 Del Tura Country Club
- 94 Hancock Creek Commerce Park
- 95 Dampier Centre DRI
- 96 Airside Plaza
- 97 One University Center
- 98 Parklands West commercial parcel
- 103 Colonial Properties
- 105 Indian Oaks Trade Centre
- 106 Del Prado North Commerce Park
- 108 Merchants Crossing
- 112 Southwest Regional Airport S.D. II
- 113 Bonita Grande R.V. Resort
- 114 International Center FQD
- 115 Hancock Bridge Marina
- 116 Pineland Marina Public Boat Ramp
- 117 Lee County Sports Complex FQD
- 118 Tamalico Center
- 119 Southwest Regional Airport S.D. II
- 120 Downtown Fort Myers 2000
- 123 The Marketplace
- 124 Alico, Inc. AMDA
- 126 Southwest Florida Pipeline CO.
- 137 Pelican Landing CPD/RPD DRI
- 140 Bay Beach
- 149 The Brooks of Bonita Springs

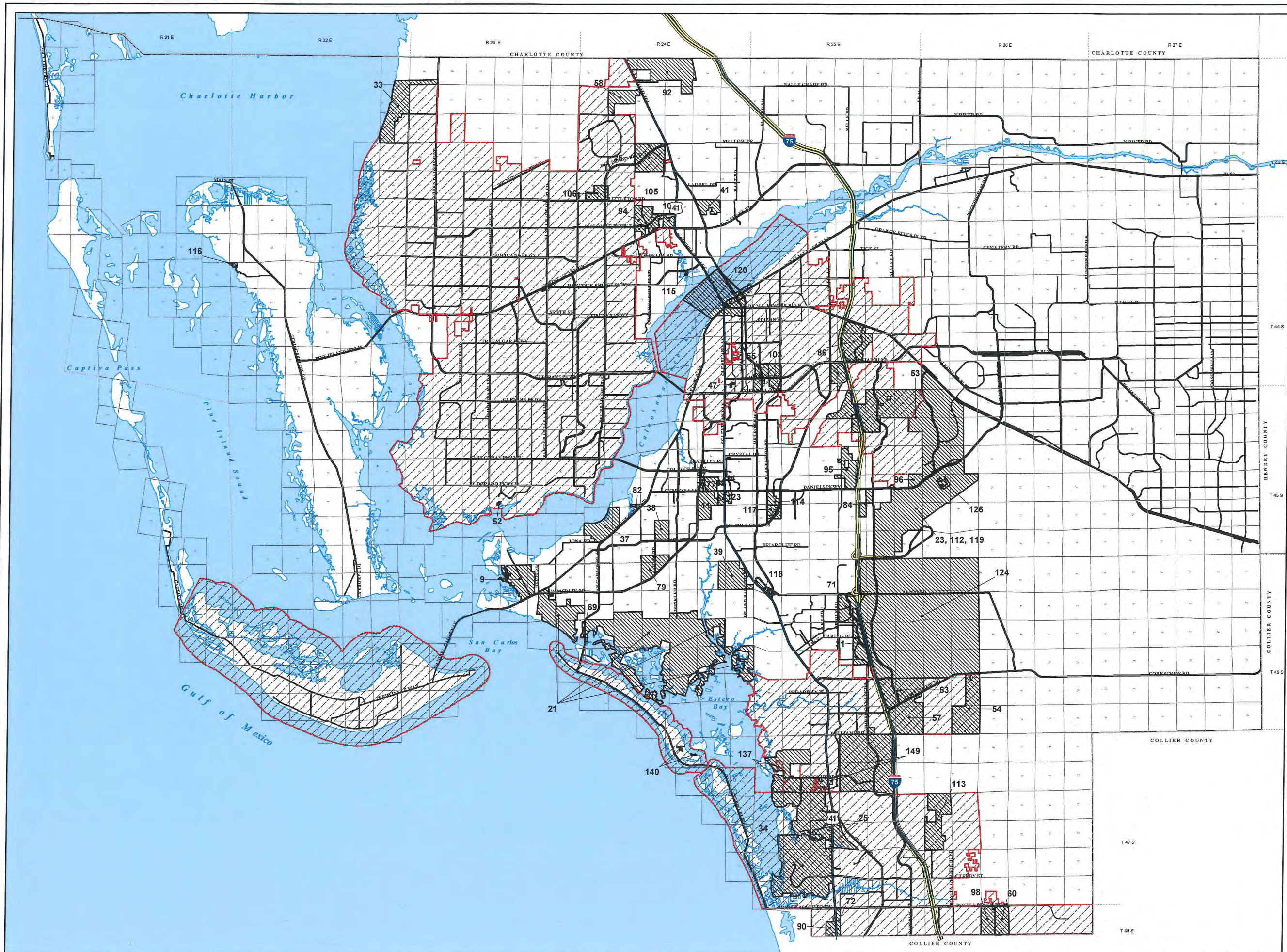
-  DRI Locations
-  City Limits



Map Generated: July 2010
City Limits current to date of map generation

Last Amended: May 25, 1994

Lee Plan Map 1
Page 3 of 7



2030 FINANCIALLY FEASIBLE HIGHWAY PLAN

Existing

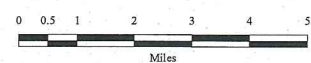
- Critical Intersection
- Intersection Improvement
- Partial Funding for Interchange
- Proposed Cost Feasible Projects

MPO Needs Plan

- 2 Lanes Divided
- New 2 Lane Road
- New 4 Lane Road
- New 6 Lane Road
- New 8 Lane Road
- Road Connections
- Widen to 4 Lanes
- Widen to 6 Lanes
- 6 + 4 Lanes
- Widen to 8 Lanes

Existing Road Network

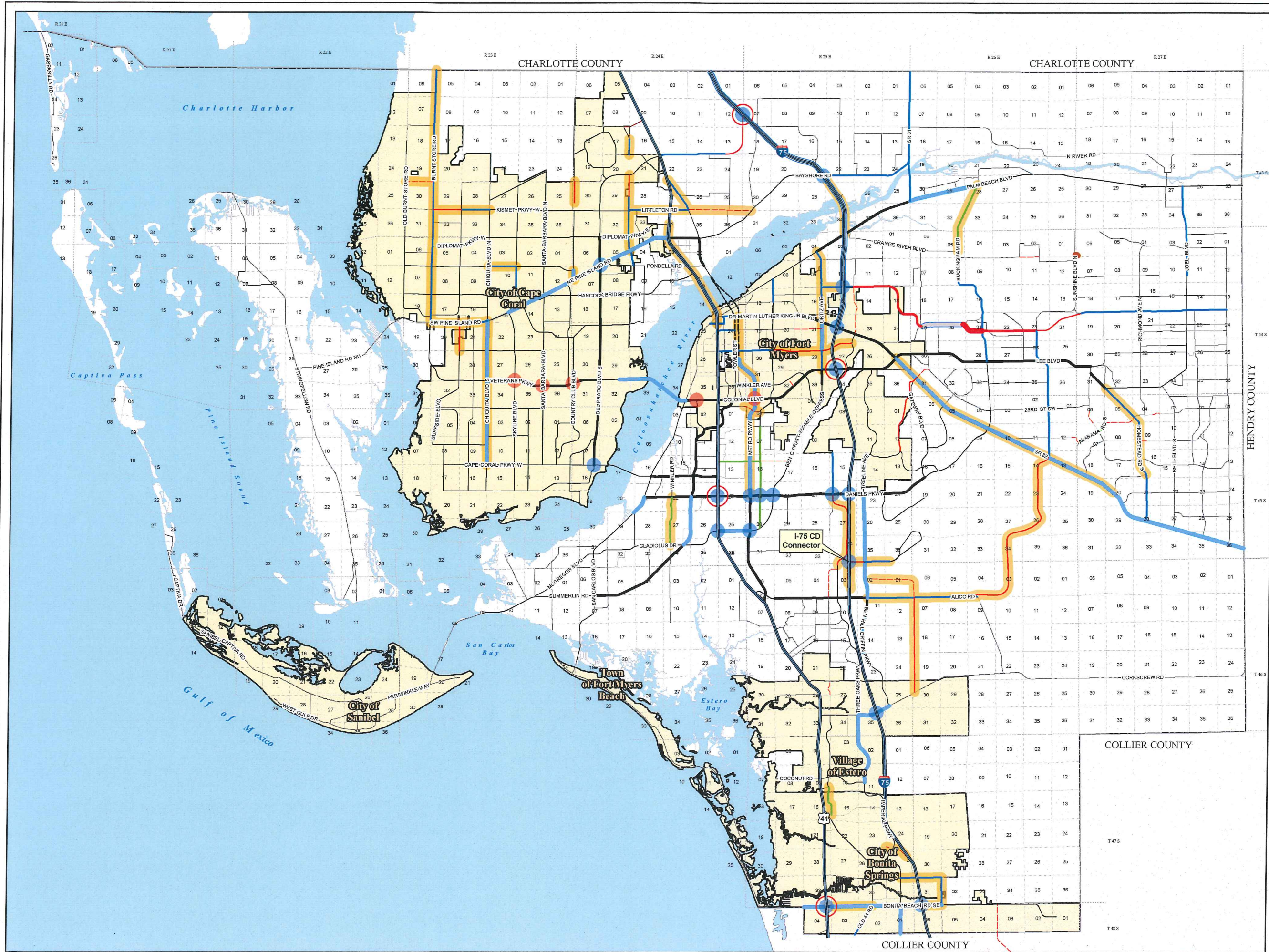
- Lanes**
- 1
 - 2
 - 4
 - 6
 - County Line
 - City Limits



Map Generated: May 2019
City limits current to date of map generation

Ordinance No. 07-11, 14-09

Lee Plan Map 3A

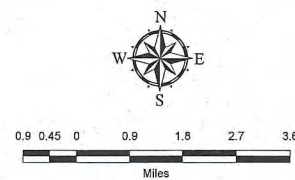


LEE COUNTY COST FEASIBLE ROADWAY PROJECTS

Cost Feasible Lanes

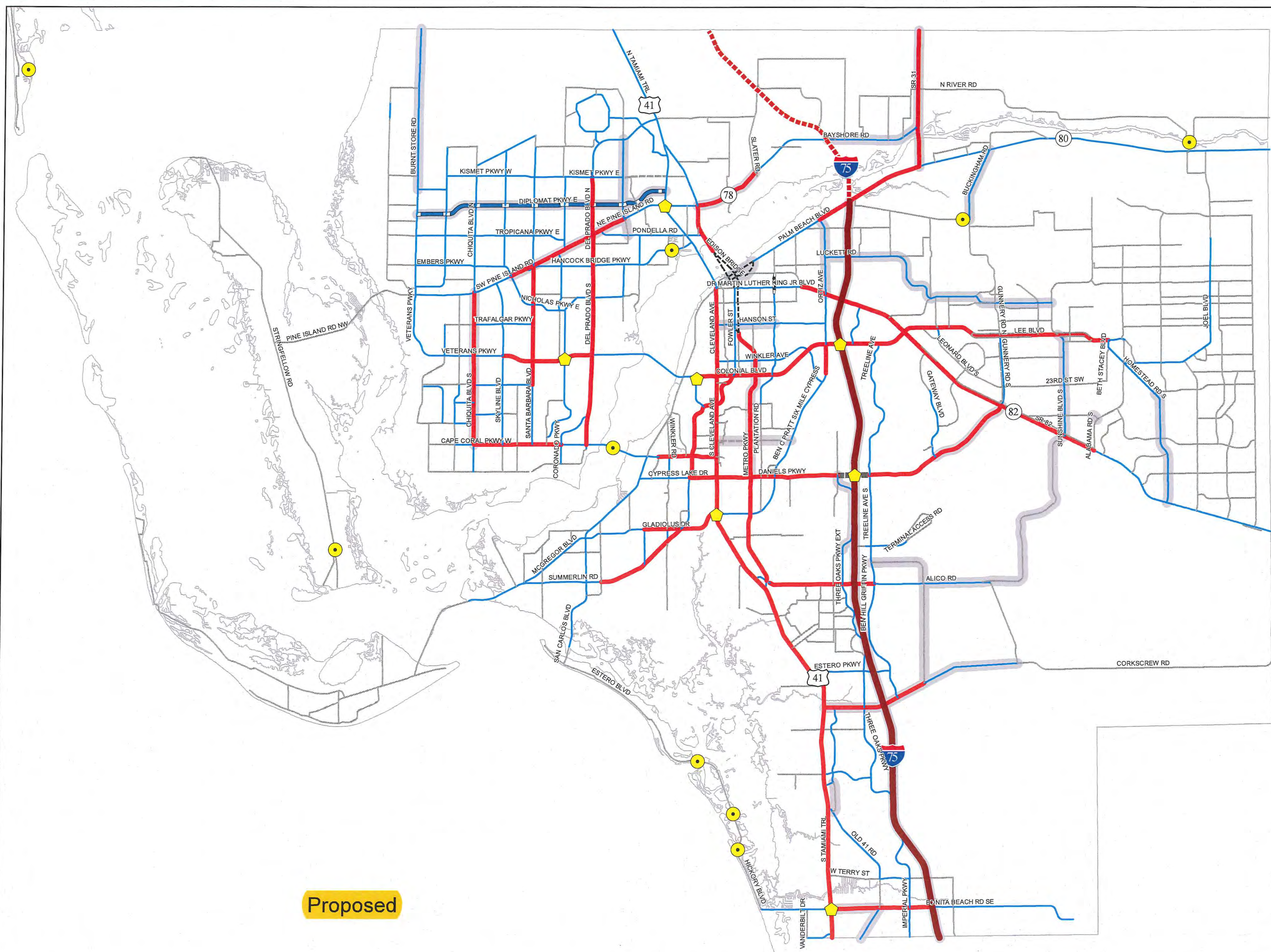
- 10 Lane Freeway
- 8 Lane Divided
- 6 Lane Freeway
- 6 Lane Divided
- 4 Lane Limited Access
- 4 Lane Roadway
- 3 Lane Roadway
- 3 Lane One-Way
- 2 Lane One-Way
- 2 Lane Roadway
- Cost Feasible Projects
- Bridge Reconstruction
- Intersection/Interchange

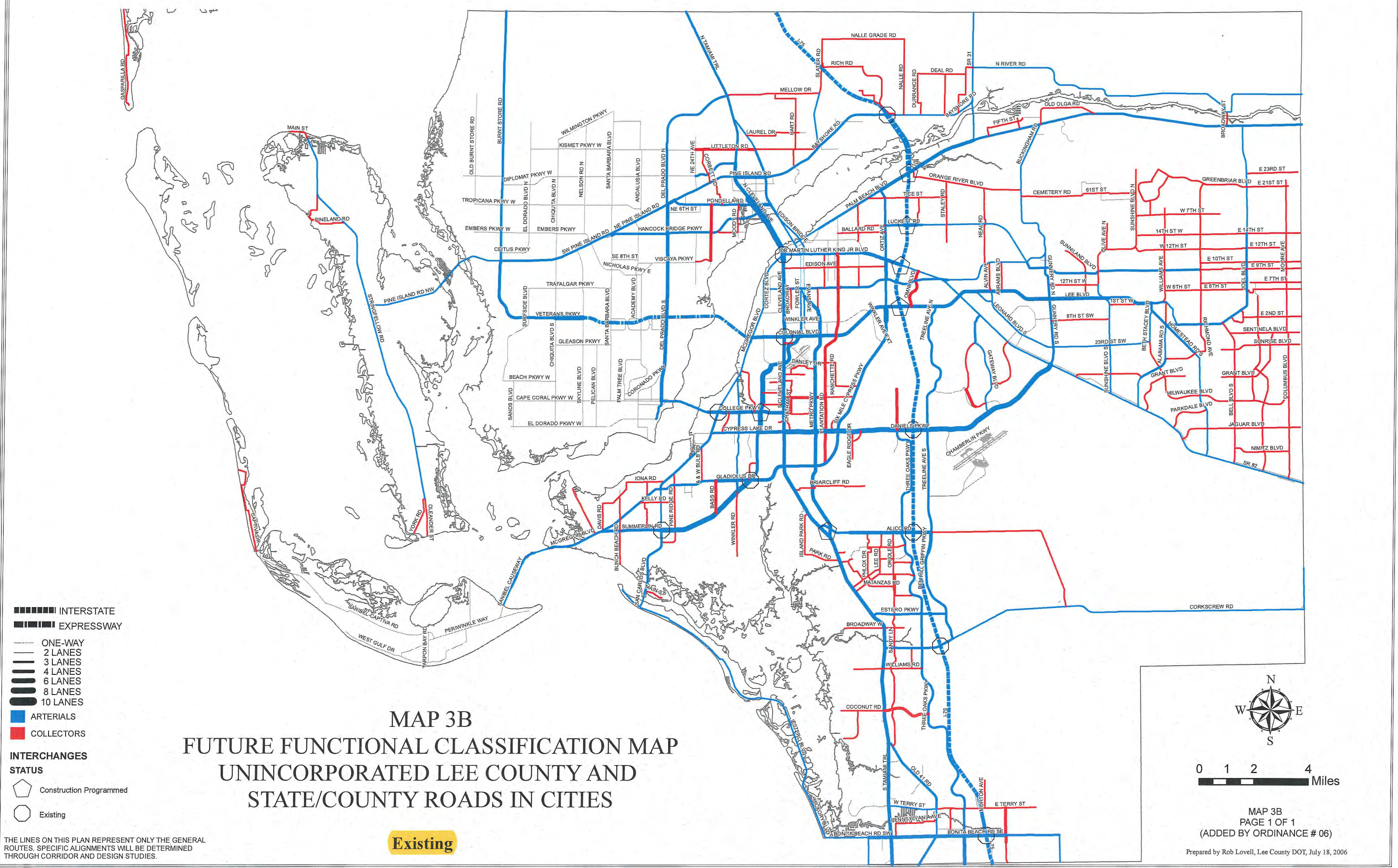
THE LINES ON THIS PLAN REPRESENT ONLY THE GENERAL ROUTES SPECIFIC ALIGNMENTS WILL BE DETERMINED THROUGH CORRIDOR AND DESIGN STUDIES.



Map Generated: May 2021

Proposed





- INTERSTATE
- EXPRESSWAY
- ONE-WAY
- 2 LANES
- 3 LANES
- 4 LANES
- 6 LANES
- 8 LANES
- 10 LANES
- ARTERIALS
- COLLECTORS

- INTERCHANGES
- STATUS
 - Construction Programmed
 - Existing

THE LINES ON THIS PLAN REPRESENT ONLY THE GENERAL ROUTES. SPECIFIC ALIGNMENTS WILL BE DETERMINED THROUGH CORRIDOR AND DESIGN STUDIES.

