



LEE COUNTY BOARD OF COUNTY COMMISSIONERS
COMPREHENSIVE PLAN AMENDMENT HEARING AGENDA

BOARD CHAMBERS

2120 MAIN STREET, FORT MYERS, FL 33901

WEDNESDAY, NOVEMBER 22, 2017

9:30 A.M.

- | | |
|---------------|--|
| CPA2015-00009 | CAPTIVA COMMUNITY PLAN (TRANSMITTAL) |
| CPA2017-00008 | CHAPTER 13 (TRANSMITTAL) |
| CPA2017-00003 | CAPITAL IMPROVEMENT/WATER SUPPLY
MANAGEMENT (ADOPTION) |
| CPA2017-00004 | NORTH FORT MYERS MIXED USE OVERLAY
EXPANSION (ADOPTION) |

CPA2015-00009

Captiva Community
Plan

**Summary Sheet
Captiva Community Plan
CPA2015-09**

Request:

Amend Goal 13 of the Lee Plan to revise policies specific to Captiva.

Public Comments:

There was no public comment concerning the proposed amendments.

LPA Motion:

A motion was made to recommend that the Board of County Commissioners *transmit* CPA2015-00009. The motion was passed 5 to 0.

NOEL ANDRESS	<u>AYE</u>
DENNIS CHURCH	<u>AYE</u>
JIM GREEN	<u>ABSENT</u>
CHRISTINE SMALE	<u>AYE</u>
STAN STOUDE	<u>AYE</u>
GARY TASMAN	<u>ABSENT</u>
JUSTIN THIBAUT	<u>AYE</u>

Staff Recommendation:

Staff recommends the Board of County Commissioners *transmit* the amendments, as proposed by staff, to the state reviewing agencies.

STAFF REPORT FOR
CPA2015-09: Captiva Community Plan
Privately Requested Text Amendments to the Lee Plan



Applicant:

Captiva Community
Planning Panel

Representative:

Ken Gooderham

Location:

Captiva Community
Planning Area

Commission

District: #1

Amended Goal:

Goal 13: Captiva

Attachments:

Text Amendments

Hearing Dates:

LPA: 10/23/2017

BoCC: 11/22/2017

REQUEST

Amend Goal 13 of the Lee Plan to revise policies specific to Captiva.

RECOMMENDATION

Staff recommends that the Board of County Commissioners *transmit* the proposed amendments to Goal 13 as provided in Attachment 1.

CAPTIVA COMMUNITY PLANNING AREA



PART 1
BACKGROUND INFORMATION

The current Captiva goal in the Lee Plan was first adopted on January 9, 2003 by Lee County Ordinance 03-01. Additional language has been adopted and/or existing language amended by later Lee County Ordinances 05-19, 07-09, and 11-19. The current proposal is to revise the entirety of Goal 13 to address the concerns of the residents of the Captiva community. The current proposal first began in 2013 as residents of Captiva realized that Goal 13 should be updated to address community discussions and directions or to make the language more useful and enforceable. A community survey in 2013 resulted in a series of community workshops in early 2014 where specific concerns were identified and addressed. Using the input from these workshops, draft language for Goal 13 was developed by consultants over the course of 2014 and 2015. Some of the issues that were raised by Captiva residents include keeping residential density at reasonable levels, maintaining the traditional character of the community, and preserving the natural environment of the island. A final version of the draft language was created in 2016 and submitted to the County for review. Over the course of the past year, staff has worked with the community to refine the draft language for consistency with county-wide policy and within the Lee Plan.

PART 2
STAFF DISCUSSION and ANALYSIS

Below is the amended language for Lee Plan Goal 13 with discussion and analysis based on data provided by the applicant:

GOAL 13: CAPTIVA COMMUNITY PLAN. The goal of the Captiva Community Plan is to protect the coastal barrier island community's natural resources such as beaches, waterways, wildlife, vegetation, water quality, dark skies and history. This goal will be achieved through environmental protections and land use regulations that preserve shoreline and natural habitats, enhance water quality, encourage the use of native vegetation, maintain the mangrove fringe, limit noise, light, water, and air pollution, create mixed-use development of traditionally commercial properties, and enforce development standards that maintain one and two story building heights and the historic low-density residential development pattern of Captiva. To maintain and enhance the historic pattern of development on Captiva, consisting of unobtrusive, low density residential use in an environment characterized by diverse and healthy native vegetation, clean offshore water with diverse and healthy marine life, and limited commercial development and traffic. The purpose of this goal is to provide policies to confirm and reinforce that historic pattern.

DISCUSSION: Staff finds that the updated Goal and guiding Objectives and Policies clarify the community's wish to protect the sensitive environmental features of the coastal barrier island, supports low density development patterns, and promotes mixed use development.

As provided in the Data and Analysis, a community survey was conducted and four community workshops held to determine the community's desired direction for future development.

A survey was conducted in the Fall of 2013 of the Captiva residents indicating preferences on key issues that were later the subject of the community workshops. Topics included landscaping, historic preservation, lighting, economic development, pedestrian connectivity & safety, parking, and the future direction of the Captiva Community Panel.

Four workshops were held in the community to gather input on the goals of the Captiva community.

Character Design & Quality of Life	March 6, 2014
Transportation	March 11, 2014
Economic Development	March 27, 2014
Water Quality	April 8, 2014

The Plan amendment language was then drafted and discussed at numerous Captiva Community Panel meetings and approved by the Panel.

OBJECTIVE 13.1: PROTECTION OF NATURAL RESOURCES. ~~Develop and maintain incentive and/or regulatory programs to ensure~~ To continue the long-term protection and enhancement of wetland habitats, water quality, native natural-upland habitats (including rare and unique habitats), and beaches ~~community facilities, existing land use patterns, infrastructure capacity, and historically significant features on Captiva Island.~~

DISCUSSION: Staff finds that the updated Objective clearly states the environmental protections that set the predicate for Policies 13.1.1 through 13.1.6 as amended. The Objective has been simplified to be specific to natural resources and supports the input received from the community. Protection of natural resources is consistent with Lee Plan Goal 107.

POLICY 13.1.12: Mangrove Fringe. Consider development regulations that will provide additional protection to the shoreline, including mangrove fringe. ~~Mangroves on Captiva will be protected to the greatest extent possible.~~

DISCUSSION: This Policy was originally Policy 13.1.12 and has been revised and relocated in order to group natural resources policies together for ease of implementation. Staff finds that the revised Policy clearly indicates the intention to protect the gulf and bay shorelines from erosion. As provided in the Data and Analysis, the Captiva Erosion Prevention District (CEPD) oversees a successful management plan for the Gulf of Mexico beach front. However, the bay front needs protection from storm surge and sea level rise. Rising water levels can damage existing bulkheads and seawalls that can be overtopped or undercut by high waves. Soft structures are discussed as an option in the Data and Analysis. Soft structures, such as mangroves, marshes and reefs, create a living buffer between the rising water and structures.

This living buffer protects the coastline from erosion. This Policy is consistent with Lee Plan Goals 107 and 113 that protect mangrove areas.

~~**POLICY 13.1.2:** Due to the nature of a barrier island, the height of buildings and structures is dependent on conditions such as elevation of the site above sea level and mandatory flood elevation requirements. In response to these conditions, the height of buildings and structures may not exceed the least restrictive of the two following options: a) 35 feet above the average grade of the lot in question or 42 feet above mean sea level measured to the peak of the roof, whichever is lower; or b) 28 feet above the lowest horizontal member at or below the lawful base flood elevation measured to the mean level between eaves and ridge in the case of gable, hip, and gambrel roofs. If lowest horizontal member is set above the base flood elevation the 28 foot measurement will be measured starting from the base flood elevation. notwithstanding the above height limitations, purely ornamental structural appurtenances and appurtenances necessary for mechanical or structural functions may extend an additional four (4) feet above the roof peak or eight (8) feet above the mean height level in the case of gable, hip, and gambrel roofs, whichever is lower, so long as these elements equal 20% or less of the total roof area.~~

DISCUSSION: A portion of this Policy was reworded and relocated to Policy 13.1.6. The remainder of the Policy was moved to the Land Development Code.

POLICY 13.1.2: Blind Pass. Cooperate at the federal, state, regional and local levels, efforts to maintain Blind Pass as an open pass. Lee County recognizes the positive benefits of maintaining an open Blind Pass to the near-shore environment, marine ecology, back-bay water quality and boater access.

DISCUSSION: Blind Pass periodically closes due to lower hydrologic energy and silting from adjacent beaches. This impacts the bayside water quality and habitat. In June 2017, Lee County, City of Sanibel, and CEPD worked together to reopen the pass. An Inlet Management Plan is being drafted. This Policy provides the County's acknowledgement of the benefits to maintaining the Pass.

~~**POLICY 13.1.3: Estuarine and Wetland Resources.** Continue to support the protection of estuarine and wetland resources and wildlife habitat on Captiva. Lee County will encourage and support efforts by Captivans to strengthen existing vegetation ordinances to establish a landscaping code for Captiva Island that will require all new development, including single family residences, to implement minimum landscaping requirements intended to preserve, promote, and enhance the existing native vegetation and tree canopy on the Island. New landscaping requirements will focus on areas including, but not limited to, buffering and separation between new structures and Captiva Drive, buffering between adjoining properties, preservation and enhancement of native plant communities including, but not limited to, beach dune community, tropical hardwood hammock, coastal scrub and mangroves.~~

DISCUSSION: Staff finds that the revised Policy provides for the overall protection of estuarine, wetland and wildlife on Captiva. This Policy is consistent with Lee Plan Policy 113.1.5 that protects wetland and wildlife areas. The deleted language in this Policy has been reworded and relocated to Objective 13.3.

POLICY 13.1.4: Beach and Shore Preservation. ~~Lee County will continue~~ Continue to support the effort of the Captiva Erosion Prevention District, a beach and shore preservation authority under provisions of Chapter 161, Florida Statutes, to preserve, protect and maintain Captiva's beaches using environmentally responsible methods.

DISCUSSION: The editorial revision to this Policy is for clarification. The Captiva Erosion Prevention District (CEPD) is an independent special beach and shore preservation district that was established on June 19, 1959. It provides beach erosion control and preservation activities for the protection, preservation and restoration of Captiva's sandy beaches. Staff finds that this Policy furthers Goal 13 by supporting the efforts of the special district to protect the shoreline which is also consistent with Lee Plan Goal 113.

POLICY 13.1.5: Quality of Adjacent Waters. ~~Lee County will encourage and support~~ Continue to support efforts by the Captiva community to investigate and recommend measures that will may improve water quality in Pine Island Sound and the Gulf of Mexico. ~~Such measures may include sewers only if sized to limit development to that permitted by this plan. This may include a feasibility analysis of alternative wastewater collection and treatment systems to serve the Captiva community for a planning period of 30 years, including a central sewer system based upon current land use regulations. Should the feasibility analysis show that Captiva requires or is best served by an alternative wastewater collection and treatment system, Lee County will encourage efforts to size the system consistent with development permitted by the Lee Plan and the Land Development Code.~~

DISCUSSION: Staff finds that the Policy revisions clarify the county's support efforts to protect water quality. As explained in the Data and Analysis, 634 of the 1,100 parcels on Captiva are served by the Florida Gulf Utility Authority, Sunset Captiva, Captiva Shores and Tween Waters wastewater treatment plants. The remaining parcels are served by onsite treatment and disposal systems (OSDTS) that range from state-of-the-art systems to 1960's era septic systems. The concern is that runoff from antiquated septic systems can potentially pollute the waters surrounding Captiva. A feasibility study may identify measures to improve water quality in Pine Island Sound and the Gulf of Mexico. This Policy is consistent with Lee Plan Goal 115 that promotes standards to maintain water quality in Lee County.

POLICY 13.1.6: Natural Upland Habitats. Continue to support the preservation of native upland vegetation and wildlife habitat on Captiva. The Captiva Island Community will establish a "document clearing house" on Captiva, where copies of selected zoning submittal documents, staff reports, Hearing Examiner recommendations and resolutions will be provided for public inspection. The County's failure to provide or to timely provide documents to the document clearing house, or failure of the document clearing house to

~~receive documents, will not constitute a defect in notice or bar a public hearing from occurring as scheduled.~~

DISCUSSION: Staff finds that the revision clarifies the county's support efforts to protect vegetation and wildlife on Captiva which is consistent with Lee Plan Goal 107. The deleted language was reworded and relocated to Policy 13.4.2.

~~**POLICY 13.1.7:** The owner or agent for any rezoning, variance, or special exception request within the Captiva Planning Community must conduct one public informational session on Captiva where the agent will provide a general overview of the project for any interested citizens. Lee County encourages zoning staff to participate in such public workshops. This meeting must be conducted before the application can be found sufficient. The applicant is fully responsible for providing the meeting space and providing security measures as needed. Subsequent to this meeting, the applicant must provide county staff with a meeting summary document that contains the following information: the date, time, and location of the meeting; a list of attendees; a summary of the concerns or issues that were raised at the meeting; and a proposal for how the applicant will respond to any issues that were raised.~~

DISCUSSION: The deleted language was reworded and relocated to Policy 13.4.1.

~~**POLICY 13.1.8:** Lee County will encourage and support the solicitation of the widest possible range of public input for any future Lee Plan amendments that directly apply to Captiva or the policies adopted for Captiva under this section of the Lee Plan. To that end, Lee County is committed to provide continuing assistance to the Captiva Community as part of the Evaluation and Appraisal Report process as well as ongoing technical expertise related to the functioning of the adopted policies.~~

DISCUSSION: The deleted language was reworded and relocated to Objective 13.4.

~~**POLICY 13.1.9:** Lee County will encourage and support efforts by Captivans to develop and submit ordinances that will encourage the siting and building of structures consistent with the historical character of the island.~~

DISCUSSION: The deleted language reworded and relocated to Policy 13.2.4.

~~**POLICY 13.1.10:** New requests for residential re-zoning that would increase density on said property above current zoning will not be permitted.~~

DISCUSSION: The deleted language was reworded and relocated to Policy 13.2.5 and the Land Development Code.

~~**POLICY 13.1.11:** Variances should be limited to unique, specifically authorized circumstances and will be allowed only in situations where unnecessary hardship would otherwise occur; i.e., where all of the following are met: • Where the hardship cannot be corrected by other means allowed in the ordinances; • Where strict compliance of the~~

~~regulations allows the property owner no reasonable use of the property; • Where the variance will not constitute a grant of special privilege inconsistent with the limitation upon uses of other properties located on the same street and within the same Future Land Use category, unless denial of the variance would allow no reasonable use of the property; • Where the applicant did not cause the need for the variance, and • Where the variance is not contrary to the spirit of the ordinance.~~

DISCUSSION: The deleted language was reworded and relocated to Policy 13.2.6 the Land Development Code.

~~**POLICY 13.1.13:** Within two years of the adoption of this policy Indigenous or Native trees will be replanted and maintained along Captiva Drive between Blind Pass and the north end of Captiva Drive. The replanting of trees within the Captiva Drive right of way is needed to replace the loss of tree canopy following Hurricane Charley. A comprehensive Captiva Drive landscape plan that addresses specific native tree species, tree placement, public safety, access and utilities to facilitate the restoration of tree canopy will be created. The comprehensive Captiva Drive landscape plan will identify funding sources for implementing the plan and will designate the entity or entities responsible for long term maintenance.)~~

DISCUSSION: The deleted language was reworded and relocated to Policy 13.3.1.

~~**POLICY 13.1.14:** Notwithstanding anything pertaining to Captiva Community Plan Height Restriction Policy 13.1.2, due to the unique degree of public interest attached to it regarding emergency communications services, the existing telecommunications tower facility located in the maintenance and engineering area of South Seas Resort may be replaced in such area to a height not to exceed 170 feet, provided that said new facility makes space available to the county for adequate emergency communications service coverage for Captiva, as well as co-location within the capabilities of that tower for all wireless carriers desirous of serving Captiva. Destruction of mangroves will not be allowed in order to build or operate such a tower or related tower facilities. The telecommunication tower will be a monopole, unless public safety is compromised.~~

DISCUSSION: The deleted language is provided in LDC Sec. 33-1627 and is not needed in the Lee Plan.

OBJECTIVE 13.2: PROTECTION OF COMMUNITY RESOURCES. ~~To continue the long-term protection and enhancement of community facilities, existing land use patterns, unique neighborhood-style commercial activities, infrastructure capacity, and historically significant features on Captiva. **MIXED USE DEVELOPMENT.** The Captiva community seeks to preserve the island's unique neighborhood-style commercial activities and to provide islanders with reasonable access to basic goods and services without having to leave the island. Toward that end, Lee County will encourage mixed-use developments in specific and appropriate areas of the Captiva planning community through its regulations, policies and discretionary actions.~~

DISCUSSION: The Objective provides for future development that protects the existing neighborhood form and densities, supports mixed use commercial activities, historic features, and improved community facilities. As provided in the Data and Analysis, Captiva's land use pattern is guided by its location in a Coastal High Hazard Area. Public Safety and evacuation are a concern. The Island's only evacuation route is a constrained roadway and clearance times are estimated at 35.5 to 40 hours. Consistent with Lee Plan Policies 5.1.2 and 105.1.4 that limit development where hazards exist, density on Captiva is three units an acre based on the underlying future land use designation. Heights are also limited in keeping with Captiva's low-rise buildings. This is also consistent with Lee Plan Goal 105 that protects life and property in Coastal High Hazard Areas.

POLICY 13.2.1: Mixed Use Development. Mixed use developments as defined in the Lee Plan, and mixed use developments containing both commercial and residential uses within the same structure, are appropriate strongly encouraged on Captiva properties that were zoned C-1 or CT as of Jan. 1, 2006. Such properties may be allowed ~~one~~ residential units in addition to commercial uses at a density consistent with the Lee Plan. Such developments will only be permitted if approved as a Commercial or Mixed Use Planned Development.

DISCUSSION: Staff finds that this Policy promotes mixed use development in Captiva's commercial core located along Captiva Drive from the north S curve to South Seas Island Resort and on Andy Rosse Lane. The Fall 2013 survey indicated the residents desire to maintain the existing commercial core that allows both commercial and residential uses. This is also consistent with Lee Plan Goal 11 that supports sustainable mixed use developments.

POLICY 13.2.2 4-1: Subdivision of Existing RSC-2 Parcels. Maintain existing development regulations that restrict the ~~No~~ subdivisions of parcels that are ~~were~~ zoned RSC-2 (Captiva Estate) ~~on~~ as of January 1, 2002, ~~regardless of their zoning at any time thereafter, may be permitted unless all of the resulting lots comply with all of the minimum lot size and dimensional requirements in~~ set forth in the Land Development Code for the RSC-2 district zoned lots in Captiva.

DISCUSSION: Staff finds that this Policy clarifies the intent of the RSC-2 Captiva Estate zoning district and compliance with the required property development regulations. The RSC-2 zoning district was created for Captiva in 1993 to preserve large estate lots that would allow a main house, a guest house, and a servant's quarters. The purpose of this Policy is to maintain clear regulations regarding the subdivision of RSC-2 lots.

POLICY 13.2.3: Building Heights. Maintain building height regulations established as of [Effective Date of Ordinance] that account for barrier island conditions, such as mandatory flood elevation and mean-high sea level, for measuring height of buildings and structures.

DISCUSSION: Staff finds that this Policy is in keeping with lands located in the Coastal High Hazard Area that have disaster evacuation challenges. To manage evacuation demands, heights will be regulated in the Land Development Code consistent with Lee Plan Policies 5.1.2 and

105.1.4. Lands within Captiva are in the Outlying Suburban and Wetlands future land use categories.

POLICY 13.2.4: Historic Development Pattern. Limit development to that which is in keeping with the historic development pattern on Captiva including the designation of historic resources and the rehabilitation or reconstruction of historic structures. The historic development pattern on Captiva is comprised of low-density residential dwelling units, as defined in Chapter 10 of the Land Development Code, minor commercial development and South Seas Island Resort.

DISCUSSION: This Policy is a revision of the former Policy 13.1.9 to promote the retention of historic structures and to protect the existing land use mixture of hotel, commercial and residential uses. As provided in the Data and Analysis, Captiva's development pattern is known for estate properties, a village area containing commercial uses, and hotels/ resorts that have been in place for decades. Staff finds this is consistent with the Fall 2013 survey and the following workshops where the residents indicated the importance of retaining the existing mix of uses on Captiva. This Policy is consistent with Chapter IX of the Lee Plan that supports the preservation of historic structures.

POLICY 13.2.5: Lot Size Per Unit. Development Orders or Development Permits that would result in a reduction of the minimum lot size per unit permitted on a parcel under the parcel's current zoning category or under any other zoning category that would result in a reduction of the minimum lot size per unit on that parcel (as of [Effective Date of Ordinance]) are prohibited.

DISCUSSION: This Policy is a revision of the former Policy 13.1.10 that clarifies that the existing permitted zoning minimum lot size may not be reduced. Staff finds that maintaining the existing lot sizes is consistent with Lee Plan 5.1.2 and Goal 105 that support low density in Coastal High Hazard Areas.

POLICY 13.2.6: Variances and Deviations. Variances and/or deviations from the current development standards will not be permitted unless they meet all of the specific requirements for variances and deviations set forth in the Land Development Code.

DISCUSSION: This Policy was originally Policy 13.1.11. It has been reworded and the performance standards have been moved to the Land Development Code. Staff finds that the Policy supports conformance with the regulations and variances/deviations will only be allowed if the specific standards are met.

POLICY 13.2.7: Alternative Transportation. Support integration of pedestrian and bicycle facilities into the transportation network to make Captiva safer for pedestrians, golf carts and bicyclists and to reduce automobile dependence and the need for increased parking facilities.

DISCUSSION: Staff finds that this Policy supports multi-modal transportation alternatives that allow for a mixture of transportation modes. Captiva Drive is a two lane constrained major collector roadway that serves as the only main access onto and off the island. The right-of-way is limited (25 feet in certain areas) that serves residents, tourists, pedestrians, bicyclists and golf carts. This is further complicated by the lack of parking for day time visitors. Staff finds that encouraging multi-modal transportation alternatives is in keeping with sound planning practices and is consistent with Lee Plan Goal 39 that promotes a variety of transportation opportunities.

POLICY 13.2.8: Underground Utilities. Support efforts to investigate the relocation of utilities underground.

DISCUSSION: Staff finds that this Policy supports the community desire to investigate relocating utilities.

POLICY 13.2.9: Dark Skies. Limit light pollution and light trespass on Captiva in order to protect wildlife from any detrimental effects and for the benefit of Captiva residents and visitors.

DISCUSSION: Staff finds that this Policy is consistent with Lee Plan Objective 107.5 and Land Development Code Sec. 14-79 that protect sea turtles from light pollution during the nesting season. This is also consistent with the 2013 Survey findings that support limiting light pollution.

OBJECTIVE 13.3: NATIVE VEGETATION AND TREE CANOPY. To enforce and strengthen existing vegetation ordinances intended to preserve, promote, and enhance the existing native vegetation and tree canopy on Captiva.

DISCUSSION: This Objective confirms the community's desire to retain, maintain and enhance the native vegetation and tree canopy on the island that was compromised as a result of Hurricane Charley.

POLICY 13.3.1: Trees along Captiva Drive. Support efforts to restore the historic tree canopy and vegetative buffers along Captiva Drive between Blind Pass and the north end of Captiva Drive by promoting planting of indigenous, native or non-invasive trees, preferably those that require minimal irrigation once established.

DISCUSSION: This Policy was originally Policy 13.1.14 and has been reworded and relocated under an Objective specific to vegetation and tree canopy. Staff finds that this policy addresses the loss of tree canopy as a result of the 2004 Hurricane Charley storm and the planting of new trees. This is consistent with the findings in the Fall 2013 survey, Lee Plan Goal 77, and with Chapter 10, Division 6 of the Land Development Code that promotes planting indigenous vegetation.

POLICY 13.3.2: Invasive Vegetation and Nuisance Pests. Consider implementation of methods or programs, including education of individual property owners, to reduce the proliferation of invasive exotic vegetation and nuisance pests.

DISCUSSION: Staff finds that this policy supports the control of exotic vegetation and non indigenous species (such as iguanas and coyotes) that negatively impact the native flora and fauna on Captiva. Non native plants crowd out existing vegetation creating monocultures and can be unsafe in a major storm event. This is consistent with Lee Plan Goal 77, Objective 107.4 and with Chapter 10, Division 6 of the Land Development Code that promotes indigenous vegetation and protection of endangered and threatened species.

OBJECTIVE 13.4: Public Participation. Opportunities for public input will be provided during the comprehensive plan amendment and rezoning processes.

DISCUSSION: Staff finds that this Objective promotes public engagement and government transparency which is consistent with Lee Plan Goal 24.

POLICY 13.4.1: Public Informational Meeting. The owner or agent applying for an amendment to Captiva community-specific provisions in the Lee Plan or Land Development Code must conduct one public informational meeting. The applicant is fully responsible for providing the meeting space, providing advance notice of the meeting, and providing security measures as needed. The meeting must be held within the community plan boundary. Advance notice of the meeting must be disseminated in a community-based media outlet, physically posted at the post office and provided in writing to citizen groups and civic associations within the community that are registered with Lee County for notification of pending Lee Plan or Land Development Code amendments. The notice must be available and posted at least one week prior the scheduled meeting date.

At the meeting, the agent will provide a general overview of the amendment for any interested citizens. Subsequent to this meeting, the applicant must provide county staff with a meeting summary document that contains the following information: the date, time, and location of the meeting; a list of attendees; a summary of the concerns or issues that were raised at the meeting; and the applicant's response to any issues that were raised. This information must be submitted to the county before an application for a project can be found sufficient.

Zoning Public Informational Meetings: Zoning related public information meetings will be required as provided in Land Development Code.

DISCUSSION: Staff finds that this policy promotes public participation among the community stakeholders (citizens, business people, land owners, and other interested parties) providing them with an avenue to keep informed. This policy is similar to the other community planning policies. The modifications are specific to Captiva and require the meeting be held within the Captiva Planning Community and provide at least one-week notice with direct notice provided

to Captiva citizen groups and civic associations. This Policy is consistent with Lee Plan Policy 24.1.1 to educate the public by requiring community meetings.

POLICY 13.4.2: Online Database. Maintain an online database available to the public for their review containing comprehensive plan amendment and zoning case information specific to each community plan area.

DISCUSSION: Staff finds that this policy promotes public awareness and government transparency. The existing Policy 13.1.6 has been revised to specify that Lee County will continue to maintain the online database. This Policy is consistent with Lee Plan Policy 24.1.1 to educate and coordinate the public regarding community and comprehensive planning.

PART 3 CONCLUSION

CONCLUSION

Overall, the proposed amendment conforms to the intent of the Lee Plan in that it addresses the issues unique to the Captiva community and is supported by adequate data and analysis.

ATTACHMENTS

Attachment 1: Proposed Text Amendments

- Exhibit A: Strike Through and Underline Version
- Exhibit B: Clean Version

**PART 4
LOCAL PLANNING AGENCY
Review and Recommendation**

DATE OF PUBLIC HEARING: October 23, 2017

A. LOCAL PLANNING AGENCY REVIEW:

Staff provided a brief presentation on the proposed amendment to Goal 13 regarding the Captiva Community Plan. The presentation included an overview, consistency with the Lee Plan and a recommendation that the amendment be transmitted to the state for review. Members of the LPA asked general questions about the amendment including the amount of public input and community support for the amendment, mangrove fringe, height, subdivision of RSC-2 zoned properties and historic development patterns.

No members of the public spoke about the proposed amendment.

B. SUMMARY OF LOCAL PLANNING AGENCY RECOMMENDATION AND FINDINGS OF FACT:

1. The LPA recommended that the Board of County Commissioners *transmit* the amendment to the Lee Plan as proposed by Staff.

C. VOTE:

A motion was made recommending that the Board of County Commissioners transmit the amendment based on consistency with the Lee Plan as provided in the Staff Report. The motion was passed by a 5 to 0 vote.

NOEL ANDRESS	<u>AYE</u>
DENNIS CHURCH	<u>AYE</u>
JIM GREEN	<u>ABSENT</u>
CHRISTINE SMALE	<u>AYE</u>
STAN STOUDE	<u>AYE</u>
GARY TASMAN	<u>ABSENT</u>
JUSTIN THIBAUT	<u>AYE</u>

ATTACHMENT 1

EXHIBIT A: STRIKE THROUGH AND UNDERLINE VERSION
EXHIBIT B: CLEAN VERSION

Exhibit A
Strike Through and Underline of Proposed Goal 13

GOAL 13: CAPTIVA COMMUNITY PLAN. The goal of the Captiva Community Plan is to protect the coastal barrier island community's natural resources such as beaches, waterways, wildlife, vegetation, water quality, dark skies and history. This goal will be achieved through environmental protections and land use regulations that preserve shoreline and natural habitats, enhance water quality, encourage the use of native vegetation, maintain the mangrove fringe, limit noise, light, water, and air pollution, create mixed-use development of traditionally commercial properties, and enforce development standards that maintain one and two story building heights and the historic low-density residential development pattern of Captiva. To maintain and enhance the historic pattern of development on Captiva, consisting of unobtrusive, low density residential use in an environment characterized by diverse and healthy native vegetation, clean offshore water with diverse and healthy marine life, and limited commercial development and traffic. The purpose of this goal is to provide policies to confirm and reinforce that historic pattern. (Added by Ordinance No. 03-01)

OBJECTIVE 13.1: PROTECTION OF NATURAL RESOURCES. Develop and maintain incentive and/or regulatory programs to ensure To continue the long-term protection and enhancement of wetland habitats, water quality, native natural upland habitats (including rare and unique habitats), and beaches community facilities, existing land use patterns, infrastructure capacity, and historically significant features on Captiva Island. (Added by Ordinance No. 03-01)

POLICY 13.1.12: Mangrove Fringe. Consider development regulations that will provide additional protection to the shoreline, including mangrove fringe. Mangroves on Captiva will be protected to the greatest extent possible. (Added by Ordinance No. 05-19)

POLICY 13.1.2: Due to the nature of a barrier island, the height of buildings and structures is dependent on conditions such as elevation of the site above sea level and mandatory flood elevation requirements. In response to these conditions, the height of buildings and structures may not exceed the least restrictive of the two following options: a) 35 feet above the average grade of the lot in question or 42 feet above mean sea level measured to the peak of the roof, whichever is lower; or b) 28 feet above the lowest horizontal member at or below the lawful base flood elevation measured to the mean level between eaves and ridge in the case of gable, hip, and gambrel roofs. If lowest horizontal member is set above the base flood elevation the 28 foot measurement will be measured starting from the base flood elevation. notwithstanding the above height limitations, purely ornamental structural appurtenances and appurtenances necessary for mechanical or structural functions may extend an additional four (4) feet above the roof peak or eight (8) feet above the mean height level in the case of gable, hip, and gambrel roofs, whichever is lower, so long as these elements equal 20% or less of the total roof area. (Added by Ordinance No. 03-01, Amended by Ordinance No. 11-19)

POLICY 13.1.2: Blind Pass. Cooperate at the federal, state, regional and local levels, efforts to maintain Blind Pass as an open pass. Lee County recognizes the positive due to its benefits of maintaining an open Blind Pass to the near-shore environment, marine ecology, and back-bay water quality and boater access.