MAP 3B
FUTURE FUNCTIONAL CLASSIFICATION MAP
UNINCORPORATED LEE COUNTY AND
STATE/COUNTY ROADS IN CITIES

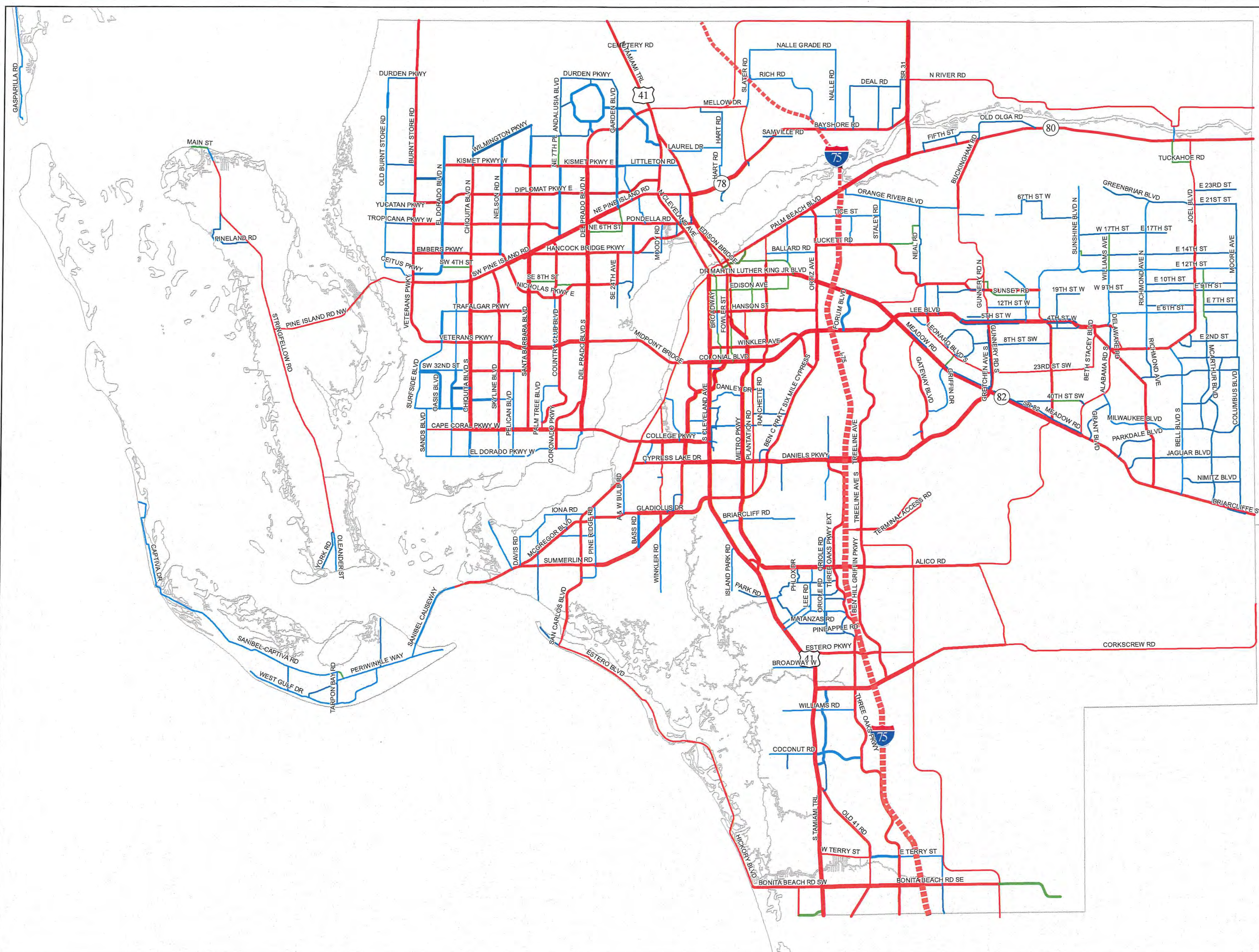
Existing



0 1 2 4 Miles

MAP 3B
PAGE 1 OF 1
(ADDED BY ORDINANCE # 06)

Prepared by Rob Lovell, Lee County DOT, July 18, 2006



FUTURE FUNCTIONAL CLASSIFICATION

Proposed

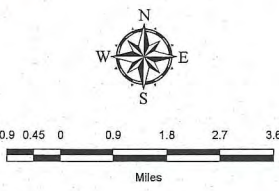
Functional Classification

- Interstate
- Arterial
- Collector
- Local

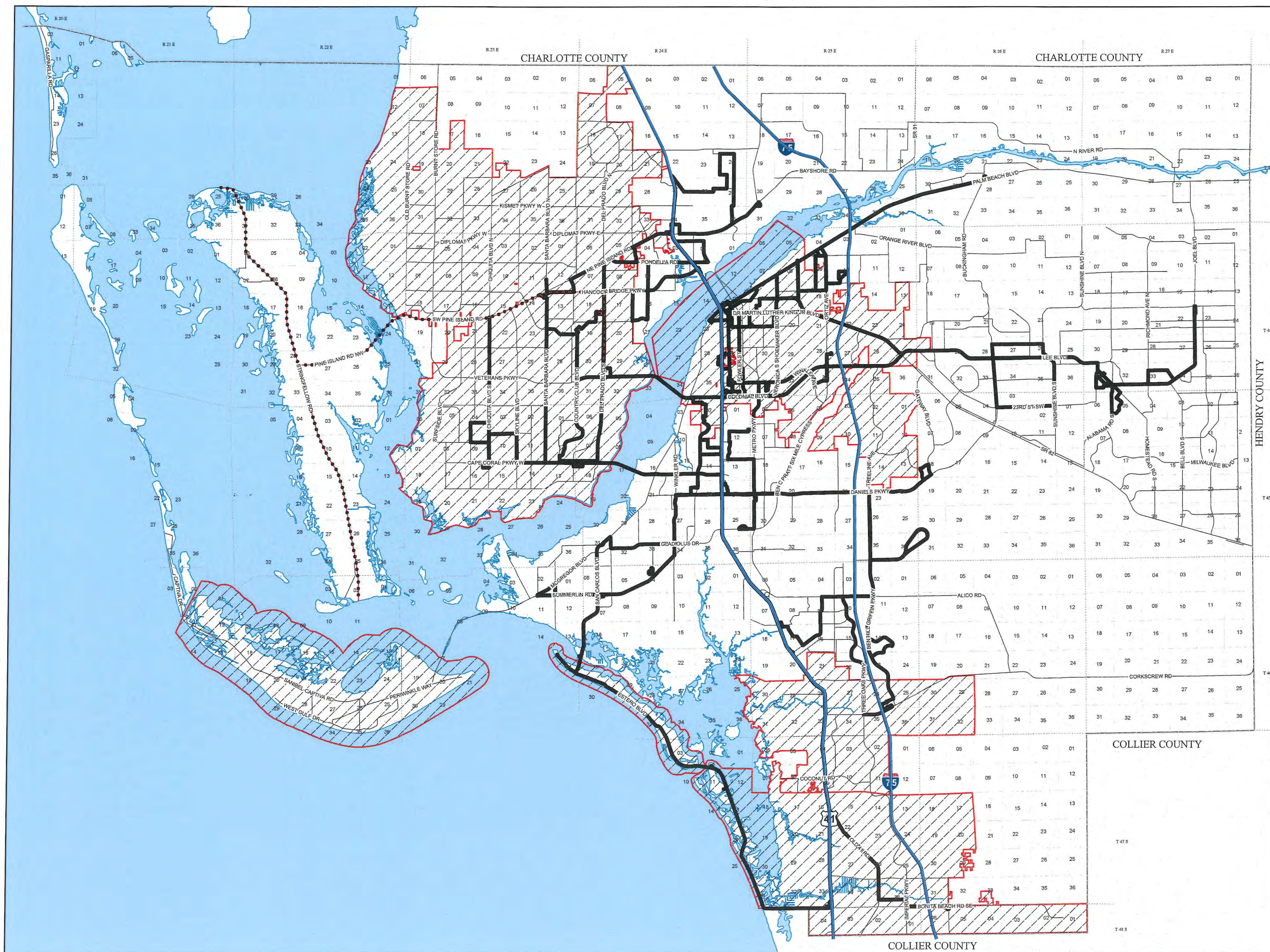
Number of Lanes

- 10
- 8
- 6
- 4
- 3
- 2

THE LINES ON THIS PLAN REPRESENT ONLY THE GENERAL ROUTES; SPECIFIC ALIGNMENTS WILL BE DETERMINED THROUGH CORRIDOR AND DESIGN STUDIES.



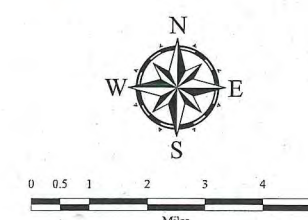
Map Generated: April 2021
Ordinance No. 07-11, 10-03



2030 FINANCIALLY FEASIBLE TRANSIT NETWORK

Existing

- Regular Route
- Thursday Operation
- City Limits



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

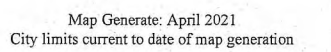
Map Generated: April 2021
City limits current to date of map generation

Lee Plan Map 3C

Proposed



Lee County
Southeast Florida



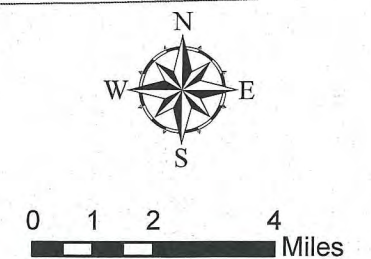
Lee Plan Map 3C

MAP 3H FUTURE MAINTENANCE RESPONSIBILITY

Deleted

- ONE-WAY
- 2 LANES
- 3 LANES
- 4 LANES
- 6 LANES
- 8 LANES
- 10 LANES
- COUNTY MAINTAINED
- STATE MAINTAINED
- CITY OR PRIVATELY MAINTAINED

- INTERCHANGES**
- TYPE, STATUS**
- CONSTRUCTION PROGRAMMED
 - EXISTING



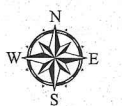
MAP 3H
PAGE 1 OF 1
(ADDED BY ORDINANCE # 07-11)

Prepared by Rob Lovell, Lee County DOT, July 18, 2006

LEE COUNTY UTILITIES FUTURE WATER SERVICE AREAS

Existing

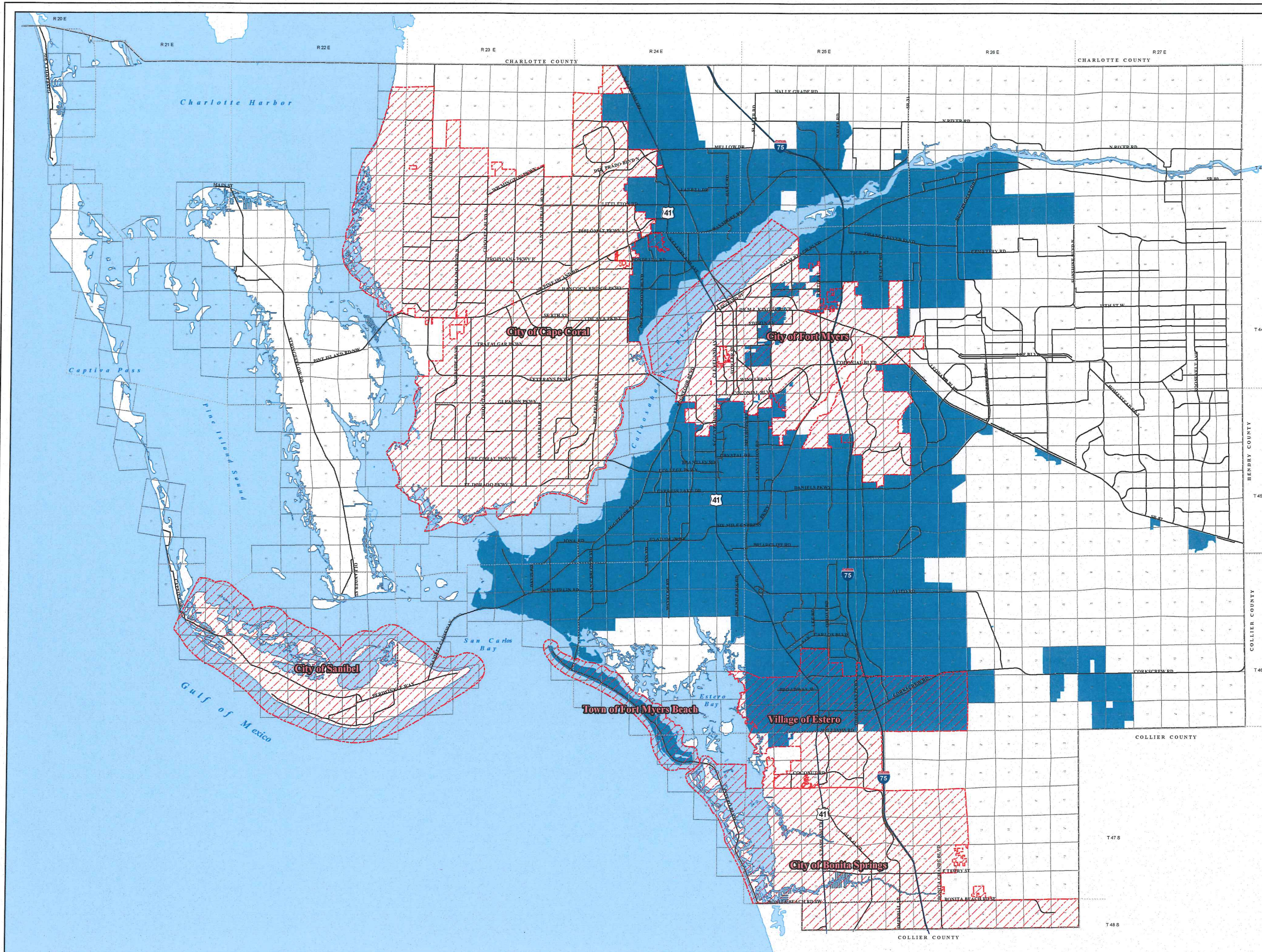
Future Water Service Areas Map
City Limits



1 0.5 0 1 2 3 4
Miles

Map Generated: April 2021
City limits current to date of map generation
Ordinance No. 89-02, 00-22, 03-19, 10-06, 10-40, 10-43,
12-24, 13-16, 14-21, 15-13, 15-14, 17-06, 17-23, 19-10, 19-25

Lee Plan Map 6



LEE COUNTY UTILITIES FUTURE WATER SERVICE AREAS

Proposed

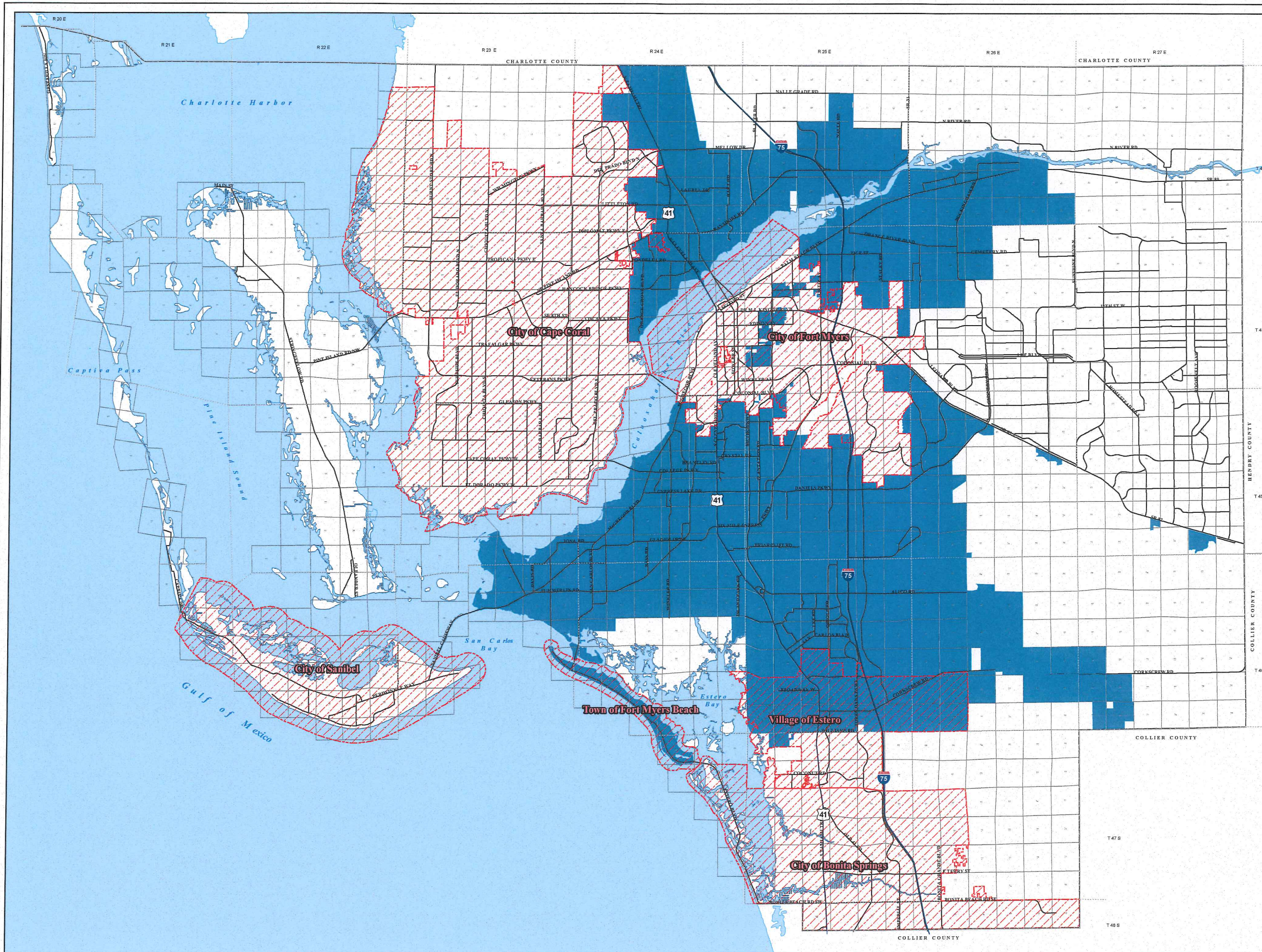
Future Water Service Areas Map
City Limits

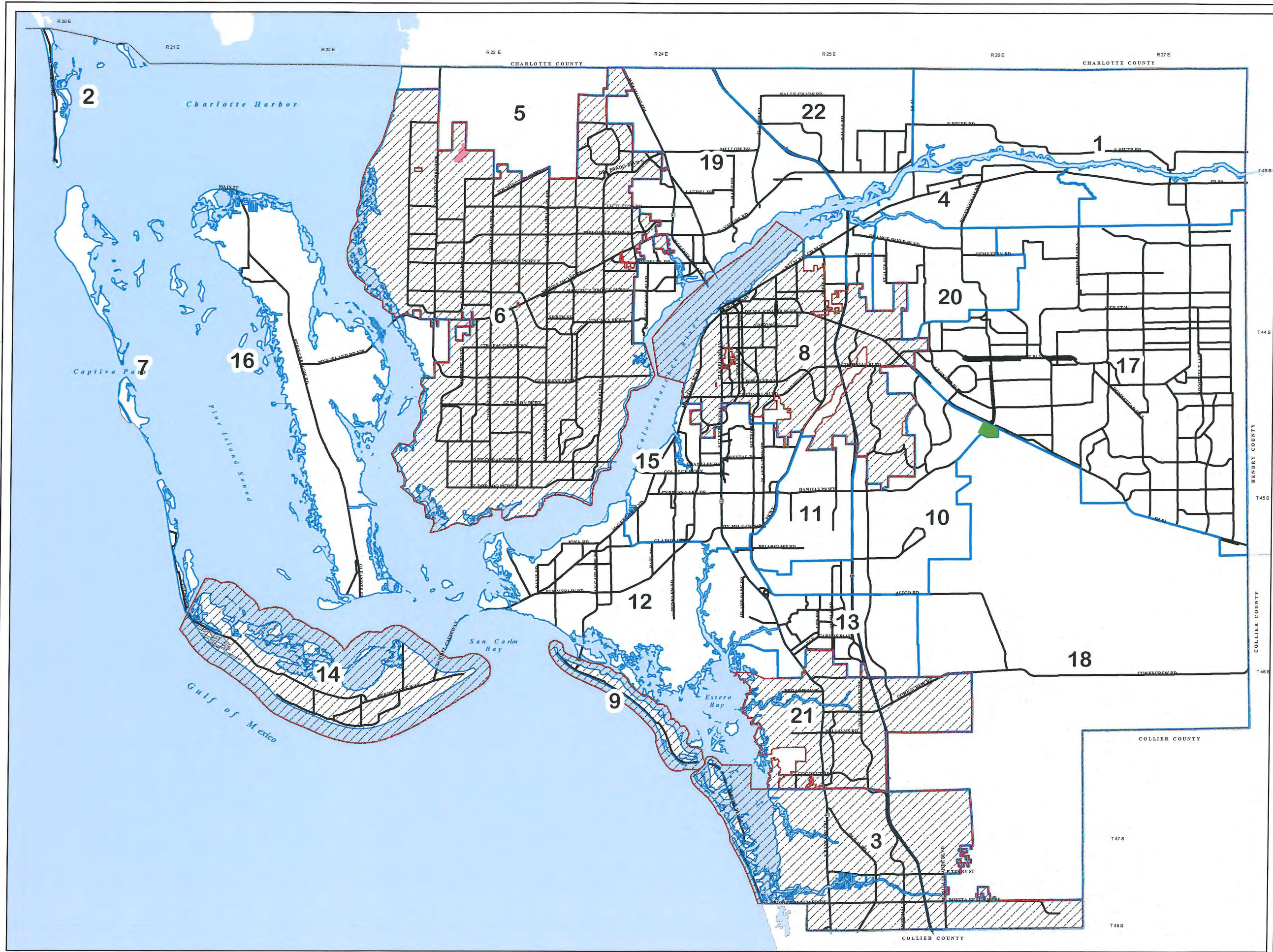


1 0.5 0 1 2 3 4
Miles

Map Generated: April 2021
City limits current to date of map generation
Ordinance No. 89-02, 00-22, 03-19, 10-06, 10-40, 10-43,
12-24, 13-16, 14-21, 15-13, 15-14, 17-06, 17-23, 19-10, 19-25





Lee Plan Map 6





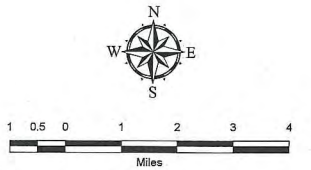
LEE COUNTY PLANNING DISTRICTS

Changes

-  Vacant, Annexed by Cape Coral
-  Vacant, separated from Lehigh Acres, anticipated development patterns like Planning Community 10
-  Proposed Planning Community Boundary
-  City Limits

For Information Only

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

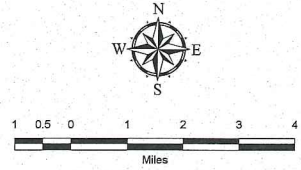
LEE COUNTY PLANNING COMMUNITIES

Existing

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

 City Limits

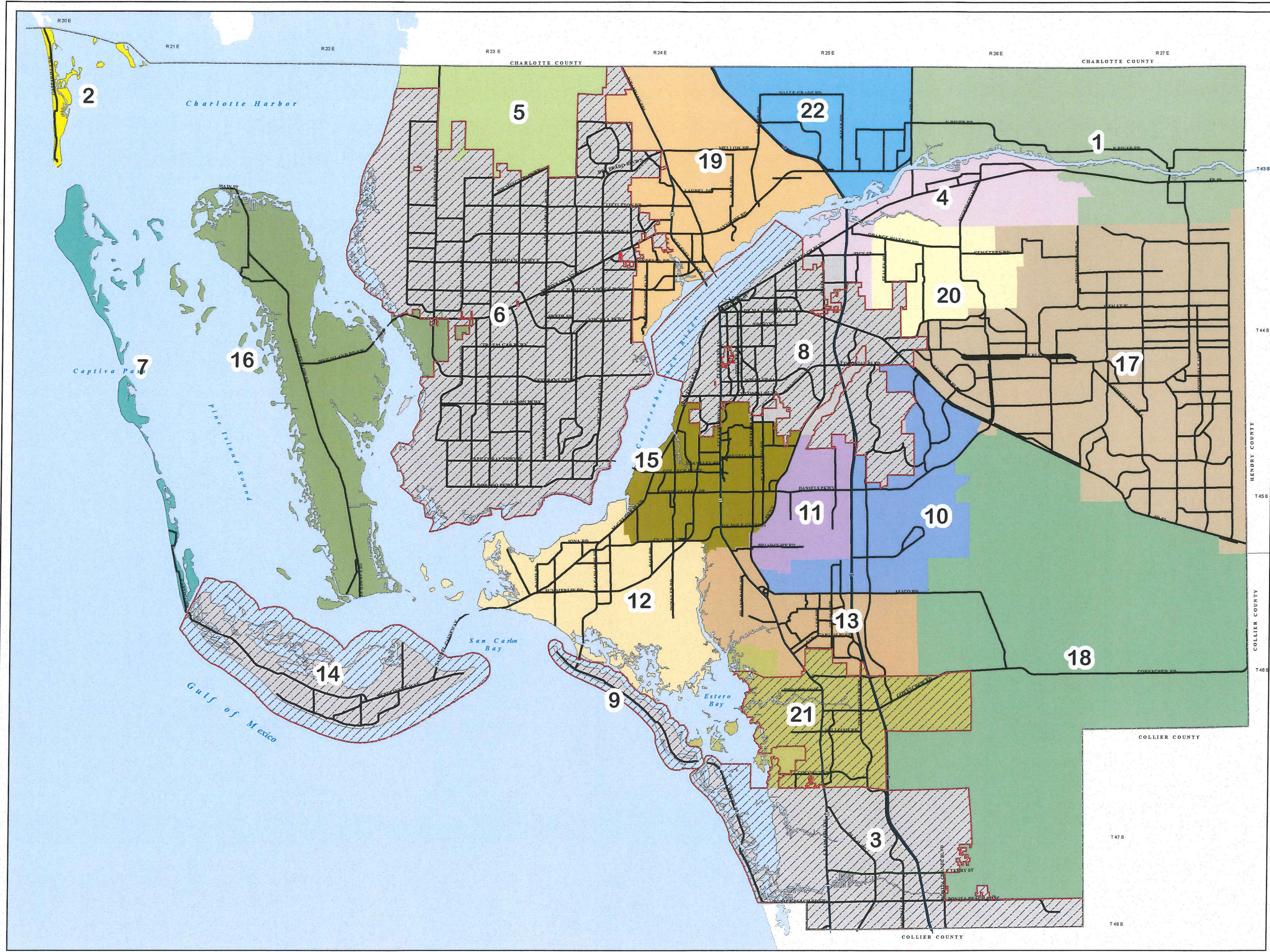
The Planning Communities Map and Acreage Allocation Table (see Table 1(b) and Policies 1.1.1 and 2.2.2) depict the proposed distribution, extent, and location of generalized land uses for the year 2030.

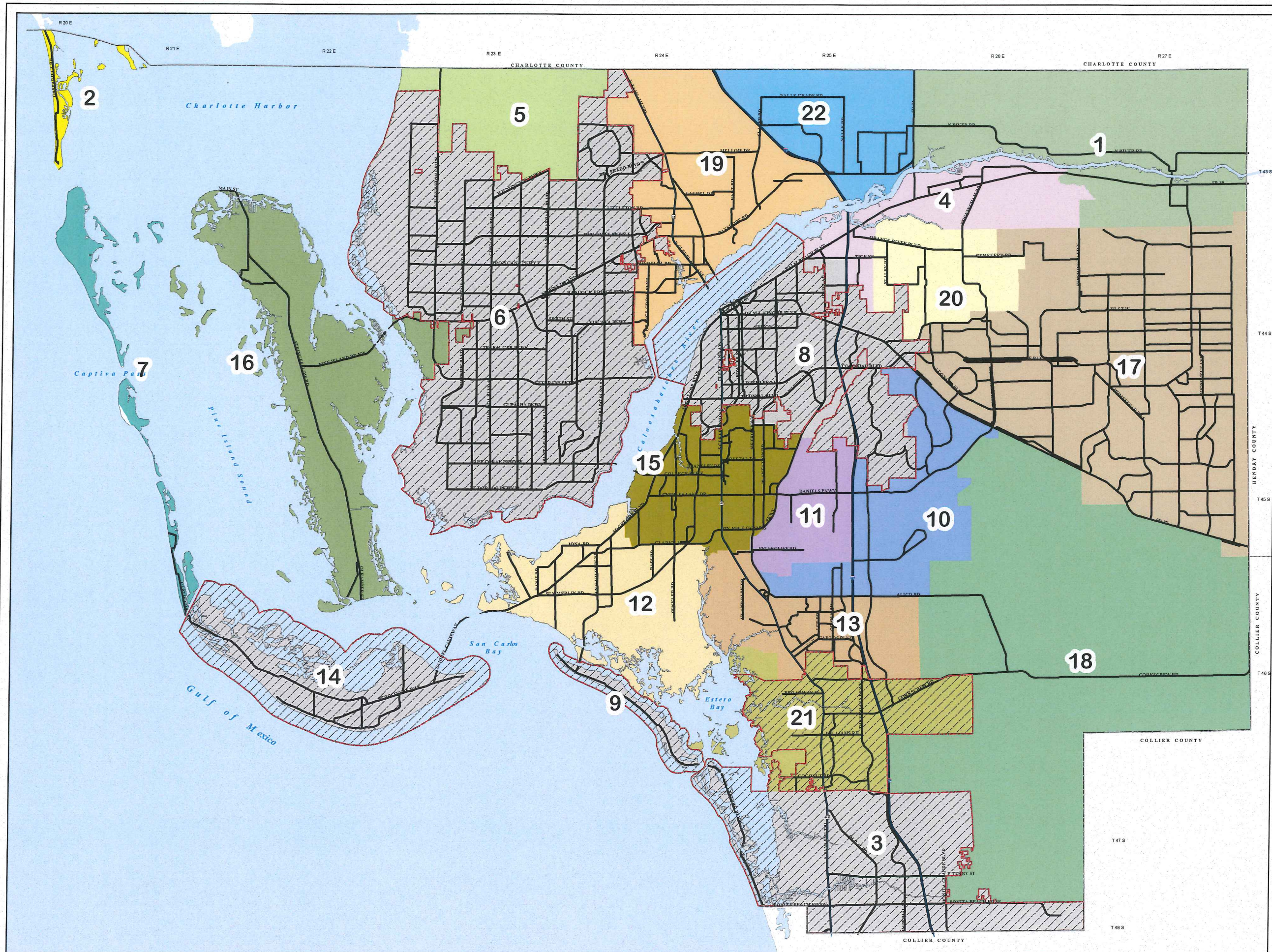


Map Generated: April 2021
City Limits current to date of map generation

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

Lee Plan Map 16



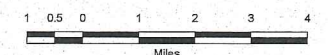


LEE COUNTY PLANNING DISTRICTS

Proposed

- District 1 - Northeast Lee County
- District 2 - Boca Grande
- District 3 - Bonita Springs
- District 4 - Fort Myers Shores
- District 5 - Burnt Store
- 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
- 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 22 - Bayshore
- 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

EXHIBIT C

TABLE 1(b) Year 2030 Allocation

Existing

Future 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
Residential By Future Land Use Category	Intensive Development	1,361				5		27		250			
	Central Urban	14,766				225				230			
	Urban Community	16,396	520	485		637						250	
	Suburban	16,623				1,810				85			
	Outlying Suburban	4,301	30			498	20	2	500				1,438
	Sub-Outlying Suburban	1,687				279						227	
	Commercial												
	Industrial	79								39		20	
	Public Facilities	1							1				
	University Community	850											
	Destination Resort Mixed Use Water Dependent	8											
	Burnt Store Marina Village	4					4						
	Industrial Interchange												
	General Interchange	169										29	58
	General Commercial Interchange												
	Industrial Commercial Interchange												
	University Village Interchange												
	Mixed Use Interchange												
	New Community	2,100	1,200									900	
	Airport												
	Tradeport	9										9	
	Rural	8,313	1,948			1,400	636						1,500
	Rural Community Preserve	3,100											
	Coastal Rural	1,300											
	Outer Island	202	5			1			150				
	Open Lands	2,805	250				590						120
	Density Reduction/ Groundwater Resource	6,905	711									94	
	Conservation Lands Upland												
	Wetlands												
	Conservation Lands Wetland												
Unincorporated County Total Residential		80,979	4,664	485		4,855	1,250	29	651	604		1,529	3,116
Commercial		12,793	177	52		400	50	17	125	150		1,100	440
Industrial		6,620	26	3		400	5	26		300		3,100	10
Non Regulatory Allocations													
Public		82,570	7,100	421		2,005	7,000	20	1,961	350		7,752	2,477
Active AG		24,208	5,100			550	150						20
Passive AG		43,591	12,229			2,305	109					1,241	20
Conservation		81,933	2,214	611		1,142	3,236	133	1,603	748		2,947	1,733
Vacant		24,481	1,953			61	931	34		45		282	151
Total		357,175	33,463	1,572		11,718	12,731	259	4,340	2,197		17,951	7,967
Population Distribution (unincorporated Lee County)		495,000	9,266	1,531		34,178	3,270	225	530	5,744		19,358	16,375

TABLE 1(b) Year 2030 Allocation

Existing

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
<i>Residential By Future Land Use Category</i>	Intensive Development				660	3	42		365		9	
	Central Urban	375	17		3,140		8,179		2,600			
	Urban Community	850	1,000		860	500	10,734			110	450	
	Suburban	2,488	1,975		1,200	675			6,690		1,700	
	Outlying Suburban	377				600			382		454	
	Sub-Outlying Suburban		25						140	66		950
	Commercial											
	Industrial	5	5		10							
	Public Facilities											
	University Community		850									
	Destination Resort Mixed Use Water Dependent	8										
	Burnt Store Marina Village											
	Industrial Interchange											
	General Interchange							15	31		6	30
	General Commercial Interchange											
	Industrial Commercial Interchange											
	University Village Interchange											
	Mixed Use Interchange											
	New Community											
	Airport											
	Tradeport											
	Rural		90			190	14		500	50	635	1,350
	Rural Community Preserve									3,100		
	Coastal Rural					1,300						
	Outer Island	1				45						
	Open Lands								45			1,800
	Density Reduction/ Groundwater Resource							4,000				2,100
	Conservation Lands Upland											
	Wetlands											
	Conservation Lands Wetland											
Unincorporated County Total Residential		4,104	3,962		5,870	3,313	18,969	4,015	10,753	3,326	3,254	6,230
Commercial		1,100	1,944		2,100	226	1,300	68	1,687	18	1,700	139
Industrial		320	450		900	64	300	65	554	5	87	5
Non Regulatory Allocations												
Public		3,550	3,059		3,500	2,100	15,289	12,000	4,000	1,486	7,000	1,500
Active AG						2,400		14,352	200	411	125	900
Passive AG						815		17,521	1,532	3,619	200	4,000
Conservation		9,306	2,969		188	14,767	1,541	31,210	1,317	336	5,068	864
Vacant		975	594		309	3,781	10,505	470	2,060	1,000	800	530
Total		19,355	12,978		12,867	27,466	47,904	79,701	22,103	10,201	18,234	14,168
Population Distribution (unincorporated Lee County)		34,538	36,963		58,363	13,265	148,669	1,270	71,001	6,117	25,577	8,760

Table 1(b) Year 2045 Allocations

PROPOSED

Future Land Use Category		Unincorporated County	Planning District									
			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
Residential By Future Land Use Category	Intensive Development	1,483	-	-	-	17	-	21	-	238	-	-
	Central Urban	13,838	-	-	-	207	-	-	-	230	-	25
	Urban Community	22,739	813	453	-	475	-	-	-	-	-	150
	Suburban	14,913	-	-	-	1,950	-	-	-	80	-	-
	Outlying Suburban	3,648	25	-	-	490	13	3	429	-	-	-
	Sub-Outlying Suburban	1,731	-	-	-	330	-	-	-	-	-	227
	Commercial	-	-	-	-	-	-	-	-	-	-	-
	Industrial	15	-	-	-	-	-	-	-	-	-	6
	Public Facilities	-	-	-	-	-	-	-	-	-	-	-
	University Community	503	-	-	-	-	-	-	-	-	-	-
	Destination Resort Mixed Use Water Dependent	8	-	-	-	-	-	-	-	-	-	-
	Burnt Store Marina Village	2	-	-	-	-	2	-	-	-	-	-
	Industrial Interchange	-	-	-	-	-	-	-	-	-	-	-
	General Interchange	114	-	-	-	-	-	-	-	-	-	15
	General Commercial Interchange	-	-	-	-	-	-	-	-	-	-	-
	Industrial Commercial Interchange	-	-	-	-	-	-	-	-	-	-	-
	University Village Interchange	-	-	-	-	-	-	-	-	-	-	-
	New Community	2,104	1,115	-	-	-	-	-	-	-	-	-
	Airport	-	-	-	-	-	-	-	-	-	-	989
	Tradeport	3	-	-	-	-	-	-	-	-	-	-
	Rural	7,764	2,431	-	-	800	730	-	-	-	-	3
	Rural Community Preserve	3,517	-	-	-	-	-	-	-	-	-	-
	Coastal Rural	1,338	-	-	-	-	-	-	-	-	-	-
	Outer Island	233	2	4	-	1	-	-	169	-	-	-
	Open Lands	2,186	153	-	-	-	257	-	-	-	-	-
	Density Reduction/ Groundwater Resource	6,974	131	-	-	-	-	-	-	-	-	-
	Conservation Lands Upland	-	-	-	-	-	-	-	-	-	-	-
	Wetlands	-	-	-	-	-	-	-	-	-	-	-
	Conservation Lands Wetland	-	-	-	-	-	-	-	-	-	-	-
Unincorporated County Total Residential		83,113	4,669	457	-	4,270	1,002	24	598	548	-	1,415
Commercial		8,916	300	53	-	450	27	9	125	150	-	1,216
Industrial		4,787	30	3	-	300	10	15	70	315	-	2,134
Non Regulatory Allocations												
Public		120,211	14,191	622	-	4,864	7,323	6	2,340	583	-	9,660
Active AG		21,944	5,500	-	-	240	90	-	-	-	-	2
Passive AG		13,685	5,500	-	-	615	100	-	-	-	-	485
Conservation		87,746	2,458	297	-	1,163	3,186	67	1,595	926	-	2,206
Vacant		26,118	1,145	28	-	733	766	8	103	17	-	88
Total		366,520	33,793	1,460	-	12,634	12,505	129	4,831	2,538	-	17,205
Population Distribution (unincorporated Lee County)		584,331	8,235	1,470	-	35,253	2,179	152	725	5,273	-	22,281