POLICY 13.1.3: Estuarine and Wetland Resources. ~~Continue to support the protection of estuarine and wetland resources and wildlife habitat on Captiva. Lee County will encourage and support efforts by Captivans to strengthen existing vegetation ordinances to establish a landscaping code for Captiva Island that will require all new development, including single family residences, to implement minimum landscaping requirements intended to preserve, promote, and enhance the existing native vegetation and tree canopy on the Island. New landscaping requirements will focus on areas including, but not limited to, buffering and separation between new structures and Captiva Drive, buffering between adjoining properties, preservation and enhancement of native plant communities including, but not limited to, beach dune community, tropical hardwood hammock, coastal scrub and mangroves. (Added by Ordinance No. 03-01)~~

POLICY 13.1.4: Beach and Shore Preservation. ~~Lee County will continue~~ Continue to support the effort of the Captiva Erosion Prevention District, a beach and shore preservation authority under provisions of Chapter 161, Florida Statutes, to preserve, protect and maintain Captiva's beaches using environmentally responsible methods. (Added by Ordinance No. 03-01)

POLICY 13.1.5: Quality of Adjacent Waters. ~~Lee County will encourage and support~~ Continue to support efforts by the Captiva community to investigate and recommend measures that will may improve water quality in Pine Island Sound and the Gulf of Mexico. Such measures may include sewers only if sized to limit development to that permitted by this plan. This may include a feasibility analysis of alternative wastewater collection and treatment systems to serve the Captiva community for a planning period of 30 years, including a central sewer system based upon current land use regulations. Should the feasibility analysis show that Captiva requires or is best served by an alternative wastewater collection and treatment system, Lee County will encourage efforts to size the system consistent with development permitted by the Lee Plan and the Land Development Code. (Added by Ordinance No. 03-01)

POLICY 13.1.6: Natural Upland Habitats. ~~Continue to support the preservation of native upland vegetation and wildlife habitat on Captiva. The Captiva Island Community will establish a "document clearing house" on Captiva, where copies of selected zoning submittal documents, staff reports, Hearing Examiner recommendations and resolutions will be provided for public inspection. The County's failure to provide or to timely provide documents to the document clearing house, or failure of the document clearing house to receive documents, will not constitute a defect in notice or bar a public hearing from occurring as scheduled. (Added by Ordinance No. 03-01)~~

POLICY 13.1.7: ~~The owner or agent for any rezoning, variance, or special exception request within the Captiva Planning Community must conduct one public informational session on Captiva where the agent will provide a general overview of the project for any interested citizens. Lee County encourages zoning staff to participate in such public workshops. This meeting must be conducted before the application can be found sufficient. The applicant is fully responsible for providing the meeting space and providing security measures as needed. Subsequent to this meeting, the applicant must provide county staff with a meeting summary document that contains the following information: the date, time, and location of the~~

meeting; a list of attendees; a summary of the concerns or issues that were raised at the meeting; and a proposal for how the applicant will respond to any issues that were raised. (Added by Ordinance No. 03-01)

~~**POLICY 13.1.8:** Lee County will encourage and support the solicitation of the widest possible range of public input for any future Lee Plan amendments that directly apply to Captiva or the policies adopted for Captiva under this section of the Lee Plan. To that end, Lee County is committed to provide continuing assistance to the Captiva Community as part of the Evaluation and Appraisal Report process as well as ongoing technical expertise related to the functioning of the adopted policies. (Added by Ordinance No. 03-01)~~

~~**POLICY 13.1.9:** Lee County will encourage and support efforts by Captivans to develop and submit ordinances that will encourage the siting and building of structures consistent with the historical character of the island. (Added by Ordinance No. 03-01)~~

~~**POLICY 13.1.10:** New requests for residential re-zoning that would increase density on said property above current zoning will not be permitted. (Added by Ordinance No. 05-19)~~

~~**POLICY 13.1.11:** Variances should be limited to unique, specifically authorized circumstances and will be allowed only in situations where unnecessary hardship would otherwise occur; i.e., where all of the following are met: • Where the hardship cannot be corrected by other means allowed in the ordinances; • Where strict compliance of the regulations allows the property owner no reasonable use of the property; • Where the variance will not constitute a grant of special privilege inconsistent with the limitation upon uses of other properties located on the same street and within the same Future Land Use category, unless denial of the variance would allow no reasonable use of the property; • Where the applicant did not cause the need for the variance, and • Where the variance is not contrary to the spirit of the ordinance. (Added by Ordinance No. 05-19)~~

~~**POLICY 13.1.13:** Within two years of the adoption of this policy Indigenous or Native trees will be replanted and maintained along Captiva Drive between Blind Pass and the north end of Captiva Drive. The replanting of trees within the Captiva Drive right-of-way is needed to replace the loss of tree canopy following Hurricane Charley. A comprehensive Captiva Drive landscape plan that addresses specific native tree species, tree placement, public safety, access and utilities to facilitate the restoration of tree canopy will be created. The comprehensive Captiva Drive landscape plan will identify funding sources for implementing the plan and will designate the entity or entities responsible for long term maintenance. (Added by Ordinance No. 05-19)~~

~~**POLICY 13.1.14:** Notwithstanding anything pertaining to Captiva Community Plan Height Restriction Policy 13.1.2, due to the unique degree of public interest attached to it regarding emergency communications services, the existing telecommunications tower facility located in the maintenance and engineering area of South Seas Resort may be replaced in such area to a height not to exceed 170 feet, provided that said new facility makes space available to the county for adequate emergency communications service coverage for Captiva, as well as co-location within the capabilities of that tower for all wireless carriers desirous of serving Captiva. Destruction of mangroves will not be allowed in order to build or operate such a~~

tower or related tower facilities. The telecommunication tower will be a monopole, unless public safety is compromised. (Added by Ordinance No. 05-19)

OBJECTIVE 13.2: PROTECTION OF COMMUNITY RESOURCES. To continue the long-term protection and enhancement of community facilities, existing land use patterns, unique neighborhood-style commercial activities, infrastructure capacity, and historically significant features on Captiva. ~~MIXED USE DEVELOPMENT.~~ The Captiva community seeks to preserve the island's unique neighborhood-style commercial activities and to provide islanders with reasonable access to basic goods and services without having to leave the island. Toward that end, Lee County will encourage mixed use developments in specific and appropriate areas of the Captiva planning community through its regulations, policies and discretionary actions. (Added by Ordinance No. 07-09).

POLICY 13.2.1: Mixed Use Development. Mixed use developments as defined in the Lee Plan, and mixed use developments containing both commercial and residential uses within the same structure, are appropriate ~~strongly encouraged~~ on Captiva properties that were zoned C-1 or CT as of Jan. 1, 2006. Such properties may be allowed ~~one~~ residential units in addition to commercial uses at a density consistent with the Lee Plan. Such developments will only be permitted if approved as a Commercial or Mixed Use Planned Development. (Added by Ordinance No. 07-09)

POLICY 13.2.2.1: Subdivision of Existing RSC-2 Parcels. Maintain existing development regulations that restrict the ~~No~~ subdivisions of parcels that are ~~were~~ zoned RSC-2 (Captiva Estate) ~~on~~ as of January 1, 2002, ~~regardless of their zoning at any time thereafter,~~ may be permitted unless all of the resulting lots comply with all of the minimum lot size and dimensional requirements in set forth in the Land Development Code for the RSC-2 district zoned lots in Captiva. (Added by Ordinance No. 03-01)

POLICY 13.2.3: Building Heights. Maintain building height regulations established as of [Effective Date of Ordinance] that account for barrier island conditions, such as mandatory flood elevation and mean-high sea level, for measuring height of buildings and structures.

POLICY 13.2.4: Historic Development Pattern. Limit development to that which is in keeping with the historic development pattern on Captiva including the designation of historic resources and the rehabilitation or reconstruction of historic structures. The historic development pattern on Captiva is comprised of low-density residential dwelling units, as defined in Chapter 10 of the Land Development Code, minor commercial development and South Seas Island Resort.

POLICY 13.2.5: Lot Size Per Unit. Development Orders or Development Permits that would result in a reduction of the minimum lot size per unit permitted on a parcel under the parcel's current zoning category or under any other zoning category that would result in a reduction of the minimum lot size per unit on that parcel (as of [Effective Date of Ordinance]) are prohibited.

POLICY 13.2.6: Variances and Deviations. Variances and/or deviations from the current development standards will not be permitted unless they meet all of the specific requirements for variances and deviations set forth in the Land Development Code.

POLICY 13.2.7: Alternative Transportation. Support integration of pedestrian and bicycle facilities into the transportation network to make Captiva safer for pedestrians, golf carts and bicyclists and to reduce automobile dependence and the need for increased parking facilities.

POLICY 13.2.8: Underground Utilities. Support efforts to investigate the relocation of utilities underground.

POLICY 13.2.9: Dark Skies. Limit light pollution and light trespass on Captiva in order to protect wildlife from any detrimental effects and for the benefit of Captiva residents and visitors.

OBJECTIVE 13.3: NATIVE VEGETATION AND TREE CANOPY. To enforce and strengthen existing vegetation ordinances intended to preserve, promote, and enhance the existing native vegetation and tree canopy on Captiva.

POLICY 13.3.1: Trees along Captiva Drive. Support efforts to restore the historic tree canopy and vegetative buffers along Captiva Drive between Blind Pass and the north end of Captiva Drive by promoting planting of indigenous, native or non-invasive trees, preferably those that require minimal irrigation once established.

POLICY 13.3.2: Invasive Vegetation and Nuisance Pests. Consider implementation of methods or programs, including education of individual property owners, to reduce the proliferation of invasive exotic vegetation and nuisance pests.

OBJECTIVE 13.4: Public Participation. Opportunities for public input will be provided during the comprehensive plan amendment and rezoning processes.

POLICY 13.4.1: Public Informational Meeting. The owner or agent applying for an amendment to Captiva community-specific provisions in the Lee Plan or Land Development Code must conduct one public informational meeting. The applicant is fully responsible for providing the meeting space, providing advance notice of the meeting, and providing security measures as needed. The meeting must be held within the community plan boundary. Advance notice of the meeting must be disseminated in a community-based media outlet, physically posted at the post office and provided in writing to citizen groups and civic associations within the community that are registered with Lee County for notification of pending Lee Plan or Land Development Code amendments. The notice must be available and posted at least one week prior the scheduled meeting date.

At the meeting, the agent will provide a general overview of the amendment for any interested citizens. Subsequent to this meeting, the applicant must provide county staff with a meeting summary document that contains the following information: the date, time, and

location of the meeting; a list of attendees; a summary of the concerns or issues that were raised at the meeting; and the applicant's response to any issues that were raised. This information must be submitted to the county before an application for a project can be found sufficient.

Zoning Public Informational Meetings: Zoning related public information meetings will be required as provided in Land Development Code.

POLICY 13.4.2: Online Database. Maintain an online database available to the public for their review containing comprehensive plan amendment and zoning case information specific to each community plan area.

Exhibit B

Clean Version of Proposed Goal 13

GOAL 13: CAPTIVA COMMUNITY PLAN. The goal of the Captiva Community Plan is to protect the coastal barrier island community's natural resources such as beaches, waterways, wildlife, vegetation, water quality, dark skies and history. This goal will be achieved through environmental protections and land use regulations that preserve shoreline and natural habitats, enhance water quality, encourage the use of native vegetation, maintain the mangrove fringe, limit noise, light, water, and air pollution, create mixed-use development of traditionally commercial properties, and enforce development standards that maintain one and two story building heights and the historic low-density residential development pattern of Captiva.

OBJECTIVE 13.1: PROTECTION OF NATURAL RESOURCES. To continue the long-term protection and enhancement of wetland habitats, water quality, native upland habitats (including rare and unique habitats), and beaches on Captiva.

POLICY 13.1.1 Mangrove Fringe. Consider development regulations that will provide additional protection to the shoreline, including mangrove fringe to the greatest extent possible.

POLICY 13.1.2: Blind Pass. Cooperate at the federal, state, regional and local levels, efforts to maintain Blind Pass as an open pass. Lee County recognizes the positive benefits of maintaining an open Blind Pass to the near-shore environment, marine ecology, back-bay water quality and boater access.

POLICY 13.1.3: Estuarine and Wetland Resources. Continue to support the protection of estuarine and wetland resources and wildlife habitat on Captiva.

POLICY 13.1.4: Beach and Shore Preservation. Continue to support the effort of the Captiva Erosion Prevention District, a beach and shore preservation authority under provisions of Chapter 161, Florida Statutes, to preserve, protect and maintain Captiva's beaches using environmentally responsible methods.

POLICY 13.1.5: Quality of Adjacent Waters. Continue to support efforts to investigate measures that may improve water quality in Pine Island Sound and the Gulf of Mexico. This may include a feasibility analysis of alternative wastewater collection and treatment systems to serve the Captiva community for a planning period of 30 years, including a central sewer system based upon current land use regulations. Should the feasibility analysis show that Captiva requires or is best served by an alternative wastewater collection and treatment system, Lee County will encourage efforts to size the system consistent with development permitted by the Lee Plan and the Land Development Code.

POLICY 13.1.6: Natural Upland Habitats. Continue to support the preservation of native upland vegetation and wildlife habitat on Captiva.

OBJECTIVE 13.2: PROTECTION OF COMMUNITY RESOURCES. To continue the long-term protection and enhancement of community facilities, existing land use patterns, unique neighborhood-style commercial activities, infrastructure capacity, and historically significant features on Captiva.

POLICY 13.2.1: Mixed Use Development. Mixed use developments as defined in the Lee Plan, and mixed use developments containing both commercial and residential uses within the same structure, are appropriate on Captiva properties that were zoned C-1 or CT as of Jan. 1, 2006. Such properties may be allowed residential units in addition to commercial uses at a density consistent with the Lee Plan. Such developments will only be permitted if approved as a Commercial or Mixed Use Planned Development

POLICY 13.2.2: Subdivision of Existing RSC-2 Parcels. Maintain existing development regulations that restrict the subdivision of parcels that are zoned RSC-2 (Captiva Estate) as of January 1, 2002 unless the resulting lots comply with the minimum lot size and dimensional requirements set forth in the Land Development Code for RSC-2 zoned lots in Captiva.

POLICY 13.2.3: Building Heights. Maintain building height regulations established as of [Effective Date of Ordinance] that account for barrier island conditions, such as mandatory flood elevation and mean-high sea level, for measuring height of buildings and structures.

POLICY 13.2.4: Historic Development Pattern. Limit development to that which is in keeping with the historic development pattern on Captiva including the designation of historic resources and the rehabilitation or reconstruction of historic structures. The historic development pattern on Captiva is comprised of low-density residential dwelling units, as defined in Chapter 10 of the Land Development Code, minor commercial development and South Seas Island Resort.

POLICY 13.2.5: Lot Size Per Unit. Development Orders or Development Permits that would result in a reduction of the minimum lot size per unit permitted on a parcel under the parcel's current zoning category or under any other zoning category that would result in a reduction of the minimum lot size per unit on that parcel (as of [Effective Date of Ordinance]) are prohibited.

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POLICY 13.2.7: Alternative Transportation. Support integration of pedestrian and bicycle facilities into the transportation network to make Captiva safer for pedestrians, golf carts and bicyclists and to reduce automobile dependence and the need for increased parking facilities.

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OBJECTIVE 13.3: NATIVE VEGETATION AND TREE CANOPY. To enforce and strengthen existing vegetation ordinances intended to preserve, promote, and enhance the existing native vegetation and tree canopy on Captiva.

POLICY 13.3.1: Trees along Captiva Drive. Support efforts to restore the historic tree canopy and vegetative buffers along Captiva Drive between Blind Pass and the north end of Captiva Drive by promoting planting of indigenous, native or non-invasive trees, preferably those that require minimal irrigation once established.

POLICY 13.3.2: Invasive Vegetation and Nuisance Pests. Consider implementation of methods or programs, including education of individual property owners, to reduce the proliferation of invasive exotic vegetation and nuisance pests.

OBJECTIVE 13.4: Public Participation. Opportunities for public input will be provided during the comprehensive plan amendment and rezoning processes.

POLICY 13.4.1: Public Informational Meeting. The owner or agent applying for an amendment to Captiva community-specific provisions in the Lee Plan or Land Development Code must conduct one public informational meeting. The applicant is fully responsible for providing the meeting space, providing advance notice of the meeting, and providing security measures as needed. The meeting must be held within the community plan boundary. Advance notice of the meeting must be disseminated in a community-based media outlet, physically posted at the post office and provided in writing to citizen groups and civic associations within the community that are registered with Lee County for notification of pending Lee Plan or Land Development Code amendments. The notice must be available and posted at least one week prior the scheduled meeting date.

At the meeting, the agent will provide a general overview of the amendment for any interested citizens. Subsequent to this meeting, the applicant must provide county staff with a meeting summary document that contains the following information: the date, time, and location of the meeting; a list of attendees; a summary of the concerns or issues that were raised at the meeting; and the applicant's response to any issues that were raised. This information must be submitted to the county before an application for a project can be found sufficient.

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Captiva: Goal 13 Amendment — Data & Analysis

Sept. 5, 2017

When work to amend the existing Goal 13: Captiva commenced in 2013, the Captiva Community Panel (“Panel”) and the Captiva community intended to update the Captiva Plan (“Plan”) first adopted in 2003 (with subsequent modifications in later years) to reflect both the changing needs of the community and the unwavering commitment to the community’s historic land use and development pattern. What the community and its Panel submitted to the County some three years later (in March 2016) was an exhaustively reviewed and revised amendment that resulted from the Panel’s numerous public workshops and discussions overseen by County staff and which firmly rested within the construct of the existing Lee Plan.

During the period between the Panel’s March 2016 submission and the date it was deemed complete by County staff in December 2016, the County’s vision of the Lee County Comprehensive Land Use Plan evolved significantly – with an important emphasis on streamlining community plan language for both internal consistency and user accessibility. The plan would focus more on broad land use policy (both countywide and in specific planning communities), shifting the implementation of policy to the Land Development Code (LDC) – with the expectation that regulatory review by both applicants and staff would more easily be addressed in the LDC.

This evolution in the County’s thinking developed while the Captiva Plan amendment was under review – compelling significant changes in both the existing Captiva Plan as well as in the proposed Captiva Plan amendment developed by the Panel and the community. County staff drafted the first revision of the Plan – re-ordering and restructuring the existing Plan while incorporating the substance of the Panel’s proposed amendment into the new structure of the Plan or shifting appropriate provisions into the LDC.

This first draft was provided to the Panel in late March 2017. The Panel reviewed the draft, held public meetings with the community on April 11 and May 9, 2017; offered a number of revisions and refinements to the County; and met with County staff on April 26 and June 22, 2017, in a successful effort to reach consensus. What resulted is the proposed Captiva Plan amendment (Goal 13: Captiva) below – a consensus document that reflects the vision and needs of the Captiva community within the planning framework favored by the Board of County Commissioners and the County staff.

This report will offer analysis and supporting data on the proposed policy changes and amendments within the Captiva/Lee County Comprehensive Land Use Plan, as well as an explanation of any changes related solely to the movement of provisions from the Plan to the LDC to ensure no gap in regulation during the Plan amendment process.

GOAL 13: CAPTIVA COMMUNITY PLAN. The goal of the Captiva Community Plan is to protect the coastal barrier island community's natural resources such as beaches, waterways, wildlife, vegetation, water quality, dark skies and history. This goal will be achieved through environmental protections and land use regulations that preserve shoreline and natural habitats, enhance water quality, encourage the use of native vegetation, maintain the mangrove fringe, limit noise, light, water, and air pollution, create mixed-use development of traditionally commercial properties, and enforce development standards that maintain one and two story building heights and the historic low-density residential development pattern of Captiva. To maintain and enhance the historic pattern of development on Captiva, consisting of unobtrusive, low density residential use in an environment characterized by diverse and healthy native vegetation, clean offshore water with diverse and healthy marine life, and limited commercial development and traffic. The purpose of this goal is to provide policies to confirm and reinforce that historic pattern. (Added by Ordinance No. 03-01)

This language better reflects the intent of the Captiva community and the County to address both the environmental and land use and development issues vital to the protection of a fragile barrier island as expressed by the community throughout the public input sessions associated with this amendment. This goal serves as a description of Captiva as it has historically developed and exists today – a pattern of land use and low-impact development within the island's long-time context of environmental protection that should be maintained and supported into the future.

OBJECTIVE 13.1: PROTECTION OF NATURAL RESOURCES. ~~Develop and maintain incentive and/or regulatory programs to ensure~~ To continue the long-term protection and enhancement of wetland habitats, water quality, ~~native natural~~ upland habitats (including rare and unique habitats), ~~and beaches~~ community facilities, existing land use patterns, infrastructure capacity, and ~~historically significant features~~ on Captiva Island. (Added by Ordinance No. 03-01)

As part of the realignment of Plan language, policies addressing natural resources have been separated from the other human-built items originally listed in this objective.

POLICY 13.1.12: Mangrove Fringe. Consider development regulations that will provide additional protection to the shoreline, including mangrove fringe. ~~Mangroves on Captiva will be protected to the greatest extent possible.~~ (Added by Ordinance No. 05-19)

On Captiva, shoreline management is assigned by Florida Legislature authority (F.S.161.32) to the Captiva Erosion Prevention District (CEPD), an independent special district whose focus is primarily on the sandy Gulf shoreline. The CEPD has an

exceptional and successful management plan to respond to both storm surge risk and sea level change. Management of the Captiva bayfront is more problematic, since regulation of that shoreline is spread among state and federal agencies with little local oversight. Lee County does not directly regulate the bay shoreline, particularly mangrove management, leaving that issue to the Florida Dept. of Environmental Protection (FDEP) and the U.S. Army Corps of Engineers (Corps).

The CEPD has an ongoing management plan (first adopted in 1998, online at <http://mycepd.com/pdfs/storm-response-plan.pdf>) for the sandy Gulf shoreline to mitigate for both storm surge/damage and sea level change. Development or redevelopment on the open water shoreline of Captiva is further regulated by both the state (FDEP has varying regulatory powers over development seaward of both the 1974 and 1991 Coastal Construction Control Lines to either limit impact or enhance storm survivability) and federal agencies (in particular, the Federal Emergency Management Agency [FEMA] which, via the National Flood Insurance Program, designates base flood elevation requirements for most coastal properties).

These state and federal regulatory initiatives, in combination with the higher overall elevation of the Gulf beach ridge adjacent to the sandy beach (the highest elevation on the island except for the Calusa mounds inside South Seas Island Resort, see maps in appendix), enhances the ability of the sandy shoreline to adjust to reasonable sea level change without a negative impact on the upland properties.

The same cannot be said about Captiva's bayfront shoreline. There, any encroachment by rising sea levels will either impinge on upland property or pose a challenge to existing bulkheads or seawalls designed for lower levels of water, potentially causing them to be overtopped or undercut in high wave situations such as storms. Also, on the sandy shoreline increasing the land elevation via mechanical means is more viable and affordable (see <http://asbpa.org/wpv2/wp-content/uploads/2016/04/Managing-Sea-Level-Rise-FINAL.pdf>).

See also:

[http://swfrpc.org/content/Natural Resources/Ecosystem Services/Lee County Climate Change Vulnerability Assessment.pdf](http://swfrpc.org/content/Natural%20Resources/Ecosystem%20Services/Lee%20County%20Climate%20Change%20Vulnerability%20Assessment.pdf) and
[http://swfrpc.org/content/Natural Resources/Ecosystem Services/Lee County Climate Change Resiliency Strategy.pdf](http://swfrpc.org/content/Natural%20Resources/Ecosystem%20Services/Lee%20County%20Climate%20Change%20Resiliency%20Strategy.pdf)

Options for protecting the bayfront shoreline include:

- Hard structures, such as seawalls or revetments
- Soft structures, such as mangroves, marshes and reefs
- Retreat, either away from the rising waters (if property size and development regulations allow) or away from the property altogether (abandonment).
- Restoration, placing sediment to elevate the shoreline in pace with sea level rise.

Retreat on the property is a lot-by-lot issue, while abandonment is fraught with costs and laws. Restoration, while a preferred solution on the Gulf shoreline, is harder to accomplish on the bay shoreline... primarily since Pine Island Sound is an aquatic

preserve (created in 1970) and the activities necessary for restoration would be highly regulated if even permitted at all (see http://publicfiles.dep.state.fl.us/CAMA/plans/aquatic/chap_management_plan.pdf).

Hard structures offer more immediate and immutable protection – good for its protective certainty if designed properly, bad for its inability to adapt to changing conditions and potential impact on adjacent properties. Hard structures are also prone to failure over time, often creating a worse problem than the original and certainly requiring more work and cost to repair. (See http://asbpa.org/wpv2/wp-content/uploads/2016/04/Reintroducing-Structures-for-Erosion-Control_FINAL.pdf.)

Soft structures – popularly called “living shorelines” – create a buffer between rising waters and the upland structures or infrastructure. In the short term, this buffer can offer protection from flooding or storm waves by absorbing much of the energy or ensuring a greater protective distance, particularly when done in conjunction with sufficient structural setback requirements from bay waters. For the longer term, these shorelines can evolve and adapt to higher water levels, either by adjusting to the rising tides or by “walking” landward as the water encroaches to maintain a sufficient buffer as originally designed. (See http://asbpa.org/wpv2/wp-content/uploads/2016/04/Resilience_White_Paper_Spring2014_82_2-4.pdf.)

Mangroves are recognized by most coastal experts and regulatory agencies as an excellent shoreline management option both for storm surge buffers and “living shorelines.” According to the NOAA National Ocean Service website: “Living shorelines use plants or other natural elements to stabilize estuarine coasts, bays, or tributaries.”

The island’s once-extensive and protective bayfront mangrove fringe has been reduced over the decades due to development and other land use changes, robbing bayfront properties of a natural and effective buffer from storm waves and tides, along with mangroves’ proven environmental benefit as an estuarine fishery and shore stabilization agent. Mangroves can also be incorporated as protection for existing hard structures, if such structures are still functioning as designed or by extending their likely functional life.

The County, the community and the Panel want to encourage protection of the existing shoreline by general regulation (“development regulations that will provide additional protection to the shoreline”) and more specific directive (“including the mangrove fringe, to the greatest extent possible,” which mirrors the existing policy language and is generally accepted as a barrier’s island first line of bayfront defense). While mangrove regulation is generally left to the state or federal agencies, county regulations can regulate adjacent development that will have a direct and indirect impact on mangrove survival and health. This language also allows for innovations in “living shorelines” or similar bayfront stabilization efforts to be included in future county regulations.

Similarly, by encouraging “development regulations that will provide additional protection to the shoreline,” this policy allows the county latitude to consider other regulatory action or land use changes that would further accommodate any changes in

sea level impacting the Captiva bayfront. Such regulations could be readily adopted into the LDC under this policy.

POLICY 13.1.2: Blind Pass. Cooperate at the federal, state, regional and local levels, efforts to maintain Blind Pass as an open pass. Lee County recognizes the positive due to its benefits of maintaining an open Blind Pass to the near-shore environment, marine ecology, and back-bay water quality and boater access.

When the original Plan language for Captiva was adopted, Blind Pass was a closed pass due to its lower hydrologic energy and silting from adjacent beaches. However, the resulting impact of that closure on bayside water quality and habitat (among other concerns) provided impetus for a joint Sanibel/Lee County/CEPD effort to reopen the pass by dredging, and a commitment to maintain an open pass both by ongoing dredging and better inlet management. The most recent dredge project was completed in June 2017, and an inlet management plan is now under formulation. The County, the community and the Panel believe that language supporting the open pass is integral to (and should be included in) the Plan because an open pass is vital to maintaining the water quality on the bayside of the island (both islands) and in Pine Island Sound.

POLICY 13.1.3: Estuarine and Wetland Resources. Continue to support the protection of estuarine and wetland resources and wildlife habitat on Captiva. Lee County will encourage and support efforts by Captivans to strengthen existing vegetation ordinances to establish a landscaping code for Captiva Island that will require all new development, including single family residences, to implement minimum landscaping requirements intended to preserve, promote, and enhance the existing native vegetation and tree canopy on the Island. New landscaping requirements will focus on areas including, but not limited to, buffering and separation between new structures and Captiva Drive, buffering between adjoining properties, preservation and enhancement of native plant communities including, but not limited to, beach dune community, tropical hardwood hammock, coastal scrub and mangroves. (Added by Ordinance No. 03-01)

Most of the original language has either been moved to Objective 13.3 or will be better reflected in the LDC.

POLICY 13.1.4: Beach and Shore Preservation. Lee County will continue Continue to support the effort of the Captiva Erosion Prevention District, a beach and shore preservation authority under provisions of Chapter 161, Florida Statutes, to preserve, protect and maintain Captiva's beaches using environmentally responsible methods. (Added by Ordinance No. 03-01)

Minor changes to the existing language for style. The purpose and value of the CEPD's efforts is covered in the analysis of Policy 13.1.1

POLICY 13.1.5: Quality of Adjacent Waters. ~~Lee County will encourage and support~~
~~Continue to support efforts by the Captiva community to investigate and recommend measures~~
~~that will may improve water quality in Pine Island Sound and the Gulf of Mexico. Such~~
~~measures may include sewers only if sized to limit development to that permitted by this plan.~~
This may include a feasibility analysis of alternative wastewater collection and treatment systems
to serve the Captiva community for a planning period of 30 years, including a central sewer
system based upon current land use regulations. Should the feasibility analysis show that Captiva
requires or is best served by an alternative wastewater collection and treatment system, Lee
County will encourage efforts to size the system consistent with development permitted by the
Lee Plan and the Land Development Code. (Added by Ordinance No. 03-01)

Of the island's approximately 1,100 parcels, just over 50% (565) are located within South Seas Island Resort and are served by the Florida Gulf Utility Authority (FGUA) wastewater treatment plant (WWTP). (Note: These numbers are parcels as identified by the Lee County Property Appraiser [LCPA]; there are considerably more units inside South Seas Island Resort due to hotel rooms and timeshare units which may be shown in LCPA records a single parcel for 50 or more units.) There are also three additional wastewater treatment package plants on the island – Sunset Captiva (60 Parcels), Captiva Shores (8 parcels) and Tween Waters (1 parcel). The balance of island properties (~466 parcels) is served by a variety of Onsite Treatment and Disposal Systems (OSTDS), ranging from state-of-the-art performance systems to 1960s-era septic systems.

NOTE: An exact count of total systems and their types is not compiled by the state Department of Health, which oversees OSTDS regulation in the county. A January 5, 2016, memo entitled "Captiva 2015 Wastewater Treatment Plant and Septic Records" from the City of Sanibel estimated "there are 171 known confirmed septic systems and an estimated 355 likely septic systems for a total of 526 estimated septic systems in the 33924 zip code." However, that includes Cayo Costa and Upper Captiva as well as Captiva Island excluding the area served by the FGUA WWTP.

With traditional septic systems, groundwater levels are a crucial factor for proper functioning and purification. Experts in septic systems state there should be at least 24 inches of unsaturated soil between the bottom of the typical OSDTS drainfield and the upper limit of the groundwater in order for the drainfield and ground to optimally filter and process bacteria in soil such as that found on Captiva. So-called performance systems, which release a cleaner effluent and operate with less of a drainfield or land, can operate with less groundwater clearance but require much more maintenance to operate optimally (and are regularly inspected by the state to monitor operations).

A number of studies on the interaction of sea level rise and groundwater levels have concluded that changes in the adjacent level of tidal waters over time will trigger a similar (or possibly greater) rise in groundwater levels, both through groundwater inundation (rising tidal levels pushing groundwater levels higher via intrusion) and increased groundwater recharge (should the forces triggering sea level change also trigger heavier or more frequent precipitation).

Any potential of rising groundwater levels as a result of sea level change would have a significant impact on the ability of these OSTDS systems to properly function, putting at risk perhaps a third of the island's properties, some of which are in the most densely populated areas of the island (the smaller platted lots of the Village, see map on page 22). A foreshadowing of these impacts can be seen during the summer rainy season, when heavy downpours can inundate existing drainfields and holding areas, creating environmental issues that are certainly challenging and potentially dangerous (in terms of bacteria concentrations from inadequately treated effluent) in the short term. (See <http://www.floridahealth.gov/environmental-health/onsite-sewage/forms-publications/documents/64e-6.pdf>.) Rising groundwater levels would further exacerbate these issues.

Given the cost, scope of work and inevitable community impact, transitioning these septic systems to a sanitary sewer service is unlikely in the short term. Therefore, maintaining the current density and intensity of use for those properties served by septic systems is prudent – even ones with sufficient land mass to handle expected wastewater loads, but subject to the same groundwater and flooding issues discussed above.

This policy also includes the following: “This may include a feasibility analysis of alternative wastewater collection and treatment systems to serve the Captiva community for a planning period of 30 years, including a central sewer system based upon current land use regulations.”

A Captiva Island Wastewater Alternative Study has recently (August 2017) been negotiated through Lee County Procurement. Given its proposed scope, this study will help further define these groundwater and OSDTS issues as well as potential solutions. It should be completed in 2018.

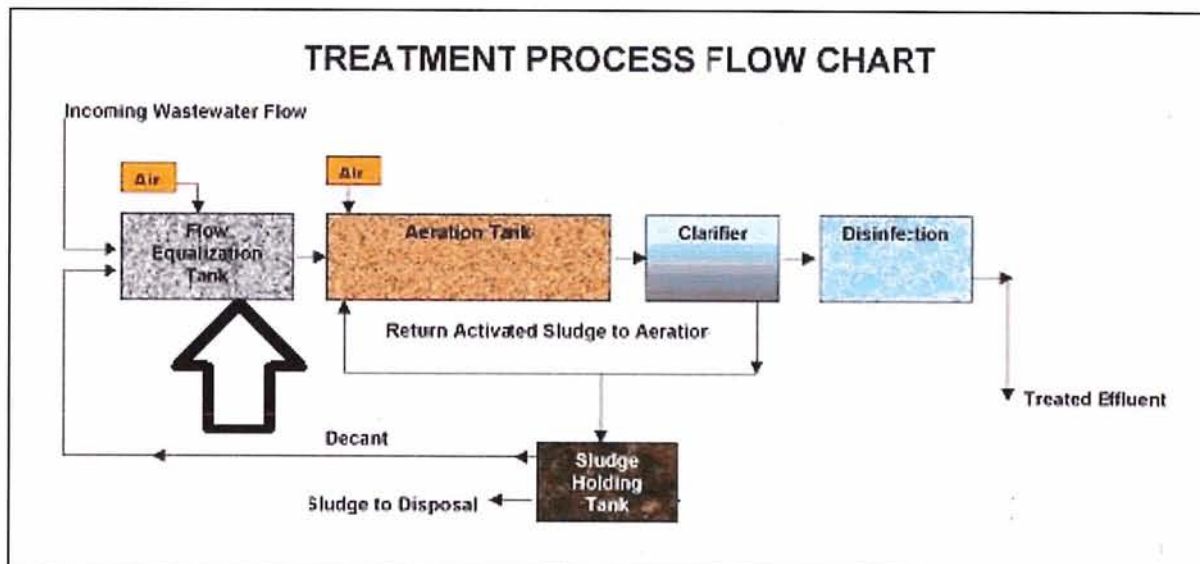
Capacity determinations for a WWTP are based on a number of factors (see <http://www.dep.state.fl.us/water/wastewater/docs/preliminary-design-report.pdf>). These include population, service area, land use projections, and forecasts of flow and wastewater conditions for current and future years.

In calculating capacity needs for the area of Captiva currently served by OSTDS units, the estimates for these factors would be reasonably reliable:

- **Population:** The county's projections for the Captiva Planning Community show a limited capacity for growth (58 out of a total 530, see <http://www.leegov.com/dcd/planning/districts/district?c=Captiva>).

- **Service area:** Given that the largest potential service area is bounded on three sides by water (Gulf of Mexico, Blind Pass and Pine Island Sound) and the fourth boundary is the area served by an existing WWTP, growth potential is physically constrained and virtually nonexistent.
- **Land use projections:** The majority of the service area is residential, with a limited number of commercially zoned lots. Similarly, density is likewise fixed by both FLUM and ordinance.
- **Forecasts:** A combination of industry-approved estimates for existing and already defined lots in the potential service area plus current statistics for the three smaller WWTPs in the potential service area (for wastewater produced), and historical records of the Island Water Association (for water consumed) should allow these to be both determinable and consistent.

The capacity calculation also requires estimation of average flow, maximum day flow, peak hourly flow and peak instantaneous flow. The reason for this range is clear if you consider how the typical WWTP operates:



<http://www.captivacommunitypanel.com/pdfs/Wastewater/120815ccpWASTE.pdf>

The key to effective WWTP processing is consistency – flattening out the processing demand to ensure a uniform amount of wastewater to treat by having capacity to hold wastewater both at the beginning of processing and at certain stages. This makes an accurate estimate of potential wastewater to be treated essential, to ensure there's enough capacity to maintain an efficient processing operation without investing in unneeded excess capacity that is not only a waste of money but could have a deleterious effect on the plant's operations.

Since the various factors that go into creating such an estimate for Captiva are consistent and somewhat fixed (meaning minimal likelihood of significant change), there would be no incentive to develop excess treatment capacity because there would be no likelihood of ever being able to utilize it.

(Other sources: <http://10statesstandards.com/wastewaterstandards.pdf>;
<http://www.dep.state.fl.us/water/wastewater/dom/docs/rec-standards-wwf-1997.pdf>;
<http://www.dep.state.fl.us/water/wastewater/docs/preliminary-design-report.pdf>;
<http://www.floridahealth.gov/environmental-health/onsite-sewage/forms-publications/documents/64e-6.pdf>.)

Since it was first adopted, the Plan has included language concerning a sanitary sewer system sized “consistent with development permitted by the Lee Plan and the Land Development Code.” This latest Plan iteration maintains this language for the following reasons:

- 1) Since Captiva is an unincorporated area, Lee County is the default government entity to represent the community in any utility discussions or negotiations with nearby wastewater treatment providers. Lee County Utilities is not the likely source of that service due to distance from existing facilities and the unavailability of any on-island land on which to develop a new facility. Any agreements with likely providers – e.g. the City of Sanibel or Florida Governmental Utility Authority (the two WWTP operators closest to the island) – would be handled by the county as the representing government. Therefore, it is important to provide guidance in a county planning document about the need to correlate future wastewater treatment services to the appropriate and limited development as discussed above.
- 2) Should centralized wastewater treatment be deemed appropriate at some future point, it would likely be governed and funded by a county-based and -administered Municipal Services Taxing (or Benefits) Unit, which requires approval by a majority of property owners in the area to be served by the MSTBU. Given the county’s role in creating and administering such a unit, it is important for both fiscal and planning purposes to include a policy expressing the relationship between wastewater treatment and current and future land use in this county planning document.
- 3) Any entity providing (new or existing) centralized wastewater treatment to the areas of the island now served by OSTDS units or small-scale package plants would be asked to construct a facility with a recommended capacity (as discussed above, with design allowances for seasonal fluctuations and other operating needs) directly related to the island’s expected development within the lifespan of the plant. Pragmatic financial concerns require such an approach since the cost to the community of developing and maintaining operating capacity should not be greater than the island’s planned and legally permitted needs. Moreover, the County and the community have an obligation to ensure that development on Captiva be governed by the approved Plan and FLUM, and not be driven by the potential capacity of a centralized wastewater treatment plant.
- 4) If the Wastewater Alternative Study determines there are viable alternatives for wastewater treatment that do not require a sanitary sewer system, the County will still play a lead role in assisting with exploring those alternatives, through a variety of avenues such as building regulations and development orders, coordination with state regulations should some exist that address these alternatives, or continued community outreach to implement alternatives via county resources and regulations.

NOTE: The impact of septic systems on water quality in the nearshore waters was discussed in research by the Sanibel-Captiva Conservation Foundation in a two-year study funded in part by the county Tourist Development Council. Since septic systems were not a direct focus of the study, the findings on direct impact were not conclusive. However, higher levels of nitrogen (a nutrient which can spark other issues in the nearshore when present in higher levels) were found in groundwater in the area of the island served by septic systems than was measured in the area serviced by a central wastewater treatment plant. Online resources for the study:

Full report:

[http://www.captivacommunitypanel.com/pdfs/FinalReport Captiva Water Quality Assessment Project SCCFMarine-Lab.pdf](http://www.captivacommunitypanel.com/pdfs/FinalReport%20Captiva%20Water%20Quality%20Assessment%20Project%20SCCFMarine-Lab.pdf)

Presentations:

<http://www.captivacommunitypanel.com/pdfs/030811sccfPresentation.pdf> and
<http://www.captivacommunitypanel.com/pdfs/041211sccfFinalPresentation.pdf>

Additionally, the adjacent island of Sanibel, an independent municipality since 1974, has made water quality a major focus of city activities almost since its inception. Given the similar geology and nearshore water conditions, much of research on nearshore water quality done by the city can be good background for impacts on Captiva. Online resources include:

Sanibel's water quality efforts: <http://www.mysanibel.com/Departments/Natural-Resources/Protecting-Our-Water-Quality/Sanibel-H2O-Matters>

Sanibel's nutrient reduction plan:

<http://www.mysanibel.com/content/download/20078/119087>

POLICY 13.1.6: Natural Upland Habitats. Continue to support the preservation of native upland vegetation and wildlife habitat on Captiva. The Captiva Island Community will establish a "document clearing house" on Captiva, where copies of selected zoning submittal documents, staff reports, Hearing Examiner recommendations and resolutions will be provided for public inspection. The County's failure to provide or to timely provide documents to the document clearing house, or failure of the document clearing house to receive documents, will not constitute a defect in notice or bar a public hearing from occurring as scheduled. (Added by Ordinance No. 03-01)

A number of the new policies proposed in the original March 2016 amendment dealt with the preservation of existing natural vegetation and habitat. This revision summarizes those draft policies and provides an overall policy that permits more specific regulations to be expressed in the LDC as necessary. Otherwise, most of the original language has been revised and moved to Policy 13.4.2.

~~**POLICY 13.1.7:** The owner or agent for any rezoning, variance, or special exception request within the Captiva Planning Community must conduct one public informational session on Captiva where the agent will provide a general overview of the project for any interested citizens. Lee County encourages zoning staff to participate in such public workshops. This meeting must be conducted before the application can be found sufficient. The applicant is fully responsible for providing the meeting space and providing security measures as needed. Subsequent to this meeting, the applicant must provide county staff with a meeting summary document that contains the following information: the date, time, and location of the meeting; a list of attendees; a summary of the concerns or issues that were raised at the meeting; and a proposal for how the applicant will respond to any issues that were raised. (Added by Ordinance No. 03-01)~~

This language has been revised and moved to Policy 13.4.1 as well as to the LDC.

~~**POLICY 13.1.8:** Lee County will encourage and support the solicitation of the widest possible range of public input for any future Lee Plan amendments that directly apply to Captiva or the policies adopted for Captiva under this section of the Lee Plan. To that end, Lee County is committed to provide continuing assistance to the Captiva Community as part of the Evaluation and Appraisal Report process as well as ongoing technical expertise related to the functioning of the adopted policies. (Added by Ordinance No. 03-01)~~

This language has been revised and moved to Objective 13.4.

~~**POLICY 13.1.9:** Lee County will encourage and support efforts by Captivans to develop and submit ordinances that will encourage the siting and building of structures consistent with the historical character of the island. (Added by Ordinance No. 03-01)~~

This language has been revised and moved to Policy 13.2.4.

~~**POLICY 13.1.10:** New requests for residential re-zoning that would increase density on said property above current zoning will not be permitted. (Added by Ordinance No. 05-19)~~

This language has been revised and moved to Policy 13.2.5.

~~**POLICY 13.1.11:** Variances should be limited to unique, specifically authorized circumstances and will be allowed only in situations where unnecessary hardship would otherwise occur; i.e., where all of the following are met: • Where the hardship cannot be corrected by other means allowed in the ordinances; • Where strict compliance of the regulations allows the property owner no reasonable use of the property; • Where the variance will not constitute a grant of special privilege inconsistent with the limitation upon uses of other properties located on the same street and within the same Future Land Use category, unless denial of the variance would allow no reasonable use of the property; • Where the applicant did not cause the need for the variance, and • Where the variance is not contrary to the spirit of the ordinance. (Added by Ordinance No. 05-19)~~

This language has been revised and moved to Policy 13.2.6., as well as the LDC.

~~**POLICY 13.1.13:** Within two years of the adoption of this policy Indigenous or Native trees will be replanted and maintained along Captiva Drive between Blind Pass and the north end of Captiva Drive. The replanting of trees within the Captiva Drive right-of-way is needed to replace the loss of tree canopy following Hurricane Charley. A comprehensive Captiva Drive landscape plan that addresses specific native tree species, tree placement, public safety, access and utilities to facilitate the restoration of tree canopy will be created. The comprehensive Captiva Drive landscape plan will identify funding sources for implementing the plan and will designate the entity or entities responsible for long term maintenance. (Added by Ordinance No. 05-19)~~

This language has been revised and moved to Policy 13.3.1., as well as the LDC.

~~**POLICY 13.1.14:** Notwithstanding anything pertaining to Captiva Community Plan Height Restriction Policy 13.1.2, due to the unique degree of public interest attached to it regarding emergency communications services, the existing telecommunications tower facility located in the maintenance and engineering area of South Seas Resort may be replaced in such area to a height not to exceed 170 feet, provided that said new facility makes space available to the county for adequate emergency communications service coverage for Captiva, as well as co-location within the capabilities of that tower for all wireless carriers desirous of serving Captiva. Destruction of mangroves will not be allowed in order to build or operate such a tower or related tower facilities. The telecommunication tower will be a monopole, unless public safety is compromised. (Added by Ordinance No. 05-19)~~

This language was included in the LDC previously, so there was no reason to include it here. The tower in question has been in place for years and is regulated by the LDC.

OBJECTIVE 13.2: PROTECTION OF COMMUNITY RESOURCES. To continue the long-term protection and enhancement of community facilities, existing land use patterns, unique neighborhood-style commercial activities, infrastructure capacity, and historically significant features on Captiva. ~~**MIXED USE DEVELOPMENT.** The Captiva community seeks to preserve the island's unique neighborhood-style commercial activities and to provide islanders with reasonable access to basic goods and services without having to leave the island. Toward that end, Lee County will encourage mixed use developments in specific and appropriate areas of the Captiva planning community through its regulations, policies and discretionary actions. (Added by Ordinance No. 07-09).~~

As mentioned above at Objective 13.1, in the realignment of Plan language, community resources – defined as facilities, land use patterns, unique features, etc. – were broken out into a new objective to reflect the policies that follow.

Two overall issues underlie a number of the policies under this objective:

Captiva as a designated Coastal High Hazard Area.

Florida Statutes (F.S. 163.3178) and the Lee Plan (Goal 105, Goal 110 and Policy 5.2.6) identify the need for additional regulation and requirements for Coastal High Hazard Areas (CHHA) such as Captiva. Specifically cited as issues of concern for CHHAs are evacuation times, building structural requirements, density increases and infrastructural capacity. These reflect a recognition of additional risk to life and property present in CCHAs, sufficient to warrant more stringent regulations for safety while protecting the property rights of owners.

The CHHA goal is to minimize or mitigate storm risk – particularly in areas seaward of the 1991 Coastal Construction Control Line which, on Captiva, is an issue from the southern S-curve northward through the near-Gulf homes in the Village and inside South Seas Island Resort, all areas with higher density and intensity than the estate-zoned homesites on the southern third of the island.

Risk reduction is typically accomplished (particularly in the Lee Plan) by controlling density and intensity on coastal properties, improving structural integrity to both wind and water damage, by not adding to existing evacuation pressures via controlling the number of people potentially at risk, and by sound shoreline management to lessen wave and surge damage when feasible.

In the Plan, proposed policies address three of the four CHHA concerns (structural integrity is the purview of other regulations outside the scope of this Plan).

■ **Density:** By limiting rezoning approvals to those which do not increase density and which conform to current zoning requirements (Policy 13.2.2, 13.2.3, 3.2.4 and 13.2.5). A related Plan goal is also to control intensity of use, by limiting variances and/or deviations from current development standards (Policy 13.2.6) and avoiding replacement of current residential structures with much larger structures able to house

considerably more people -- which is inconsistent with the goal of putting fewer people at risk to storms and coastal hazards.

NOTE: "Density" and "intensity" are used throughout the county Plan (and are defined in its glossary), with density speaking chiefly to the number of dwelling units per specific unit of land, and intensity addressing restrictions and regulations applicable to the development of land. On Captiva, often the issues of density and intensity converge because many of Captiva's residential properties have been designed for use as vacation rentals during times when the owner is not in residence (which can be a significant part of the year in some neighborhoods).

When the owner is in residence, these units function as single-family homes with the appropriate and expected traffic and parking needs, living patterns and solid waste/wastewater generation of a single family living in a home.

When being used as rentals, however, all of these residential attributes are more intensely used – as one would expect when they are used as housing as part of a vacation where more extended families or other groups gather in one place. Traffic may be higher due to more arrivals and departures, as well as when vacationers head off and return by car for the day's activities. Demand for parking spaces increase for the same reasons – more people, more traffic, more activity. The living patterns reflect larger groups and vacation times (more varied hours, more likelihood of late-night outdoor activities). And certainly the waste generated (solid or water) reflects the increase use by more people.

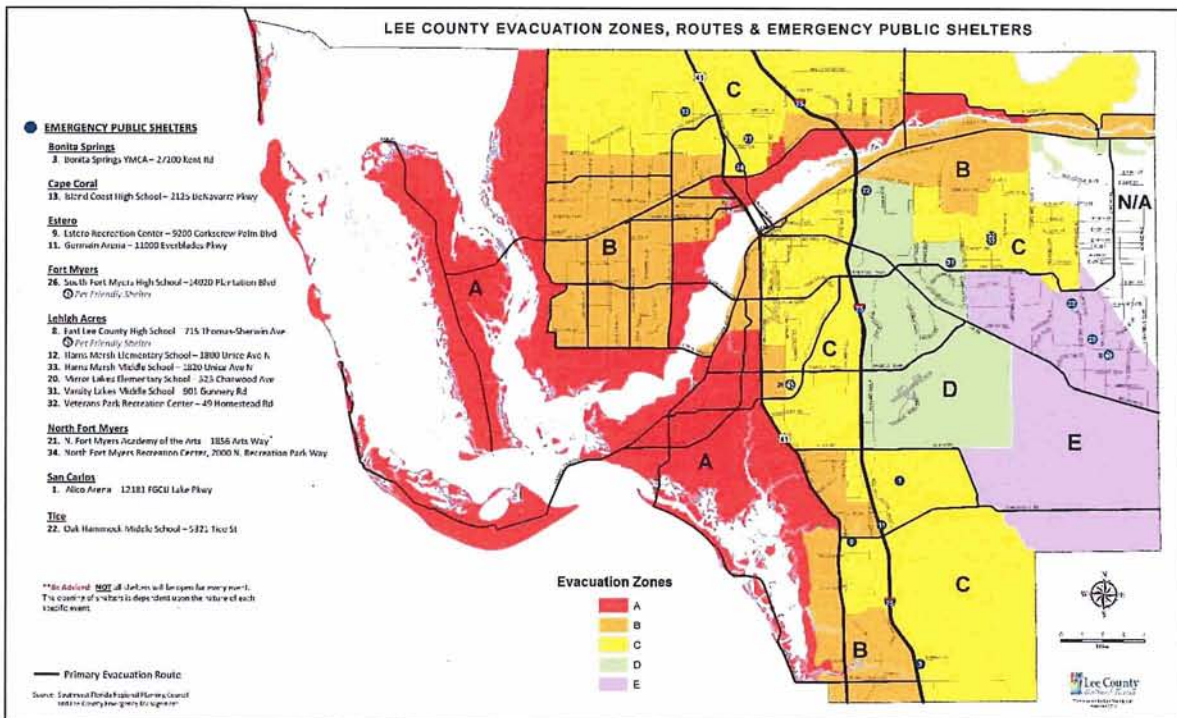
When a Captiva home is redeveloped with six to eight bedrooms and six to eight bathrooms (as is common on the island now), and is being rented to vacationers for a majority of the year, these properties are operating as *de facto* commercial entities, and are required to pay the appropriate taxes and frequently to hold the necessary licenses similar to other vacation rental enterprises in the community.

Therefore, many of the attributes cited by the Plan as an aspect of "intensity" – "use, size, impact, bulk, shape, height, coverage, sewage generation, water demand, traffic generation" – significantly increase in homes redeveloped into vacation rentals – even though they remain as a single dwelling unit and a residence to the property appraiser's records. Notably, they typically cannot avail themselves of homestead tax exemptions, as they are not principal residences or their owners are not Florida residents.

Since the intensity of use generated by a vacation rental – both in terms of numbers of people on site and their use of the property while on vacation as opposed to "normal" residential life – is more intense by the standards in the Plan definition, and because renting out one's home for a majority of the weeks or months of the year is essentially a commercial activity, "intensity" used in this discussion with the intent implied in the Plan definition but with the unique circumstances existing on Captiva in mind as well. (This is not unique solely to Captiva, but is a coastal community issue state- and nation-wide. It is cited here simply as a land-use component that should be recognized and addressed in county planning documents.)

Building height limits have a long historic precedent on the island: The earliest island height restriction can be found in Lee County Ordinance 71-01, enacted Jan. 6, 1971 (see appendix), and height restrictions have been in place on many of the county's barrier islands in one form or another for decades. The policy here maintains this historical limit without interruption in order to continue the island's history of low-rise and low-density development as stated in Goal 13.

■ **Evacuation:** Efforts to control density (as cited in Policy 105.1.2 and Objective 109.1) also can keep storm evacuation times from becoming longer – a critical issue on an island in the Zone A evacuation area with the longest evacuation times to shelter in the county. South Fort Myers High school is the closest public shelter to the island, which is 29 miles from the South Seas gatehouse (see below; distance calculated using Google Maps).



Evacuation times for the island are further complicated since any evacuation must use a single route – Captiva Drive off the island – and a single exit point – the Sanibel Causeway, through the limited road system of Sanibel Island – which must also accommodate the evacuation of Sanibel Island residents and visitors at the same time. (See also SWFRPC Evacuation Study, http://www.swfrpc.org/evac_study.html).

In fact, Captiva is listed in the Sanibel evacuation zones as the first (highest number) zone to be evacuated (see <http://www.mysanibel.com/content/download/15636/91625>). Further, re-entry to the island is controlled by the City of Sanibel, which manages the Hurricane Re-entry Pass system for both islands.

Similarly, Captiva is listed by the county in Zone A for evacuation, the first zone to be notified and the one most impacted by any tropical storm event. County guidelines on evacuation clearance times list 153,117 residents in Zone A with an evacuation time of 10-10.5 hours. (See <http://www.leegov.com/publicsafety/Documents/Emergency%20Management/EvacuationClearanceTimes.pdf>.) However, should a major storm approach and additional zones need to be evacuated, the clearance times rise accordingly – with the Zone E (final zone) clearance time estimated at 35.5-40 hours. Therefore, efforts to expedite island evacuation clearance times are crucial for public safety should a significant storm event be approaching.

As stated above, the main evacuation route off the island is a constrained roadway, leading to another island with a limited (albeit somewhat more efficient) road system eventually leading to a single two-lane causeway to the mainland and (eventually) higher ground. The Sanibel Causeway operates near its design capacity at its highest hour counts (1,041 out of 1,050, according to the 2016 county concurrency report), so even making it a one-way off-island roadway could still create capacity constraints depending on how many vehicles are attempting to evacuate at peak times... particularly since there are wind-speed issues for the highest causeway bridge that could force it to close to traffic once a trigger wind speed is reached, as well as low-lying causeway islands susceptible to overwash as tides and waves rise ahead of any storm. (Once evacuees exit the causeway, the evacuation routes they must traverse remain in the A zone until motorists reach U.S. 41.)

Another issue of moving extraordinary numbers of vehicles on constrained or limited roadways is the higher probability for problems. Any traffic incident interrupts the flow of traffic and will slow the overall evacuation... and on narrow roadways with minimal shoulder area, one vehicle breaking down could slow down the entire evacuation process for hours until it can be cleared and a “normal” flow restored. (See <https://ops.fhwa.dot.gov/publications/fhwahop16060/ch4.htm> and http://uknowledge.uky.edu/cgi/viewcontent.cgi?article=1817&context=ktc_researchreports.)

For an overview of right-of-way on Captiva Drive, see http://www.leegov.com/_layouts/15/kwiktagsearch/kdoc.aspx?profile=&tag=981391018&filename=981391018&ext=pdf&prime=X7Bct6jRIqdaNUk44%2FScMeSv6xWTy0LVitWVJ0c7Y86Ou1GLEyBxvA%3D%3D and http://www.leegov.com/_layouts/15/kwiktagsearch/kdoc.aspx?profile=&tag=981379006&filename=981379006&ext=pdf&prime=X7Bct6jRIqdaNUk44%2FScMeSv6xWTy0LVitWVJ0c7Y86Ou1GLEyBxvA%3D%3D.

Note that the right-of-way for Captiva Drive never exceeds 50 feet, and narrows to 25 feet in certain portions. The design width of the roadway is 10-11 feet (which is within the Green Book guidelines (see <http://www.fdot.gov/roadway/floridagreenbook/2016-DRAFT-FGB.pdf>) but the maximum shoulder width (which is not consistent in many sections of the roadway) barely meets the two-foot standard for a rural highway with the lowest traffic count.

This means that any vehicular breakdown has very little room to be moved to the shoulder in order to clear any resulting traffic backup. The very limited clear zone along much of Captiva Drive, combined with the heavy vegetation planted on the adjacent private property, makes moving a disabled vehicle off the roadway more difficult, with consequent traffic tie-ups slower to clear. This problem worsens in the case of an evacuation (when drivers may not always be at their best or most calm) – even if that evacuation is being conducted in reasonably good weather, which should be the case to accommodate the island’s early evacuation status.

Reasonable limits on the number of residents and visitors who need to evacuate from the island is vital for public safety. The fact that many residents are not on island during the peak storm months was meaningful years ago. However, the increase in island homes being used as off-season (summer) rentals, and the increased popularity of Captiva as an off-season (summer) vacation destination (wastewater treatment patterns and resort occupancy show the peak storm months of July and August as high occupancy months for the island), warrants the county’s steps to control the density and intensity of use for island properties to that which currently exists.

Developing an accurate figure for the number of vacationers on-island during peak hurricane season is difficult, since such site-specific counts is not provided by the usual official sources. However, there is statistical support for the assertion that summer occupancy on Captiva is strong (see appendix for supporting carts):

- **FGUA statistics:** Flow numbers (Monthly Average Daily Flows [MADF] and Three Month Average Daily Flows [TMADF]) chart summertime increases. Some of that may be driven by stormwater increases, given that the flows are much higher than in peak season.
- **Lee VCB statistics:** Average occupancy and rates (by season) track both the expected rise and fall by tourist season and the overall increase over the past few years. Breaking out hotel/motel vs. condo/home, the average summer occupancy of condo/home has grown less quickly than hotel/motel, but the average rates for condo/home is consistently higher.
- **Lee bed tax collections:** Collections have risen since 2010 for the summer months (although not as high as the peak tourist months). It is likely that the higher rates help overcome the occupancy drop.
- **Sanibel Causeway traffic:** Counts for the summer months are higher overall comparing 2008 (the last peak) vs. 2016 (last year with complete summer counts). The percentage of growth for summer months during this period was about 20% -- to be expected in months with smaller overall counts.

While overall occupancy on island over the summer months may be lower than in peak season, it is still growing over time and is composed of more non-resident occupants (since most residents being part-time stay in their homes in the winter and turn them over to rental agencies to lease in the spring/summer/fall.

POLICY 13.2.1: Mixed Use Development. Mixed use developments as defined in the Lee Plan, and mixed use developments containing both commercial and residential uses within the same structure, are appropriate ~~strongly encouraged~~ on Captiva properties that were zoned C-1 or CT as of Jan. 1, 2006. Such properties may be allowed ~~one~~ residential units in addition to commercial uses at a density consistent with the Lee Plan. Such developments will only be permitted if approved as a Commercial or Mixed Use Planned Development. (Added by Ordinance No. 07-09)

This policy, revised from the existing language approved in 2007, is driven by the community desire to maintain the island's limited commercial core – primarily Captiva Drive from the northern S curve to South Seas Island Resort, and Andy Rosse Lane. The mixed use designation allows both a commercial and residential use to co-exist on the commercial property, typically an apartment for the business owner or employee(s) to live on-site. This both lessens traffic (eliminating commutes), enhances security (an on-site presence outside of business hours) and provides incentive to maintain the commercial use (a reaction to a wave of redevelopment in the late 1990s and early 2000s when a number of island businesses were bought and converted to multiple high-end residences).

For background, an analysis from 2006 submitted with the original amendment is included in the appendix. In addition, in the last island-wide survey (2013), the community was asked: "Are you concerned about maintaining the commercial core of the island in the Village?" From the 202 responses:

- Yes, we need to keep essential businesses in the Village – 57.9%
- Yes, but the commercial core will survive without regulatory intervention – 32.2%
- No, there are too many businesses there now – 5.4%
- Not sure, need more information – 3.0%

The follow-up question was: "Which of the following statements do you agree with? (Check all that apply)." From the 202 responses:

- I like the current mix of commercial and residential uses in the Village – 68.3%
- I think there should be more businesses and fewer residences in the Village – 12.9%
- I think there should be more residences and fewer businesses in the Village – 5.4%
- There needs to be more of a buffer between businesses and residences in the Village – 12.4%
- The Village needs more parking to make it easier to drive there – 21.8%
- The Village needs less parking to encourage people to walk or bike – 16.8%

POLICY 13.2.24.1: Subdivision of Existing RSC-2 Parcels. Maintain existing development regulations that prohibit the ~~No~~ subdivisions of parcels that are ~~were~~ zoned RSC-2 (Captiva

Estate) on as of January 1, 2002, regardless of their zoning at any time thereafter, may be permitted unless all of the resulting lots comply with all of the minimum lot size and dimensional requirements in set forth in the Land Development Code for the RSC-2 district zoned lots in Captiva. (Added by Ordinance No. 03-01)

The RSC-2 zoning category is unique to Captiva, crafted to preserve the estate lots which were created to allow for larger parcels able to house three distinct dwelling units – originally described as a main house, a guest house and servants' quarters, but which have changed to reflect more realistic current use. The community's goal is to allow these unique properties to continue to exist without threat of being broken into smaller parcels that would result in more intense development – unless that subdivision of land results in lots which would still meet the RSC-2 minimum land development standards.

This zoning was created in 1993 (see: <https://www.leegov.com/bocc/Ordinances/93-24.pdf>), converting RS-2 (which was originally EU-1 in the initial adoption in 1970 (see: <https://www.leegov.com/bocc/Ordinances/82-44.pdf> and <https://www.leegov.com/bocc/Ordinances/78-07.pdf> and <http://www.leegov.com/bocc/Ordinances/86-17.pdf#search=Resolution%20No%2E%202%2D70%2D78>). As is reflected in these ordinances, the intent was to preserve existing estate-sized lots on the island prior to the 1970 zoning resolution 2-70-78.

Language concerning the RSC-2 zoning has been included in the Lee Plan since 2003, with the stated intent to both memorialize the zoning requirements and ensure that existing parcels with this zoning could not be subdivided unless the zoning lot size and dimensional requirements are present in any subdivided lots. This both preserves the historic estate lots and avoids any rezoning which would introduce smaller lot sizes amidst the acre-plus RSC-2 lots.

POLICY 13.2.3: Building Heights. Maintain building height regulations established as of [Effective Date of Ordinance] that account for barrier island conditions, such as mandatory flood elevation and mean-high sea level, for measuring height of buildings and structures.

As stated above, building height restrictions have existed on Captiva (and other county barrier island) since the early 1970s (see appendix), as a means to control the intensity of development in a Coastal High Hazard Area as well as the three units per acre restriction stated in both county ordinance (#82-44, which also includes building height restrictions) and the Future Land Use Map.

In 2013, building height regulations were amended to better accommodate changes in base flood elevations for island structures – minimum elevations for the lowest horizontal structural member as established by the federal government (usually, the

Federal Emergency Management Agency [FEMA] as part of the county's participation in the National Flood Insurance Program).

For this Plan update, the specific height regulations were relocated to the LDC for regulatory clarity. However, to support these LDC regulations which were developed during the extensive community planning process previously, the County and the community developed this language to include a date-certain benchmark.

POLICY 13.2.4: Historic Development Pattern. Limit development to that which is in keeping with the historic development pattern on Captiva including the designation of historic resources and the rehabilitation or reconstruction of historic structures. The historic development pattern on Captiva is comprised of low-density residential dwelling units, as defined in Chapter 10 of the Land Development Code, minor commercial development and South Seas Island Resort.

This is a continuation of former Policy 13.1.9, working to preserve historic structures and the historic development pattern and compatible redevelopment. This can range from the estate properties (addressed above) and the more intensely developed Village area (discussed next); existing commercial activities which have been in place for decades – as far back as 1931 in the case of Tween Waters Inn, perhaps as long for the Mucky Duck property and Island Store; and to acknowledge the unique development known as South Seas Island Resort, a blend of hotel, commercial and residential uses delineated in a separate 2002 Administrative Interpretation with the county. As is reflected throughout this text, the Captiva community's goal is to preserve and protect the unique aspects of Captiva – natural, historical and human-made.

POLICY 13.2.5: Lot Size Per Unit. Development Orders or Development Permits that would result in a reduction of the minimum lot size per unit permitted on a parcel under the parcel's current zoning category or under any other zoning category that would result in a reduction of the minimum lot size per unit on that parcel as of [Effective Date of Ordinance] are prohibited.

This amends former Policy 13.1.10, which addressed density tied to current zoning. This amendment recognizes that while density is generally tied to the Future Land Use Map (FLUM) – on Captiva the FLUM designation is predominantly Outlying Suburban at 3 units per acre (see map) – zoning also influences development density and intensity by the restrictions it places on a lot under that zoning, in particular, lot size, setbacks and use.

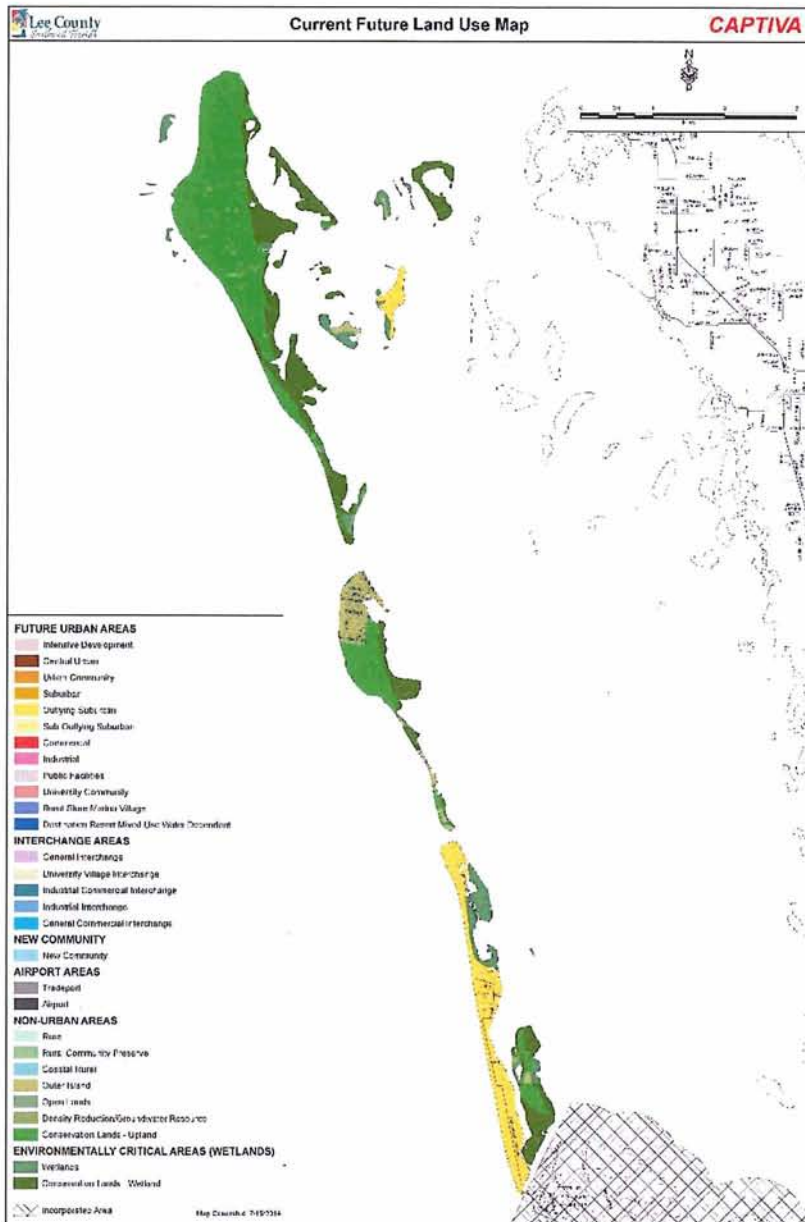


Figure 1. Captiva Future Land Use Map

Consider the Village area of the island (the northern and southern boundaries are noted by the blue line:

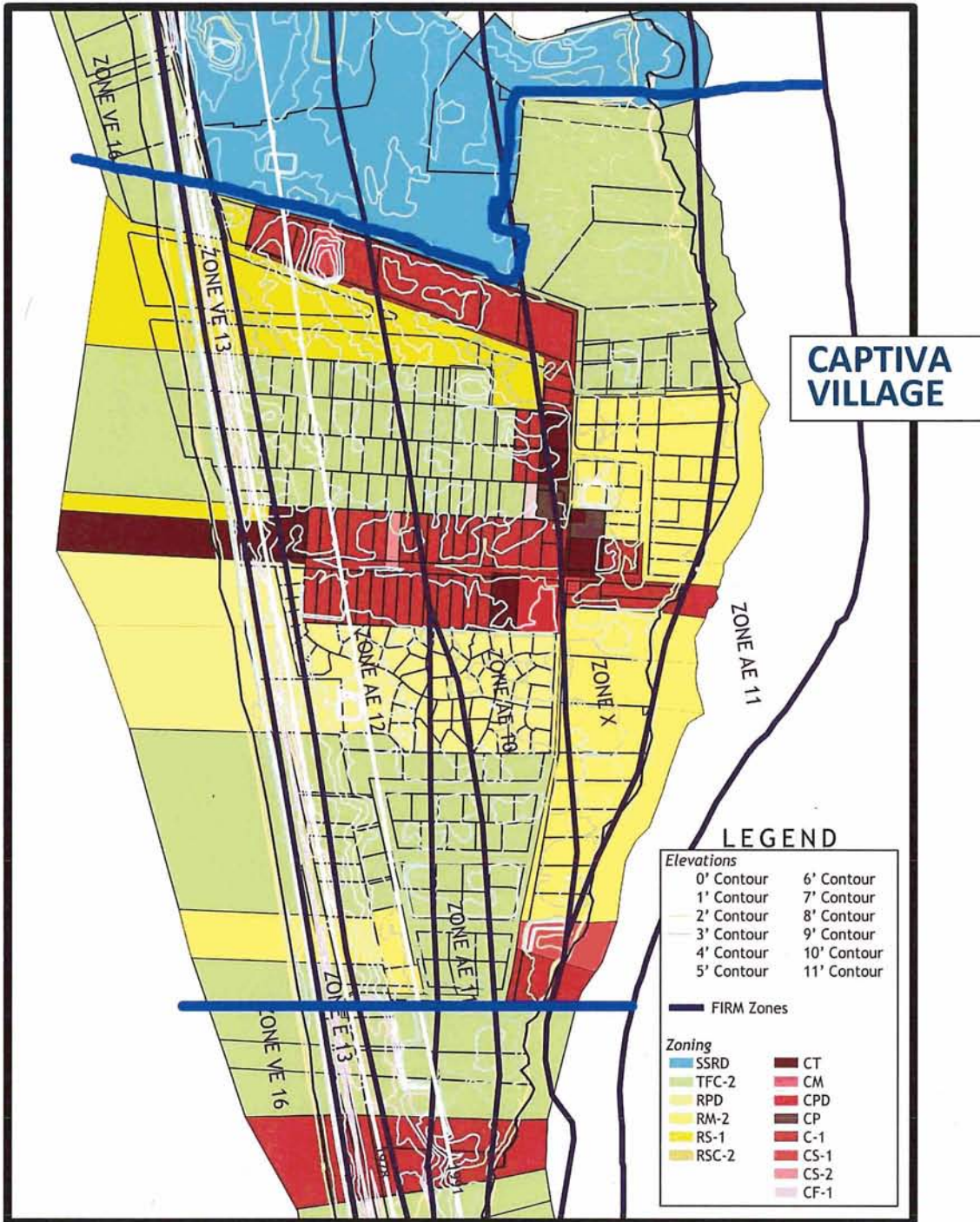


Figure 2. Captiva Village zoning and base flood elevation map. Original art prepared by Morris-Depew Associates

Contained within this under-one-mile stretch of island are 10 different zoning categories and an array of lot sizes, ranging from the ancient platted lots (both commercial and residential), more current residential and commercial planned developments, single- and multi-family designations and at least four commercial designations.