Table 1(b) Year 2045 Allocations

PROPOSED

Future Land Use Category		Planning District											
		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 22 Bashore
Residential By Future Land Use Category	Intensive Development	-	-	-	-	801	1	30	-	376	-	-	-
	Central Urban	-	656	20	-	3,113	-	7,362	-	2,225	-	-	-
	Urban Community	-	978	1,318	-	863	540	17,034	-	-	115	-	-
	Suburban	-	2,566	2,069	-	1,202	659	-	-	6,387	-	-	-
	Outlying Suburban	1,253	438	-	-	-	502	-	-	406	-	90	-
	Sub-Outlying Suburban	-	-	13	-	-	-	-	-	145	66	-	950
	Commercial	-	-	-	-	-	-	-	-	-	-	-	-
	Industrial	-	3	3	-	3	-	-	-	-	-	-	-
	Public Facilities	-	-	-	-	-	-	-	-	-	-	-	-
	University Community	-	-	503	-	-	-	-	-	-	-	-	-
	Destination Resort Mixed Use Water Dependent	-	8	-	-	-	-	-	-	-	-	-	-
	Burnt Store Marina Village	-	-	-	-	-	-	-	-	-	-	-	-
	Industrial Interchange	-	-	-	-	-	-	-	-	-	-	-	-
	General Interchange	58	-	-	-	-	-	-	8	14	-	-	20
	General Commercial Interchange	-	-	-	-	-	-	-	-	-	-	-	-
	Industrial Commercial Interchange	-	-	-	-	-	-	-	-	-	-	-	-
	University Village Interchange	-	-	-	-	-	-	-	-	-	-	-	-
	New Community	-	-	-	-	-	-	-	-	-	-	-	-
	Airport	-	-	-	-	-	-	-	-	-	-	-	-
	Tradeport	-	-	-	-	-	-	-	-	-	-	-	-
	Rural	1,573	-	99	-	-	227	14	-	454	50	-	1,387
	Rural Community Preserve	-	-	-	-	-	-	-	-	-	3,517	-	-
	Coastal Rural	-	-	-	-	-	1,338	-	-	-	-	-	-
	Outer Island	-	2	-	-	-	55	-	-	-	-	-	-
	Open Lands	80	-	-	-	-	-	-	-	30	-	-	1,667
	Density Reduction/ Groundwater Resource	-	-	-	-	-	-	-	4,742	-	-	-	2,101
	Conservation Lands Upland	-	-	-	-	-	-	-	-	-	-	-	-
	Wetlands	-	-	-	-	-	-	-	-	-	-	-	-
	Conservation Lands Wetland	-	-	-	-	-	-	-	-	-	-	-	-
Unincorporated County Total Residential		2,964	4,650	4,024	-	5,982	3,322	24,440	4,750	10,035	3,748	90	6,125
Commercial		326	774	938	-	2,012	288	900	118	1,121	19	18	72
Industrial		5	198	387	-	566	67	218	215	244	4	2	4
Non Regulatory Allocations													
Public		3,214	4,898	6,364	-	5,883	4,831	20,267	17,992	10,117	3,052	653	3,351
Active AG		5	13	5	-	-	2,780	35	12,000	90	630	4	550
Passive AG		10	-	5	-	-	70	50	2,500	250	2,000	-	2,100
Conservation		1,677	9,786	2,232	-	211	15,489	1,077	41,028	1,607	382	1,465	895
Vacant		20	55	158	-	4	2,200	14,804	2,400	1,183	850	130	1,425
Total		8,221	20,374	14,114	-	14,658	29,047	61,791	81,003	24,649	10,684	2,362	14,523
Population Distribution (unincorporated Lee County)		14,322	44,132	54,615	-	76,582	13,431	162,245	17,369	110,722	5,951	741	8,653

**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:

Adopt the amendments as provided in the attachments

Hearing Dates:

LPA: 4/26/2021

BoCC #1: 6/2/2021

BoCC #2: 8/18/2021

Attachments:

1: Text Amendments

2: Map Amendments

3: Table Amendments

PURPOSE

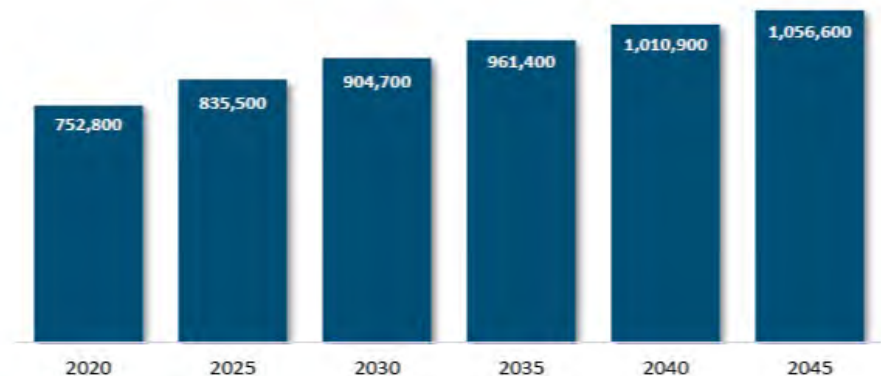
The purpose of these amendments is to update the planning horizon to the year 2045. This update is needed for consistency with § 163.3177(1)(f)(3), F.S. which requires the Lee Plan be based on at least a 10-year planning period. The current Lee Plan has a planning horizon year of 2030.

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.

Residential Population Methodology: 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 projection¹ 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

¹ 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.

Acreage changes between 2030 and 2045 Allocations: 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.

Map 1, Page 3 - Lee County Development of Regional Impact Activities: 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.

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

Road	From	To	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.

Map 3C – Financially Feasible Transit Network: 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.

Map 3I - Public Transit Trip Generators: This map is proposed to be deleted; it is not referenced within the Lee Plan or required by state statute.

Map 6 - LCU Future Water Service Areas: 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 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.

Map 16: Lee County Planning Communities: 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 no public comment 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 ***transmit*** 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	<u>AYE</u>
DUSTIN GARDNER	<u>AYE</u>
JAMES M. INK	<u>AYE</u>
ALICIA OLIVO	<u>AYE</u>
DON SCHROTENBOER	<u>AYE</u>
STAN STOUDE	<u>AYE</u>
HENRY ZUBA	<u>ABSENT</u>

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.

PART 3
BOARD OF COUNTY COMMISSIONERS
TRANSMITTAL HEARING

DATE OF PUBLIC HEARING: June 2, 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 no public comment concerning the proposed amendment.

B. Transmittal Hearing:

A motion was made to transmit CPA2021-00001 as recommended by staff and the LPA. The motion passed 5 to 0.

VOTE:

BRIAN HAMMAN	<u>AYE</u>
FRANK MANN	<u>AYE</u>
JOHN MANNING	<u>AYE</u>
CECIL L. PENDERGRASS	<u>AYE</u>
RAY SANDELLI	<u>AYE</u>

PART 4
STATE REVIEWING AGENCIES'
OBJECTIONS, RECOMMENDATIONS, AND COMMENTS

Comments from the State Reviewing Agencies were due to Lee County by July 4, 2021.

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 Fish and Wildlife Conservation Commission (FWC)
- Florida Department of Environmental Protection (DEP)
- Florida Department of Transportation (FDOT)

There were no objections or comments concerning the proposed amendments.

B. CHANGES PROPOSED AFTER THE TRANSMITTAL HEARING:

In addition to the text and map amendments previously reviewed and transmitted on June 2, 2021, staff is recommending the following amendments to address an internal inconsistency that was partially addressed by the transmitted amendments.

This additional amendment combines Policy 7.1.2 and 7.1.6. The intent of both policies is to ensure industrial uses are compatible with adjacent uses. However Policy 7.1.6 is inconsistent with the remainder of the Lee Plan based on its limitation of industrial uses in specific locations clearly intended to have industrial uses. This revision does not change the overall intent of the Lee Plan and how industrial uses are treated within Lee County. The proposed amendment provides clarity by eliminating confusing and contrary language.

POLICY 7.1.2: Industrial developments requiring rezoning and meeting Development of County Impact (DCI) thresholds must be developed as planned developments except if located within the Mixed Use Overlay or the Industrial Development, Tradeport, or Industrial Interchange future land use categories. The planned development must be designed to arrange uses as an integrated and cohesive unit in order to:

Remainder of policy is unchanged.

~~**POLICY 7.1.6:** Land that is located outside of the Industrial Development, Tradeport, and Industrial Interchange areas but within the designated future urban areas may be developed for light industrial purposes so long as adequate services and facilities are available, the use will not adversely impact surrounding land uses, and natural resources are protected, if one of the following conditions is met:~~

- ~~a. The parcel is located in the Intensive Development, Central Urban, or Urban Community land use categories, was zoned IL or IG prior to the adoption of the 1984 Lee Plan, and does not exceed 50 acres in size (unless it is adjacent to other existing or designated industrial lands);~~
- ~~or~~
- ~~b. The parcel is located in the Intensive Development, Central Urban, Urban Community, General Interchange, Industrial Commercial Interchange, or University Village Interchange land use categories, and is zoned as a Planned Development.~~

C. STAFF RECOMMENDATION

Staff recommends that the BoCC **adopt** the amendment as attached to the staff report.

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 2045 when the population is 2030. ~~Given the projected to be increase in population (to 979,000 1,056,600 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.
- The county's public facilities will be maintained at adequate levels of service, partly by the construction of new facilities and partly by the use of new methods to conserve the capacity of existing facilities.
- The county's natural resources will be protected ~~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 continue to be diversified in order to increase the percentage of high-paying jobs, reduce tax burdens on residents, and enhance the stability of the county community. Traditional industries, such as agriculture, commercial fishing, tourism, and construction, will continue to play a significant role in the county's economy alongside new industries anticipated in

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: 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. 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).

- 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 future land use category is areas are located along major arterial roads, in Fort Myers, North Fort Myers, East Fort Myers west of I-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, areas with this designation they are well suited to accommodate high densities and intensities. Planned Mixed use development 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 benefit 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 of is 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 future land use category 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 city 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 have, which has or will have, the greatest range and highest levels of public services. 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 future land use category area with future Future development in this category ~~is~~ encouraged to be developed as a mixed-use, as described in Objective 11.1, where appropriate. ~~This category has a standard density range is 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 (15 du/acre). The maximum total density may be increased to twenty 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 industrially (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.

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.

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.

POLICY ~~1.1.14~~ 1.7.11: The Burnt Store Marina Village future land use category 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: 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 ~~1.1.15~~ 1.6.1: The New Community future land use category areas ~~are~~ of lands that can be ~~are~~ capable of being 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 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. 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). ~~New Communities will not exceed a~~The residential density is of one unit per 2.5 gross acres (1 du/2.5 acres) except within the Gateway/Airport Planning District, where a residential densities of up to six dwelling units per gross acre (6 du/acre) may be permitted.

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, ~~including a field check~~, 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-Districts 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 District 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 Community District 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, When updating the planning horizon, the county must conduct a comprehensive evaluation of the Planning Community Districts Map and the Acreage Allocation Table will be conducted, 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 ~~Community Districts Map~~ areas permit the consideration of churches and schools (except in Wetlands and Airport Noise Zones A and B), 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.

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

POLICY 2.2.2: ~~Map 1 of the~~ The 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 ~~Lee Plan's 2045~~ 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*

3. 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~~
Consider establishing special 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 ~~commercial~~ planned developments except if located within the Mixed Use Overlay. 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 except if located within the Mixed Use Overlay or the Industrial Development, Tradeport, or Industrial Interchange future land use categories. The planned development must be designed to arrange uses as an integrated and cohesive unit in order to: *Remainder of policy is unchanged.*

- Policy 7.1.2 and Policy 7.1.6 are being combined for internal consistency
- Policy 7.1.2 is being updated to recognize that 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 7.1.6:** Land that is located outside of the Industrial Development, Tradeport, and Industrial Interchange areas but within the designated future urban areas may be developed for light industrial purposes so long as adequate services and facilities are available, the use will not adversely impact surrounding land uses, and natural resources are protected, if one of the following conditions is met:~~

- ~~a. The parcel is located in the Intensive Development, Central Urban, or Urban Community land use categories, was zoned IL or IG prior to the adoption of the 1984 Lee Plan, and does not exceed 50 acres in size (unless it is adjacent to other existing or designated industrial lands); or~~
- ~~b. The parcel is located in the Intensive Development, Central Urban, Urban Community, General Interchange, Industrial Commercial Interchange, or University Village Interchange land use categories, and is zoned as a Planned Development.~~

(Ordinance No. [94-30](#), [98-09](#), [99-18](#), [04-16](#))

- Policy 7.1.6 deleted and combined with Policy 7.1.2 for internal consistency.

OBJECTIVE 9.1: Place existing active and passive agricultural uses, that are zoned AG, have an agricultural exemption from the property appraiser's office, and are located outside of areas anticipated for urban use during the life of the plan on an agricultural overlay. Non-contiguous parcels less than 100 acres

in size will not be included on this Overlay. ~~A bi-annual review of this map will be conducted to track changes in the inventory of agriculturally used land in the non-urban areas of Lee County.~~

- Objective 9.1 is being updated to remove unnecessary bi-annual review.

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 public services 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 future land use category ~~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 Florida Forever ~~the Florida Conservation and Recreational Land Program (CARL)~~, 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 future land use category must be reviewed as a PRFPD. 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 Facilities proposed within the DR/GR future 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 126.1-117.4. 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 the Private Recreational Facilities Overlay 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 ~~through 2030~~.

- 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 ~~urban~~ public 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 Strategy consists of ~~overlay depicts~~ 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 ~~Policy 1.7.7~~ and 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 Landscaping Plantings with low irrigation requirements in Common Elements.

- 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~~ the Public Facilities Level of Service and Concurrency report. The report will identify existing traffic conditions (~~based on the latest year's traffic counts~~), a one-year 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 (calculated from approved local development order applications requests) will be inventoried against the available roadway capacity under existing conditions (as identified in the annual Public Facilities Level of Service and Concurrency report). ~~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 Communities Overlay (See Policy ~~33.2.433.3.4~~). 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 areas, future suburban areas, or future 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, the Lee County Greenways ~~and Multi-Purpose Recreational Trails 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 all incorporated areas of Lee County ~~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 Ten Year 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 Florida Department of Environmental Protection, ~~the Florida Department of Health~~ Department of Health and Rehabilitative Services, 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 future urban areas, future suburban areas and future Urban, Suburban and 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 collaboration~~ collaborate with the Lee County School 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 provide input on the continued development of Florida Gulf Coast University by coordinating ~~coordinate with the State Board of Regents on the development of the Florida Gulf Coast University through the Campus Master Plan process, and the required Development Agreement, and through 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 Right-to-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: 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. ~~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 and properties.~~

- 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 Lehigh Acres Municipal Services Improvement District ~~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 Walkways & Bikeways ~~Bikeways/Walkways Facilities Plan~~ where feasible.

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

POLICY 85.1.5: ~~The county will e~~ 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 located in a water-dependent overlay (see Map 12) may be rezoned to marine-oriented districts 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 these facilities and to prevent their conversion of 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~~ and 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. ~~Work 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 Equal Opportunity in Housing Ordinance ~~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 Advisory Committee, Community Action/Neighborhood District 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.~~ To provide suitable and affordable housing for farmworkers. ~~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)~~ F.S. 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 future 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. ~~773.083~~ 723.062 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 future 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 a historic preservation guide ~~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 ~~may will exert every effort to enter into an~~ interlocal agreements with the ~~incorporated 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, Lee County will pursue the dispute resolution 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 communicate~~ ~~on~~ 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, ~~Edison State College~~ Florida Southwestern State College, 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.

~~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 A multilane 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 PUBLIC SERVICES - The requisite services, facilities, capital improvements, and infrastructure necessary to support growth and development at levels of urban density and intensity. Urban Public 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:

⁸ 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.

¹³ See Objectives 33.2 and 33.3 ~~Policies 33.3.2, 33.3.3, and 33.3.4~~ for potential density adjustments ~~resulting from concentration or transfer of development rights.~~

¹⁸ 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).

¹⁹ 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.

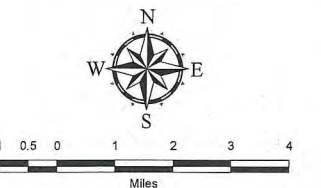
ATTACHMENT 2

- **Map 1, Page 3**
 - Deleted
- **Map 3A**
 - Existing
 - Proposed
- **Map 3B**
 - Existing
 - Proposed
- **Map 3C**
 - Existing
 - Proposed
- **Map 3H**
 - Deleted
- **Map 3I**
 - Deleted
- **Map 6**
 - Existing
 - Proposed
- **Map 16**
 - Changes
 - Existing
 - Proposed