However, current zoning categories coupled with the other existing restrictions on these lots – such as county building height restrictions, federal base flood elevations, state coastal setbacks and more – have historically regulated density and have prohibited redevelopment inconsistent with the needs of a barrier island.

To ensure that current uses are fully protected and future uses (via redevelopment) respect the density permitted by current zoning, this policy ensures that current allowable lot sizes will be maintained, but that requests to reduce minimum lot sizes beyond that permitted by current zoning would be prohibited. The goal is not development uniformity, but certainty – what is permitted now will continue to be permitted.

POLICY 13.2.6: Variances and Deviations. Variances and/or deviations from the current development standards will not be permitted unless they meet all of the specific requirements for variances and deviations set forth in the Land Development Code.

While the general and important policy remains in the plan as in the past, the specific variance requirements for Captiva that are currently delineated in both Policy 13.1.11 and Section 33-1615 of the LDC are being placed solely in the LDC for better accessibility and consistency by users.

The LDC language (currently under review prior to adoption) is:

Sec. 33-1615. – Deviations and variances.

(b) Variances and deviations will only be permitted if all of the findings required by section 34-145 and all of the specific findings below are met:

(1) The hardship cannot be corrected by other means allowed in the code;

(2) Strict compliance of the regulations allows the property owner no reasonable use of the property, building or structure;

(3) The variance or deviation will not constitute a grant of special privilege inconsistent with the limitation upon uses of other properties located on the same street and within the same Future Land Use category, unless denial of the variance or deviation would allow no reasonable use of the property, building or structure;

(4) The applicant did not cause the need for the variance or deviation;

(5) The variance or deviation to be granted is the minimum variance or deviation that will make possible the reasonable use of the property, building or structure; and

(6) The variance or deviation is not specifically prohibited in this article and not otherwise contrary to the spirit of the ordinance.

This policy continues the variance requirements established in the Plan in 2005. At that time, the supporting analysis concluded: “This policy reflects the community’s desires

for enhanced and specific protection from unwarranted variances by setting achievable criteria for applicants that still offer relief instead of outright prohibition.” That statement stands true today.

POLICY 13.2.7: Alternative Transportation. Support integration of pedestrian and bicycle facilities into the transportation network to make Captiva safer for pedestrians, golf carts and bicyclists and to reduce automobile dependence and the need for increased parking facilities.

Captiva Drive, the sole access point for the island and the main traffic artery, has been deemed a “constrained” road by Lee County for “right of way, scenic, aesthetic, (and) environmental” conditions. As outlined in Objective 37.2: “Reduced peak hour levels of service will be accepted on those constrained roads as a trade-off for the preservation of the scenic, historic, environmental, and aesthetic character of the community.”

In the 2016 Concurrency Report, the county reported Captiva Drive with a volume-to-capacity (v/c) ratio of 0.31, far below the 1.85 trigger point for regulatory action (permit denial). To maintain a Level of Service grade of E (defined as a road capacity of 860 at highest hour), constraints would not be triggered until the highest hour volume was approaching 1,600 – well below the stated 2015 capacity of 267. But capacity is not the only measure of a constrained road... the limited space and subsequently inability to allow adjustments and clear obstacles in even the most minor of accidents or disruption is a critical factor. With constrained traffic lanes and often no shoulder space to speak of, any impediment – accident, downed power line or tree limb, even just a temporary crush of vehicles – will snarl a constrained road instantly due to the sheer lack of space.

Road right-of-way is extremely limited in certain sections of Captiva Drive; in the stretch from the northern S curve to the South Seas gatehouse, the road occupies essentially the entire right-of-way. This means the road is limited to the footprint it has now (with traffic lanes limited to 11 feet either side within a 25-foot right-of-way), and that there is essentially no shoulder space to deal with any breakdowns or other vehicle issues. It also means that any additional vehicles seeking to use that roadway increases the likelihood of traffic problems.

The seasonal nature of the island’s occupancy and the traffic issues that can already be found in season now underscore how any actions which could either eliminate vehicles (by encouraging bike and pedestrian traffic when feasible) or allowing smaller and slower vehicles (such as golf carts, which are already allowed by county ordinance [see: <https://www.leegov.com/bocc/Ordinances/09-22.pdf>] from the Jensen S-curve northward during both daylight and night) would benefit traffic safety and movement.

In addition, given the lack of space (both horizontal and vertical) to increase parking options and the cost of land to allow for any redevelopment to add parking, limiting large vehicles is prudent as there is no place to park them.

Given the concentration of hotel/motel and commercial (restaurant) uses on Captiva and its allure as a vacation destination, providing alternatives to motor vehicle use for routine trips by enhancing bike/pedestrian/golf cart usage should be an effective strategy to lessen traffic pressure on the island's constrained roads and limited parking.

POLICY 13.2.8: Underground Utilities. Support efforts to investigate the relocation of utilities underground.

Putting the island's utilities underground has been a topic of interest on the island over the past decade or more. Some utilities have already been buried:

- Most if not all of the phone lines on Captiva are underground.
- Most of the utilities inside South Seas Island Resort are underground – electric, phone and cable.
- Some areas elsewhere on the island have buried their utilities – Tween Waters Inn and the southernmost S-curve most noticeably.

Putting island utilities underground can be advantageous for a number of reasons:

- **Public safety:** Due to the limited right-of-way along Captiva Drive, utility poles are very close at times to the active roadway... not a good combination on a narrow and often visitor-filled roadway.
- **Storm recovery:** While this is still subject for debate, some claim that underground utilities systems may withstand storm damage and overwash better and can recover more quickly than traditional above-ground poles. Since underground systems are still reliant on above-ground feeds from off-island, the recovery may be more on-island focused, and the extent of damage or submersion also comes into play.
- **Reduction in routine outages:** An ongoing problem on Captiva thanks to the vulnerability of the power lines both on and leading to the island. Undergrounding studies have shown that routine outages are usually reduced, but that repairs when problems occur can take longer.
- **Aesthetics:** Eliminating the visual clutter of the existing poles and wires has value for many on a barrier island where clear views of the surrounding water and vegetation are prized.

The pros and cons of underground utilities have been studied in a number of communities statewide and nationwide. For a general overview of underground benefits and drawbacks, see:

<http://www.eei.org/issuesandpolicy/electricreliability/undergrounding/Documents/UndergroundReport.pdf>. For Florida-specific discussions, see:
<http://grouper.ieee.org/groups/td/dist/sd/doc/2007-02-Undergrounding-Assessment.pdf>

In light of public interest and the role the county would play in any undergrounding effort (which would be similar to the role detailed in the sanitary sewer section previously), including this policy in a planning document is appropriate.

POLICY 13.2.9: Dark Skies. Limit light pollution and light trespass on Captiva in order to protect wildlife from any detrimental effects and for the benefit of Captiva residents and visitors.

Thanks to Captiva's location as a barrier island some distance from adjacent land masses, and its historic low-rise and low-density development pattern, Captiva's night skies are relatively dark. In addition, due to the county ordinance on beachfront lighting during turtle nesting season, which is enforced by both volunteer patrols and sheriff's deputies, concern over light trespass on the island is acute already. Nevertheless, efforts to continue to control light pollution and trespass has been included with this policy to facilitate any future regulations in the LDC to minimize impacts on all the island species, human and otherwise.

In the 2013 Captiva Community Survey, when asked: "Do you believe the island needs lighting rules, such as those that exist on Sanibel, to encourage nesting sea turtles and help keep the night skies darker by limiting the brightness of nighttime lighting or encouraging the use of lighting fixtures which prevent light from going up into the sky?"

- Yes – 65.9%
- No – 18.3
- Need more information – 14.4%

OBJECTIVE 13.3: NATIVE VEGETATION AND TREE CANOPY. To enforce and strengthen existing vegetation ordinances intended to preserve, promote, and enhance the existing native vegetation and tree canopy on Captiva.

Abundant vegetation and a lush tree canopy have been hallmarks of the island for decades, valued for its environmental value, its unique ambience and its buffer for privacy, light and noise. The destruction to that vegetation and canopy wrought by Hurricane Charley in 2004 was a stark reminder of its value -- and the impact of its loss. The historic canopy over Captiva Drive cannot be replicated to a pre-Charley level, since the bulk of the trees were non-native Australian pines planted far closer to the roadway than current rules would allow. Nonetheless, this objective encourages planting to preserve that historic canopy and existing vegetation pattern whenever possible. In addition, encouraging the use of native plants increases chances of survival and decreases the need for water use to maintain such plants during the traditional winter dry season, as well as lessen fertilizer reliance – all goals supported elsewhere in county rules and regulations.

Currently, plant regulations are described in the LDC in Chapter 14, Articles IV, V and VI, as well as in Appendix H; these include species found on Captiva. The Panel intends to review and enhance those regulations as appropriate, as well as propose new rules based on island needs and concerns. This objective will allow the community to move forward with this work.

When asked in the 2013 Captiva Community Survey: “What should a landscaping plan for Captiva include?”

- Encouraging use of native or low-water species – 66.5%
- Using vegetation to enhance beach management – 64.4%
- Restoring the canopy along Captiva drive where possible – 58.5%
- Removal of non-native invasive species – 52.7%
- Creating a vegetative buffer between where possible – 38.3%
- Keeping low-rise vegetation to allow a Gulf view along the Tween Waters stretch of Captiva Drive – 45.2%

POLICY 13.3.1: Trees along Captiva Drive. Support efforts to restore the historic tree canopy and vegetative buffers along Captiva Drive between Blind Pass and the north end of Captiva Drive by promoting planting of indigenous, native or non-invasive trees, preferably those that require minimal irrigation once established.

As stated in the survey responses above, preserving the historic vegetation and canopy is a long-term community goal. Since opportunities to achieve that in the public right-of-way are very limited – due to a lack of space and an abundance of public uses such as transportation and utilities vying for that space – encouraging adjacent property owners to support these goals in their vegetation planning and maintenance is crucial. A preference for vegetation that will require “minimal irrigation once established” is only prudent in an area with finite potable water resources and limited groundwater supplies suitable for irrigation. Native vegetation historically thrives more easily in the island’s sandy soil and close proximity to salt water.

POLICY 13.3.2: Invasive Vegetation and Nuisance Pests. Consider implementation of methods or programs, including education of individual property owners, to reduce the proliferation of invasive exotic vegetation and nuisance pests.

While native vegetation is prized, non-native invasives are an islandwide concern (see survey responses above) – both for the lack of natural predators which could encourage infestation and for their frequent unsuitability for the prevalent natural conditions. Examples include:

- Invasive non-native plants which can crowd out existing vegetation and proliferate to an environmentally unhealthy level, creating monocultures in which some trees species resulting in unsafe conditions during typical natural occurrences, such as the windstorm vulnerability of Australian pines or the fire threat posed by melaleuca forests.
- Invasive non-native species can pose significant threats to native species both in nesting survival rates (sea turtles, for one, are a protected species highly vulnerable to nest predation) and in daily survival (the current increase on island in coyotes and iguanas or other large lizards is being reflected in damage to the small creature population and vegetation in general).

Once established, non-native invasives can be virtually impossible to eradicate, which makes education and control essential, as the community has learned from the testimony of wildlife ecologists and other environmental experts. This education is even more essential in an area when property owners may not have experience with the impact of non-native species in a subtropical environment. Captiva has become a somewhat more transient property ownership community in recent years; for properties showing a sale date (1,057 total on a 2016 Lee County Property Appraiser list), 450 properties (42.6%) were bought in the last decade and 675 (63.9%) have been bought since the beginning of 2000. While some of these may be existing owners who bought new properties, a majority are likely new residents to the island – making owner education crucial to the control of invasive non-native species.

OBJECTIVE 13.4: Public Participation. Opportunities for public input will be provided during the comprehensive plan amendment and rezoning processes.

One of the driving forces behind community planning in Lee County was the desire of unincorporated areas of the county with significant common goals or interests to have input in and some meaningful control of the land use and zoning issues governing their properties. As cited on the Lee County website:

“In 2001, recognizing the value of community input, Lee County Commissioners adopted procedures to encourage community planning aimed at specific neighborhood interests, including development of community character and protection of natural and economic resources particular to that community.”

This was particularly crucial when the Captiva Community Panel formed (in late 2000, formally designated by the county commission in 2002), when fewer community and planning resources were available online and the only recourse for public input was a trip to downtown Fort Myers for a public hearing or to meet with county staff or officials.

Even though online options for both information and input have dramatically increased, facilitating public input and knowledge in the planning process and on matters concerning land use and zoning remains the primary goal of the Captiva Community Panel and similar panels throughout the county.

POLICY 13.4.1: Public Informational Meeting. The owner or agent applying for an amendment to Captiva community-specific provisions in the Lee Plan or Land Development Code must conduct one public informational meeting. The applicant is fully responsible for providing the meeting space, providing advance notice of the meeting, and providing security measures as needed. The meeting must be held within the community plan boundary. Advance notice of the meeting must be disseminated in a community-based media outlet, physically posted at the post office and provided in writing to citizen groups and civic associations within the community that are registered with Lee County for notification of pending Lee Plan or Land Development Code amendments. The notice must be available and posted at least one week prior the scheduled meeting date.

At the meeting, the agent will provide a general overview of the amendment for any interested citizens. Subsequent to this meeting, the applicant must provide county staff with a meeting summary document that contains the following information: the date, time, and location of the meeting; a list of attendees; a summary of the concerns or issues that were raised at the meeting; and the applicant's response to any issues that were raised. This information must be submitted to the county before an application for a project can be found sufficient.

Zoning Public Informational Meetings: Zoning related public information meetings will be required as provided in Land Development Code.

Through an analysis of 2016 Lee County Property Appraiser (LCPA) records for Captiva, one can draw some conclusions about island property owners:

■ **Many are absentee owners:** Out of 1,147 total properties, only 126 (or 11%) had an active homestead exemption tied to the site – typically a sign of a primary residence, although some of the exempted properties may be owned by Florida residents who opted to apply their exemption to a Captiva property with the highest tax bill of the in-state sites they own. The overwhelming majority of Captiva properties are neither primary residences nor occupied by their owners a significant portion of the year, but they are the annual vacation destinations for the owners of those properties and are used for non-owner rentals during the year as a revenue source to offset the property costs.

■ **They are concerned about property use and value:** While many island properties are owner-occupied a limited time throughout the year, that doesn't mean they stand empty. The predominance of rental signs along Captiva Drive (reflecting the rental agencies that represent them for vacation rentals) and the traditional rental patterns in

South Seas Island Resort (where a majority of private homes are said by resort management to be in some form of third-party rental arrangement), suggest that large numbers of island property owners operate their homes as rental properties when not in residence – which makes them sensitive to land use, zoning and other regulations that could affect their properties for themselves and their renters.

While an accurate count of Captiva non-hotel rental units is not publically available, in the 2015 Lodging Product Study for the Lee County Visitors & Convention Bureau (see: <https://www.leevcb.com/media/1157/lee-county-lodging-product-study-2015.pdf>) TripAdvisor listed 140 vacation rental units on Captiva while VRBO listed 65. TripAdvisor covered reviews and rental opportunities, while VRBO was rental opportunities only. Lee County had 2,562 units in total (according to TripAdvisor), meaning Captiva may have 5.5% of the county total.

■ **They are concerned about maintaining Captiva as an environmentally attractive resource:** Island residents have long supported protecting and preserving Captiva's environmental assets, either through long-established groups such as the Sanibel-Captiva Conservation Foundation and the Captiva Civic Association (CCA) or through more recent efforts by the Panel and its past and present policies, community surveys (addressed elsewhere in this submission), water quality efforts (see: http://www.captivacommunitypanel.com/water_quality.htm) and revegetation efforts (including state grants) after Hurricane Charley.

As far as being a vacation destination, we can assume Captiva visitors follow the overall county trends (see: <https://www.leevcb.com/media/27125/2016-visitor-profile-and-occupancy-analysis.pdf>) where, of the top five influences for travel decisions, two – white sandy beaches (77%) and clean unspoiled environment (71%) – were environmental issues... all following behind “warm weather,” of course. This would make environment another key issue for those offering vacation rentals – especially on an island noted for its lush and protected environment.

■ **They are recent purchasers:** Looking at last purchase dates according to the LCPA database, 675 island parcels (or 63.9%) have been purchased during or since 2000. While some of these may be previous Captiva property owners moving up to a new island home, the majority of those likely are new-to-the-island purchasers.

■ **They comprise a high tax base and contribute a significant share of taxes:** The total assessed value of island properties in 2016 was \$1.37 billion. Land value was roughly equal to building value overall (land values = \$718,738,554 and building values = \$730,160,784, as one would expect on a high-value barrier island. In addition:

- In the 2015 Lodging Product Study for the Lee County Visitors & Convention Bureau (see: <https://www.leevcb.com/media/1157/lee-county-lodging-product-study-2015.pdf>), Captiva had the highest median home sale price (\$800,000 in 2014) for islands from Treasure Island/St. Pete Beach to Islamorada. Prices have continued upward since that survey.

- In the 2013 Captiva Community Survey, of the 200 respondents 24.5% (49) of them owned more than one property on the island – another sign of both investment in island properties and likely use of those properties as rental businesses.

These facts reflect a property owner population with a strong interest in regulation affecting its properties. They also reflect the strong support for island organizations including the Captiva Community Panel that monitor, interpret and initiate such regulations. (In the 2013 Captiva Community Survey, when asked if respondents were aware of the panel prior to receiving the survey, 55% said yes with the opinion of the Panel [scale of 1-10 with 10 the most positive] running around 7 or moderately positive.) The Panel maintains an email list of ~475 addresses it emails regularly; the CEPD and CCA also maintain email databases to reach constituents and members, respectively.

Online outreach, however, has not precluded on-island meetings. The Panel and CEPD meet monthly throughout the year, although the audience can be sparse over the summer. Nonetheless, face-to-face meetings are still the best way to explain complicated issues and to conduct an effective dialogue with the community. That was the premise behind the first policy (13.1.7) adopted in 2003 to require a public information meeting to be held on island for any “rezoning, variance or special exception request,” and constitutes the rationale for the revised language in Policy 13.4.1.

One essential difference in the proposed language is that hearings on amendments to the Plan or LDC are regulated differently from the more typical requests for reviewable actions under the LDC. This separation clarifies the regulatory process – requiring Plan and LDC amendments to be handled under the Plan while county approval related to LDC requirements are addressed in the LDC (where zoning inquiries and requirements are traditionally outlined). The LDC language on these matters, while being amended to conform to the Plan structure for such meetings, continues to specify the need for a public information meeting on island for “development orders; planned development zoning actions, including administrative deviations amending the approved master concept plan or other provisions of the applicable zoning resolution; special exception and variance requests; conventional rezoning actions; and administrative actions.”

Another revision in the proposed language is the method by which such public information meetings are noticed in the community. The existing language did not provide sufficient specificity on the notification process, and community input and feedback suggested that notification must be more effective without hindering the applicant’s ability to move forward in a timely manner. The consensus result was that notice “...must be disseminated in a community-based media outlet, physically posted at the post office and provided in writing to citizen groups and civic associations within the community that are registered with Lee County.”

Given the national – even international – range of island property owners and that many property owners are not on the island a significant part of the year, email outreach by

citizen groups and civic associations that have access to their email addresses would be one of the most effective ways to provide notice. Providing written notice to citizen groups and civic associations provides these organizations the opportunity to notify their members and constituents.

Print media, typically the bedrock of legal notification for government, is less effective on the island. The community is served by two Sanibel-based weekly newspapers, but neither offers paid circulation making it difficult to verify reach – particularly since, as free publications, many of their readers any given week may be visitors rather than residents. (The online publication, “Santiva Chronicle,” may have the most extensive Captiva coverage – and potentially reach – but verifying that is also difficult.)

The local daily newspaper, typically the go-to publication for legal notices, has minimal penetration with island residents, many of whom either read a national daily newspaper or get their news from other non-print sources. Probably the highest-read paid-circulation daily newspaper on the island could be the *New York Times* or *Wall Street Journal* – hardly a cost-effective vehicle to advertise public meetings.

To cover multiple options with the goal of ensuring reasonable notification to all of those who wish to monitor such information, the proposed language offers three options:

- A community-based media outlet, for those who do monitor the local papers or online publications.
- Physical posting in the island post office, which (since the island has no home mail delivery) is the best community gathering place... at least for people who receive mail there.
- The county-operated notification list for land use and zoning notifications, a proven route for notification already in place which would then trigger notification by citizen groups and civic association when and where appropriate.

The community believes this offers reasonable notification without undue burden on the applicant, and enhances the public information and input value that underlies community planning.

POLICY 13.4.2: Online Database. Maintain an online database available to the public for their review containing comprehensive plan amendment and zoning case information specific to each community plan area.

This is a revision of the existing Policy 13.1.6 which more accurately reflects the current and projected availability of online information through both the county website and the panel (or any subsequent planning organization) website. It is safe to assume online

access to information will expand in the future, so changes can be reflected in the LDC as needed under the aegis of this broader policy.

Appendix:

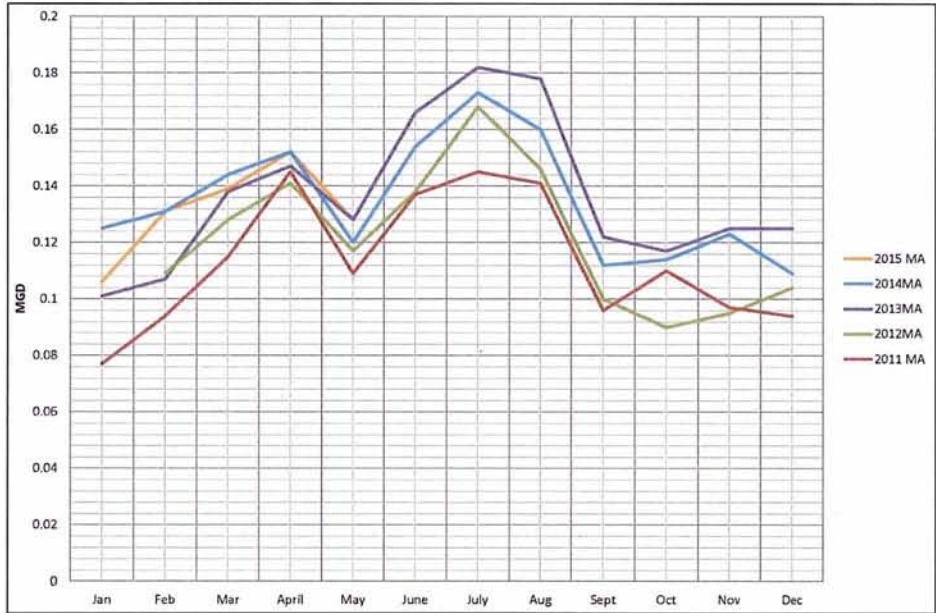
- A) Summer Occupancy Analysis
- B) Captiva Zoning and Base Flood Elevation Graphics
- C) Captiva Height History
- D) Mixed-Use Policy Analysis, March 2006 (submitted with the 2006 Lee Plan Amendment)
- E) Captiva Vision Statement

Summer occupancy analysis

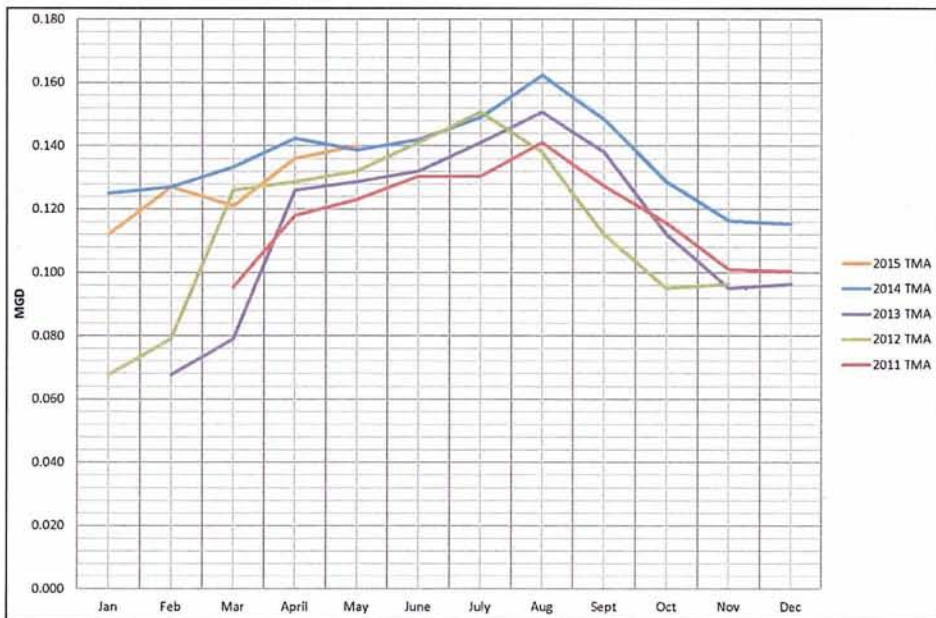
Prepared August 2017 for Captiva Community Panel

FGUA WWTP analysis

SOURCE: Florida Gulf Utility Authority Capacity Analysis Report, September 2016



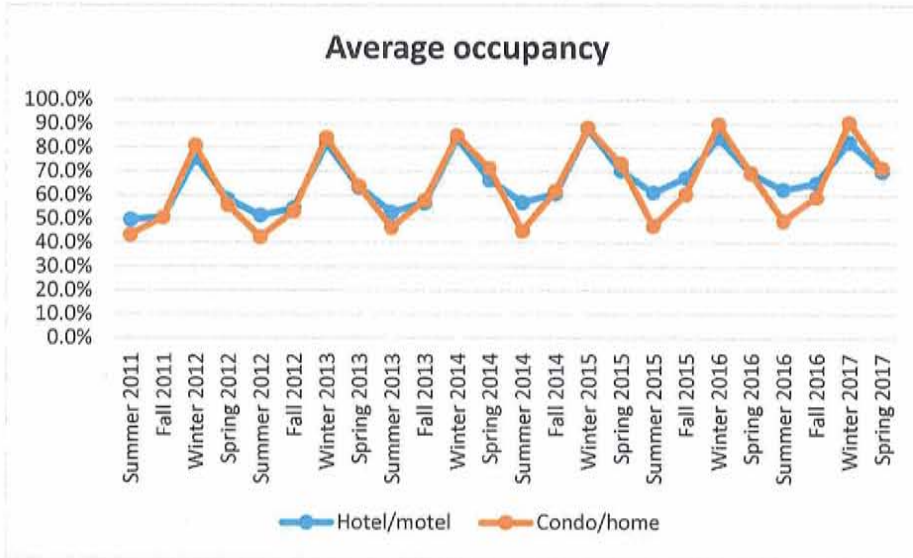
FGUA South Seas plant MADF – probably skewed due to stormwater processing being included.



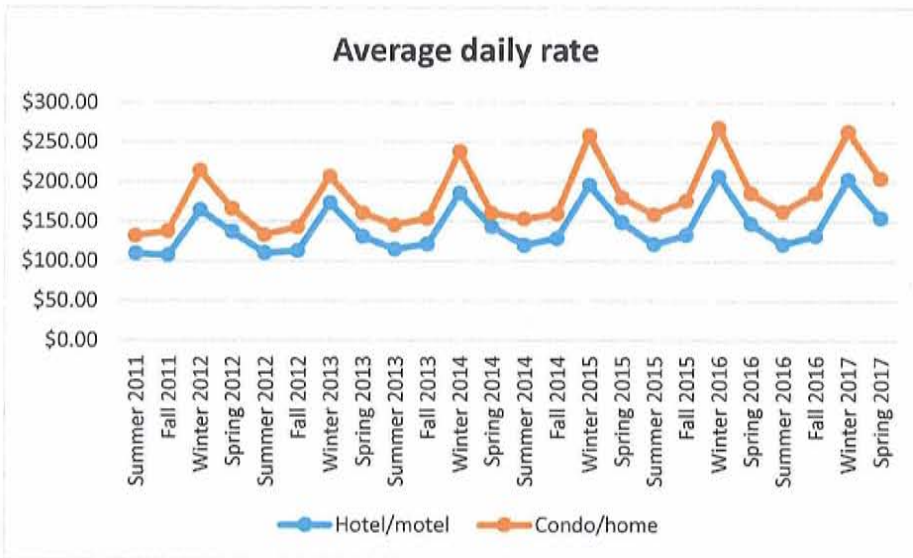
FGUA South Seas plant TMADF – probably skewed due to stormwater processing being included.

Lee County VCB analysis

SOURCE: Davidson Peterson Associates for Lee County Visitor & Convention Bureau



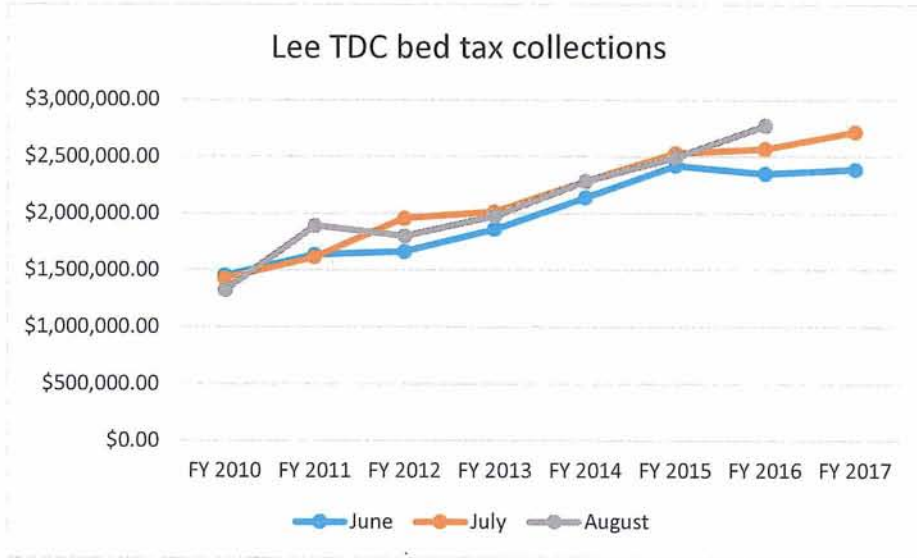
NOTE: Condo/home more variable... higher in season, lower in summer



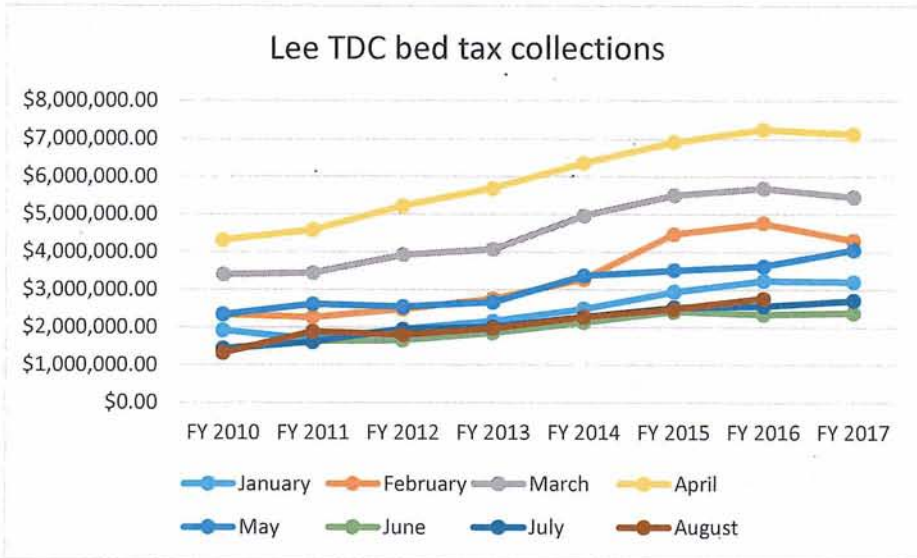
NOTE: Condo/hotel rates consistently higher than hotel/motel, to be expected due to SF/# of visitors

Lee County bed tax collections

SOURCE: Lee Clerk of Courts website



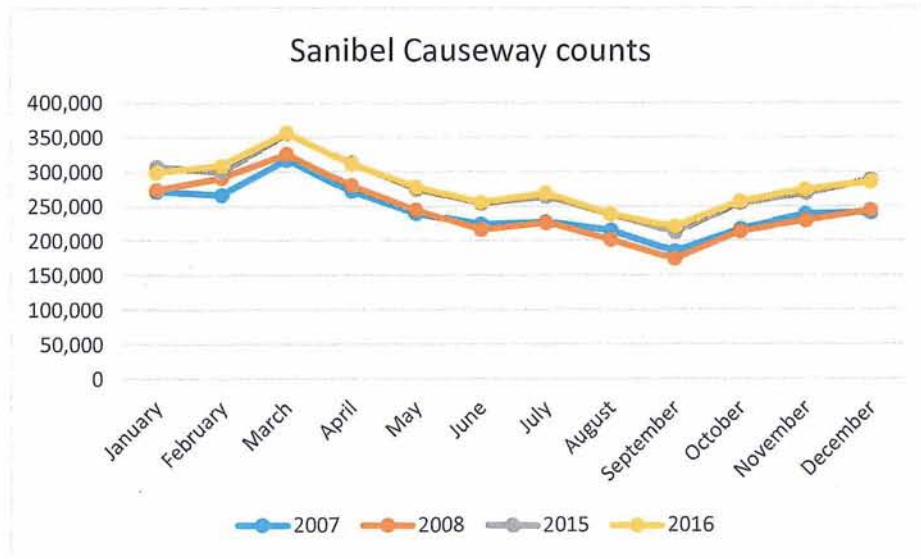
NOTE: Overall increase in summer bed tax collections over eight fiscal years.



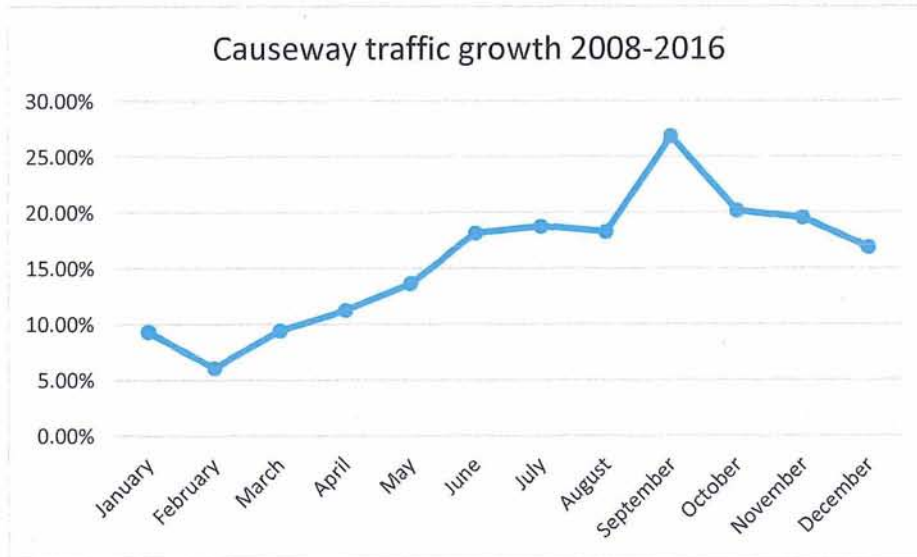
NOTE: Bed tax increases driven across all quarters, although Q1 is still most volatile, largest.

Sanibel Causeway traffic counts

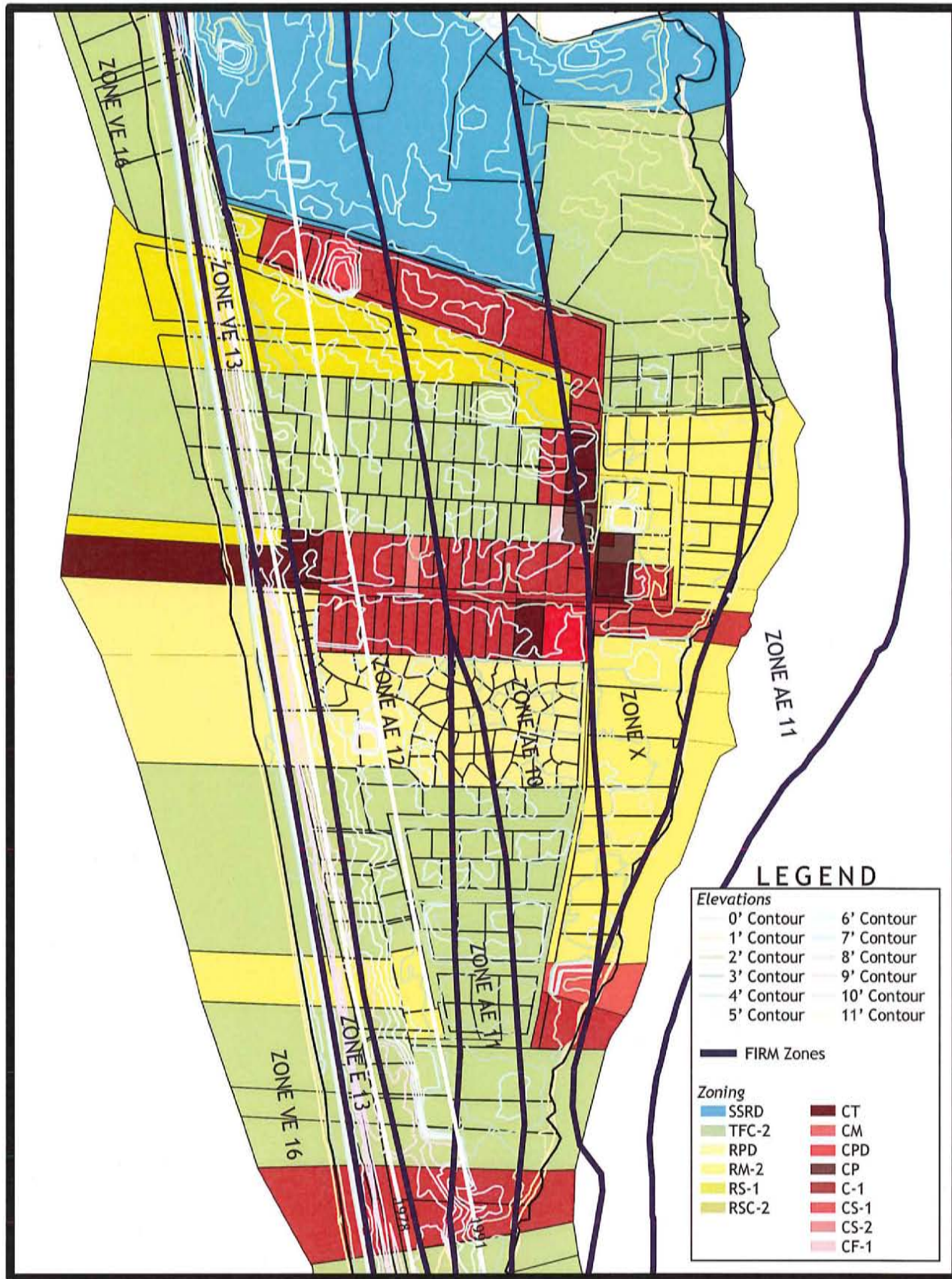
SOURCE: City of Sanibel



NOTE: Causeway traffic has increased somewhat uniformly



NOTE: Months with lower counts have seen greater increases over period

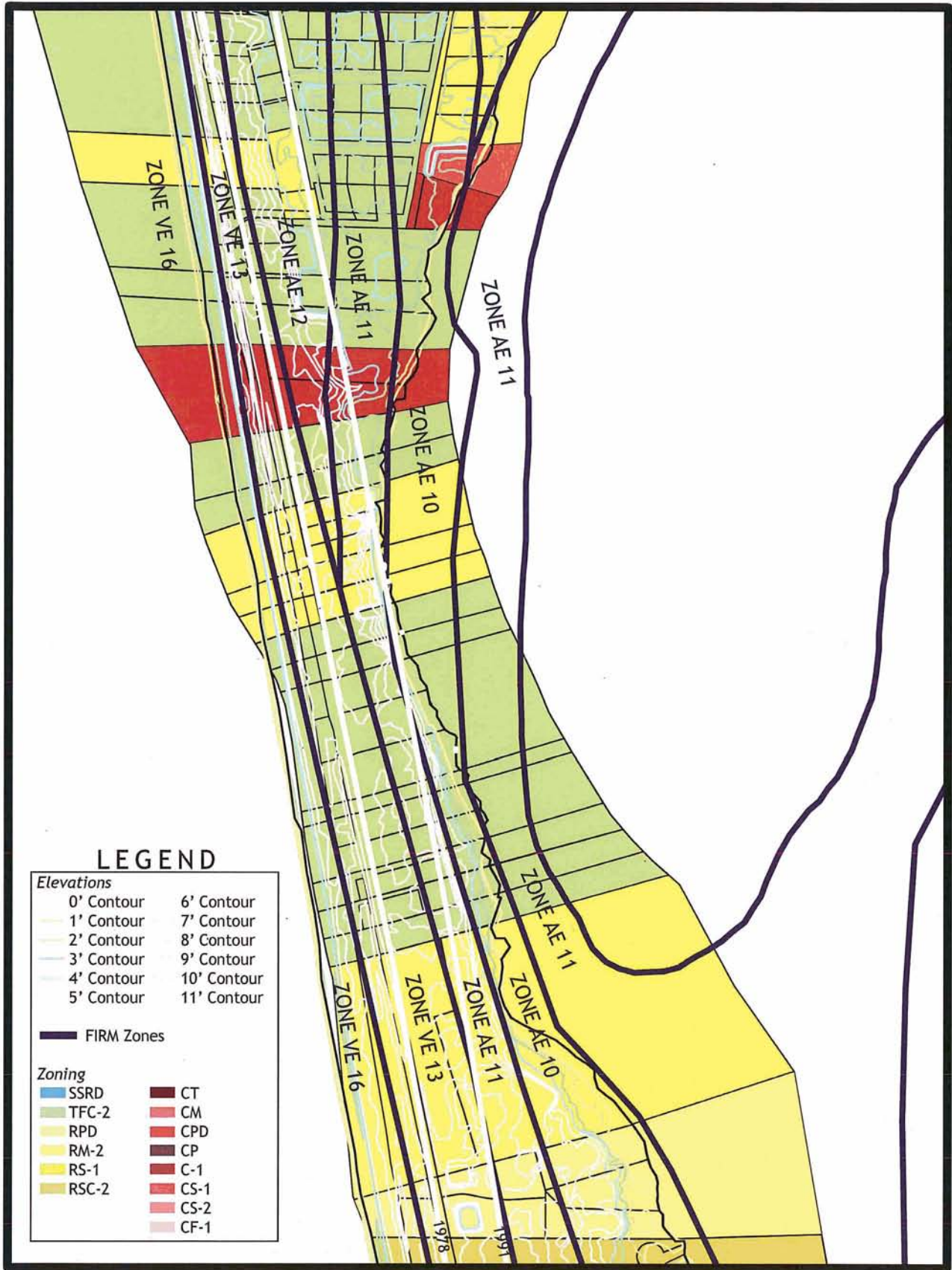


CAPTIVA CODE REVISIONS

'The Village'

February 2010





LEGEND

Elevations	
0' Contour	6' Contour
1' Contour	7' Contour
2' Contour	8' Contour
3' Contour	9' Contour
4' Contour	10' Contour
5' Contour	11' Contour

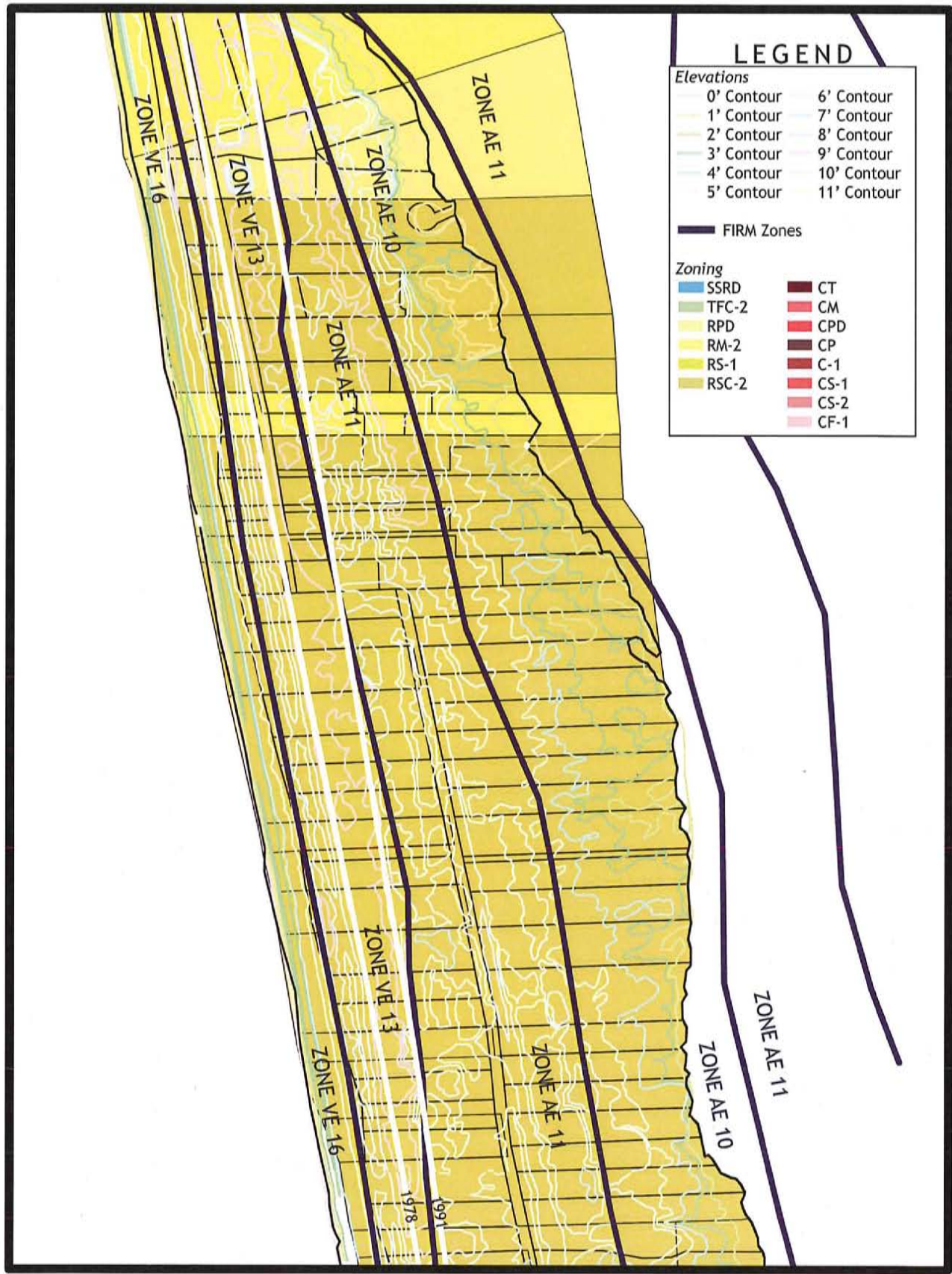
Zoning	
SSRD	CT
TFC-2	CM
RPD	CPD
RM-2	CP
RS-1	C-1
RSC-2	CS-1
	CS-2
	CF-1

— FIRM Zones

CAPTIVA CODE REVISIONS 'Tween Waters'

February 2010



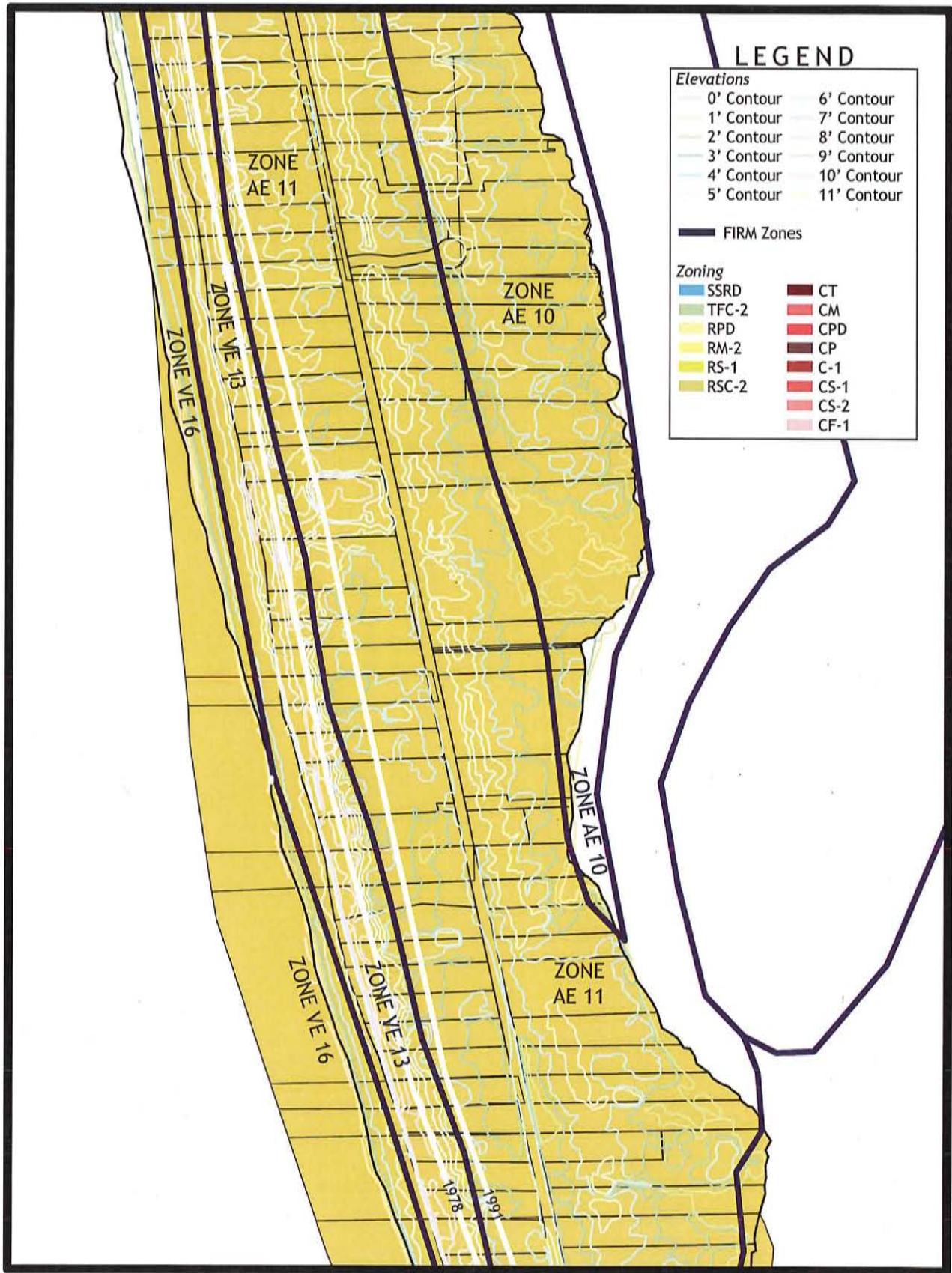


CAPTIVA CODE REVISIONS

'The Estates'

February 2010



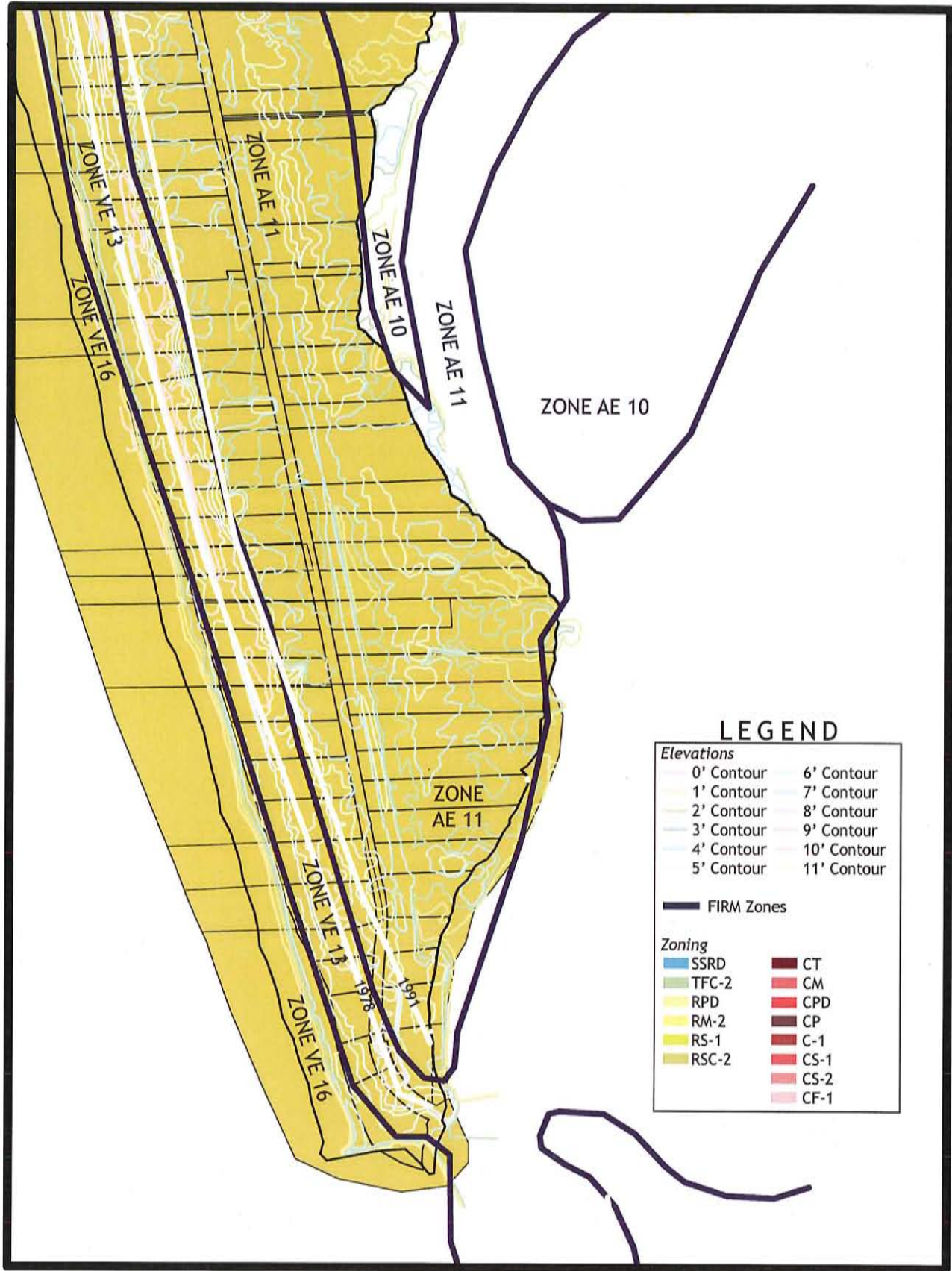


CAPTIVA CODE REVISIONS

'The Estates'

February 2010





CAPTIVA CODE REVISIONS 'The Estates'

February 2010



Captiva height regulations: A history

Proposed Land Development Code (LDC) language

Section 33-YY: Height restrictions on Captiva Island

(A) Consistent with Policy 13.1.2 of the Lee Plan, no building or structure may be erected or altered so that the peak of the roof, or the mean height level between eaves and ridge in the case of gable, hip and gambrel roofs, exceeds 28 feet above the lowest horizontal member at or below the lawful base elevation. Deviations or variances from this section are prohibited. Architectural features, including but not limited to cupolas, lanterns, dormers, façade or roofline articulations, etc., and mechanical appurtenances may extend an additional four (4) feet above the roof peak or eight (8) feet above the mean height level in the case of gable, hip, and gambrel roofs, whichever is lower, so long as such details do not account for more than 20% of the total front façade area and any mechanical appurtenances are fully screened from visibility from adjoining properties.

(B) The existing telecommunications tower facility located in the maintenance and engineering area of South Seas Resort may be replaced in such area to a height not to exceed 170 feet, provided that said new facility makes space available to the county for adequate emergency communications service coverage for Captiva, as well as co-location capability for all wireless carriers desirous of serving Captiva. Destruction of mangroves will not be allowed in order to build or operate such a tower or related tower facilities. The telecommunication tower will be a monopole, unless public safety is compromised.

(C) Buildings or structures illustrated as zone "X" on the Flood Insurance Rate Map (FIRM) of the Federal Emergency Management Agency (FEMA) or its successor agency, is at sea level, shall be erected or altered so that the peak of the roof may not exceed 35 feet above the average grade of the lot in question or 42 feet above sea level, whichever is lower.

Current LDC language

Sec. 34-2174. - Additional permitted height when increased setbacks provided.

(a) Subject to conditions set forth in section 34-2175, any building or structure may be permitted to exceed the height limitations specified by the zoning district regulations in which the property is located provided every required street, side, waterbody, and rear setback is increased by one-half foot for every one foot by which the building or structure exceeds the specified height limitation.

(b) In zoning districts that do not specify a maximum height limitation, the increase to setbacks stated in this section will apply to all buildings or structures exceeding 35 feet in height.

(c) The height increases described in section 34-2174(a) and (b) may not be used in Greater Pine Island.

Sec. 34-2175. - Height limitations for special areas and Lee Plan land use categories.

The following areas have special maximum height limitations applicable to all conventional and planned development districts:

(a) Special areas.

(1) **Upper Captiva Island.** The height of a structure may not exceed 35 feet above grade (base flood elevation). The provisions of section 34-2174(a) do not apply to Upper Captiva Island. No variance or deviation from the 35-foot height restriction may be granted.

In addition to compliance with all applicable building codes (including Fire and Life Safety Codes), any building with two or more stories or levels must provide an exterior stairway from the uppermost levels (including "widow's walks" or observation decks) to the ground OR a one-hour fire rated interior means of egress from the uppermost levels (including "widow's walks" or observation decks) to the ground.

(2) **Captiva Island.** No building or structure may be erected or altered so that the peak of the roof exceeds 35 feet above the average grade of the lot in question or 42 feet above mean sea level, whichever is lower. The provisions of section 34-2174(a) do not apply to Captiva Island. No variance or deviation from this height restriction may be granted; provided however, one communication tower, not to exceed 170 feet in height, may be constructed in accord with Lee Plan Policy 13.1.14.

(3) **San Carlos Island.** The height of a structure may not exceed 35 feet above grade, except as provided for in section 34-2174. If seaward of the coastal construction control line, elevations may exceed the 35-foot limitation by three feet for nonconforming lots of record.

(4) **Gasparilla Island conservation district.** No building or other structure may be erected or altered so that the peak of the roof is more than 38 feet above the average grade of the lot or parcel on which the building or structure is located, or is more than 42 feet above mean sea level, whichever is lower.

(5) **Greater Pine Island.** See section 33-1088.

(6) **All other islands:** The height of a structure may not exceed 35 feet above grade (base flood elevation). Except as provided in subsections 34-2175(3), (4), and (5), the provisions of section 34-2174(a) do not apply to islands. No variance or deviation from the 35-foot height restriction may be granted.

Ordinance 99-13

Sec. 34-2175. Height limitations for special areas.

The following areas have special maximum height limitations applicable to all conventional and planned development districts:

(2) Captiva Island. No building or structure may be erected or altered so that the peak of the roof exceeds 35 feet above the average grade of the lot in question or 42 feet above mean sea level, whichever is lower. The provisions of section 34-2174(a) do not apply to Captiva Island. No variance or deviation from this height restriction may be granted.

If the county received a coastal preapplication compliance determination request relating to construction of a single family home on property located on Captiva Island seaward of the coastal construction control line before February 1, 1998 and the property owner received construction approval for the home from the Florida Department of Environmental Protection (DEP) before August 25, 1998, then the home may be built according to the height regulations and limitations in effect on the date the coastal

Ordinance 97-10

Sec. 34-2175: Height limitations for special areas:

(2) Captiva Island. No building or structure shall may be erected or altered so that the height exceeds two stories above the lowest habitable floor. ~~however, in no case shall~~ However a building or structure may not be erected or altered so that the peak of the roof exceeds the height of 28 feet above the lowest habitable floor.

Ordinance 78-07

Section 4. Height Regulations: No building or structure shall be erected or altered so that the peak of the roof exceeds a height of 35 feet. The building height shall be measured from the elevation from the lowest occupied floor but in no case from an elevation higher than 10 feet above the average ground level, unless Flood Insurance or Coastal Code Regulations, require the elevation to be higher than 10 feet.

Ordinance 74-09

SECTION 2.2: No building or structure shall be erected or altered so that the peak of the roof exceeds a height of 35 feet. The building height shall be measured from the elevation (above mean sea level) of the floor of the first occupied story of the building but in no event from an elevation higher than that required by federal authorities to establish eligibility or insurance under the flood insurance program; in the absence of such flood insurance eligibility requirements, the building height shall be measured from the elevation of the lowest occupied floor but in no case from an elevation higher than ten feet above mean sea level.

Ordinance 73-7

Section (2) of Ordinance No. 1, Lee County, Florida, is respectfully amended to read as follows:

Section (2). No building or structure shall be erected or altered to exceed the height of 35 feet from the average fill-grade level of the site and that in no case shall this datum be greater than 10 feet above mean sea level.

Ordinance 71-1

Section 2: No building or structure shall be erected or altered to exceed the height of thirty-five (35) feet above the mean average ground level of the building site on Sanibel and Captiva islands.

Section 3: Building site are herein defined shall be the average ground level of the land surrounding any building or other structural improvement.

Section 4. The height limitation of this ordinance shall not apply to church spires, belfries, cupolas, domes, monuments, utility towers, forest fire observation towers when operated by a branch of the government, transmission towers, chimneys, aerials, or other appurtenance, either temporary or permanent, which are usually required to be placed above the roof level and not intended for home occupancy.

2006 Lee Plan Text Amendment

POLICY ANALYSIS

March 2006

In the past two decades, property values on Captiva have risen dramatically – even outstripping overall increase in Lee County and Florida. This, and the pressure to redevelop properties to reflect both changing values and changing needs, has resulted in a unique situation on the island: The “highest and best use” so often cited as the guiding hand of land use decisions has shifted to residential redevelopment.

This has become most obvious in the “Village” area of the island – the core section between the northern S-curve and the gates to South Seas Resort. Since most of this area was subdivided decades ago – well before current zoning and land use rules were established – it is composed of small platted lots, each one of which has a vested right to development that would not exist were they created today.

Thus, even though many of those lots are currently zoned for commercial uses, more money can be made from them when the older structures (often housing businesses) are torn down to make way for a new single-family home – a home that, under the current market, can command millions of dollars when sold.

Thus, in the past decade a number of commercial enterprises in the Village area have been bought, the businesses closed and structures torn down, with new single-family homes rising to replace them. A great investment for a real estate developer, perhaps – but a trend that has led to the erosion of the commercial base of the island.

According to a summary of an island-wide planning survey conducted by planner David W. Depew, AICPP, on behalf of the Captiva Island Property Owners Association during the summer of 2001:

There is a general recognition that the commercial areas of the Island, especially in the Village along Andy Rosse Lane, needs general support and some kind of incentives in order to maintain the retail and dining options currently available. Additional commercial opportunities were not seen as critical, but preservation of the existing commercial uses was viewed as quite important. Additionally, the mixed-use nature of the village was deemed to be part of the overall charm of the area, although there was also recognition that parking opportunities were limited and could be expanded.

This concern, plus a recent application to redevelop a commercial property to allow both commercial and residential uses on the same lot, acted as a catalyst for the community to look for ways to encourage some mixed-use development on the remaining commercial sites on the island. This recent application was extensively discussed in meetings before the Captiva Community Panel (minutes enclosed), where community sentiment favoring such innovative development was clear.

This proposed amendment would affect at best approximately 75 properties on Captiva – out of which at least one-third or more have already been redeveloped into high-end residential units and thus are unlikely to take advantage of the development options offered by this amendment (unless the real estate market completely reverses both itself and historic coastal trends).

Those properties that might benefit from this amendment typically are older commercial structures offering neighborhood-style services to residents and tourists. They continue to operate for a number of reasons:

- The businesses remain financially viable.
- The owners have a desire to serve the community with essential services.
- The business serves to support other commercial operations, such as resorts or inns.
- The owners have made a commitment to maintain the walkable, village atmosphere that's unique to the island.
- There's no strong financial incentive to redevelop at this juncture.

However, the pressure to redevelop is strong, even in the face of a real estate market that is pulling back from its record growth of the past five years. Many of these structures cannot be rebuilt in a commercially viable format should they be substantially damaged or destroyed, due to more stringent building codes (particularly for coastal high hazard areas) and limited space (if a larger commercial structure is sought). Residential redevelopment seems inevitable and, given the recent trends, the community's concern is that small-scale commercial activities will continue to disappear, to be replaced by large-scale homes that will eventually turn Captiva into a very pricey beachfront gated community.

With this in mind, the community has been looking for ways to offer some incentive to commercial enterprises and property owners to continue to operate small-scale businesses on these Village lots. When one owner came up with the option of combining a business with a small manager's residential unit (the case referenced in the CCP minutes enclosed), there was support from both the community and county planning staff for this innovation.

However, there was no support from existing county codes and its comprehensive land use plan to address the density issues created by combining commercial and residential uses on the same lot – a major obstacle to approval by the county Hearing Examiner, an essential step toward fruition. So this amendment language was developed, both as a way to solidify and signify community support and to make such proposals more viable in the future.

There have been a number of legitimate concerns raised by both the community and by staff in discussing this amendment, and we believe the following analysis will address those concerns.

- **This language could result in an increase in development density on the island.**

The overall density of the island will not increase with this proposal. The three-units-per-acre cap addressed by Lee County ordinance and Future Land Use Map stays in force. Plus, a previous amendment (now Lee Plan policy) that does not allow rezonings to request density higher than the current zoning ensures the “estate zoning” on the lower third of the island will be maintained in its current lower density form. Overall, island density will remain low, in keeping with both community desires and evacuation realities.