Deleted

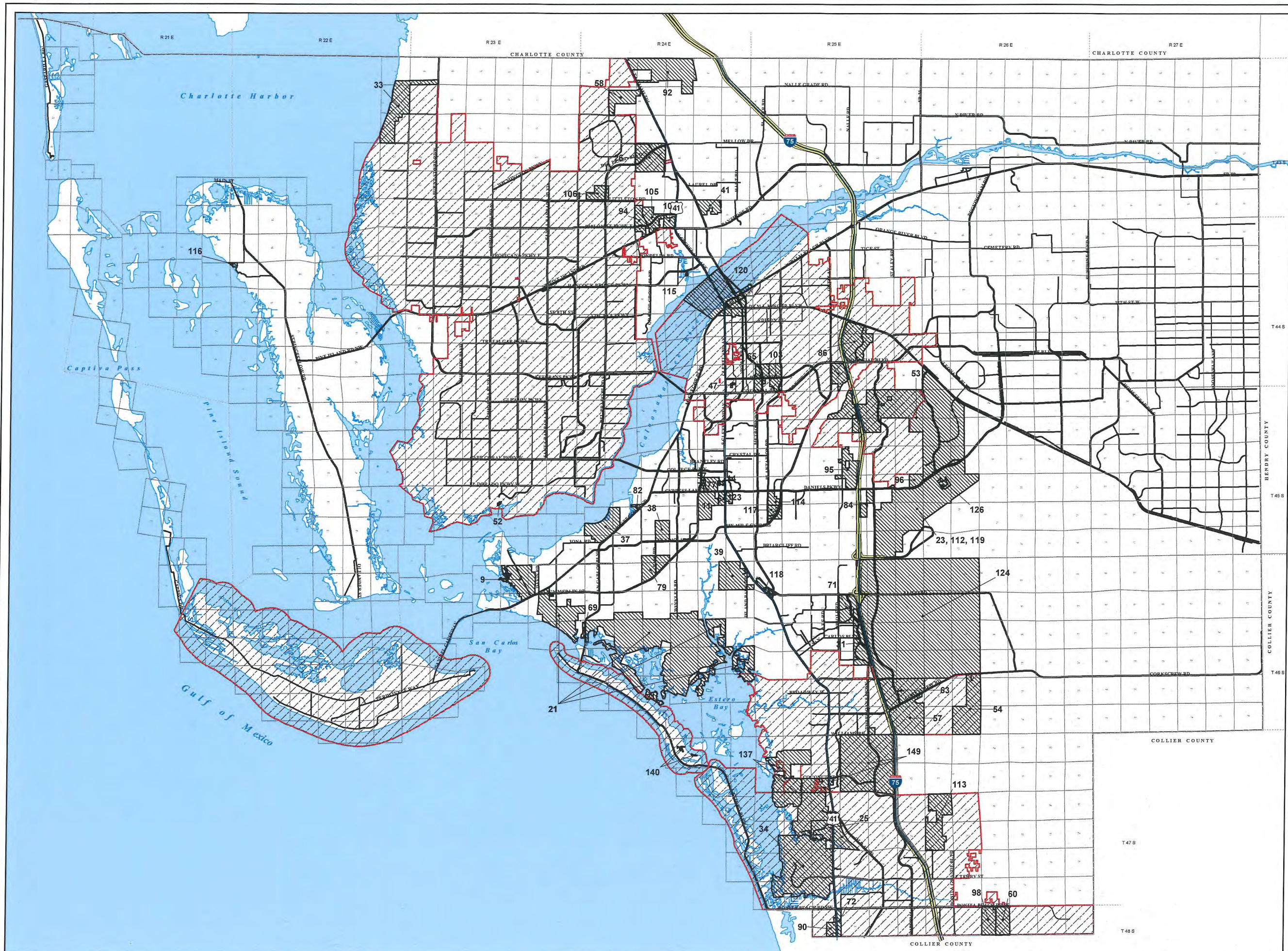
- 19 Sandpiper Cove
- 21 Cypress Lake Land Trust
- 24 Villas South
- 21 The Estuaries
- 23 SouthWest Florida International Airport
- 25 Spring Creek FUD/DRI
- 26 Cape Coral Unit 86 (withdrawn)
- 31 Three Oaks
- 33 Burnt Store Marina South
- 34 Bonita Bay
- 37 River's Edge Yacht and Country Club
- 38 Interlaken
- 39 The Forest and the Oaks
- 41 Buccaneer Mobile Estates Expansion
- 47 Edison Mall Expansion
- 52 Tarpon Point Marina
- 53 Gateway
- 54 The Habitat
- 57 Stoneybrook/Corkscrew Pines
- 58 Pine Lakes Country Club (Withdrawn)
- 60 The Parklands
- 62 Cypress Trace Shopping Center
- 63 Timberland and Tiburon
- 64 Cypress Lake Center
- 65 Metro Park
- 69 Boardwalk Capex
- 71 Alico Interchange Park
- 72 Springs Plaza Expansion
- 77 Leisure Village Seven Lakes :Residential
- 79 Heathpark Florida
- 82 Deep Lagoon Marina
- 84 Jetport Interstate Commerce Park
- 86 Omni Interstate Park
- 90 Woods Edge
- 92 Del Tara Country Club
- 94 Hancock Creek Commerce Park
- 95 Danport Centre DRI
- 96 Airside Plaza
- 97 One University Center
- 98 Parklands West :commercial parcel
- 103 Colonial Properties
- 105 Indian Oaks Trade Centre
- 106 Del Prado North Commerce Park
- 108 Merchants Crossing
- 112 Southwest Regional Airport S.D. II
- 113 Bonita Grande R.V. Resort
- 114 International Center FQD
- 115 Hancock Bridge Marina
- 116 Pineland Marina Public Boat Ramp
- 117 Lee County Sports Complex FQD
- 118 Tamalico Center
- 119 Southwest Regional Airport S.D. II
- 120 Downtown Fort Myers 2000
- 123 The Marketplace
- 124 Alico, Inc. AMDA
- 126 Southwest Florida Pipeline CO.
- 137 Pelican Landing CPD/RPD DRI
- 40 Bay Beach
- 49 The Brooks of Bonita Springs

 DRI Locations
 City Limits



Last Amended: May 25, 1994

Lee Plan Map 1
Page 3 of 7



2030 FINANCIALLY FEASIBLE HIGHWAY PLAN

Existing

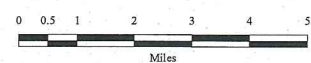
- Critical Intersection
- Intersection Improvement
- Partial Funding for Interchange
- Proposed Cost Feasible Projects

MPO Needs Plan

- 2 Lanes Divided
- New 2 Lane Road
- New 4 Lane Road
- New 6 Lane Road
- New 8 Lane Road
- Road Connections
- Widen to 4 Lanes
- Widen to 6 Lanes
- 6 + 4 Lanes
- Widen to 8 Lanes

Existing Road Network

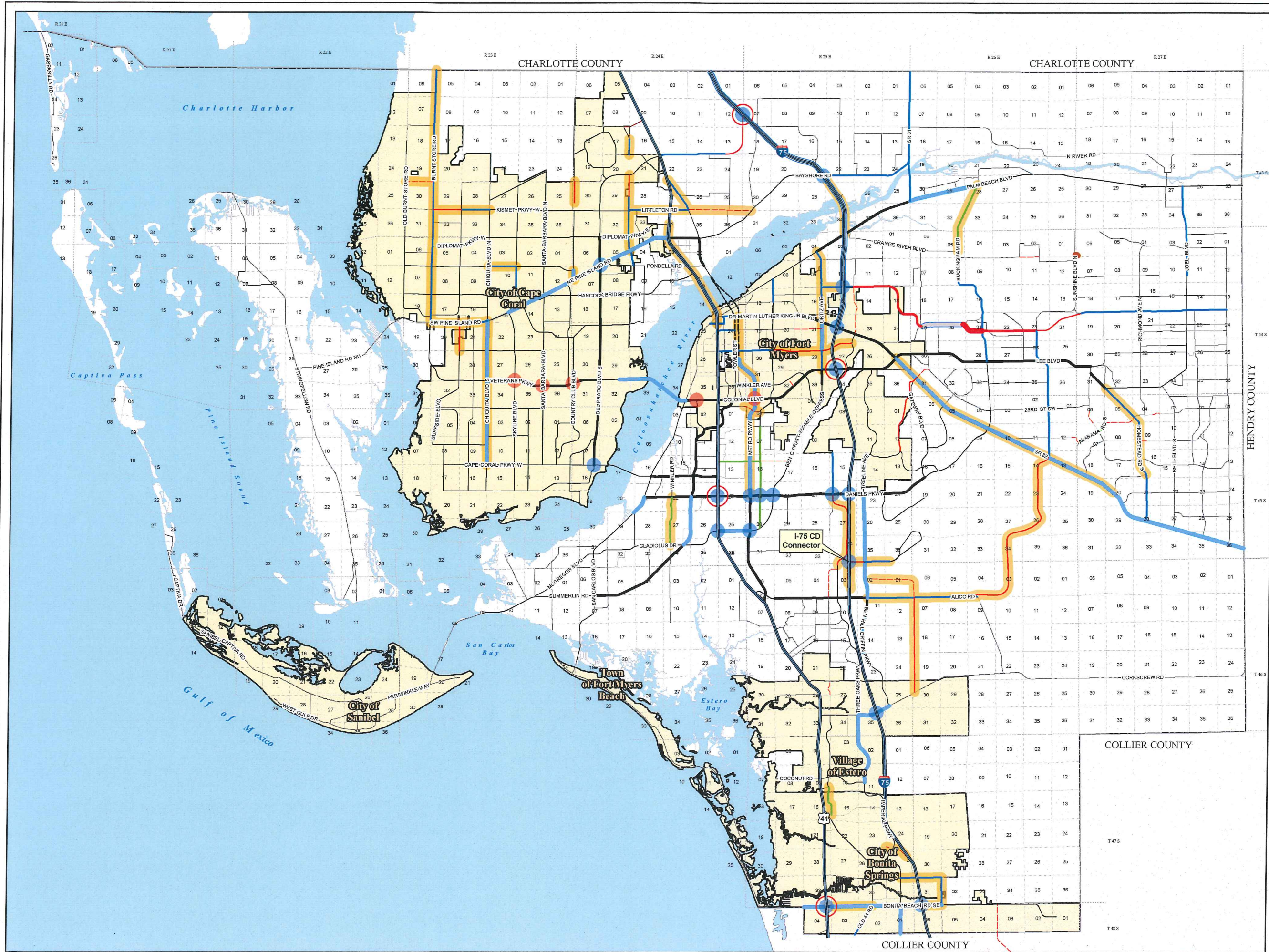
- Lanes**
- 1
 - 2
 - 4
 - 6
- County Line
 - City Limits



Map Generated: May 2019
City limits current to date of map generation

Ordinance No. 07-11, 14-09

Lee Plan Map 3A

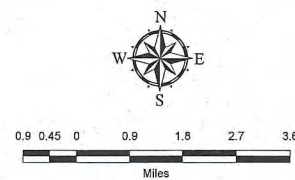


LEE COUNTY COST FEASIBLE ROADWAY PROJECTS

Cost Feasible Lanes

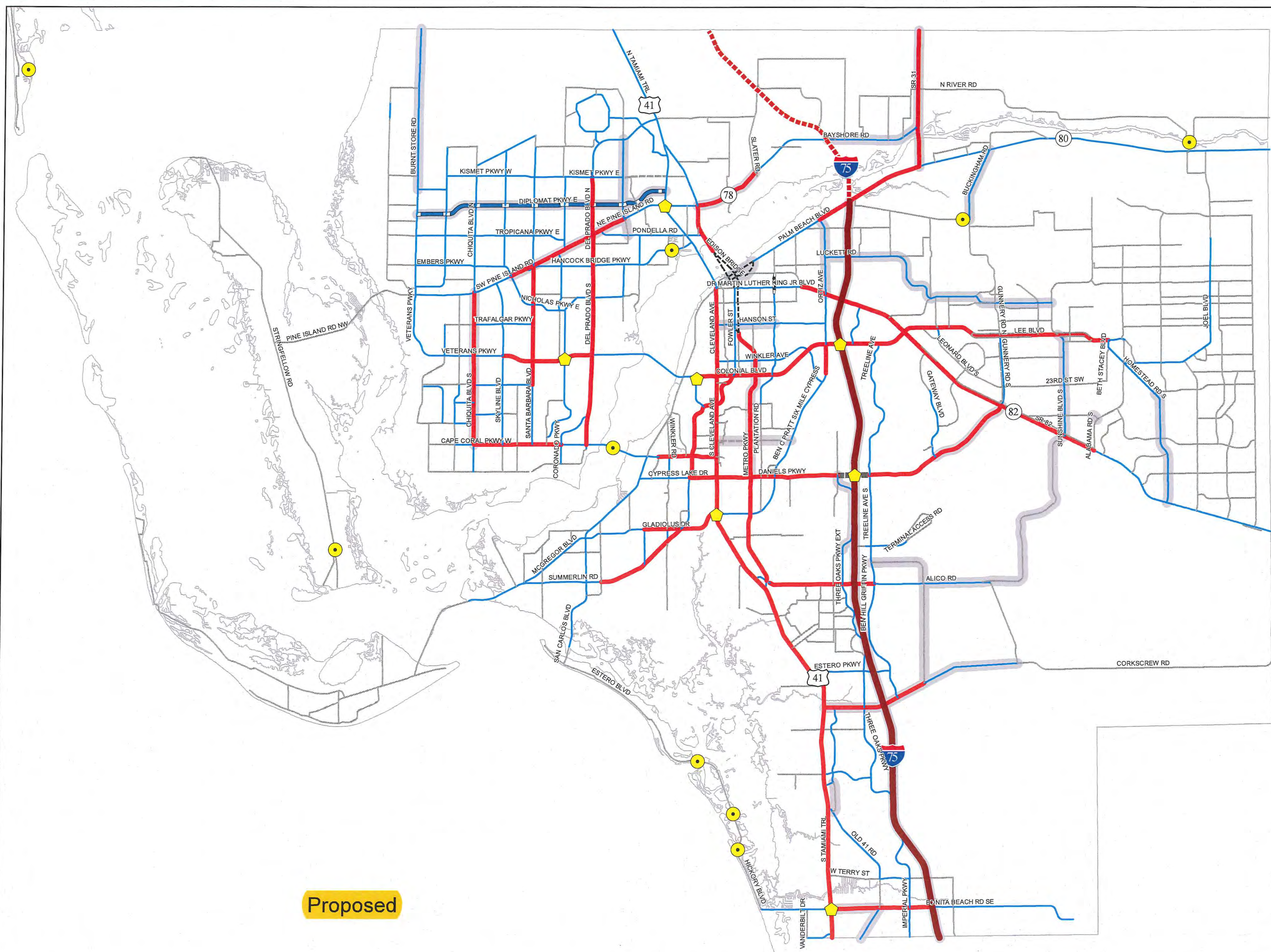
- 10 Lane Freeway
- 8 Lane Divided
- 6 Lane Freeway
- 6 Lane Divided
- 4 Lane Limited Access
- 4 Lane Roadway
- 3 Lane Roadway
- 3 Lane One-Way
- 2 Lane One-Way
- 2 Lane Roadway
- Cost Feasible Projects
- Bridge Reconstruction
- Intersection/Interchange

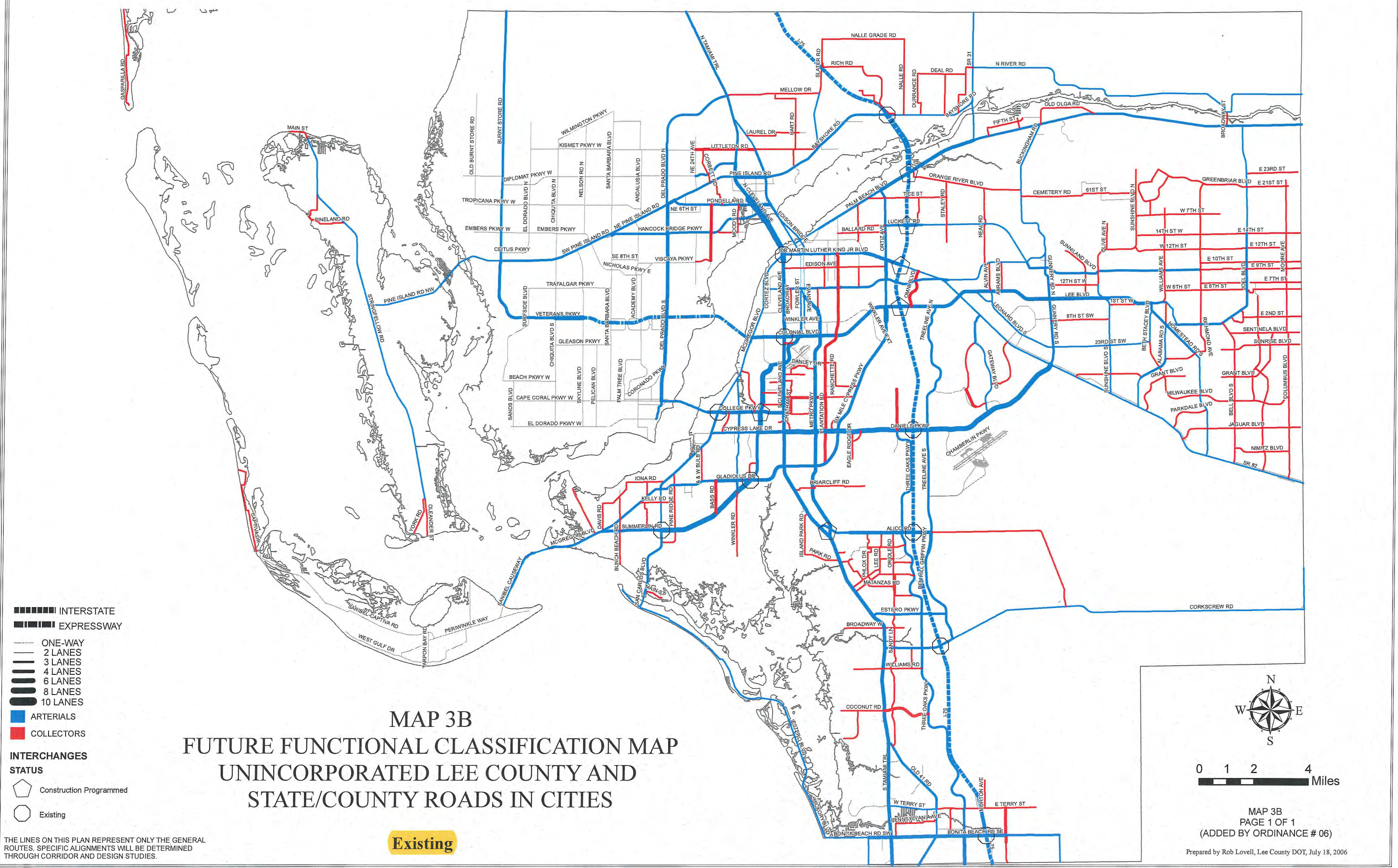
THE LINES ON THIS PLAN REPRESENT ONLY THE GENERAL ROUTES SPECIFIC ALIGNMENTS WILL BE DETERMINED THROUGH CORRIDOR AND DESIGN STUDIES.



Map Generated: May 2021

Proposed





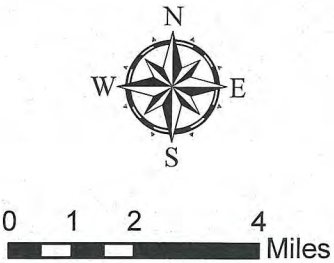
- INTERSTATE
- EXPRESSWAY
- ONE-WAY
- 2 LANES
- 3 LANES
- 4 LANES
- 6 LANES
- 8 LANES
- 10 LANES
- ARTERIALS
- COLLECTORS

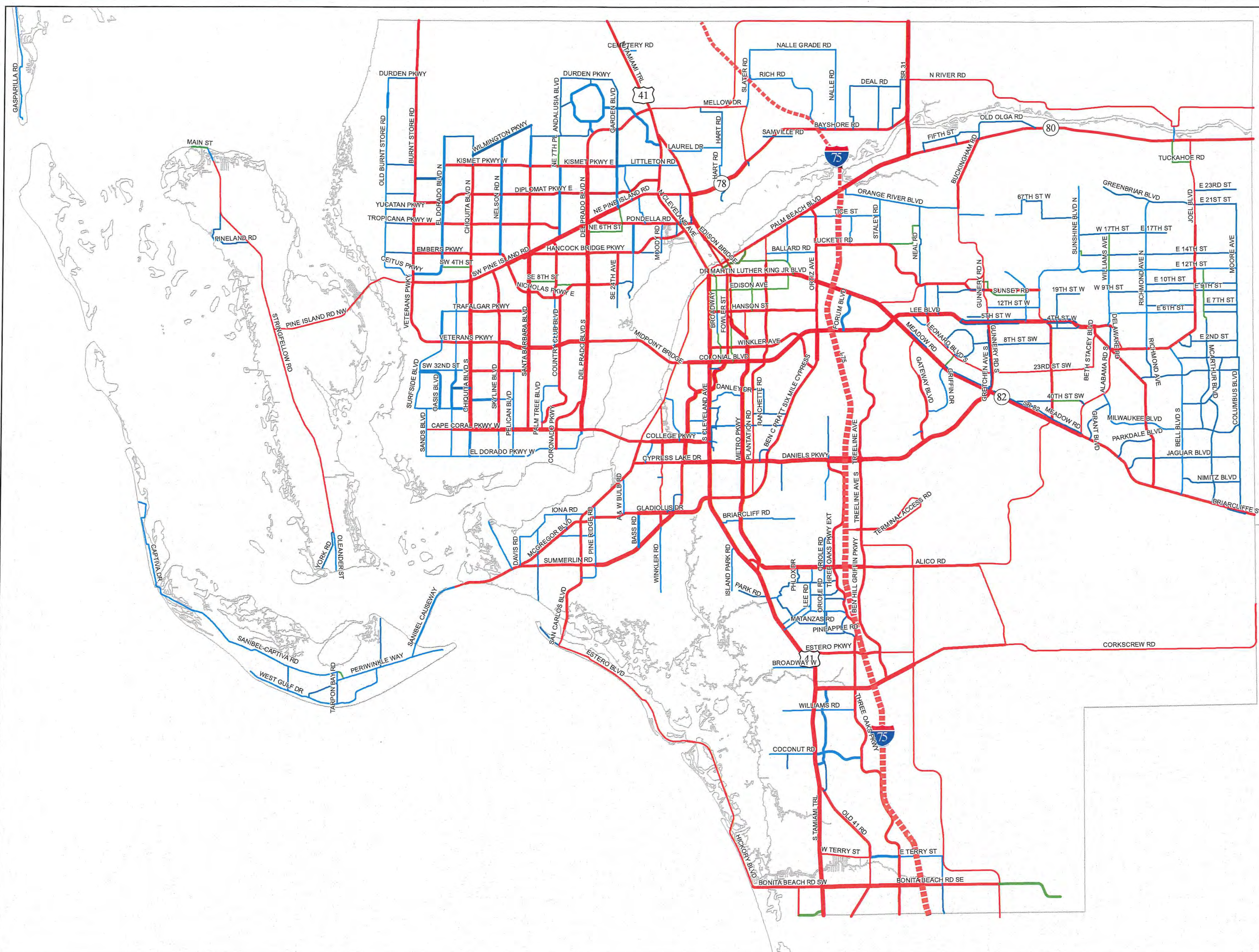
- INTERCHANGES
- STATUS
 - Construction Programmed
 - Existing

THE LINES ON THIS PLAN REPRESENT ONLY THE GENERAL ROUTES. SPECIFIC ALIGNMENTS WILL BE DETERMINED THROUGH CORRIDOR AND DESIGN STUDIES.

MAP 3B
FUTURE FUNCTIONAL CLASSIFICATION MAP
UNINCORPORATED LEE COUNTY AND
STATE/COUNTY ROADS IN CITIES

Existing





FUTURE FUNCTIONAL CLASSIFICATION

Proposed

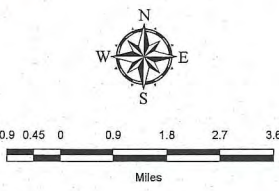
Functional Classification

- Interstate
- Arterial
- Collector
- Local

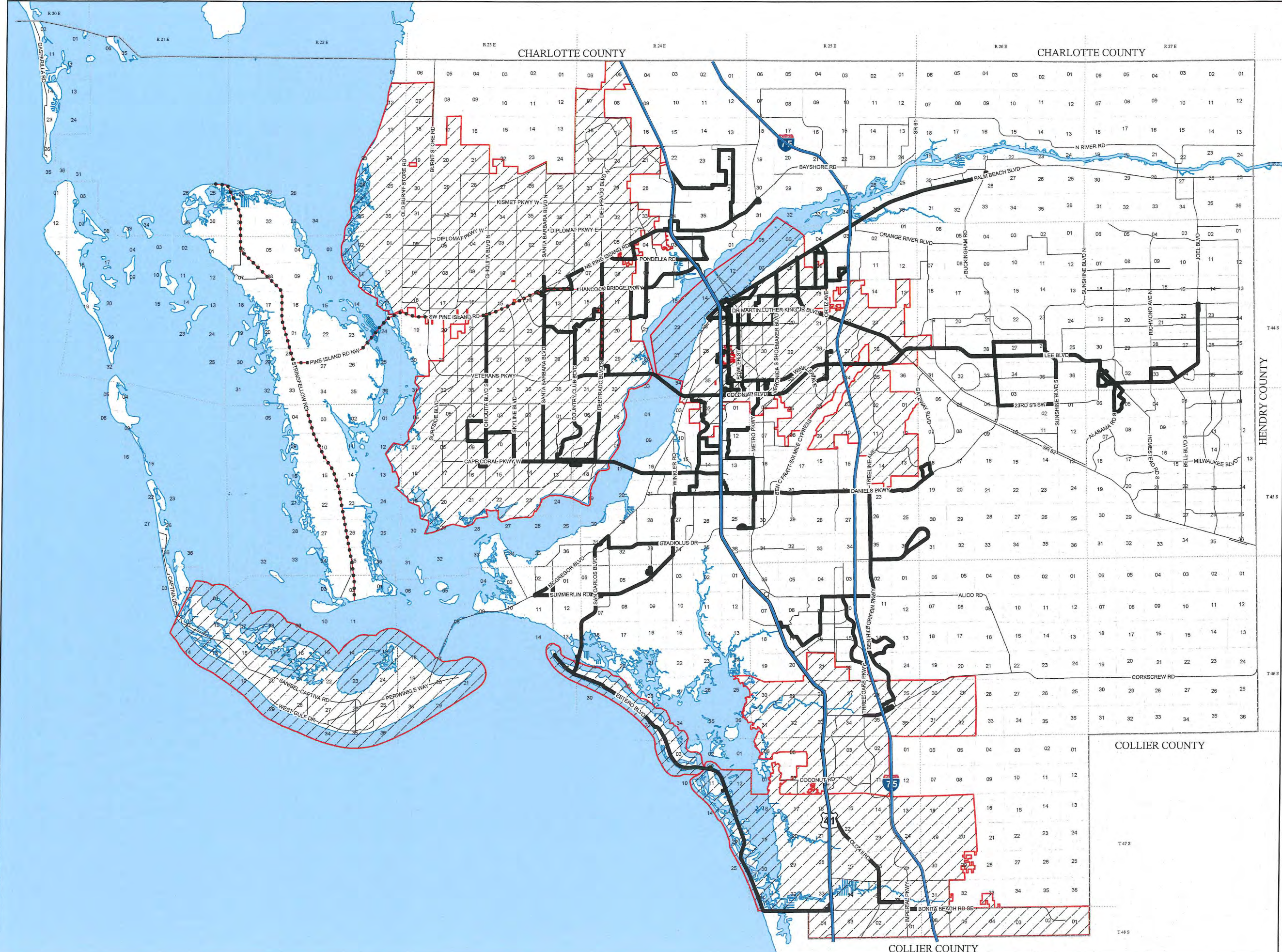
Number of Lanes

- 10
- 8
- 6
- 4
- 3
- 2

THE LINES ON THIS PLAN REPRESENT ONLY THE GENERAL ROUTES; SPECIFIC ALIGNMENTS WILL BE DETERMINED THROUGH CORRIDOR AND DESIGN STUDIES.



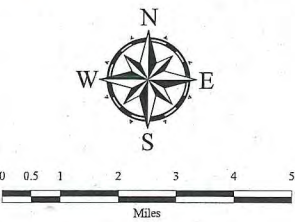
Map Generated: April 2021
Ordinance No. 07-11, 10-03



2030 FINANCIALLY FEASIBLE TRANSIT NETWORK

Existing

- Regular Route
- Thursday Operation
- City Limits



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

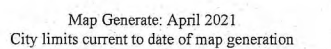
Map Generated: April 2021
City limits current to date of map generation

Lee Plan Map 3C

Proposed



Lee County
Southeast Florida



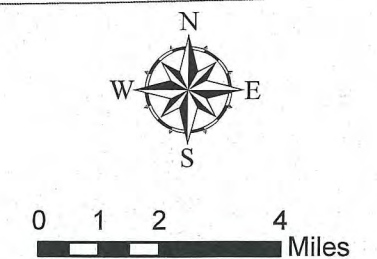
Lee Plan Map 3C

MAP 3H FUTURE MAINTENANCE RESPONSIBILITY

Deleted

- ONE-WAY
- 2 LANES
- 3 LANES
- 4 LANES
- 6 LANES
- 8 LANES
- 10 LANES
- COUNTY MAINTAINED
- STATE MAINTAINED
- CITY OR PRIVATELY MAINTAINED

- INTERCHANGES
- TYPE, STATUS
- CONSTRUCTION PROGRAMMED
 - EXISTING



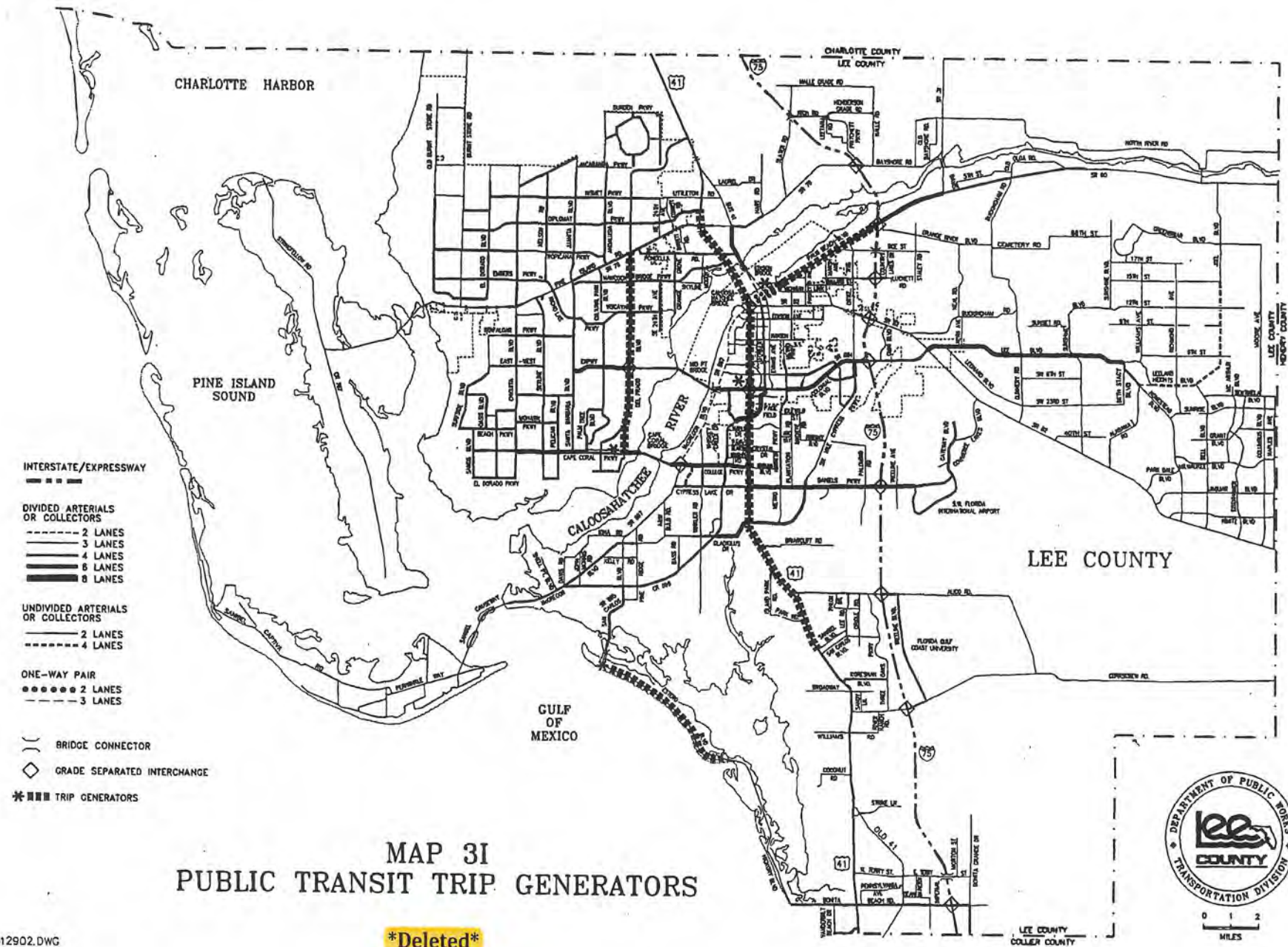
MAP 3H
PAGE 1 OF 1
(ADDED BY ORDINANCE # 07-11)

Prepared by Rob Lovell, Lee County DOT, July 18, 2006

71512902.DWG

MAP 31 PUBLIC TRANSIT TRIP GENERATORS

Deleted



LEE COUNTY UTILITIES FUTURE WATER SERVICE AREAS

Existing

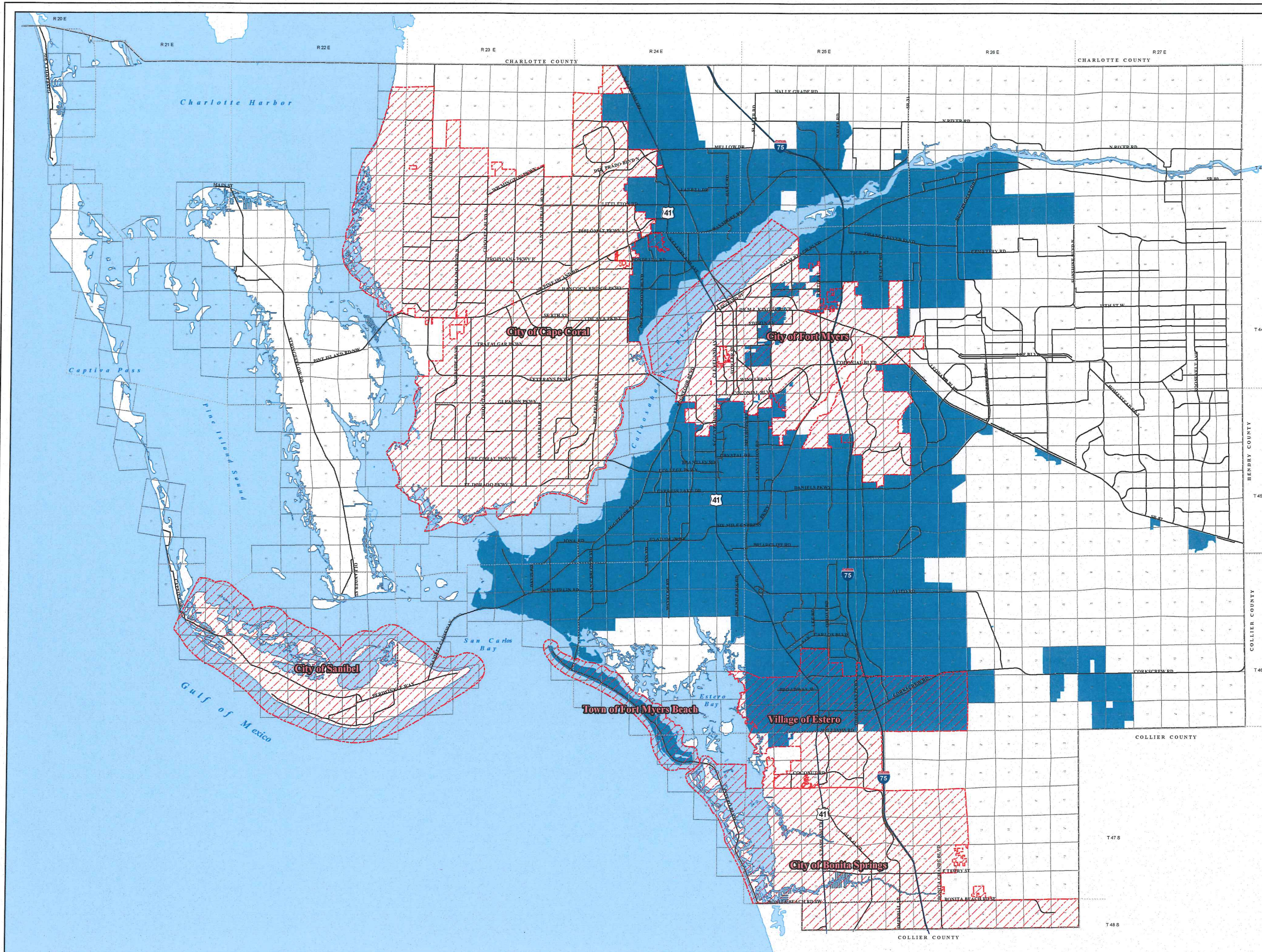
Future Water Service Areas Map
City Limits



1 0.5 0 1 2 3 4
Miles

Map Generated: April 2021
City limits current to date of map generation
Ordinance No. 89-02, 00-22, 03-19, 10-06, 10-40, 10-43,
12-24, 13-16, 14-21, 15-13, 15-14, 17-06, 17-23, 19-10, 19-25

Lee Plan Map 6



LEE COUNTY UTILITIES FUTURE WATER SERVICE AREAS

Proposed

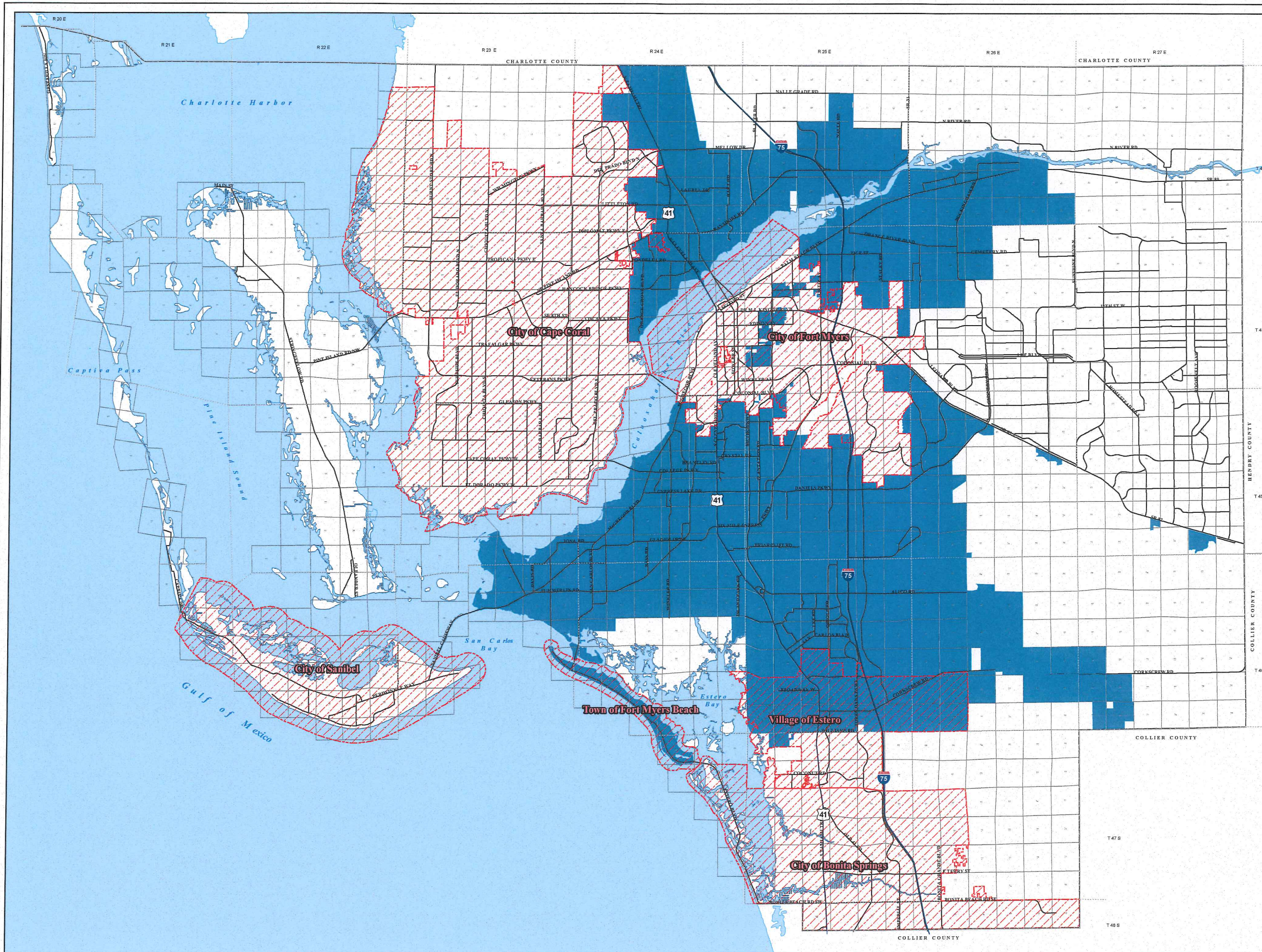
Future Water Service Areas Map
City Limits