- **This language could result in more people living on a fragile barrier island.**

The lots in question are already vested for a single residential unit if desired, and this proposal would not increase that. In fact, it will ensure smaller residential units than are possible due to the limitations imposed by mixed use (and other development restrictions already in the Lee Plan) on a commercially zoned lot. Given that the number of owners who may take advantage of this proposal is limited both by previous redevelopment, by lot size and by economic reality, it is easy to assert there will be no net increase in residents resulting from this proposal.

- **This amendment could increase evacuation pressures.**

If there is no net increase in density, there should be no increase in evacuation pressures. In fact, if the resulting residential units are used for business managers, it may help evacuation traffic slightly. On-island managers could undertake storm preparations for businesses without having to traverse the islands to get there, whereas off-island managers would have to travel out to Captiva from the mainland, batten down the hatches and leave. If those on-island managers opted to ride to the storm in place, they would not be evacuating or returning, and could even help facilitate reopening a business post-storm if damage is minimal or avoided (a valuable asset as the island learned in Hurricane Charley when returning resident, relief workers and repair teams relied on some restored businesses for food and water during the post-storm recovery).

- **This proposal could increase traffic on an already constrained road system.**

Actually, the opposite might occur. Internal trips might be reduced on the island, both because worker commutes to island businesses could be avoided by living “above the store” and by maintaining the neighborhood commercial enterprises – services, basic commodities, etc. – that could eliminate trips off-island by residents and visitors seeking such goods and services. Fostering commercial activity in the Village can also cut down in localized car traffic, as the area is very pedestrian friendly and accessible to both nearby residents and visitors to a significant number of island rental rooms without need for (or parking for) a motorized vehicle.

Even when the mixed use in question does not include residential but instead encompasses the pairing of retail and office uses (not the focus of this amendment, but

another item of interest to the community), the area will see a benefit. Encouraging such a mix where appropriate encourages the same accessible small-scale commercial activity. Retail enterprises can be supported for significant portions of the year by the tourist and winter-resident business, and limited office space can serve both year-round and winter residents with accessible services (or space to operate a small-scale business themselves) without necessitating a trip off island.

What are the benefits to this proposed language?

- This is a way to preserve the few remaining commercial enterprises on the island, particularly those located in the Village neighborhood within easy access to adjacent residences and resort rooms.
- It may foster the only semblance of affordable housing on the island, enabling shopkeepers or business owners to live where they work by allowing the residential-commercial mix on one lot. In the land of million-dollar-homes, these caretaker units will add diversity and affordability to the residential mix.
- It helps maintain an island ambiance that is highly valued by both residents and visitors alike. Making more commercial operations accessible by non-motorized or electric-powered means has been a continuing quest of the island, which petitioned the county Department of Transportation to expand its golf-cart-permitted zone further southward in the past year and has sought even further expansion by means of a safety shoulder along the island's main thoroughfare to encourage safer pedestrian and bicycle traffic.
- It has widespread community support, judging by the documentation through meetings and surveys over the past decade.
- It may help facilitate redevelopment of these aging commercial properties (while keeping them commercial), with a resulting improvement in building construction and storm survivability thanks to the requirement they comply with improved building codes.
- It provides an achievable incentive to the remaining commercial enterprises that's both innovative (albeit a growing trend in communities nationally) and nonintrusive (by offering owners an option rather than an imperative).

Captiva Community Vision

This statement was formulated by the Captiva Community Panel and the Captiva community over a period of workshops and meeting beginning in 2012. It was submitted with the original Captiva Plan Amendment in March 2016, and is being included in the Data and Analysis Report dated Sept. 5, 2017, with the current Captiva Plan Amendment as a statement of community vision and intent.

Captiva is a coastal barrier island with low-density residential development, augmented by limited commercial activities which serve residents and tourists drawn to a tranquil experience in a natural setting. As an island community, Captiva's natural resources -- beaches, waterways, wildlife and flora -- are its most important attractions, and Captiva residents regard the protection of its mangrove fringe, water quality, and dark skies as matters of paramount importance. Toward this end, the Captiva Community Panel and other Captiva community, civic and business organizations must work together with Lee County and other regulatory bodies to sustain the fragile and limited resources of the island.

Captiva residents, property owners and businesses value the following:

- An island lifestyle which respects the fragile land, coastline and waters of Captiva.
- The island's history as an environmentally special and informal resort destination.
- The island's diverse coastal community architecture and landscaping.
- A coastal community that balances tourism-oriented activities with a respect for the privacy and property rights of the island's residents.
- A community that provides a level of commercial services that reflects the balance between tourism, seasonal occupancy and year-round residency, and acknowledges the need to reduce automotive dependence and create more environmentally-sensitive alternative modes of transportation.

To achieve these ends, organizations representing Captiva residents, property owners and businesses must work together, and with Lee County for:

- Environmental protections that preserve the shoreline and natural habitats, enhance water quality, encourage the use of native vegetation, maintain the mangrove fringe, and limit noise, light, water and air pollution.
- Creative mixed-use development of traditionally commercial properties to maintain the island's neighborhood-style business community sufficient to support the needs of Captiva residents and visitors.
- Building standards that maintain existing densities and building heights, and development regulations designed to preserve the Captiva Community Vision.

- Upgrading public infrastructure and enhancing the appearance and functionality of the island's rare public spaces.

The future of the island will be secured and enhanced as present and future residents and organizations on Captiva work together to reach consensus on island goals, and work with Lee County, the Captiva Erosion Control District, the state and its agencies, and nongovernmental organizations serving the island to ensure that those goals are realized.

CPA2017-00008

Chapter 13

Summary Sheet

Chapter 13

CPA2017-08

Request:

Amend the Procedures and Administration Element of the Lee Plan to remain compliant and consistent with state statutes; remove redundancies within the Lee Plan and with state statutes; and relocate procedural provisions to an administrative code. The proposed Administration Element addresses the effect and legal status of the plan, administrative and legislative interpretations of the plan and amendments to the plan. In addition, minor amendments will be made in the future land use element and the glossary to remove or update cross references.

Public Comments:

There was no public comment concerning the proposed amendments.

LPA Motion:

A motion was made to recommend that the Board of County Commissioners transmit CPA2017-00008 as recommended by staff. The motion was passed 5 to 0.

NOEL ADDRESS	AYE
DENNIS CHURCH	AYE
JIM GREEN	ABSENT
CHRISTINE SMALE	AYE
STAN STOUDE	AYE
GARY TASMAN	ABSENT
JUSTIN THIBAUT	AYE

Staff Recommendation:

Staff recommends the BoCC *transmit* the proposed amendments as identified in Attachment 1.



Applicant:

Board of County Commissioners

Representative:

Department of Community Development

Location:

County Wide

Amended

Elements:

Procedures and Administration

Attachments:

1. Text Amendments
2. Administrative Code 13-2

Hearing Dates:

LPA:
10/23/17
BoCC Transmittal:
11/22/17

REQUEST

Amend the Procedures and Administration Element of the Lee Plan to remain compliant and consistent with state statutes; remove redundancies within the Lee Plan and with state statutes; and relocate procedural provisions to an administrative code. The proposed Administration Element addresses the effect and legal status of the plan, administrative and legislative interpretations of the plan and amendments to the plan. In addition, minor amendments will be made in the future land use element and the glossary to remove or update cross references.

RECOMMENDATION

Staff recommends that the Board of County Commissioners **transmit** the proposed amendments based on the analysis and findings in this staff report.

SUMMARY OF SUBSTANTIVE CHANGES

- The amendments to Objective 2.4 removes redundant language found in Chapter 13, Part E and Administrative Code 13-6 and renumbers policies to remain sequential.
- The title of Chapter XIII is renamed to Administration to reflect the administrative procedures being moved to an administrative code.
- Updates references to state statutes, eliminates redundancies of state statutes, and relocates procedural provisions to an administrative code.

STATUTORY REQUIREMENTS

The Administration Element addresses requirements of Chapter 163.3177, Florida Statutes (F.S.). Specifically, the statute states, “*The comprehensive plan and its elements shall contain guidelines or policies for the implementation of the plan and its elements.*” These amendments meet this requirement.

PART 1
BACKGROUND INFORMATION

On November 17, 2015, the Board of County Commissioners provided direction for staff to complete a coordinated planning review to identify Lee Plan amendments that: better align with the BoCC strategic planning initiatives; streamline; eliminate potential liabilities; reduce redundancy and conflict within and between Lee Plan Goals; and, relocate regulatory provisions to the Land Development Code and procedures to the administrative codes. Based on this direction, staff identified and presented potential amendments to the Board at the May 3, 2016 Board Work Session. These proposed amendments specifically aim to streamline, reduce redundancies and conflicts, and relocate the administrative procedures to the administrative codes.

The Administration Element is an important component of the Lee Plan. The purpose of the Element is to address how the Lee Plan should be implemented and provides direction for interpretation of the Plan. The Procedures and Administration Element was originally incorporated into the Lee Plan in 1984, to provide direction and guidance. Revisions are necessary to remain in compliance and consistent with state statute and remove redundancies and conflict in procedures.

PART 2
STAFF DISCUSSION and ANALYSIS

Portions of the Procedures and Administration Element have been in place since the 1984 Lee Plan. Amendments have been made to the Element each time the Lee Plan has undergone major amendments, including 1989 and 1994. The current Procedures and Administration Element provides detailed guidelines concerning the effect and legal status of the plan, administrative interpretations of the plan, legislative interpretations of the plan, procedures to amend the plan, and monitoring and evaluation of the plan.

In 1994, the last time the Procedures and Administration Element was substantially amended, Chapter 163 of the Florida Statutes did not provide the same level of guidance as it provides today. Since 1994, Lee County has also adopted administrative codes that help to provide direction in making changes to the Lee Plan. Administrative code AC-13-6, "Comprehensive Plan Amendment Procedures" provides procedures for privately requested amendments and county initiated amendments meeting the requirements of Florida Statute 163. The Procedures and Administration Element can be substantially streamlined to reflect these changes and

create a new administrative code with procedures for administrative and legislative interpretations.

Below is a summary of the amendments proposed to the Future Land Use Element and the Glossary and a description of the sub-elements as proposed through this amendment. The full proposed strikethrough and underline text amendments are included in Attachment 1.

Chapter 2 (Future Land Use Element)

Policy 1.1.10

Change: Remove cross reference to Chapter 13.

Reason: A Minimum Use Determination is not permitted in land use categories that do not permit residential density.

Policy 1.2.2

Change: Remove cross reference to Chapter 13.

Reason: A Minimum Use Determination is not permitted in land use categories that do not permit residential density.

Objective 1.3

Change: Remove cross reference to Chapter 13.

Reason: A Minimum Use Determination is not permitted in land use categories that do not permit residential density.

Policy 5.1.4

Change: Remove cross reference to Chapter 13.

Reason: A Minimum Use Determination is not permitted in land use categories that do not permit residential density.

Policy 14.6.2

Change: Change reference from a single-family residence provision to a Minimum Use Determination.

Reason: Reflect change made within Chapter 13.

Policy 33.4.2

Change: Change reference from a single-family residence provision to a Minimum Use Determination.

Reason: Reflect change made within Chapter 13.

Chapter 12 (Glossary)

Density:

Change: Change reference from a single-family residence provision to a Minimum Use Determination.

Reason: Reflect change made within Chapter 13.

Chapter 13 (Administration)

- An Editorial change to the title of Chapter XIII, removing reference to “Procedures”.
- Sub-element A can be simplified based on the definition of “Development Permit” in Chapter 163 of the state statutes, which is inclusive of many of the types of development approvals currently described in the sub-element. Chapter 163 states that:

“Development permit” includes any building permit, zoning permit, subdivision approval, rezoning, certification, special exception, variance, or any other official action of local government having the effect of permitting the development of land.

- The procedure for administrative interpretations has been removed from Sub-Element B and outlined within Administrative Code 13-2 (Attachment 2). This modification is made with the effort to reflect the appropriate roles of both the Lee Plan as well as Administrative Codes. The subject matters, standards/outline for administrative interpretations and appeal standards remain in the Lee Plan.
- Sub-element C has been modified to remove the procedures for requesting legislative interpretations of the Lee Plan. These procedures have been relocated to Administrative Code 13-2. The language in the Lee Plan provides guidelines for legislative interpretations.
- Sub-element D, concerning amendments to the Lee Plan, provides cross reference to applicable state statutes and the existing administrative code. It also provides guidelines and policy for amendments that are denied by the board. The proposed language is consistent with, but not duplicative of state statutes and other existing Lee County codes.

- Sub-element E is proposed to be deleted due to changes in state statutes, which provide for monitoring and evaluation of the comprehensive plan. Lee County will continue to monitor the Lee Plan as required for consistency with Florida State Statute 163.3191.

PART 3 CONCLUSION

The proposed amendments provide streamlined language that is consistent with and not duplicative of state statutes and Lee County administrative codes. As seen in Attachment 1, the new language is shown as being underlined, followed by the current language, which is shown as being struck through.

Administrative Code 13-2, as seen in Attachment 2, outlines the procedures for requesting administrative and legislative interpretations of the Lee Plan. This administrative code will outline the process for applicants seeking interpretation of the Lee Plan as well as the process to appeal decisions made by county staff. Administrative Code 13-2 will be adopted concurrent with the proposed amendments to Chapter 13.

PART 4 LOCAL PLANNING AGENCY REVIEW AND RECOMMENDATION

DATE OF PUBLIC HEARING: October 23, 2017

A. LOCAL PLANNING AGENCY REVIEW:

Staff provided a brief presentation for the proposed amendments which covered consistency with the Lee Plan, reasons for the proposed amendments, and staff recommendation.

Following staff's presentation members of the LPA asked for, and were provided, clarification that the procedural language from Chapter XIII would be relocated to the Administrative Code 13-2.

B. LOCAL PLANNING AGENCY RECOMMENDATION:

A motion was made to recommend that the Board of County Commissioners transmit CPA2017-00008 as recommended by staff. The motion was passed 5 to 0.

VOTE:

NOEL ANDRESS	AYE
DENNIS CHURCH	AYE
JIM GREEN	ABSENT
CHRISTINE SMALE	AYE
STAN STOUDE	AYE
GARY TASMAN	ABSENT
JUSTIN THIBAUT	AYE

C. STAFF RESPONSE TO LPA RECOMMENDATION:

Staff recommends that the Board of County Commissioners transmit CPA2017-00008. Staff's complete and updated recommendation is included within Attachment 1 to the staff report.

II. Future Land Use

POLICY 1.1.10: The Commercial future land use category is located in close proximity to existing commercial areas or corridors accommodating employment centers, tourist oriented areas, and where commercial services are necessary to meet the projected needs of the residential areas of the County. These areas are specifically designated for commercial uses. Residential uses, other than bona fide caretaker residences, are not permitted in this future land use category ~~except to the extent provided in Chapter XIII.~~ The Commercial future land use category is in areas where residential uses are not expected or compatible due to the nature of the surrounding land uses and their location along major travel corridors. The commercial category is intended for use where residential development would increase densities in areas such as the Coastal High Hazard Areas of the County or areas such as Lehigh Acres where residential uses are abundant and existing commercial areas serving the residential needs are extremely limited.

The requisite infrastructure needed for commercial development is generally planned or in place. New developments in this category must connect to a potable water and sanitary sewer system. Commercial retail developments, hotels and motels, banks, all types of office development, research and development, public, and other similar development will be predominate in the Commercial future land use category. Limited light industrial uses are also permitted, excluding outdoor storage type uses. Any redesignation of land to the Commercial land use category should occur along major travel corridors and at road intersections. The planned development rezoning process must be used to prevent adverse impacts to the surrounding areas and to ensure that appropriate site development regulations are incorporated into the development plans of each site. (Added by Ordinance No. 07-09, Amended by Ordinance No. 10-34)

POLICY 1.2.2: The Tradeport areas are commercial and industrial lands adjacent to the airport needed to accommodate projected growth through the year 2030. These areas will include developments consisting of light manufacturing or assembly, warehousing, and distribution facilities; research and development activities; laboratories; ground transportation and airport related terminals or transfer facilities; hotels/motels, meeting facilities; and office uses. Stand alone retail commercial uses intended to support and compliment the surrounding business and industrial land uses are permitted if they are approved as part of a Development of Regional Impact (DRI) or Planned Development rezoning. Stand alone retail commercial uses are limited to 1 acre out of every 10 Tradeport and preserved wetland acres within the project. To provide an incentive to preserve upland habitat, Developments of Regional Impact or Planned Developments may also receive additional stand alone retail acres at the rate of 1 additional acre out of every 10 acres of preserved and enhanced uplands within the project that protect wetlands, flowways or occupied listed species habitat. Ancillary retail commercial uses,

related directly to the sale of products manufactured or services provided in the Tradeport, are allowed if they are part of a Planned Development. Residential uses, other than bona fide caretaker residences, are not permitted in this category ~~except to the extent provided in Chapter XIII of the Plan~~. Caretaker residences are not permitted in the Airport Noise Zone B. Limerock mining may be approved through the Mine Excavation Planned Development rezoning process for the land designated Tradeport on the Future Limerock Mining map (Map 14.) Because this area is located within the Six Mile Cypress Basin and is also a primary point of entry into Lee County, special environmental and design review guidelines will be applied to its development to maintain the appearance of this area as a primary point of entry into Lee County. Property in Section 1 and the east ½ of Section 2, Township 46 South, Range 25 East, and in Section 6, Township 46 South, Range 26 East, must be rezoned to a planned development zoning category prior to any development other than the construction of essential public services. During the rezoning process, the best environmental management practices identified on pages 43 and 44 of the July 28, 1993 Henigar & Ray study entitled, “Groundwater Resource Protection Study” will be rebuttably presumed to be necessary to protect potential groundwater resources in the area. (Amended by Ordinance No. 94-30, 02-02, 03-04, 04-16, 07-09, 09-06, 10-14, 10-20, 10-37)

OBJECTIVE 1.3: INTERSTATE HIGHWAY INTERCHANGE AREAS. Special areas adjacent to the interchanges of Interstate 75 that maximize critical access points will be designated on the Future Land Use Map. Development in these areas must minimize adverse traffic impacts and provide appropriate buffers, visual amenities, and safety measures. Each interchange area is designated for a specific primary role: General, General Commercial, Industrial Commercial, Industrial, and University Village. Residential uses are only permitted in these categories in accordance with ~~Chapter XIII or as provided in~~ Policy 1.3.2. (Amended by Ordinance No. 94-30, 99-18, 00-22, 16-02)

OBJECTIVE 2.4: FUTURE LAND USE MAP AMENDMENTS. To require formal findings for certain Future Land Use Map Amendments. ~~Regularly examine the Future Land Use Map in light of new information and changed conditions, and make necessary modifications.~~

~~**POLICY 2.4.1:** The county will accept applications from private landowners or non-profit community organizations to modify the boundaries as shown on the Future Land Use Map. Procedures, fees, and timetables for this procedure will be adopted by administrative code. (Amended by Ordinance No. 94-30)~~

POLICY 2.4.12: Renumber Only
POLICY 2.4.23: Renumber Only
POLICY 2.4.34: Renumber Only

POLICY 5.1.4: Prohibit residential development in all Industrial Development areas and Airport Noise Zone B as indicated on the Future Land Use Map, except for residences in the Industrial Development area for a caretaker or security guard, ~~and except as provided in Chapter XIII.~~ (Amended by Ordinance No. 94-30, 07-09)

POLICY 14.6.2: The Greater Pine Island TDR program will have the following characteristics:

- a. Creation of Transferable Development Units (TDUs).
 - 1. Up to one (1) TDU may be created per five (5) acres of wetlands.
 - 2. Up to one (1) TDU may be created per one (1) acre of uplands located in non-urban future land use categories.
 - 3. Up to three (3) TDUs may be created per one (1) acre of uplands located in the Outlying Suburban future land use categories.
 - 4. Up to two (2) TDUs may be created in a single-family lot or parcel designated as wetlands that holds an affirmative Minimum Use D~~determination of the single family residence provision~~ pursuant to Chapter XIII of the Lee Plan.

POLICY 33.4.2: The Southeast Lee County TDR program will have the following characteristics:

- 1. Creation of Transferable Development Units (TDUs).
 - a. Up to one (1) TDU may be created per twenty (20) acres of preserved or indigenous wetlands.
 - b. Up to two (2) TDUs may be created from a single-family lot or parcel designated as wetlands that holds an affirmative Minimum Use D~~determination of the single family residence provision~~ pursuant to Chapter XIII of the Lee Plan.

XII. Glossary

DENSITY – The number of residential dwelling or housing units per gross acre (du/acre). Densities specified in this plan are gross residential densities. For the purpose of calculating gross residential density, the total acreage of a development includes those lands to be used for residential uses, and includes land within the development proposed to be used for streets and street rights of way, utility rights-of-way, public and private parks, recreation and open space, schools, community centers, and facilities such as police, fire and emergency services, sewage and water, drainage, and existing man-made waterbodies contained within the residential development.

When the calculation of the gross density of a development results in a fractional density, 0.50 of a dwelling unit or greater shall be rounded up to the next whole number and fractions less than 0.50 shall be rounded down. No further rounding is permitted. Fractional density rounding may not be applied to parcels subject to the Gasparilla Island Conservation District Act of 1980 (as amended) or existing, undersized parcels that would require a Minimum Use Determination through the Single Family Residence provision of the Lee Plan, pursuant to Chapter XIII to permit one single-family residence on said parcel. Fractional density rounding may not be applied to parcels of land created (subdivided or combined) after March 16, 2016 in a manner that would permit greater gross density than that was permitted (with fractional density rounding) prior to creation of the new parcel.

Lands for commercial, office, industrial uses, natural water bodies, and other non-residential uses must not be included in the density calculation, unless otherwise stated in this plan

XIII. ~~Procedures and Administration~~

A. Effect and Legal Status of the Plan

After the Lee Plan or portion thereof has been adopted in conformity with Chapter 163, F. S., all development undertaken by, and all actions taken in regard to development orders by Lee County in regard to land covered by the Lee Plan or element must be consistent with the adopted Plan or element. Development permits issued by the County must be consistent with the Plan as adopted on the date of issuance.

Land development regulations adopted or amended after the effective date of the Lee Plan, or amendments thereto, must be consistent with the Lee Plan. Land development regulations that are no longer consistent with the Lee Plan must be amended to conform to the goals, objectives, and policies of the Plan. During the interim period when the provisions of the most recently adopted comprehensive plan, or element or portion thereof, and the land development regulations are inconsistent, the provisions of the most recently adopted comprehensive plan, or element or portion thereof, will govern actions taken in regard to an application for a development order.

A development order or land development regulation will be deemed consistent with the comprehensive plan if the land uses, densities or intensities, and other aspects of development permitted by such order or regulation are compatible with and further the objectives, policies, land uses, and densities or intensities in the comprehensive plan, and if it meets all other established regulatory requirements of the County.

Where goals, objectives, or policies of particular elements conflict, those conflicts will be resolved based on an analysis of the Lee Plan as a whole. Conflicts between the land development regulations and the Lee Plan will be resolved in favor of the Lee Plan.

1. The following development approvals will be considered consistent with the Lee Plan:
 - a. Development permits authorizing development contemplated by a valid Development Agreement adopted under section 163.3220, F.S.
 - b. Development authorized pursuant to a Development of Regional Impact created under Chapter 380, F.S.
 - c. Development permits, as defined in § 380.031, F.S., where the development began prior to adoption of the amendment and has continued in good faith. Consistency will be limited to the development parameters approved in writing and depicted on accompanying development plans expressly approved under the development order process prior to adoption of the amendment.
 - d. Development authorized by court order resulting from litigation in which Lee County was a party.
 - e. Development permits for reconstruction of structures damaged by fire or other natural forces, so long as reconstruction does not exceed the legally permitted use, density, and intensity existing at the time of destruction and the rebuilt or replaced structure complies with federal and state regulations, local building, and life safety regulations.
 - f. In circumstances where judicially defined principles of equitable estoppel override valid limitations imposed by the Lee Plan, the Board of County Commissioners, acting by resolution on a case-by-case basis, may issue the minimum development permit necessary to authorize development to avoid a Bert Harris or inverse condemnation action.
 - g. Development orders and development permits authorizing development contemplated by an administrative interpretation or a legislative interpretation.
2. Development approvals consistent under subsection 1 may be modified if the modifications make the development more consistent with the current Lee Plan than the original approval.

B. Administrative Interpretations of the Plan

An applicant of a development permit whose property rights are directly affected by the Lee Plan have the right to an administrative interpretation of the Plan as to its application to their property. Administrative interpretations are intended to expedite and reduce disputes over interpretations of the Lee Plan, resolve map or boundary disputes, avoid unnecessary litigation, ensure consistency in Plan interpretation, and provide predictability in interpreting the Plan. Administrative interpretations will be determined by the Community Development Director or designee.

Interpretations will remain in effect and bind the county only as to the legally described property and the plan of development upon which the interpretation was based. If the plan of development is changed, then the administrative interpretation is no longer binding. Actions that render a previous interpretation no longer binding include the following: significant changes in parcel or platted lot(s) configuration; changes to land uses; decreases in open space or preserved land; increases in density or intensity; increases in the acreage or other changes that make the plan of development less consistent with the Lee Plan. Determinations of whether a plan of development will be changed so as to render the previous interpretation no longer binding on the county will be made on a case by case basis.

Applicants seeking an administrative interpretation must submit an application demonstrating compliance with the standards below. Procedures for obtaining an administrative interpretation are provided in Lee County Administrative Code 3-2.

1. Subject Matter of Administrative Interpretations

Administrative interpretations are limited to:

- a. Whether the Minimum Use Determination, formerly known as the single-family residence provision, applies to a lot/parcel.
- b. Whether a parcel has been properly designated as Wetlands. A Jurisdictional Determination approved by SFWMD or Florida DEP must be submitted prior to the issuance of such an interpretation.
- c. Providing clarification of Land Use Map boundaries.

2. Standards for Administrative Interpretations

- a. Interpretations that are confiscatory, arbitrary, capricious, unreasonable, or which would deny all economically viable use of property must be avoided;
- b. Interpretations must be consistent with background data, other policies, and objectives of the plan as a whole;
- c. Interpretations should, to the extent practical, be consistent with prior interpretations; and
- d. Interpretations must be consistent with Statutory Rules of Construction.
- e. In addition to the above, interpretations for a Minimum Use Determination (MUD) will be determined under the following standards:
 - (1) Property not in compliance with the standard density requirements of the Lee Plan may construct one single-family residence on the property PROVIDED the lot/parcel meets the requirements below:

(a) Date Created:

- (i) The lot/parcel must have been created and recorded in the official Plat Books of Lee County prior to December 21, 1984, and the configuration of the lot has not been altered; or
- (ii) A legal description of the property was lawfully recorded in the Official Record books of the Clerk of Circuit Court prior to December 21, 1984; or
- (iii) The lot was lawfully created after December 21, 1984, and the lot area was created in compliance with the Lee Plan as it existed at that time.

(b) Minimum Lot Requirements:

- (i) A lot/parcel created before June 27, 1962 must be a minimum of 4,000 square feet in area; or
- (ii) A lot/parcel that is part of a subdivision recorded in the official Plat Books of Lee County on or after June 27, 1962, and prior to December 21, 1984, must have a width of at least 50 feet and an area of at least 5,000 square feet; or
- (iii) A lot/parcel created on or after June 27, 1962, and prior to December 21, 1984, that is not part of a subdivision recorded in the official Plat Books of Lee County must be a minimum of 7,500 square feet in area; or
- (iv) A lot/parcel created on or after December 21, 1984 that was in conformance with the zoning regulations in effect at the time the lot/parcel was recorded; or
- (v) A lot/parcel approved as part of a Planned Unit Development or Planned Development.

(c) Access and Drainage:

- (i) The lot/parcel must front on a constructed road and the lot/parcel must be served by drainage swales or equivalent drainage measures. The road must have, at a minimum, a graded surface of shell, marl, gravel base rock, or other compacted fill material, suitable for year-round use; or
- (ii) The lot/parcel must be located within a subdivision approved under Chapter 177, F.S., provided the subdivision access and drainage improvements have been constructed or the developer has posted security for their completion.

- (d) There is no other permitted use allowed on the property.
- (2) When the right to build a single-family residence on a lot/parcel has been established with a Minimum Use Determination, the following will apply:
 - (a) The residential structure must comply with applicable health, safety, and welfare regulations.
 - (b) Lots/parcels that contain wetlands will be subject to the Wetlands Protection Ordinance as codified in the Land Development Code.
 - (c) If two or more contiguous lots/parcels have each qualified for the right to build a single-family residence, the property owner may reapportion the lots/parcels provided the number of lots/parcels created through reapportionment does not exceed the number of single-family residences approved for each lot/parcel.
 - (d) Lots/parcels that qualify for the right to construct a single-family residence, may be combined with contiguous property provided overall density will not increase.
 - (e) If two or more contiguous properties have each qualified for the right to construct a single-family residence and if the lots/parcels are located in a zoning district that permits duplex or two-family dwellings, the lots/parcels may be combined to build a single duplex or two-family building in lieu of constructing two single-family residences.
- (3) A Minimum Use Determination will run with the land and is available to subsequent owners if the property is transferred in its entirety.
- (4) Lots/parcels with a favorable Minimum Use Determination may be permitted non-residential uses in addition to a single family residence if:
 - (a) The lot/parcel is located in the Open Lands or Density Reduction/Groundwater Resource (DR/GR) land use category and the use is allowed by the future land use category and complies with the Land Development Code; or
 - (b) The lot/parcel is located on Captiva Island in an area identified by Policy 13.2.1 and is approved as a Commercial or Mixed-Use Planned Development.
- (5) A Minimum Use Determination may be vacated on a property that is brought into compliance with the standard density requirements of the Lee Plan.
- (6) In the General Interchange future land use category, property that is less than one acre in size and qualifies for a Minimum Use Determination may be permitted a

single-family residence. Property that is an acre or more in size does not qualify for a Minimum Use Determination and will be required to meet the minimum density of 8 units per acre and limited to multi-family dwelling units.

(7) Properties within future land use categories that do not permit residential density, as summarized on Table 1(a), do not qualify for a Minimum Use Determination.

3. Standards for Appeal

The Board will consider information submitted during the administrative interpretation process and will review only whether the standards set forth in subsection (2) above have been properly applied to the facts.

C. Legislative Interpretations of the Plan

The Lee Plan will be interpreted in accordance with generally accepted rules of statutory construction, based upon sound legal advice. Legislative interpretations will have the force of law, unless the Lee Plan is amended to change the effect of the legislative interpretation.

Requests for legislative interpretations may be placed before the Comprehensive Plan Annotations Committee (CPAC) by any one of its three members in response to a question raised by the Board of County Commissioners, collectively or by any one commissioner, by any member of the county administration responsible for administering the Plan, by the Local Planning Agency (LPA), by the Lee County Hearing Examiner, or by any applicant for development regulated by the Plan. Legislative interpretations will be made using the procedures provided in Lee County Administrative Code 13-2.

Comprehensive Plan Annotations Committee (CPAC). The three members of the CPAC are the Director of Community Development, the Planning Manager, and the County Attorney, or designee. Only one vote may be cast by or on behalf of each official. The CPAC is subject to the sunshine regulations and all meetings must be open to the public. The CPAC will function in an informal workshop atmosphere, with an emphasis on the timely production of concise, written recommendations to the LPA.

D. Amendments to the Plan

This plan, including the Future Land Use Map, may be amended in accordance with Florida Statutes and administrative procedures adopted by the Board of County Commissioners in Lee County Administrative Code 3-6. In accordance with § 163.3177(1)(f), F.S., all amendments must be based upon relevant and appropriate data and analysis.

The decision of the Board of County Commissioners on a plan amendment is final and deemed rendered on the date the Board votes on the matter denying or approving the requested amendment. In accordance with § 163.3181(4), F.S., if an Applicant's request for an amendment to the Lee Plan, which is applicable to the Applicant's property, is denied by the Board of County Commissioners, the Applicant may request informal mediation or other

alternative dispute resolution agreed upon by the Applicant and the County to attempt to resolve issues raised regarding the proposed amendment. The costs of the mediation or other alternative dispute resolution shall be borne equally by the County and the Applicant. A written request under this section must be submitted to the Chairman of the Board of County Commissioners within 30 days from the date the application was denied by the Board. Failure to make the request will be deemed a waiver of the opportunity afforded under § 163.3181(4), F.S. All public and private discussions in furtherance of settlement under the informal mediation or alternative dispute resolution process are inadmissible in subsequent litigation.