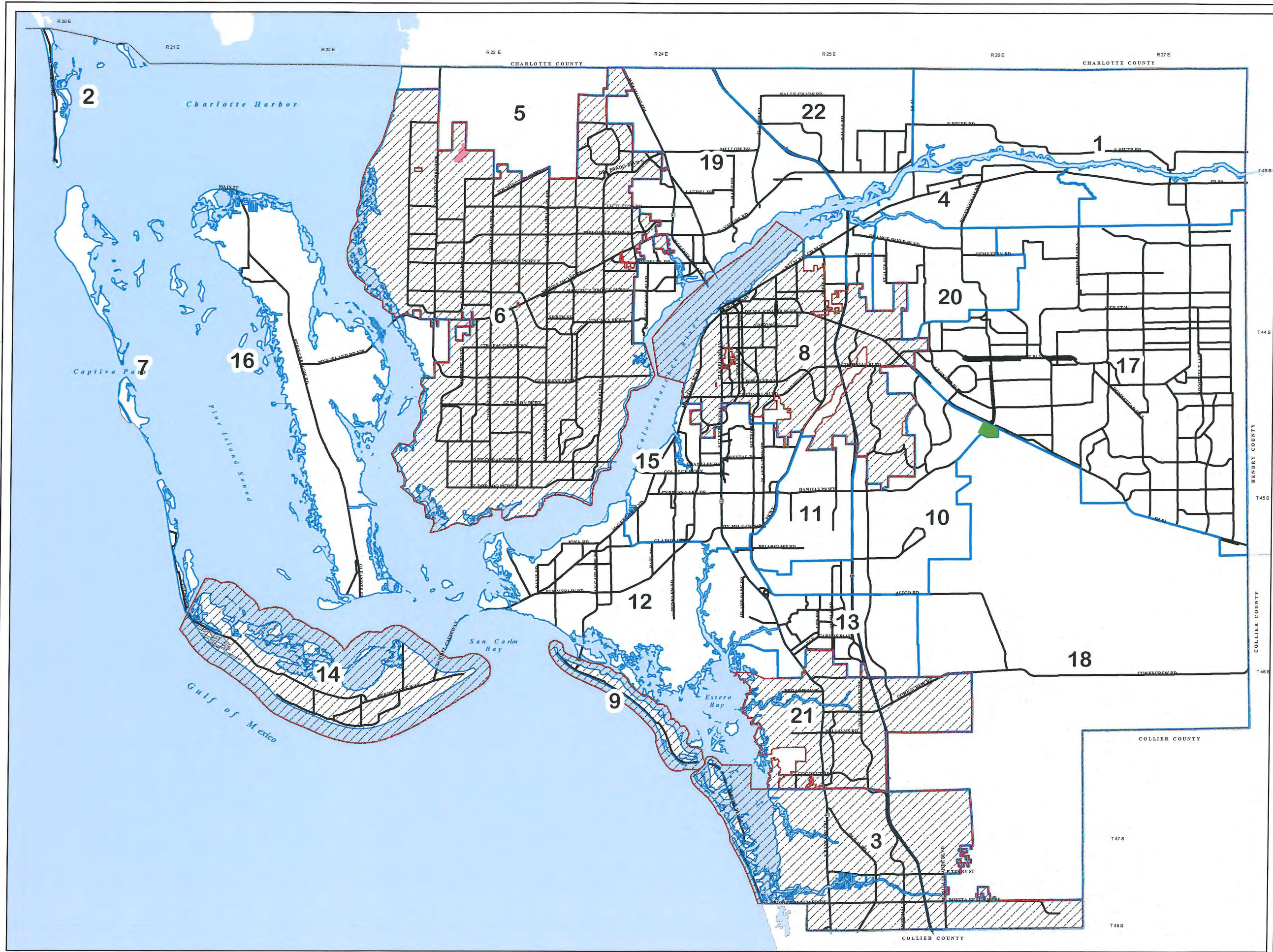


1 0.5 0 1 2 3 4
Miles

Map Generated: April 2021
City limits current to date of map generation
Ordinance No. 89-02, 00-22, 03-19, 10-06, 10-40, 10-43,
12-24, 13-16, 14-21, 15-13, 15-14, 17-06, 17-23, 19-10, 19-25





Lee Plan Map 6





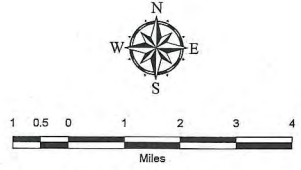
LEE COUNTY PLANNING DISTRICTS

Changes

-  Vacant, Annexed by Cape Coral
-  Vacant, separated from Lehigh Acres, anticipated development patterns like Planning Community 10
-  Proposed Planning Community Boundary
-  City Limits

For Information Only

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

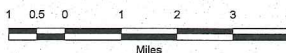
LEE COUNTY PLANNING COMMUNITIES

Existing

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

 City Limits

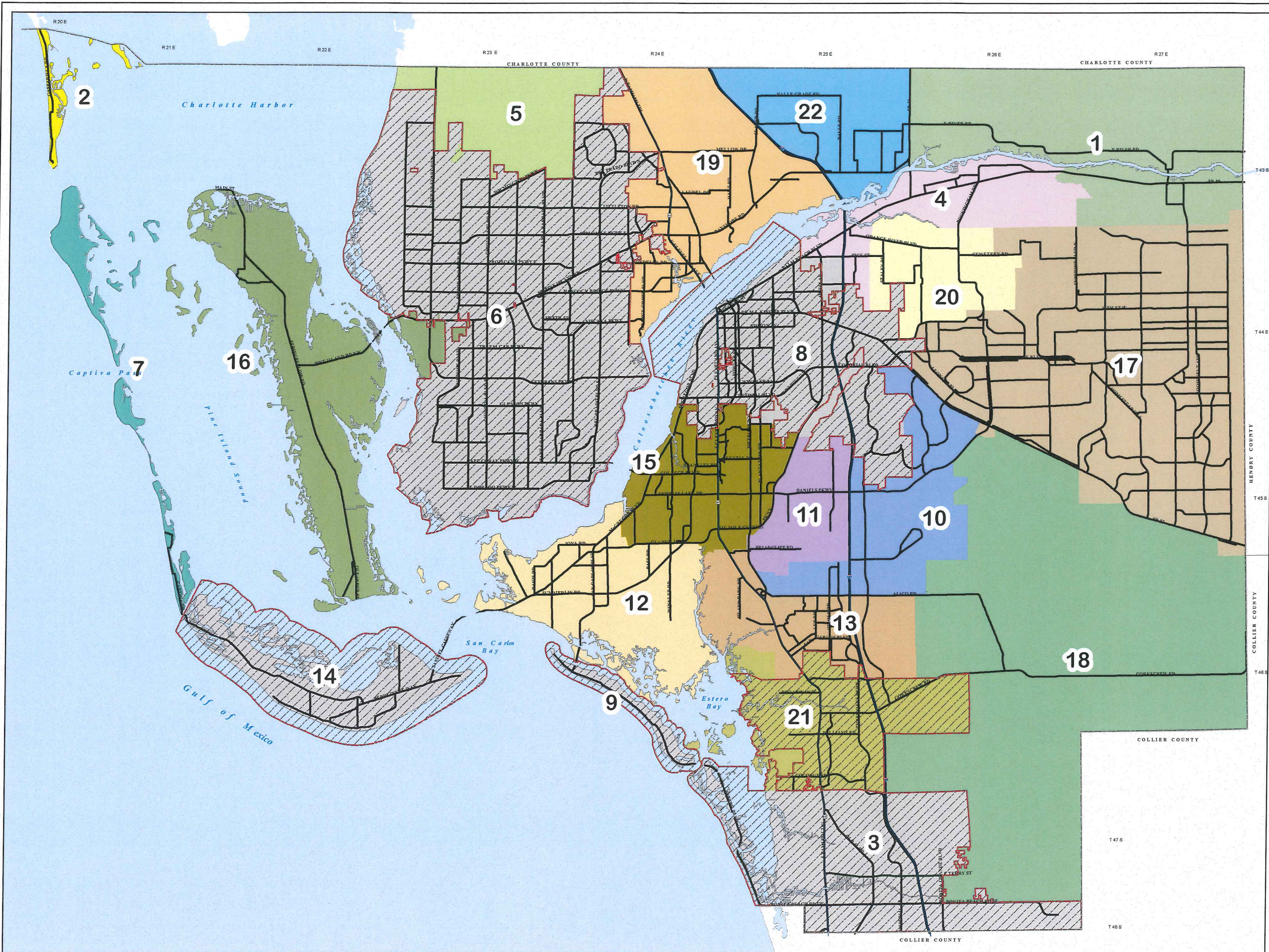
The Planning Communities Map and Acreage Allocation Table (see Table 1(b) and Policies 1.1.1 and 2.2.2) depict the proposed distribution, extent, and location of generalized land uses for the year 2030.

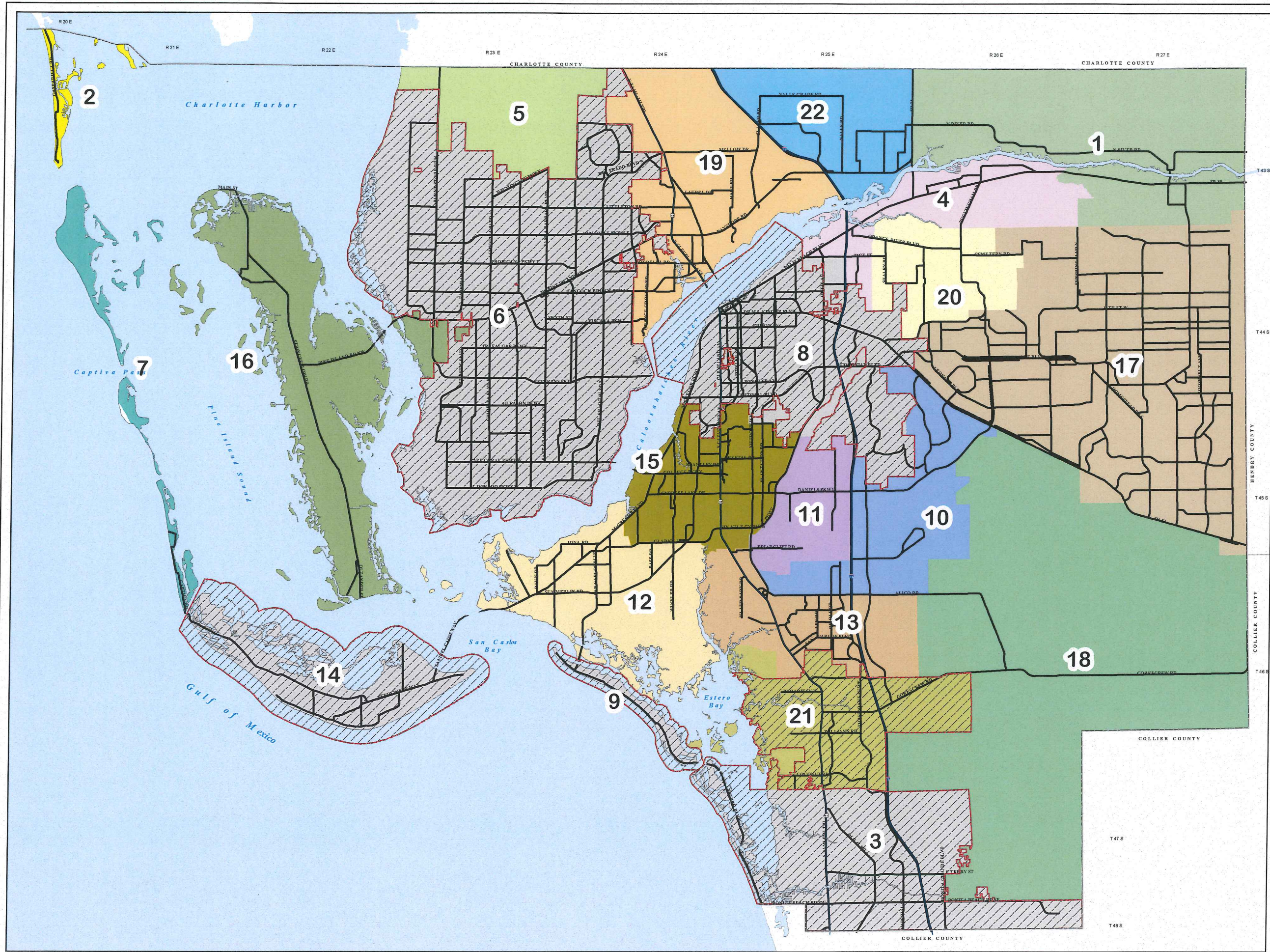


Map Generated: April 2021
City Limits current to date of map generation

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

Lee Plan Map 16



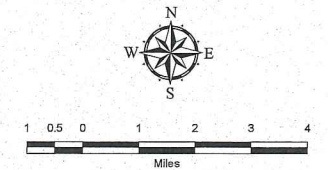


LEE COUNTY PLANNING DISTRICTS

Proposed

- District 1 - Northeast Lee County
- District 2 - Boca Grande
- District 3 - Bonita Springs
- District 4 - Fort Myers Shores
- District 5 - Burnt Store
- 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
- 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 22 - Bayshore
- 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

Future 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
Residential By Future Land Use Category	Intensive Development	1,361				5		27		250			
	Central Urban	14,766				225				230			
	Urban Community	16,396	520	485		637						250	
	Suburban	16,623				1,810				85			
	Outlying Suburban	4,301	30			498	20	2	500				1,438
	Sub-Outlying Suburban	1,687				279						227	
	Commercial												
	Industrial	79								39		20	
	Public Facilities	1							1				
	University Community	850											
	Destination Resort Mixed Use Water Dependent	8											
	Burnt Store Marina Village	4					4						
	Industrial Interchange												
	General Interchange	169										29	58
	General Commercial Interchange												
	Industrial Commercial Interchange												
	University Village Interchange												
	Mixed Use Interchange												
	New Community	2,100	1,200									900	
	Airport												
	Tradeport	9										9	
	Rural	8,313	1,948			1,400	636						1,500
	Rural Community Preserve	3,100											
	Coastal Rural	1,300											
	Outer Island	202	5			1			150				
	Open Lands	2,805	250				590						120
	Density Reduction/ Groundwater Resource	6,905	711									94	
	Conservation Lands Upland												
	Wetlands												
	Conservation Lands Wetland												
Unincorporated County Total Residential		80,979	4,664	485		4,855	1,250	29	651	604		1,529	3,116
Commercial		12,793	177	52		400	50	17	125	150		1,100	440
Industrial		6,620	26	3		400	5	26		300		3,100	10
Non Regulatory Allocations													
Public		82,570	7,100	421		2,005	7,000	20	1,961	350		7,752	2,477
Active AG		24,208	5,100			550	150						20
Passive AG		43,591	12,229			2,305	109					1,241	20
Conservation		81,933	2,214	611		1,142	3,236	133	1,603	748		2,947	1,733
Vacant		24,481	1,953			61	931	34		45		282	151
Total		357,175	33,463	1,572		11,718	12,731	259	4,340	2,197		17,951	7,967
Population Distribution (unincorporated Lee County)		495,000	9,266	1,531		34,178	3,270	225	530	5,744		19,358	16,375

TABLE 1(b) Year 2030 Allocation

Existing

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
<i>Residential By Future Land Use Category</i>	Intensive Development				660	3	42		365		9	
	Central Urban	375	17		3,140		8,179		2,600			
	Urban Community	850	1,000		860	500	10,734			110	450	
	Suburban	2,488	1,975		1,200	675			6,690		1,700	
	Outlying Suburban	377				600			382		454	
	Sub-Outlying Suburban		25						140	66		950
	Commercial											
	Industrial	5	5		10							
	Public Facilities											
	University Community		850									
	Destination Resort Mixed Use Water Dependent	8										
	Burnt Store Marina Village											
	Industrial Interchange											
	General Interchange							15	31		6	30
	General Commercial Interchange											
	Industrial Commercial Interchange											
	University Village Interchange											
	Mixed Use Interchange											
	New Community											
	Airport											
	Tradeport											
	Rural		90			190	14		500	50	635	1,350
	Rural Community Preserve									3,100		
	Coastal Rural					1,300						
	Outer Island	1				45						
	Open Lands								45			1,800
	Density Reduction/ Groundwater Resource							4,000				2,100
	Conservation Lands Upland											
	Wetlands											
	Conservation Lands Wetland											
Unincorporated County Total Residential		4,104	3,962		5,870	3,313	18,969	4,015	10,753	3,326	3,254	6,230
Commercial		1,100	1,944		2,100	226	1,300	68	1,687	18	1,700	139
Industrial		320	450		900	64	300	65	554	5	87	5
Non Regulatory Allocations												
Public		3,550	3,059		3,500	2,100	15,289	12,000	4,000	1,486	7,000	1,500
Active AG						2,400		14,352	200	411	125	900
Passive AG						815		17,521	1,532	3,619	200	4,000
Conservation		9,306	2,969		188	14,767	1,541	31,210	1,317	336	5,068	864
Vacant		975	594		309	3,781	10,505	470	2,060	1,000	800	530
Total		19,355	12,978		12,867	27,466	47,904	79,701	22,103	10,201	18,234	14,168
Population Distribution (unincorporated Lee County)		34,538	36,963		58,363	13,265	148,669	1,270	71,001	6,117	25,577	8,760