Sections of this plan may be renumbered or relettered, and typographical errors which do not affect the intent, may be authorized by the County Manager, or his designee, without a Public Hearing, by filing a corrected copy with the Clerk of the Circuit Court.

a. Effect and Legal Status of the Plan

~~Upon adoption of this amended plan, all development and all actions taken in regard to development orders must be consistent with the plan as adopted. All land development regulations enacted or amended after the effective date of the Lee Plan must be consistent with the Lee Plan. Land development regulations in existence as of the effective date of the Lee Plan which are inconsistent with the Lee Plan will be amended to conform to the goals, objectives, and policies of the Lee Plan, as provided for in the implementation section of the plan.~~

~~The terms "consistent with" and "in conformity with" will mean that all development actions or orders will tend to further the goals, objectives, and policies of the plan and will not specifically inhibit or obstruct the attainment of articulated policies. Where goals, objectives, or policies of particular elements appear to be in conflict, such conflicts will be resolved upon an analysis of the entire Lee Plan as it may apply to the particular area at issue.~~

~~The impact of the Lee Plan upon ongoing development may involve a balancing of public needs reflected in the Lee Plan and the expectations of those persons in the process of developing property in a manner inconsistent with the goals, objectives, and policies of the Lee Plan. Moreover, Section 163.3202(2)(g), Florida Statutes, imposes restrictions on the ability of Lee County to grant development permits notwithstanding an otherwise satisfactory balancing of such needs and expectations. Therefore, there will necessarily be a transition period in which such development rights will have to be balanced with the public needs and purposes expressed in the Lee Plan and this transition may be further complicated by the impact of Section 163.3202(2)(g). During this transition period, in instances where development has been reviewed and determined to be consistent with the 1979 Comprehensive Plan, as amended, and/or the 1984 Lee Plan, as amended, and/or the 1989 Lee Plan, as amended, and a development order or final development order has been issued, such development, to the extent it cannot reasonably comply with the standards established in the Lee Plan, will be deemed consistent with the Lee Plan as outlined below.~~

- ~~A. A preliminary development order, not otherwise vested, issued prior to the effective date of this plan, and subsequently issued, will be deemed consistent with this plan for a period of three years, only as to:~~
- ~~1. terms specifically approved in writing; or~~
 - ~~2. accompanying plans expressly approved as to matters requested to be in said plans and requested to be approved as part of the preliminary development order process.~~

~~To be deemed consistent, such preliminary development orders must also meet all applicable public health, safety, and welfare standards.~~

~~B. A final development order, not otherwise vested, will be deemed consistent with the amended plan for a period of five years from the date of issuance of the development order, only as to:~~

- ~~1. terms specifically approved in writing; or~~
- ~~2. accompanying plans expressly approved as to matters requested to be in said plans and requested to be approved as part of the development order process.~~

~~To be deemed consistent, such final development orders must also meet all applicable public health, safety, and welfare standards.~~

~~C. A development order, not otherwise vested, will be deemed consistent with the amended plan for a period of three years (six years for development orders approved after October 16, 1994) from the date of issuance of the development order, only as to:~~

- ~~1. terms specifically approved in writing; or~~
- ~~2. accompanying plans expressly approved as to matters requested to be in said plans and requested to be approved as part of the development order process.~~

~~To be deemed consistent, such development orders must also meet all applicable public health, safety, and welfare standards.~~

~~D. In addition to above mentioned development orders, preliminary and final development orders, the following categories of approvals, projects, and developments will be deemed to be consistent with the Lee Plan, subject to the applicable conditions as set forth below:~~

- ~~1. a development or project that has a building permit issued by Lee County, valid on the effective date of the 1993/94 amendments to the Lee Plan;~~
- ~~2. a development or project that has been granted an approval under the site plan approval process of the Lee County Administrative Code F 0015, or its predecessors, and the approval was obtained prior to the effective date of the Lee Plan (December 21, 1984), PROVIDED THAT construction of the development or project was begun within two (2) years of the approval date and construction has been diligently pursued;~~
- ~~3. a site plan approved by court order or stipulated settlement which is the result of litigation in which Lee County was a party;~~
- ~~4. an approved, platted subdivision pursuant to Part I of Chapter 177, Florida Statutes;~~
- ~~5. final P.U.D. approvals, PROVIDED THAT construction began (or begins) within two (2) years of the final P.U.D. approval and construction has been (is) diligently pursued;~~
- ~~6. all developments approved under a site specific P.U.D. ordinance;~~
- ~~7. "planned development" zoning approvals which have not been vacated due to inactivity by the developer;~~
- ~~8. for ongoing commercial operations, an addition or interior remodeling, limited to 25% of the existing floor area or 1,500 square feet, whichever is less (this is a one-time addition); no addition or remodeling will be permitted within wetlands (as defined in Goal 114);~~
- ~~9. development that has been granted an exemption from the requirements of Ordinance No. 82 42, as amended, or Ordinance 92 44, as amended, prior to the effective date of the 1988/89 or the 1993/94 plan, whichever is applicable; and~~
- ~~10. a project which received a final favorable vested rights determination pursuant to Chapter XIV of the 1984 Lee Plan before its amendment in 1986, if the construction of the project has been or is actually commenced within five years of the date of such determination and construction continues at a reasonable rate under the circumstances to completion of~~

~~the project; provided, however, that any substantial deviation from a prior approval which has received vested rights or partial vested rights status will cause the development involved to be subjected to the policies and implementing decisions and regulations set forth in the 1988/89 and subsequent amendments to the Lee Plan. These vested rights, as conditioned herein, run with the land and therefore may be transferred from owner to owner. However, even subsequent owners are subject to the possibility that any vested rights determination may be revoked upon a showing by the county of a peril to the public health, safety, or general welfare of the residents of Lee County unknown at the time of approval.~~

~~The following general conditions will apply to the above ten categories:~~

- ~~1. the activity must comply with all applicable public health, safety, and welfare standards and regulations;~~
- ~~2. these categories will be deemed consistent only insofar as those items specifically approved; and~~
- ~~3. the activity will not be deemed consistent if there has been a substantial deviation from the approval granted.~~

~~Notwithstanding anything in this section to the contrary, an approval, project, development order, preliminary development order, or a final development order, which would otherwise be deemed consistent, will not be deemed consistent upon a showing by the county of a peril to the public health, safety, or general welfare of the residents of Lee County, which peril was unknown at the time of approval. Moreover, notwithstanding the fact that an approval, project, development order, preliminary development order, or a final development order is deemed consistent, no development order or permit, as defined in Section 163.3164, Florida Statutes, will be issued which results in a reduction in the levels of service below the minimum acceptable levels established in this plan, as required by Section 163.3202(2)(g), Florida Statutes.~~

~~Nothing in the Lee Plan will limit or modify the rights of any person to complete any development that has been authorized as a development of regional impact pursuant to Chapter 380, Florida Statutes.~~

~~E. In other circumstances where development expectations may conflict with the Lee Plan but judicially defined principles of equitable estoppel may override the otherwise valid limitations imposed by the Lee Plan, such expectations may be recognized by Lee County, acting by resolution of its Board of County Commissioners, on a case-by-case basis.~~

~~F. Build back Policy~~

~~Structures which have been damaged by fire or other natural forces to the extent that the cost of their reconstruction or repair exceeds 50% of the replacement value of the structure may be reconstructed at (but not to exceed) the legally documented actual use, density, and intensity existing at the time of destruction, thereby allowing such structures to be rebuilt or replaced to the size, style, and type of their original construction, including their original square footage; provided, however, that the affected structure, as rebuilt or replaced, complies with all applicable federal and state regulations, local building and life safety regulations, and other local regulations which do not preclude reconstruction otherwise intended by this policy.~~

~~In order to reconstruct at the legally documented previous use, density, and intensity, a building permit must be applied for within five years after the date of destruction. The date of destruction must be legally documented. Such documentation may include a local, state,~~

~~or federal declaration of disaster; a fire or police department report on the event; or any insurance claims filed as a result of the destruction. If a building permit is not applied for within five years of the destruction, the property will then become subject to current regulations on use, density, and intensity.~~

~~In accordance with this policy, the post disaster ordinance (Objective 111.2) will provide that:~~

- ~~1. Structures damaged less than 50% of their replacement value at the time of damage can be rebuilt to their original condition, subject only to current building and life safety codes.~~
- ~~2. Structures damaged more than 50% of their replacement value at the time of damage can be rebuilt to their original square footage and density, provided that they comply with:
 - ~~a. federal requirements for elevation above the 100 year flood level;~~
 - ~~b. building code requirements for floodproofing;~~
 - ~~c. current building and life safety codes;~~
 - ~~d. state Coastal Construction Control Lines; and~~
 - ~~e. any required zoning or other development regulations (other than density or intensity), unless compliance with such regulations would preclude reconstruction otherwise intended by the buildback policy.~~~~
- ~~3. The ordinance may establish blanket reductions in non vital development regulations (e.g. buffering, open space, side setbacks, etc.) to minimize the need for individual variances or compliance determinations prior to reconstruction.~~
- ~~4. The ordinance may establish procedures to document actual uses, densities, and intensities, and compliance with regulations in effect at the time of construction, through such means as photographs, diagrams, plans, affidavits, permits, appraisals, tax records, etc.~~
- ~~5. No provision is made to redevelop property containing damaged structures for a more intense use or at a density higher than the original lawful density except where such higher density is permitted under current regulations.~~

~~b. Administrative Interpretations of the Plan~~

~~Persons or entities whose interests are directly affected by the Lee Plan have the right to an administrative interpretation of the plan as it affects their specific interest. Such an interpretation, under the procedures and standards set forth below, will remain in effect and thereafter be binding upon the county only as to the legally described property and any plan of development upon which the interpretation was based. If the plan of development is proposed to be, or is changed, through any action of any owner or developer of the property, then the administrative interpretation is no longer binding on the county. Actions that will render a previous interpretation no longer binding include any of the following: significant changes in parcel or platted lot(s) configuration; changes to land uses; decreases in the amount of open space or preserved land; increases in density or intensity of use; increases in the size or acreage of the property; or any other change that makes the plan of development less consistent with the current Lee Plan. (Note: combing lands consistent with XIII.b.B.4.b.(4) is allowed.) A determination of whether or not a plan of development has been, or would be changed sufficiently to render the previous interpretation no longer binding on the county will be made on a case by case basis by the Administrative Designee using the above described criteria.~~

~~Administrative interpretations are intended to expedite and reduce disputes over interpretations of the Lee Plan, resolve certain map or boundary disputes, avoid unnecessary litigation, ensure~~

~~consistency in plan interpretation, and provide predictability in interpreting the plan. All such administrative interpretations, once rendered, are subject to challenge under the provisions of Section 163.3215, Florida Statutes.~~

~~Anyone seeking an administrative interpretation must submit an application with requested information and will have the burden of demonstrating compliance with the standards set forth below.~~

~~A. Subject Matter of Administrative Interpretations~~

~~Administrative interpretations will be provided only as to the matters set forth below. In no event will administrative interpretations hereunder involve questions of the consistency of development or land use regulations with the Lee Plan. Administrative interpretations will be determined by the County Manager or his designee and are limited to:~~

- ~~1. Whether the single family residence provision as hereinafter defined applies and the applicant desires a written opinion for future use, or in conjunction with a concurrent building permit application. If said single family residence provision application is not approved, an application for appeal of the single family residence denial may be submitted to the County Attorney's Office for final review.~~
- ~~2. Whether an area has been (or should have been) designated Wetlands on the basis of a clear factual error. A field check will be made prior to the issuance of such an interpretation.~~
- ~~3. Clarification of land use map boundaries as to a specific parcel of property.~~

~~B. Standards for Administrative Interpretations~~

~~Administrative interpretations of the Lee Plan will be determined under the following standards:~~

- ~~1. Interpretations which would be confiscatory, arbitrary, capricious, unreasonable, or which would deny all economically viable use of property will be avoided;~~
- ~~2. Interpretations should be consistent with background data, other policies, and objectives of the plan as a whole;~~
- ~~3. Interpretations should, to the extent practical, be consistent with comparable prior interpretations;~~
- ~~4. Single Family Residence Provision:
 - ~~a. Applicability Notwithstanding any other provision of this plan, any entity owning property or entering or participating in a contract for purchase agreement of property, which property is not in compliance with the standard density requirements of the Lee Plan, will be allowed to construct one single family residence on said property~~
~~PROVIDED THAT:~~~~

~~(1) Date Created:~~

- ~~(a) the lot or parcel must have been created and recorded in the official Plat Books of Lee County prior to the effective date of the Lee Plan (December 21, 1984), and the configuration of said lot has not been altered; OR~~
- ~~(b) a legal description of the lot or parcel was lawfully recorded in the Official Record books of the Clerk of Circuit Court prior to December 21, 1984; OR~~
- ~~(c) the lot was lawfully created after December 21, 1984, and the lot area was created in compliance with the Lee Plan as it existed at that time.~~

~~(2) Minimum Lot Requirements: In addition to meeting the requirements set forth above, the lot or parcel must:~~

- ~~(a) have a minimum of 4,000 square feet in area if it was created prior to June 27, 1962; OR~~
 - ~~(b) have a width of not less than 50 feet and an area of not less than 5,000 square feet if part of a subdivision recorded in the official Plat Books of Lee County after June 27, 1962, and prior to December 21, 1984; OR~~
 - ~~(c) have a minimum of 7,500 square feet in area if it was created on or after June 27, 1962, and prior to December 21, 1984, if not part of a subdivision recorded in the official Plat Books of Lee County; OR~~
 - ~~(d) have been in conformance with the zoning regulations in effect at the time the lot or parcel was recorded if it was created after December 21, 1984; OR~~
 - ~~(e) have been approved as part of a Planned Unit Development or Planned Development.~~
- ~~(3) Access and Drainage: In addition to meeting the requirements set forth above:~~
- ~~(a) the road that the lot or parcel fronts on must have been constructed and the lot must be served by drainage swales or equivalent drainage measures. The road must have, at a minimum, a graded surface of shell, marl, gravel base rock, or other compacted fill material, suitable for year-round use; OR~~
 - ~~(b) the lot or parcel must be located within a subdivision which was approved under Chapter 177, Florida Statutes, as long as the subdivision improvements have been made or security for their completion has been posted by the subdivider.~~
- ~~If the lot or parcel cannot meet the requirement of access and drainage, this requirement will not apply to the extent that it may result in an unconstitutional taking of land without due process.~~
- ~~(4) Interchange, Tradeport, and Industrial Development land use categories: In addition to the requirements set forth above, a residential use must be the only reasonable use of the lot or parcel. The existence of a reasonable commercial or industrial use will be determined by reference to all of the applicable facts and circumstances, including, but not limited to, the nature of the surrounding uses, the adequacy of the lot size (pursuant to Chapter 34 of the Land Development Code) for commercial or industrial uses, and whether adequate infrastructure exists or can reasonably be provided to serve a commercial or industrial use at the location in question.~~
- ~~b. Construction Regulations—Subsequent to a property owner establishing the right to build a single family residence on a lot through the procedures set forth in this plan, the following policies will prevail:~~
- ~~(1) The residential structure must be in compliance with all applicable health, safety, and welfare regulations, as those regulations exist at the time the application for construction of the residence is submitted.~~
 - ~~(2) Lots or parcels which qualify for the right to construct a residence and which contain wetlands will be subject to special provisions of the Wetlands Protection Ordinance.~~
 - ~~(3) If two or more contiguous lots or parcels have each qualified for the right to build a single family residence, the property owner is permitted and encouraged to reappportion properties if the result of the reappointment is a lot or lots which come closer to meeting the property development regulation standards for the~~

~~zoning district in which it is located and as long as no property becomes non-conforming or increases in its non-conformity as a result of the reapportionment and as long as the density will not increase.~~

~~(4) If a lot or parcel has qualified for the right to construct a single family residence, nothing herein will be interpreted as prohibiting the combining of said lot or parcel with other contiguous property provided the density will not increase.~~

~~(5) If two or more contiguous properties have each qualified for the right to construct a single family residence and if the lots or parcels are located in a zoning district which permits duplex or two family dwellings, the property owner(s) may combine the lots to build a single duplex or two family building in lieu of constructing two single family residences.~~

~~(6) For mixed use developments in the Captiva community in the areas identified by Policy 13.2.1, such developments may be allowed one residential unit in addition to commercial uses. A Minimum Use Determination will not be required to construct a residential unit for mixed use developments as defined in the Lee Plan, and mixed use developments containing both commercial and residential uses within the same structure on those parcels identified by Policy 13.2.1.~~

~~e. Transferability—This right will run with the land and be available to any subsequent owner if the property which qualifies for the single family provision is transferred in its entirety.~~

~~C. Procedure for Administrative Interpretations~~

~~The following procedures will apply in obtaining administrative interpretations:~~

~~1. Except as provided in 3. below, anyone seeking an administrative interpretation of the plan will submit an application, on an appropriate form provided by the county, with all requested information to the Zoning and Development Review Division (single family residence provision) or the Planning Division (all other applications), or to their successor agencies.~~

~~2. The person authorized by Section A.1. or 2. above will review such information and issue an administrative interpretation in writing within sixty (60) days after submittal of the application and all requested information to the appropriate division. The interpretation will contain findings and reasons for the interpretation rendered.~~

~~3. If the request for a single family residence provision or Wetlands determination is in conjunction with an application for a building permit, development order, or planned development rezoning, a separate application will not be required. The interpretation will be noted on the building permit, development order, or planned development rezoning approval, or will be contained in the reasons for denial where applicable.~~

~~4. An administrative interpretation may be appealed to the Board of County Commissioners by filing a written request within fifteen (15) days after the administrative interpretation has been made. In reviewing such an appeal, the Board will consider only information submitted in the administrative interpretation process and will review only whether the designated individual has properly applied to the facts presented and the standards set forth in the plan for such administrative interpretation. No additional evidence will be considered by the Board. The Board of County Commissioners will conduct such appellate review at a public meeting.~~

~~5. The Board of County Commissioners will consider the appeal at a hearing to be held within thirty (30) days after the date of the written request for appeal. A decision~~

overruling the written interpretation will be in writing and will be rendered by the Board within thirty (30) days after the date of the hearing. Alternatively, the Board may adopt the administrative interpretation being appealed.

6. ~~Where appropriate and necessary all administrative interpretations rendered by the designated persons (or upon appeal, approved by the Board of County Commissioners) will be incorporated into the Plan during the next amendment cycle.~~

c. Legislative Interpretations of the Plan

~~In order to apply the plan consistently and fairly, it will be necessary from time to time to interpret provisions in the plan in a manner which insures that the legislative intent of the Board of County Commissioners which adopted the plan be understood and applied by subsequent boards, county employees, private property owners, and all other persons whose rights or work are affected by the plan. When the plan is interpreted, it should be done in accordance with generally accepted rules of statutory construction, based upon sound legal advice, and compiled in writing in a document which should be a companion to the plan itself. These goals will be accomplished by the procedures which are set forth below:~~

~~A. Comprehensive Plan Annotations Committee~~

~~The Director of Community Development, the Planning Director, and the County Attorney will together be empowered to sit as the Comprehensive Plan Annotations Committee. In each instance, these persons may designate one or more subordinates to serve in their place, but only one vote may be cast by or on behalf of each of the aforementioned officials. The purpose of the committee is to make written recommendations to the Local Planning Agency in response to requests for interpretations of specific provisions in the plan. If the committee cannot recommend an interpretation unanimously, then both a majority and minority recommendation will be made to the Local Planning Agency. Similarly, if the committee cannot reach a majority position with respect to an interpretation, then each official will submit a separate recommendation to the Local Planning Agency. In accomplishing its work, the committee will operate as follows:~~

1. ~~Organization~~ — ~~The committee will meet regularly at such times and places as it may choose. Its meetings will be either private or open to the public, or a combination thereof, as the committee chooses. The committee will have total discretion in this matter. No public notices of its meetings will be required. It may invite to its meetings such persons as it believes will best assist it in its work. It is intended that the committee will function in an informal workshop atmosphere, with emphasis to be placed on the timely production of concise, written recommendations to the Local Planning Agency in response to requests for interpretations of specific provisions in the plan. The County Attorney will be responsible for reducing the recommendations of the committee in writing, unless he is in the minority, in which case the Planning Director will be responsible for reducing the majority recommendation to writing. In every case, the Planning Director will be responsible for delivering the recommendations to the Local Planning Agency on a timely basis as part of the published agenda of the Local Planning Agency.~~
2. ~~Requests for Interpretations~~ — ~~Requests for interpretations will be placed before the Comprehensive Plan Annotations Committee by any one of its three members in response to a question raised by the Board of County Commissioners, collectively or by any one commissioner, by any member of the county administration who is responsible for~~

~~administering the plan, by the Local Planning Agency, by the Lee County Hearing Examiner, or by any applicant for a type of development regulated by the plan. In each case, the Planning Director will be responsible for reducing the questions to writing and, to the extent possible, linking them to specific plan provisions which might affect the answer.~~

~~B. Local Planning Agency~~

~~Upon receiving the recommendations from the Comprehensive Plan Annotations Committee, the Local Planning Agency will review the same and forward them to the Board of County Commissioners with such comments and recommendations of its own that the Local Planning Agency believes to be appropriate. (Amended by Ordinance No. 00-22)~~

~~C. Board of County Commissioners~~

~~Upon receiving the recommendations of the Comprehensive Plan Annotations Committee, with such other comments and recommendations as the Local Planning Agency submits with the committee's recommendations, the Board of County Commissioners will render a final decision as to the correct interpretation to be applied. This interpretation will be that which is adopted by absolute majority of the Board of County Commissioners and, upon being reduced to a board resolution drafted by the County Attorney in response to the board majority, it will be signed by the Chairman and recorded in the county's Official Records. The Planning Director will be responsible for maintaining copies of all such resolutions in a single document which will be appropriately indexed and provided to all persons upon request. The document will be updated regularly and the latest version thereof furnished to all persons requesting copies of the plan itself. (Amended by Ordinance No. 00-22)~~

~~D. Legal Effect of Annotations~~

~~Any provision of the plan specifically construed in accordance with the foregoing procedures may not be re-interpreted or modified except by a formal amendment of the plan itself. Once formally adopted in accordance with these procedures, the annotation will have the force of local law and all persons will be placed on constructive notice of it. Any development orders issued in reliance on legislative interpretations of this plan are subject to challenge under the provisions of Section 163.3215, Florida Statutes. (Amended by Ordinance No. 00-22)~~

d. Plan Amendment Procedures

~~This plan, including the Future Land Use Map, may be amended with such frequency as may be permitted by applicable state statutes and in accordance with such administrative procedures as the Board of County Commissioners may adopt.~~

~~Sections of this plan may be renumbered or relettered, and typographical errors which do not affect the intent, may be authorized by the County Administrator, or his designee, without need of Public Hearing, by filing a corrected copy of same with the Clerk of the Circuit Court.~~

e. Monitoring and Evaluation

~~Lee County approved the Evaluation and Appraisal Report (EAR) in accordance with F.S. 163.3191 on July 7, 1994. The 1994 Lee Plan is designed to implement the recommendations in the EAR. An addendum addressing statutory and rule changes that were not discussed in the 1994 EAR will be transmitted to DCA on or before the date prescribed by rule. The Capital Improvements element will be evaluated and amended annually in accordance with FAC Rule 9J 5.016. EAR's meeting the requirements in F.S. 163.3191 and DCA's rules will be adopted and transmitted after 1996 consistent with the timeframe provided by law.~~

~~A. Annual Review: Capital Improvements Element~~

~~One procedure for evaluating and monitoring the plan will involve an annual review and update of the Capital Improvements Program and the Capital Improvements element coinciding with the county's budget adoption process. This annual review will meet the evaluation and monitoring requirement for the Capital Improvements element as provided by Rule 9J-5.016(5) FAC. Those policies in other elements of the comprehensive plan affecting capital improvements will also be reviewed. Other more recent events which may have affected the outcome of those policies will be taken into consideration. An annual report will be prepared based upon this examination. This report will address any plan amendments to date, as well as amendments to any local ordinances affecting the implementation of the plan. This annual report will be prepared by the Department of Community Development and will be submitted to the Local Planning Agency and the Board of County Commissioners for review. This report will also identify which agencies within the county government organization have been assigned specific tasks or studies mentioned in the plan. (Amended by Ordinance No. 94-30, 00-22)~~

~~B. Five Year Evaluation and Appraisal~~

~~The next EAR required by law will address the following in addition to any other requirements set out in F.S. 163.3191 and FAC Rule 9J-5.0053:~~

- ~~1. Citizen participation in the planning process. The county will update procedures to provide for and encourage public participation in the planning process, including amendments to the comprehensive plan and preparation of evaluation and appraisal reports. The procedures which are mandated by the Southwest Florida Regional Comprehensive Policy Plan (25-C) will involve a series of advertised public workshops and hearings, the opportunity to provide written comments, and the publication of an executive summary. Specifically, the public participation procedures must include the following:
 - ~~a. Procedures to assure that real property owners are put on notice, through advertisement in a newspaper of general circulation in the area or other method adopted by the county to notify the public of official actions that will affect the use of their property.~~
 - ~~b. Provisions for notice to keep the general public informed.~~
 - ~~c. Provisions to assure that there are opportunities for the public to provide written comments.~~
 - ~~d. Provisions to assure that the required public hearings are held.~~
 - ~~e. Provisions to assure the consideration of and response to public comments.~~~~
- ~~2. Updating appropriate baseline data and measurable objectives to be accomplished in the first five year period of the plan and for the long term period. This will be accomplished through the on-going collection of pertinent data and the systematic recording of progress on the accomplishment of measurable objectives.~~
- ~~3. Accomplishments in the first five year period, describing the degree to which the goals, objectives, and policies have been successfully reached. This process will involve summarizing the annual reports which coincide with the county's budget adoption process. Progress on non-capital projects will be summarized as well.~~
- ~~4. Obstacles or problems which resulted in underachievement of goals, objectives, or policies. In the analysis of the annual reports on the comprehensive plan, the underachievement of goals, objectives, or policies will be assessed and evaluated.~~

~~Proposals for modifying or eventually achieving the goals, objectives, and policies will be made.~~

- ~~5. New or modified goals, objectives, or policies needed to correct discovered problems. Along with failure to meet stated objectives, the evaluation will recommend new goals, objectives, or policies that will either correct past problems in achievement, or modify the general direction or aim.~~
- ~~6. A means of ensuring continuous monitoring and evaluation of the plan during the five-year period. The annual report process will accomplish a timely and consistent review of the county's progress in implementing the comprehensive plan. This will summarize plan amendments, budget allocation, deferrals or deletions, and the initiation or completion of programs and projects. (Amended by Ordinance No. 94-30, 00-22)~~

**ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS**

<u>CATEGORY:</u> <u>Development/Planning/Zoning</u>	<u>CODE NUMBER:</u> <u>AC-13-2</u>
<u>TITLE:</u> <u>Procedures for Administrative and Legislative Interpretations of the Lee County Comprehensive Plan</u>	<u>ADOPTED:</u> <u>XX/XX/XX</u>
	<u>AMENDED:</u>
	<u>ORIGINATING DEPARTMENT:</u> <u>Community Development</u>

A. PURPOSE/SCOPE:

This administrative code establishes procedures for administrative and legislative interpretations of the Lee County Comprehensive Plan (the Lee Plan). These procedures supplement the Administration Chapter of the Lee Plan. If there is a conflict between this code and the Lee Plan, the Lee Plan will prevail.

B. APPLICABILITY:

Administrative Interpretations. The Lee Plan provides an applicant of a development permit whose property rights are directly affected by the Plan the right to an administrative interpretation of the Plan as it affects their property.

Legislative Interpretations. The Lee Plan provides requests for legislative interpretations by any one member of the Comprehensive Plan Annotations Committee (CPAC), as described in the Lee Plan, in response to a question raised by the Board of County Commissioners, collectively or by any one commissioner, by any member of the county administration responsible for administering the Plan, by the Local Planning Agency (LPA), by the Lee County Hearing Examiner, or by any applicant for development regulated by the Plan.

C. PROCEDURE FOR ADMINISTRATIVE INTERPRETATIONS OF THE LEE PLAN:

(1) Interpretation Request. Applicants seeking an administrative interpretation must submit a written request, on a form provided by the County, with the necessary information specified in the application for the subject matter of the interpretation, and, the following:

- a. The Request must clearly and concisely state the Lee Plan provision(s) in question, the affected property and property rights, the proposed development parameters subject to the interpretation, and the specific question to be answered. If the Request is predicated on a particular set of facts or circumstances, these must be fully explained.
- b. The Request must include an opinion or memorandum of law providing the Applicant's interpretation of the Lee Plan provision(s) and a discussion of the legal issues involved. A separate planning analysis must also be provided demonstrating the applicant's interpretation is consistent with other provisions of the Lee Plan.

c. Requests that do not sufficiently demonstrate that property rights of a specific property will be directly affected by the Lee Plan will not be processed.

(2) Submittal and Filing Fee.

a. *Submittal.* The request and required materials must be submitted to the Department of Community Development. Upon receipt of the request, the Department will assign a case number and date-stamp it received.

b. *Filing Fee.* All requests must be submitted in conjunction with the required filing fee, as set forth in the Lee County External Fees and Charges Manual, as amended. A separate application fee will not be required if the request for a Minimum Use or Wetlands determination is in conjunction with an application for a building permit, development order, or planned development rezoning. The interpretation will be noted on the development permit approval, or included in a letter of denial.

(3) Administrative Interpretation. Staff will issue an administrative interpretation in writing within sixty (60) days after submittal of a complete application. The interpretation will contain findings and set forth the basis for the interpretation.

(4) Appeal. The Board will consider information submitted during the administrative interpretation process and will review only whether the standards set forth in the Lee Plan have been properly applied to the facts.

a. Administrative interpretations may be appealed to the Board of County Commissioners by filing a written request within fifteen (15) days after issue date of the administrative interpretation.

b. The Board will consider the appeal at a public hearing held within thirty (30) days after the written request for appeal. The Board may affirm or overrule the administrative interpretation. The Board's decision to overrule an administrative interpretation will be in writing and will be rendered within thirty (30) days after the date of the hearing.

c. Once rendered, administrative interpretations are subject to challenge under the provisions of Chapter 163.3215, F.S.

D. PROCEDURE FOR LEGISLATIVE INTERPRETATIONS OF THE LEE PLAN:

(1) Interpretation Request. Applicants seeking an legislative interpretation must submit a written request, on a form provided by the County, with the necessary information specified in the application for the subject matter of the interpretation, and, the following:

a. The Request must clearly and concisely state the Lee Plan provision(s), the affected property and property rights, the proposed development parameters subject to the interpretation, and the specific question to be answered. If the Request is predicated on a particular set of facts or circumstances, these must be fully explained.

b. The Request must include an opinion or memorandum of law providing the Applicant's interpretation of the Lee Plan provision(s) and a discussion of the legal issues involved. A separate planning analysis must also be provided demonstrating the applicant's interpretation is consistent with other provisions of the Lee Plan.

c. Requests that do not sufficiently demonstrate that property rights of a specific property will be directly affected by the Lee Plan will not be processed.

(2) CPAC Recommendation. The County Attorney will reduce the recommendations of the CPAC in writing, unless he or she is in the minority, in which case the Planning Manager will reduce the majority recommendation to writing. The Planning Manager will deliver the recommendations to the LPA for consideration as an agenda item at a future meeting of the LPA. If the committee cannot recommend an interpretation unanimously, then both a majority and minority recommendation will be made to the LPA. If the committee cannot reach a majority position, then each official will submit a separate recommendation to the LPA.

(3) LPA Recommendation. The LPA will review the recommendation of the CPAC at a publicly noticed meeting. The LPA will then consider the CPAC's recommendation (including minority recommendation, if applicable) and forward the LPA's recommendation and comments to the Board of County Commissioners.

(4) Final Interpretation. The Board of County Commissioners will render a final decision as to the interpretation to be applied, which will be memorialized in a resolution, and will direct Department of Community Development staff to initiate a Comprehensive Plan Amendment consistent with the interpretation.

(5) Legal Effect of Legislative Interpretation. Once a Final Interpretation is approved by the Board, the interpretation will have the force of law, unless the Lee Plan is amended to change the effect of the Final Interpretation. The resolution will control until such time the resulting Comprehensive Plan Amendment goes into effect or an alternative Lee Plan amendment nullifying the Final Interpretation is adopted.

CPA2017-00003

**Capital Improvement/
Water Supply Mgt.**

Summary Sheet

Capital Improvements and Water Supply Management

CPA2017-03

Request:

Amend the Lee Plan to align provisions within Lee Plan Goals 2, 4, 53, 54, 55, 56, 57, 58, 60, 61, 62, 64, 66, 67, 76, 79, 82, 83, 84, 95, 115, and 117 with the Board of County Commissioners strategic policy priority of managing growth (provision of adequate public facilities and services). The amendments will also reduce redundancies; align with state statutes; and, provide better organization of the Lee Plan.

LPA Motion:

The LPA recommends the Board of County Commissioners *transmit* CPA2017-01 with the addition of a minimum development threshold for requiring connection to a water reuse system. The motion was passed 4 to 0.

Transmittal Hearing:

A motion was made to transmit CPA2017-00003 as recommended by staff and the LPA. The motion was passed 4 to 0.

BRIAN HAMMAN	<u>AYE</u>
LARRY KIKER	<u>AYE</u>
FRANK MANN	<u>AYE</u>
JOHN MANNING	<u>ABSENT</u>
CECIL L. PENDERGRASS	<u>AYE</u>

Public Comments:

There have been no public comments.

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,
- Florida Department of Environmental Protection,
- Florida Department of Transportation,
- Florida Department of Agriculture and Consumer Services, and
- Southwest Florida Regional Planning Council.

There were no objections or comments concerning the proposed amendments.

Staff Recommendation:

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

LEE COUNTY ORDINANCE NO. _____
Capital Improvements and Water Supply Management
(CPA2017-00003)

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 CAPITAL IMPROVEMENTS AND WATER SUPPLY MANAGEMENT (CPA2017-00003) APPROVED DURING A PUBLIC HEARING; PROVIDING FOR PURPOSE, INTENT, AND SHORT TITLE; AMENDMENTS TO ADOPTED MAP AND TEXT; LEGAL EFFECT OF “THE LEE PLAN”; PERTAINING TO MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING; GEOGRAPHICAL APPLICABILITY; SEVERABILITY, CODIFICATION, SCRIVENER’S ERRORS, AND AN EFFECTIVE DATE.

WHEREAS, the Lee County Comprehensive Plan (“Lee Plan”) Policy 2.4.1. 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 August 28, 2017; and,

WHEREAS, the Board held a public hearing for the transmittal of the proposed amendment on September 20, 2017. At that hearing, the Board approved a motion to send, and did later send, proposed amendment pertaining to Capital Improvements and Water Supply Management (CPA2017-00003) to the reviewing agencies set forth in Section 163.3184(1)(c), F.S. for review and comment; and,

WHEREAS, at the September 20, 2017 meeting, the Board announced its intention to hold a public hearing after the receipt of the reviewing agencies’ written comments; and,

WHEREAS, on November 22, 2017, the Board held a public hearing and adopted the proposed amendment to the Lee Plan set forth herein.