Table 1(b) Year 2045 Allocations

PROPOSED

Future Land Use Category		Unincorporated County	Planning District									
			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
Residential By Future Land Use Category	Intensive Development	1,483	-	-	-	17	-	21	-	238	-	-
	Central Urban	13,838	-	-	-	207	-	-	-	230	-	25
	Urban Community	22,739	813	453	-	475	-	-	-	-	-	150
	Suburban	14,913	-	-	-	1,950	-	-	-	80	-	-
	Outlying Suburban	3,648	25	-	-	490	13	3	429	-	-	-
	Sub-Outlying Suburban	1,731	-	-	-	330	-	-	-	-	-	227
	Commercial	-	-	-	-	-	-	-	-	-	-	-
	Industrial	15	-	-	-	-	-	-	-	-	-	6
	Public Facilities	-	-	-	-	-	-	-	-	-	-	-
	University Community	503	-	-	-	-	-	-	-	-	-	-
	Destination Resort Mixed Use Water Dependent	8	-	-	-	-	-	-	-	-	-	-
	Burnt Store Marina Village	2	-	-	-	-	2	-	-	-	-	-
	Industrial Interchange	-	-	-	-	-	-	-	-	-	-	-
	General Interchange	114	-	-	-	-	-	-	-	-	-	15
	General Commercial Interchange	-	-	-	-	-	-	-	-	-	-	-
	Industrial Commercial Interchange	-	-	-	-	-	-	-	-	-	-	-
	University Village Interchange	-	-	-	-	-	-	-	-	-	-	-
	New Community	2,104	1,115	-	-	-	-	-	-	-	-	-
	Airport	-	-	-	-	-	-	-	-	-	-	989
	Tradeport	3	-	-	-	-	-	-	-	-	-	-
	Rural	7,764	2,431	-	-	800	730	-	-	-	-	3
	Rural Community Preserve	3,517	-	-	-	-	-	-	-	-	-	-
	Coastal Rural	1,338	-	-	-	-	-	-	-	-	-	-
	Outer Island	233	2	4	-	1	-	-	169	-	-	-
	Open Lands	2,186	153	-	-	-	257	-	-	-	-	-
	Density Reduction/ Groundwater Resource	6,974	131	-	-	-	-	-	-	-	-	-
	Conservation Lands Upland	-	-	-	-	-	-	-	-	-	-	-
	Wetlands	-	-	-	-	-	-	-	-	-	-	-
	Conservation Lands Wetland	-	-	-	-	-	-	-	-	-	-	-
Unincorporated County Total Residential		83,113	4,669	457	-	4,270	1,002	24	598	548	-	1,415
Commercial		8,916	300	53	-	450	27	9	125	150	-	1,216
Industrial		4,787	30	3	-	300	10	15	70	315	-	2,134
Non Regulatory Allocations												
Public		120,211	14,191	622	-	4,864	7,323	6	2,340	583	-	9,660
Active AG		21,944	5,500	-	-	240	90	-	-	-	-	2
Passive AG		13,685	5,500	-	-	615	100	-	-	-	-	485
Conservation		87,746	2,458	297	-	1,163	3,186	67	1,595	926	-	2,206
Vacant		26,118	1,145	28	-	733	766	8	103	17	-	88
Total		366,520	33,793	1,460	-	12,634	12,505	129	4,831	2,538	-	17,205
Population Distribution (unincorporated Lee County)		584,331	8,235	1,470	-	35,253	2,179	152	725	5,273	-	22,281

Table 1(b) Year 2045 Allocations

PROPOSED

Future Land Use Category		Planning District											
		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 22 Bashore
Residential By Future Land Use Category	Intensive Development	-	-	-	-	801	1	30	-	376	-	-	-
	Central Urban	-	656	20	-	3,113	-	7,362	-	2,225	-	-	-
	Urban Community	-	978	1,318	-	863	540	17,034	-	-	115	-	-
	Suburban	-	2,566	2,069	-	1,202	659	-	-	6,387	-	-	-
	Outlying Suburban	1,253	438	-	-	-	502	-	-	406	-	90	-
	Sub-Outlying Suburban	-	-	13	-	-	-	-	-	145	66	-	950
	Commercial	-	-	-	-	-	-	-	-	-	-	-	-
	Industrial	-	3	3	-	3	-	-	-	-	-	-	-
	Public Facilities	-	-	-	-	-	-	-	-	-	-	-	-
	University Community	-	-	503	-	-	-	-	-	-	-	-	-
	Destination Resort Mixed Use Water Dependent	-	8	-	-	-	-	-	-	-	-	-	-
	Burnt Store Marina Village	-	-	-	-	-	-	-	-	-	-	-	-
	Industrial Interchange	-	-	-	-	-	-	-	-	-	-	-	-
	General Interchange	58	-	-	-	-	-	-	8	14	-	-	20
	General Commercial Interchange	-	-	-	-	-	-	-	-	-	-	-	-
	Industrial Commercial Interchange	-	-	-	-	-	-	-	-	-	-	-	-
	University Village Interchange	-	-	-	-	-	-	-	-	-	-	-	-
	New Community	-	-	-	-	-	-	-	-	-	-	-	-
	Airport	-	-	-	-	-	-	-	-	-	-	-	-
	Tradeport	-	-	-	-	-	-	-	-	-	-	-	-
	Rural	1,573	-	99	-	-	227	14	-	454	50	-	1,387
	Rural Community Preserve	-	-	-	-	-	-	-	-	-	3,517	-	-
	Coastal Rural	-	-	-	-	-	1,338	-	-	-	-	-	-
	Outer Island	-	2	-	-	-	55	-	-	-	-	-	-
	Open Lands	80	-	-	-	-	-	-	-	30	-	-	1,667
	Density Reduction/ Groundwater Resource	-	-	-	-	-	-	-	4,742	-	-	-	2,101
	Conservation Lands Upland	-	-	-	-	-	-	-	-	-	-	-	-
	Wetlands	-	-	-	-	-	-	-	-	-	-	-	-
	Conservation Lands Wetland	-	-	-	-	-	-	-	-	-	-	-	-
Unincorporated County Total Residential		2,964	4,650	4,024	-	5,982	3,322	24,440	4,750	10,035	3,748	90	6,125
Commercial		326	774	938	-	2,012	288	900	118	1,121	19	18	72
Industrial		5	198	387	-	566	67	218	215	244	4	2	4
Non Regulatory Allocations													
Public		3,214	4,898	6,364	-	5,883	4,831	20,267	17,992	10,117	3,052	653	3,351
Active AG		5	13	5	-	-	2,780	35	12,000	90	630	4	550
Passive AG		10	-	5	-	-	70	50	2,500	250	2,000	-	2,100
Conservation		1,677	9,786	2,232	-	211	15,489	1,077	41,028	1,607	382	1,465	895
Vacant		20	55	158	-	4	2,200	14,804	2,400	1,183	850	130	1,425
Total		8,221	20,374	14,114	-	14,658	29,047	61,791	81,003	24,649	10,684	2,362	14,523
Population Distribution (unincorporated Lee County)		14,322	44,132	54,615	-	76,582	13,431	162,245	17,369	110,722	5,951	741	8,653

AGENCY COMMENTS

CPA2021-00001

LEE PLAN
2045 UPDATE

Ron DeSantis
GOVERNOR



Dane Eagle
SECRETARY

July 2, 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. 21-03ESR) received on June 4, 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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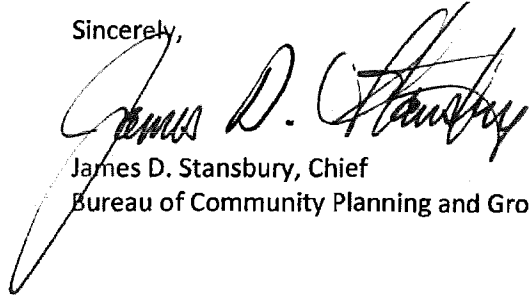
The Honorable Kevin Ruane, Chairman

July 2, 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,

A handwritten signature in black ink, appearing to read "James D. Stansbury". The signature is fluid and cursive, with a large, sweeping initial "J".

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



Dane Eagle
SECRETARY

June 7, 2021

Ms. Mikki Rozdolski
Manager, Community Development Operations
Lee County Planning Section
Post Office Box 398
Fort Myers, Florida 33902-0398

RE: CPA2021-00001, Lee Plan 2045 Update

Dear Ms. Rozdolski:

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 **21-03ESR**.

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 July 4, 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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Board of County Commissioners

Kevin Ruane
District One

June 4, 2021

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
County Hearing
Examiner

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
CPA2021-00001, Lee Plan 2045 Update:**

Dear Mr. Eubanks:

In accordance with the provisions of F.S. Chapter 163, please find attached the proposed Comprehensive Plan Amendment, known locally as CPA21-00001 (Lee Plan 2045 Update). The amendment is as follows:

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.

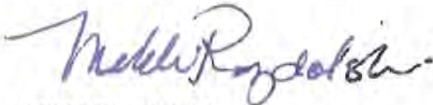
The Local Planning Agency held a public hearing for the plan amendment on April 26, 2021. The Board of County Commissioners voted to transmit the amendment on June 2, 2021. The proposed amendments are not applicable to an area of critical state concern. The Board of County Commissioners stated their 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

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**



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

Community Planning Services
FDOT District One

Margaret Wuerstle
Southwest Florida Regional Planning Council

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



SOUTH FLORIDA WATER MANAGEMENT DISTRICT

RECEIVED
MAY 05 2021

COMMUNITY DEVELOPMENT

April 23rd, 2021

David Loveland, AICP
Community Development Director
Lee County
1500 Monroe St.
Fort Myers, FL 33901

**Subject: Integration of Regional and Local Water Supply Plans -
Water Supply Facilities Work Plan Update Notification**

Dear Mr. Loveland:

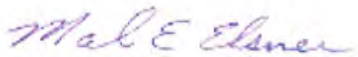
With South Florida's growing demands for water, it is especially important that water supply infrastructure be securely in place to meet anticipated demands. A local government's Water Supply Facilities Work Plan (Work Plan) identifies and plans for the water supply sources and facilities needed to serve any existing and new development within the County's jurisdiction. Recognizing the important linkage between the water management districts' regional water supply planning and local government planning, the Florida Legislature requires local governments to update their Work Plan within 18 months of the water management district approval of the applicable regional water supply plan (Section 163.3177(6)(c)3., Florida Statutes).

The Governing Board of the South Florida Water Management District (District) approved the 2017 Lower West Coast Water Supply Plan Update (LWC Plan) on December 14, 2017. This plan contains an assessment of projected water demands and potential water sources to meet these demands through 2040. Lee County (County) is located within the LWC planning area and was required to update its Work Plan by **June 14, 2019**. According to our records, we have not received an updated Work Plan from the County.

We would like to help you complete your Work Plan to comply with the law and ensure that your water supply facilities are able to meet demand needs for your residents. The County's update of the Work Plan will need to include updated water demand projections, cover at least a 10-year planning period, identify alternative and traditional water supply projects, and identify conservation and reuse activities needed to meet the projected future demands. Planning tools are available on the District's website for your use, and District staff are available to provide technical assistance to assist you with updating your Work Plan, including reviewing draft Work Plans prior to formal submittal. The planning tools are located at this link: <https://www.sfwmd.gov/doing-business-with-us/work-plans>.

Integration of our plans supports a safe and reliable water supply for your local government's future. **We respectfully request the status of Lee County's Work Plan update within two weeks of receipt of this letter.** If you have any questions, would like to arrange a meeting, or need further information, please do not hesitate to contact Deborah Oblaczynski, at 561-682-2544, or doblaczy@sfwmd.gov.

Sincerely,



Mark E. Elsner, P.E.
Bureau Chief – Water Supply
South Florida Water Management District

ME/jh/do/ldc

Cc: Mikki Rozdolski, Planning Manager
Pamela Keyes, P.E., Utility Director

Bcc: Deborah Oblaczynski
Jim Harmon
Phil Flood
Robert Verrastro

Dunn, Brandon

From: Beals, Nathan
Sent: Tuesday, May 4, 2021 2:27 PM
To: Dunn, Brandon
Subject: FW: Lee County Water Supply Facilities Work Plan Update Notification

FYI

Nathan Beals, PMP
Manager, Public Utilities
New Development and Planning
Lee County Utilities
239-533-8157 (Office)



1500 Monroe Street
Fort Myers, FL 33901
Nbeals@leegov.com

From: Oblaczynski, Deborah <doblaczy@sfwmd.gov>
Sent: Tuesday, May 4, 2021 8:53 AM
To: Beals, Nathan <NBeals@leegov.com>
Cc: Sunyak, Mark <MSunyak@leegov.com>; Manning, Terese <tmanning@sfwmd.gov>
Subject: RE: Lee County Water Supply Facilities Work Plan Update Notification

Hi Nathan,

Thank you for updating the status of the Lee County's Water Supply Facilities Work Plan (Work Plan). We look forward to reviewing the Work Plan amendment soon. A bit of information, please send the amendment to Terry Manning at tmanning@sfwmd.gov. I am retiring on June 2nd, 2021. In the interim Terry will review the amendments until another planner takes my place. If you have any questions you can contact Terry at 561-682-6779 or contact me before June 1st, 2021.

Sincerely,

Deb Oblaczynski
Policy & Planning Analyst - Senior
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: doblaczy@sfwmd.gov or
Cell Phone: 561-315-1474



From: Oblaczynski, Deborah <doblaczy@sfwmd.gov>
Sent: Monday, May 3, 2021 2:17 PM
To: Loveland, David <DLoveland@leegov.com>
Cc: Keyes, Pamela <PKeyes@leegov.com>; Rozdolski, Mikki <MRozdolski@leegov.com>
Subject: Lee County Water Supply Facilities Work Plan Update Notification

Hello,

Please find attached a copy of the letter sent to the Lee County on April 23, 2021. If you need further information and please contact me at 561-315-1474 or doblaczy@sfwmd.gov.

Thank you

Deb Oblaczynski
Policy & Planning Analyst - Senior
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: doblaczy@sfwmd.gov or
Cell Phone: 561-315-1474

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Under Florida law, email addresses are public records. If you do not want your email address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.

From: Suguri, Vitor
Sent: Monday, June 21, 2021 8:04 AM
To: Dunn, Brandon <BDunn@leegov.com>
Cc: 'DEO - CPA Comments (DCPexternalagencycomments@deo.myflorida.com)'
<DCPexternalagencycomments@deo.myflorida.com>; Reina, Bessie <Bessie.Reina@dot.state.fl.us>; Todd Engala
(Todd.Engala@dot.state.fl.us) <Todd.Engala@dot.state.fl.us>; jzaballero@vhb.com; Babuji Ambikapathy
<BAmbikapathy@VHB.com>; Mikki Rozdolski (MRozdolski@leegov.com) <MRozdolski@leegov.com>
Subject: Proposed CPA-21-01ESR / Lee County / FDOT Review Comments / 6-20-21

Mr. Dunn,

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 21-03ESR (locally known as CPA21-00001).

The County initiated Comprehensive Plan Amendment proposes the following changes:

1. Updates text that references the 2030 planning horizon to the new planning horizon year of 2045.
2. Deletes any text that is date sensitive and the time frame has passed or the intent of the text has been satisfied or is no longer applicable.
3. Reorganizes text and references for clarity.
4. Simplifies the Lee Plan's vision statement.
5. Updates Table 1(b) to reflect the 2045 population projection and accommodation.
6. Updates or deletes Maps based on current data and requirements as well as consistency with the adopted Lee County MPO's 2045 Long Range Transportation Plan.

FDOT Review Comment:

The proposed changes do not impact the adopted future land use category densities and intensities or the roadway network. As a result, FDOT determined the proposed amendment will not have adverse impacts to transportation resources or facilities of state importance and will not form a basis of challenge.

FDOT appreciates your commitment to intergovernmental coordination and the opportunity to review and comment on the proposed amendment.

Vitor Suguri, Ph.D.

Community Planner
Florida Department of Transportation - District One
10041 Daniels Parkway
Fort Myers, FL 33913
(239) 225-1959 - Desk
(863) 221-1707 - Cell



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Under Florida law, email addresses are public records. If you do not want your email address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.

Miller, Janet

From: Dunn, Brandon
Sent: Tuesday, June 22, 2021 3:50 PM
To: Miller, Janet
Subject: FW: Proposed CPA-21-03ESR / Lee County / FDOT Review Comments / 6-22-21

For CPA2021-01.

From: Suguri, Vitor <Vitor.Suguri@dot.state.fl.us>
Sent: Tuesday, June 22, 2021 2:56 PM
To: Dunn, Brandon <BDunn@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>; jzaballero@vhb.com; Babuji Ambikapathy <BAmbikapathy@VHB.com>; Rozdolski, Mikki <MRozdolski@leegov.com>
Subject: [EXTERNAL] RE: Proposed CPA-21-03ESR / Lee County / FDOT Review Comments / 6-22-21

Correction

Mr. Dunn,

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 21-03ESR (locally known as CPA21-00001).

The County initiated Comprehensive Plan Amendment proposes the following changes:

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FDOT appreciates your commitment to intergovernmental coordination and the opportunity to review and comment on the proposed amendment.

Miller, Janet

From: Dunn, Brandon
Sent: Friday, June 25, 2021 3:46 PM
To: Miller, Janet; Rozdolski, Mikki
Subject: FW: Lee County 21-03ESR (CPA2021-00001)

Please see correspondence below:

From: Cucinella, Josh <Josh.Cucinella@MyFWC.com>
Sent: Friday, June 25, 2021 3:17 PM
To: Dunn, Brandon <BDunn@leegov.com>
Cc: DCPexternalagencycomments@deo.myflorida.com; Conservation Planning Services <conservationplanningservices@MyFWC.com>; Calyniuk, Cori <Cori.Calyniuk@MyFWC.com>
Subject: [EXTERNAL] Lee County 21-03ESR (CPA2021-00001)

Dear Mr. Dunn:

Florida Fish and Wildlife Conservation Commission (FWC) staff reviewed the proposed comprehensive plan amendment in accordance with Chapter 163.3184(3), Florida Statutes. We have no comments, recommendations, or objections related to listed species and their habitat or other fish and wildlife resources to offer on this amendment.

If you have specific technical questions, please contact Cori Calyniuk at (850) 556-5948 or by email at Cori.Calyniuk@MyFWC.com. For all other inquiries, please contact our office by email at ConservationPlanningServices@MyFWC.com.

Sincerely,

Josh Cucinella
Biological Administrator II
Office of Conservation Planning Services
Florida Fish and Wildlife Conservation Commission
1239 SW 10th Street
Ocala, Florida 34471
(352) 620-7330

Lee County 21-03ESR_44673

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From: [Dunn, Brandon](#)
To: [Miller, Janet](#)
Subject: FW: Lee County 21-03ESR Proposed
Date: Friday, July 16, 2021 1:51:07 PM
Attachments: [image001.png](#)

Please see correspondence

From: Plan_Review <Plan.Review@dep.state.fl.us>
Sent: Thursday, July 1, 2021 4:53 PM
To: Dunn, Brandon <BDunn@leegov.com>; dcpxexternalagencycomments@deo.myflorida.com
Cc: Plan_Review <Plan.Review@dep.state.fl.us>
Subject: Lee County 21-03ESR Proposed

To: Mr. Brandon Dunn, Principal Planner

Re: Lee County 21-03ESR – 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 Plan.Review@FloridaDEP.gov. If your submittal is too large to send via email or if you need other assistance, contact Lindsay Weaver at (850) 717-9037.





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