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

SECTION ONE: PURPOSE, INTENT AND SHORT TITLE

The Board of County Commissioners of Lee County, Florida, in compliance with Chapter 163, Part II, Florida Statutes, and with Lee County Administrative Code AC-13-6, conducted public hearings to review proposed amendments to the Lee Plan. The purpose of this ordinance is to adopt map and text amendments to the Lee Plan discussed at those meetings and approved by a majority of the Board of County Commissioners. The short title and proper reference for the Lee County Comprehensive Land Use Plan, as hereby amended, will continue to be the "Lee Plan." **This amending ordinance may be referred to as the "Capital Improvements and Water Supply Management Ordinance (CPA2017-00003)."**

SECTION TWO: ADOPTION OF COMPREHENSIVE PLAN AMENDMENT

The Lee County Board of County Commissioners amends the existing Lee Plan, adopted by Ordinance Number 89-02, as amended, by adopting an amendment, which amends Lee Plan Goals 2, 4, 53, 54, 55, 56, 57, 58, 60, 61, 62, 64, 66, 67, 76, 79, 82, 83, 84, 95, 115, and 117 known as Capital Improvements and Water Supply Management Ordinance (CPA2017-00003).

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

SECTION THREE: LEGAL EFFECT OF THE "LEE PLAN"

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

SECTION FOUR: MODIFICATION

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

SECTION FIVE: GEOGRAPHIC APPLICABILITY

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

SECTION SIX: SEVERABILITY

The provisions of this ordinance are severable and it is the intention of the Board of County Commissioners of Lee County, Florida, to confer the whole or any part of the

powers herein provided. If any of the provisions of this ordinance are held unconstitutional by a court of competent jurisdiction, the decision of that court will not affect or impair the remaining provisions of this ordinance. It is hereby declared to be the legislative intent of the Board that this ordinance would have been adopted had the unconstitutional provisions not been included therein.

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

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

SECTION EIGHT: EFFECTIVE DATE

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

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

John E. Manning	_____
Cecil L Pendergrass	_____
Larry Kiker	_____
Brian Hamman	_____
Frank Mann	_____

DONE AND ADOPTED this 22nd day of November, 2017.

ATTEST:
LINDA DOGGETT, CLERK

LEE COUNTY BOARD OF
COUNTY COMMISSIONERS

BY: _____
Deputy Clerk

BY: _____
_____, Chair

DATE: _____

APPROVED AS TO FORM FOR THE
RELIANCE OF LEE COUNTY ONLY

County Attorney's Office

Exhibit A: Adopted revisions to Lee Plan Goals and Maps 23 and 24
(Adopted by BOCC November 22, 2017)

EXHIBIT A

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

II. Future Land Use

OBJECTIVE 2.2: DEVELOPMENT TIMING. Direct new growth to those portions of the Future Urban Areas where adequate public facilities exist or are assured and where compact and contiguous development patterns can be created. Development orders and permits (as defined in F.S. 163.3164(7)) will be granted only when consistent with the provisions of Sections 163.3202(2)(g) and 163.3180, F.S. Florida Statutes and the county's Concurrency Management Ordinance concurrency requirements in the Land Development Code. (Amended by Ordinance No. 94-30, 00-22)

OBJECTIVE 2.3: [RESERVED]. PUBLIC PROVISION OF INFRASTRUCTURE. The Capital Improvements Program will give the highest priority to the planning, programming, and construction of urban services and facilities in the existing developed areas where facilities are inadequate. Next priority will be given to service expansions in existing developed areas, followed by further expansion into other portions of the Future Urban Areas. Sufficient land will be identified and protected for utility facilities that will be necessary to support the proposed level of development. Other infrastructure planning priorities are contained in Policy 38.2.4 and Policy 95.1.1. (Amended by Ordinance No. 94-30, 00-22)

POLICY 2.3.1: Specific level of service standards and capital improvement priorities will be detailed in the relevant elements of this plan and carried out through a capital improvements program as described in the Capital Improvements element. (Amended by Ordinance No. 00-22)

POLICY 2.3.2: The cost for the provision and expansion of services and facilities that benefit new development will be borne primarily by those who benefit. Such funding may include (but is not limited to) impact fees, special taxing or benefit districts, community development districts, dedication of land and facilities, in lieu of fees, and capital construction, operation, and maintenance funds. (Amended by Ordinance No. 00-22)

POLICY 2.3.3: All facility provisions from the special funding sources in Policy 2.3.2 must be consistent with this plan.

STANDARD 4.1.1: WATER.

- 1. Any new residential development that exceeds 2.5 dwelling units per gross acre, and any new single commercial or industrial development in excess of 30,000 square feet of gross leasable (floor) area per parcel, must connect to a public water system (or a "community" water system as that is defined by Chapter 47-22 62-550, F.A.C.).
2. If the proposed development lies within the boundaries of a water utility's certificated or franchised service area, or Lee County Utilities' future potable water service area (see Map 6), then the development must be connected to that utility.
3. The developer must provide proof that the prior commitments of the water utility, plus the projected need of the developer, do not exceed the supply and facility capacity of the utility.
4. All waterline extensions to new development will be designed to provide minimum fire flows, as well as adequate domestic services as required by Chapter 40D-4 62-555, F.A.C.

5. If a new development is located in a certificated or franchised service area, or Lee County Utilities' future potable water service area (see Map 6), and the utility cannot provide the service or cannot provide the service except at a clearly unreasonable cost to the developer, the developer is encouraged to petition the appropriate regulatory agency to contract the service area so that the development may establish its own community water system or invite another adjacent utility to expand its service area in order to provide the required service.
 6. If a development lies outside any service area as described above, the developer may:
 - request that the service area of Lee County Utilities or an adjacent water utility be extended to incorporate the property;
 - establish a community water system for the development; or
 - develop at an intensity that does not require a community water system.
 7. Lee County Utilities may provide potable water service to properties not located within the Future Water Service Area when such potable water service is found to benefit public health, safety, and welfare, including protection of Lee County's natural resources.
- (Amended by Ordinance No. 94-30, 00-22, 16-01)

STANDARD 4.1.2: SEWER.

1. Any new residential development that exceeds 2.5 dwelling units per gross acre, and any new single commercial or industrial development that generates more than 5,000 gallons of sewage per day, must connect to a sanitary sewer system.
 2. If the proposed development exceeds the thresholds listed above and lies within the boundaries of a sewer utility's certificated or franchised service area, or Lee County Utilities' future sanitary sewer service area (see Map 7), and that utility has sufficient capacity to provide minimum service to the development, then the development must connect to that sewer utility if there is existing infrastructure adequate to accept the effluents of the development within 1/4 mile from any part of the development.
 3. If there is not sufficient capacity nor adequate infrastructure within 1/4 mile of the development, the developer must provide proof in the form of a clearly stated rejection of service.
 4. If a new development is located in a certificated or franchised service area, or Lee County Utilities' future sanitary sewer service area (see Map 7), and the utility cannot provide the service, or cannot provide the service except at a clearly unreasonable cost to the developer, the developer may establish on a temporary basis a self-provided sanitary sewer facility for the development, to be abated when the utility extends service to the site. The developer may also petition the appropriate regulatory agency to contract the service area of the utility in order that another utility may be invited to provide the service.
 5. If a development lies outside any service area as described above, the developer may:
 - request that the service area of Lee County Utilities or an adjacent sewer utility be expanded to incorporate the property;
 - establish a self-provided sanitary sewer system for the development;
 - develop at an intensity that does not require sanitary sewer service; or
 - if no more than 5000 gallons of effluent per day per parcel is produced, an individual sewage disposal system per Chapter ~~10D-6~~ 64E-6, F.A.C. may be utilized, contingent on approval by all relevant authorities.
 6. Lee County Utilities may provide sanitary sewer service to properties not located within the Future Sewer Service Area when such sanitary sewer service is found to benefit public health, safety, and welfare, including protection of Lee County's natural resources.
- (Amended by Ordinance No. 94-30, 00-22, 16-01)

STANDARD 4.1.3: REUSE.

1. Any development that requires a development order, on a property that is adjacent to public reuse infrastructure with sufficient capacity, must connect to the reuse system for irrigation needs.
2. Any new development that, at build-out, has an anticipated irrigation demand of 50,000 gallons per day, or more, using the Blaney-Criddle method, must connect to a public reuse system for irrigation needs when sufficient capacity and adequate infrastructure is within 1/4 mile from any part of the development.
3. If there is not sufficient capacity or adequate infrastructure within 1/4 mile of the development, the developer must provide proof in the form of a clearly stated rejection of service.
4. If a development has been rejected for reuse service the proposed source of irrigation water must be identified consistent with Policy 61.1.6.

STANDARD ~~4.1.3~~ 4.1.4: ENVIRONMENTAL REVIEW FACTORS.

IV. Community Facilities and Services

GOAL 53: POTABLE WATER INFRASTRUCTURE. ~~To ensure the public health, welfare, and safety by the provision of~~ Provide high-quality central potable water service throughout ~~the future urban areas of unincorporated Lee County,~~ and to ensure Ensure that the costs of providing facilities for the supply of potable water are is borne by those who benefit from them.

POLICY 53.1.1: ~~The Board of County Commissioners hereby establishes~~ Service areas, illustrated in Map 6, are established for the Lee County Utilities water systems throughout which it will provide standard service as required by demand, and within which it will challenge applications by private water utilities to obtain a Certificate of Operation from the Florida Public Service Commission and reject all applications for a county franchise therein. ~~These service areas are illustrated in Map 6.~~ Lee County, at its discretion, may object to water utilities applying to provide or expand potable water service to areas within unincorporated Lee County that are not included in the area illustrated on Map 6 or within a franchised/certificated potable water service area. Within the Fort Myers urban reserve area, the service areas shown on the map are subject to modifications in accordance with existing and future interlocal agreements. (Amended by Ordinance No. 93-25)

POLICY 53.1.2: The minimum acceptable ~~level of service~~ level of service standards (~~see Policy 95.1.3~~) for potable water connections to Lee County Utilities ~~will be:~~ are established in Policy 95.1.3.

~~• An available supply and treatment capacity of 250 gallons per day per equivalent residential connection (ERC) for the peak month, except that facilities serving only mobile home residential structures must have a capacity of 187.5 gallons per day and facilities serving only travel trailer residential structures must have a capacity of 150 gallons per day. (Amended by Ordinance No. 92-35, 00-22)~~

~~POLICY 53.1.3: The Board of County Commissioners encourages all private utilities to set a minimum acceptable level of service to be adopted herein for use in the concurrency management system within their respective franchised or certificated areas. After the effective date of this plan or September 1, 1989, whichever is later, if the county has not adopted such standards into this plan, the standards~~ The minimum acceptable levels of service standards adopted for the Lee County Utilities' water systems ~~will apply in those applies to franchised/certificated or franchised areas and will be used in enforcing concurrency regulations (see Policy 95.1.3).~~

~~After the deadline set above any private utility~~ Private utilities that cannot meet the Level of Service level of service standards set forth for Lee County Utilities will have the opportunity to ~~may~~ petition for a Plan Amendment for a revised Level of Service level of service requirement for the specific private utility system plant if it can be proved that the such utility has sufficient plant and system capacity to ~~properly service the~~ it's franchised ~~or/~~ certificated area. ~~The p~~Proof will be in the form of properly documented daily must include flow reports, occupancy rates or related statistical information, ~~and any other necessary information that may be pertinent to the justification of the requested action, to establish a new individual Level Of Service standard. This~~ The data should must cover ~~be for a period covering at least the last two prior years.~~

(Amended by Ordinance No. 92-35, 00-22)

~~POLICY 53.1.4: The Board of County Commissioners urges all u~~Utilities are encouraged to construct and install sufficient treatment facilities and distribution systems ~~that will to~~ meet or exceed the minimum acceptable service standards and with the capacity to deliver water at a pressure of ~~20~~ 40 pounds per square inch (wp PSI static) at the meter anywhere on the individual system (excluding fire flow conditions). ~~In addition, by September 30, 1994, all utilities are urged to deliver water pressure of 40 pounds per square inch (static pressure, excluding fire flow conditions). Each utility is encouraged to~~ All utilities will be required to advise the planning and engineering staffs of the county regarding of system expansions or modifications to ensure coordination with other utilities and with all other issues of public interest and to prevent duplication of facilities and services. (Amended by Ordinance No. 92-35)

~~POLICY 53.1.5: No county development order under the Land Development Code for a residential development more intense than 2.5 dwelling units per gross acre, for a commercial development of more than 30,000 square feet of gross floor area, or for any industrial plant of more than 30,000 square feet of gross floor area, will be issued in any franchised or certificated water service area, or within Lee County Utilities' future service area, unless potable water service, at the minimum acceptable level of service, is available at the property line, or surety is given that it will be installed prior to occupancy. This policy will in no way exempt any development of any size from meeting the levels of service required for concurrency under Policies 53.1.2 and 95.1.3. (Amended by Ordinance No. 00-22, 09-13)~~ Maintain regulations that require development connect to Lee County Utilities or other franchised/certificated potable water service provider.

~~POLICY 53.1.10: By 1999, county staff will formulate the study proposal to determine the appropriateness of requiring certain existing residential developments at a density equal to or in excess of 2.5 dwelling units per acre to connect to a potable water or sewer system, if available. The study will address the issue of health related problems and will include the collection and analysis of well samples to determine if there is an immediate health problem as well as a cost benefit analysis. This study proposal will include recommendations regarding which pre-platted~~

~~communities and subdivisions should be required to connect to a potable water or sewer system, if available. (Added by Ordinance No. 98-09, Amended by Ordinance No. 00-22)~~

OBJECTIVE 53.2: WATER SUPPLY CONCURRENCY. Lee County will incorporate water supply into the concurrency management system consistent with the requirements of Section 163.3180(2)(a), F.S. (Added by Ordinance No. 09-13)

POLICY 53.2.1: ~~County Maintain~~ development regulations ~~will be amended to specify that no to prohibit the issuance of building permits under the Land Development Code will be issued in a franchised/ or-certificated water service area, or within Lee County Utilities' future service area, unless potable water supply will be available to meet current and projected growth demands, or surety is given that it will be available prior to occupancy. This policy does not exempt development of any size from meeting the levels of service required for concurrency under Policies 53.1.2 and 95.1.3. (Added by Ordinance No. 09-13)~~

OBJECTIVE 54.1: ~~The county will eContinue its programs in education, technical advice, demonstration, rate revisions, and reuse to reduce potable water consumption and the consumption of large volumes of potentially potable water. Water consumption per Equivalent Residential Unit will be decreased by 2.5% annually through the year 2000. (Amended by Ordinance No. 94-30, 00-22)~~

POLICY 54.1.1: ~~Using the personnel and resources of various county agencies, Lee County will eContinue to offer a program of public information and education programs. This program should include the use of print media, advertising, and public service announcements on radio and television highlighting and advocating various strategies of water conservation, including, but not limited to:~~

- creating incentives for “gray water” systems or other recycling activities;
- adopting incentives for household and commercial use of appliances and ultralow volume plumbing fixtures with low water consumption rates;
- advising householders to reduce water use;
- creating a demand for low water use appliances by publishing ratings of water use efficiency for appliances analogous to the energy efficiency ratings for electrical appliances;
- advocating the cost-effective use of appliances and water: i.e. run only full loads or use low water settings when appropriate;
- encouraging ~~the building or grounds manager, including the individual householder, to maintain the~~ maintenance of water systems, i.e. timely repair of dripping faucets, leaking water closets, broken or maladjusted sprinkler heads, etc.;
- installing alternatives to spray irrigation devices for lawns and grounds management such as drip or seep systems, or at least attending to the ambient humidity and evapotranspiration rates in controlling sprinkler systems;
- promoting the installation of a “rain sensor device” or “automatic switch” on all new irrigation systems to override the irrigation cycle of the sprinkler system when adequate rainfall has occurred;
- encouraging the use of drought-tolerant ground covers and shrubbery according to the principles of “Florida friendly landscaping” (see glossary and Objective 117.2) and demonstrating the uses of native vegetation in landscaping; and
- ~~generally~~ encouraging the thoughtful use of water ~~in all necessary activities.~~

(Amended by Ordinance No. 94-30, 00-22, 16-01)

POLICY 54.1.5: ~~The Board of County Commissioners will encourage p~~Privately operated potable water utilities with a franchise granted by the County are encouraged to adopt a “conservation” rate structure for users in their respective service areas and employ water conservation public information and education programs similar to those described in Policy 54.1.1. (Amended by Ordinance No. 00-22)

POLICY 54.1.6: ~~Development regulations will continue to require that any~~ Maintain development regulations that require new development will pay the appropriate fees and to connect to a re-use reuse water system if such a system is near or adjacent to the development and has sufficient surplus capacity. to supply the development. Development regulations will be amended further as follows:

- ~~Where a significant modification is proposed to a major development subject to Chapter 10 of the Land Development Code, wastewater reuse systems will be required in the same manner as for new developments.~~
- ~~The county will require by ordinance the connection of specified existing development to a utility wastewater distribution system when one is available near or adjacent to the property.~~

(Amended by Ordinance No. 91-19, 94-30, 00-22)

POLICY 54.1.7: Lee County may provide reuse water at a price significantly lower than finished potable water in order to incentivize its use because ~~It is hereby declared that the conservation of potable water supply and facility capacity is important to ensure of such importance to the orderly growth of the community, that in order to further provide incentive for its use, reuse water may be provided at a price significantly lower than finished potable water (the residual costs of operation being charged to the sewer users as part of the cost of effluent disposal).~~

POLICY 54.1.9: ~~Lehigh Acres (as defined by outer boundaries of its Privately Funded Infrastructure overlay on the Future Land Use Map) is hereby declared a critical area for future potable water supply due to fluctuating water levels in the Sandstone aquifer. In response to this designation, the Lee Ceounty will amend current maintain regulations to provide that require all new wells in Lehigh Acres and San Carlos Park Planning Communities (as defined on Map 16), and wells 30 feet deep or more in other areas of unincorporated Lee County to must be constructed to accommodate submersible pumps. (Also see Policy 2.4.2 for special requirements for amendments to the Future Land Use Map.)~~ (Amended by Ordinance No. 94-30, 00-22, 02-02, 14-09)

POLICY 54.1.10: ~~The county will continue to implement and enforce regulations to reduce the amount of effluent being discharged into surface waters~~ Maintain regulations that require reuse of effluent water in order to reduce disposal through surface water discharge. (Amended by Ordinance No. 91-19, 94-30, 00-22)

POLICY 54.1.11: ~~Continue to e~~Encourage new and existing developments to utilize reuse water distribution systems. the Fort Myers Beach/Iona McGregor sewer system's dual water system. (Amended by Ordinance No. 94-30, Amended and Relocated by Ordinance No. 98-09)

OBJECTIVE 55.1: Ensure an adequate, reliable, and economical supply of potable water and sanitary sewer service to meet the forecasted needs for all residents of Lee County ~~through the year 2030 through regional planning and intergovernmental participation.~~ (Amended by Ordinance No. 94-30)

POLICY 55.1.1: ~~Lee County Utilities and Lee County Division of Natural Resources will p~~Plan and coordinate with other government agencies ~~in the development of comprehensive plans as they relate to~~ for well field protection, aquifer recharge, water supply, sanitary sewer service, and related capital facilities. (Added by Ordinance No. 00-22, Amended and Relocated by Ordinance No. 03-04).

POLICY 55.1.2: ~~Lee County Division of Natural Resources in conjunction with Lee County Utilities will p~~Perform groundwater modeling and analysis ~~for new development~~, as needed, to assess the potential impact of land use changes on the water resources of Lee the County. ~~The a~~Analysis will focus on ~~the following issues:~~ adequacy of water supply, including groundwater level draw-down, and avoidance of adverse impacts on natural systems from water supply withdrawals. Modeling and analysis performed by the County does not eliminate any site specific requirements that are part of an application for new or proposed development. (Added by Ordinance No. 00-22, Amended and Relocated by Ordinance No. 03-04)

POLICY 55.1.3: ~~Lee County will a~~Actively implement and utilize the Water Supply Facilities Work Plan, as adopted by the Board of County Commissioners, ~~Lee County will utilize the document as the County's a~~ guide to potable water supply facility planning, consistent with Table 6, the Water Supply Development Projects Table, potable water resources, and water conservation, with a planning horizon through the year 2030. A copy of the adopted Water Supply Facilities Work Plan will be maintained and kept on file by Lee County Utilities. (Amended by Ordinance No. 94-30, Amended and Relocated by Ordinance No. 00-22, Relocated by Ordinance No. 03-04, Amended by Ordinance No. 09-13, 16-01)

POLICY 55.1.4: ~~Lee County will e~~Continue to collect data on a yearly basis from private suppliers of potable water and sanitary sewer services, including reporting of water flows, storage capacity, pressures, number of customers, and committed future connections, and proposed expansion plans. ~~This data will be updated on a yearly basis.~~ (Amended by Ordinance No. 94-30, Relocated by Ordinance No. 00-22)

GOAL 56: SANITARY SEWER INFRASTRUCTURE. ~~To protect the public health and environmental quality by encouraging and ensuring the provision of~~ In partnership with franchised/certificated utilities providers, provide sanitary sewer service and wastewater treatment and disposal throughout ~~the future urban areas of the unincorporated Lee Ceounty and to Fort Myers Beach.~~ (Amended by Ordinance No. 98-09)

POLICY 56.1.1: ~~The Board of County Commissioners hereby establishes s~~Service areas, illustrated on Map 7, are established for the ~~Fort Myers Beach/Iona sewer system, the South Fort Myers sewer system, the East Lee County sewer system, and the Matlacha~~ Lee County Utilities sewer system throughout which it will provide standard service as required by demand, and within

which it will challenge applications by private sanitary sewer utilities to obtain a Certificate of Operation from the Florida Public Service Commission, ~~and~~ ~~Reject~~ all applications for a county franchise therein. ~~These service areas are illustrated in Map 7. Lee County, at its discretion, may object to sanitary sewer utilities applying to provide or expand sanitary sewer service to areas within unincorporated Lee County that are not included in the area illustrated in Map 7 or within a franchised/certificated sanitary sewer service area. Within the Fort Myers urban reserve area, the service areas shown on the map are subject to modifications in accordance with existing and future interlocal agreements.~~ (Amended by Ordinance No. 93-25)

POLICY 56.1.2: The minimum acceptable ~~level of service~~ level of service standard (see Policy 95.1.3) for sanitary sewer connections to Lee County Utilities ~~will be:~~ are established in Policy 95.1.3.

- ~~• available basic facility capacity (see glossary) to treat and dispose of a volume of wastewater equal to 200 gallons per day per equivalent residential connection (ERC) for the peak month, except that facilities serving only mobile home residential structures shall have a capacity of 150 gallons per day and facilities serving only travel trailer residential structures must have a capacity of 120 gallons per day. (Amended by Ordinance No. 92-35, 00-22)~~

~~**POLICY 56.1.3:** The Board of County Commissioners encourages all private utilities to set a minimum acceptable level of service to be adopted herein for use in the concurrency management system within their respective franchised or certificated areas. After the effective date of this plan or September 1, 1989, whichever is later, if the county has not adopted such standards into this plan, The minimum acceptable level of service the standards adopted for Lee County Utilities' sanitary sewer systems will apply in those franchised/certificated or franchised areas and will be used in enforcing concurrency regulations (see Policy 95.1.3).~~

~~After the deadline set above any private utility utilities that cannot meet the Level of Service level of service standards set forth for Lee County Utilities will have the opportunity to may petition for a Pplan A amendment for a revised Level of Service level of service requirement for the specific private utility plant system if it can be proved that such the utility has sufficient plant and system capacity to properly service it's the franchised or /certificated area. The pProof will be in the form of properly documented daily must include flow reports, occupancy rates or related statistical information, and any other necessary information that may be pertinent to the justification of the requested action, to establish a new individual Level Of Service standard. This The data should be for a period covering at least must cover the last two prior years. (Amended by Ordinance No. 92-35, 00-22)~~

~~**POLICY 56.1.43:** The Board of County Commissioners urges aAll utilities are encouraged to construct and install sufficient treatment facilities and collection systems that will meet or exceed the minimum acceptable service standards, and with the These facilities will have capacity to service the demand so generated and will meet or exceed the minimum requirements of the Department of Environmental Protection, the Department of Health and Rehabilitative Services, U.S. Environmental Protection Agency, or any local ordinances which that exceeds the foregoing those requirements. Each utility is encouraged to All utilities will advise the planning and utility engineering staffs of the eCounty regarding of system expansions or modification to ensure coordination with other utilities and with all other issues of public interest and to prevent duplication of facilities and services. (Amended by Ordinance No. 92-35, 94-30)~~

~~**POLICY 56.1.54:** County development regulations will be amended to specify that no county development order under the Development Standards Ordinance for a residential development~~

~~more intense than 2.5 dwelling units per gross acre, or for any commercial or industrial development that generates more than 5,000 gallons of sewage per day, will be issued in any franchised or certificated sanitary sewer service area, without a connection to such service if capacity is available at the minimum acceptable level of service anywhere within 1/4 mile of the development. This policy will in no way exempt any development of any size from meeting the levels of service required for concurrency under Policies 56.1.2 and 95.1.3. (Amended by Ordinance No. 93-25, 00-22)~~ Maintain regulations that require development connect to Lee County Utilities or other franchised/certificated sanitary sewer service provider, if capacity is available within 1/4 mile of the development.

POLICY 56.1.65: No permit will be issued allowing any utility to use a public right-of-way or to cut a pavement in a public right-of-way to extend service outside of its certificated or franchised area or to extend service into an area allocated to another utility, unless the other utility concurs in writing. This will be enforced along municipal and state rights-of-way by interlocal agreement and memorandum of agreement as required. (Amended by Ordinance No. 00-22)

POLICY 56.1.76: In allocating Industrial Development Revenue Bond capacity, the county will give highest priority to private sanitary sewer utilities proposing to construct basic facilities and/or to provide or upgrade infrastructure serving developed areas and antiquated subdivision undergoing redevelopment. (Amended by Ordinance No. 00-22)

~~**POLICY 56.1.8:** County development regulations will be amended to specify that any change in use or intensity in an approved development order will be subject to compliance with Policy 56.1.5. (Added by Ordinance No. 93-25, Amended by Ordinance No. 00-22)~~

~~**POLICY 56.1.97:** Lee County Utilities will continue to identify those properties within the Fort Myers Beach Fire Control District that are not fully connected to the wastewater collection system and require them to connect. Properties located in franchised/certificated sanitary sewer service areas will connect to sanitary sewer service, when capacity is available at the minimum adopted level of service and is adjacent to the property. (Amended by Ordinance No. 94-30, Amended and Relocated by Ordinance No. 98-09)~~

~~**POLICY 56.2.1:** It is hereby declared that in the interests of preserving protecting public health and of preserving and enhancing environmental quality, it is in the public interest to Maintain programs and regulations to abate and cease use of septic tanks and wastewater treatment package plants where and when central sewer is available and in areas where assessment districts are established for upgrading sewer availability.~~

~~**POLICY 56.2.2:** With the cooperation of the respective utility firms or agencies, the county will maintain a program for the abatement of septic tanks and package plants in areas in which sewer is presently available and in areas encompassed by assessment districts established for upgrading sewer availability. (Amended by Ordinance No. 94-30, 00-22)~~

~~**POLICY 56.2.3:** The county will encourage utilities to maintain or plan sufficient treatment capacity for near term (2 years) availability to provide capacity for unserved development surrounded by existing areas with sewer service. (Amended by Ordinance No. 00-22)~~

~~**POLICY 57.1.1:** Using the personnel and resources of various county agencies, Lee County will continue to design programs of public information and education to reduce demands on sewer facilities and natural systems. This program should include the use of print media, advertising, and public service announcements on radio and television highlighting and advocating various strategies to reduce demand for wastewater services, including, but not limited to:~~

- ~~• creating incentives for "gray water" systems or other recycling activities;~~
- ~~• adopting incentives for household and commercial use of appliances with low water consumption rates;~~
- ~~• advising householders to reduce water use;~~
- ~~• supporting various aspects of the concurrent water conservation program, particularly reliance on appliances and fixtures that use less water and maximizing the cost effective use of those appliances;~~
- ~~• providing information on proper maintenance of septic tanks and package plants; and~~
- ~~• generally encouraging the thoughtful use of water in all necessary activities that generate wastewater. (Amended by Ordinance No. 94-30, 00-22)~~

~~**POLICY 57.1.21:** Consider programs to reduce the time and cost to treat wastewater ~~will be considered~~, including discouraging excessive use of garbage grinders or toxic discharges which may stop or inhibit the treatment process. (Amended by Ordinance No. 94-30, 00-22)~~

~~**POLICY 57.1.32:** The Board of County Commissioners will ~~e~~Encourage privately operated sanitary sewer utilities to adopt a "conservation" rate structure for users in their respective service areas. (Amended by Ordinance No. 00-22)~~

~~**POLICY 57.1.43:** Encourage ~~In~~ the design of each new wastewater treatment plant or on-site sewer plant to, the county will dispose of effluent through reuse water systems. (Amended by Ordinance No. 00-22)~~

~~**POLICY 57.1.54:** ~~Development regulations will e~~Continue to require that ~~any~~ all development will pay the appropriate fees and connect to a reuse water system if such system is near or adjacent to the development and has sufficient surplus to supply the development. (Amended by Ordinance No. 94-30, 00-22)~~

~~**POLICY 57.1.5:** Continue to encourage the developer driven expansion of infrastructure to provide reuse water service when sufficient supply is available.~~

~~**POLICY 57.1.6:** On-site sewer plants serving new golf course communities must be designed to reuse effluent for irrigation purposes. (Amended by Ordinance No. 00-22)~~

~~**POLICY 57.1.7:** In order to ensure its effectiveness as an effluent disposal system, reuse water may be provided at cost.~~

~~**POLICY 57.1.8:** In order to ensure the equitable distribution of the costs of a reuse water system, the costs of operation not covered by the commodity charge should fall to the sewer users as a charge for effluent disposal.~~

~~**POLICY 57.1.9:** Priority in the use of Industrial Development Revenue Bonds or other mechanisms of public finance will be given to regulated private utilities where not prohibited by the Florida constitution or statutes in order to achieve these public ends. (Amended by Ordinance No. 00-22)~~

GOAL 58: ~~[RESERVED] ORGANIZATION OF SERVICE AND FACILITY DELIVERY.~~ To provide greater local coordination of the activities of public and private utility facilities within the county.

~~OBJECTIVE 58.1:~~ ~~Oversee sewer service delivery management through a joint effort between Lee County and the various private sector providers. Re-evaluate, as needed the effectiveness of this effort. (Amended by Ordinance No. 94-30, 07-12)~~

~~POLICY 58.1.1:~~ ~~Lee County will continue to collect data from private sanitary sewer providers, including reporting of sewage flows, holding and treatment capacity, number of customers, committed future connections, and proposed expansion plans. Thereafter, this data will be updated on a yearly basis. (Amended by Ordinance No. 94-30, 00-22, 07-12)~~

POLICY 60.1.6: The county will continue to maintain and update the CIP to provide for the needs of the surface water management program. (Amended by Ordinance No. 94-30)

POLICY 60.1.7: The level of service standards identified in Policy 95.1.3 will be updated as necessary based on new basin studies or more accurate information and will guide future investments in surface water management facilities. Procedures will be maintained to: keep levels of service current; maintain capacity of existing facilities; and, identify demand for new facilities.

POLICY 60.1.8: Water management projects will be evaluated and ranked according to the priorities adopted into this plan. Major emphasis will be given to improving existing drainage facilities in and around future urban areas as shown on the Future Land Use Map, and to enhancing or restoring environmental quality. (Amended by Ordinance No. 00-22)

OBJECTIVE 60.3: ~~[RESERVED] LEVEL OF SERVICE STANDARDS.~~ ~~Level of Service Standards have been established for basins identified in the surface water master plan and are provided in the following policies. The Level of Service Standards will be updated as necessary based on new basin studies or more accurate information. (Amended by Ordinance No. 94-30, 07-12)~~

~~POLICY 60.3.1:~~ ~~The following surface water management standards are adopted as minimum acceptable levels of service for unincorporated Lee County (see Policy 95.1.3).~~

~~A. Existing Infrastructure/Interim Standard~~

~~The existing surface water management system in the unincorporated areas of the county will be sufficient to prevent the flooding of designated evacuation routes (see Map 15) from the 25-year, 3-day storm event (rainfall) for more than 24 hours.~~

~~B. Six Mile Cypress Watershed (see Map 18);~~

~~The level of service standard for the Six Mile Cypress Watershed will be that public infrastructure remains adequate such that floor slabs for all new private and public structures which are constructed a minimum of one (1) foot above the 100-year, 3-day storm event flood plain level for Six Mile Cypress Watershed will be safe from flooding from a 100-year, 3-day storm event (rainfall). The 100-year level and watershed boundaries are as established in Volume IV of the Six Mile Cypress Watershed Plan.~~

~~The following additional standards are hereby established as desired future level of service standards, to be achieved by September 30, 1994:~~

- ~~1. The Six Mile Cypress Slough and its major tributaries as identified in the Six Mile Cypress Watershed Plan (February 1990) must accommodate the associated discharge from the 25 year, 3 day storm event (rainfall). [Ref: Six Mile Cypress Watershed Plan (February 1990) Volume II, Pages 10-5.]~~
- ~~2. Water quality will be improved in accordance with EPA's NPDES and Rule 17-40 F.A.C. criteria for stormwater discharges.~~

~~C. Other Watersheds (see Map 18):~~

~~Gator Slough, Yellow Fever Creek, Yellow Fever Creek East Branch, Powell Creek, Billy Creek, Whiskey Creek, Deep Lagoon, Cow Creek, Hendry Creek, Ten Mile Canal, and Imperial River Watersheds.~~

~~The level of service standard for the above watersheds will be that all arterial roads at their crossing of the trunk conveyances, as referenced in the Lee County Surface Water Management Master Plan, will be free of flooding from the 25 year, 3 day storm event (rainfall). This standard will not apply to Chiquita Boulevard because it is located within the City of Cape Coral.~~

~~The following additional standards are hereby established as desired future level of service standards to be achieved by September 30, 1994:~~

- ~~1. Floor slabs for all new private and public structures which are constructed a minimum of one (1) foot above the 100 year, 3 day storm event flood plain level will be safe from flooding from a 100 year, 3 day storm event (rainfall).~~
- ~~2. Water quality will be improved in accordance with EPA's NPDES and Rule 17-40 F.A.C. criteria for stormwater discharges.~~

~~D. Regulation of Private and Public Development~~

~~Surface water management systems in new private and public developments (excluding widening of existing roads) must be designed to SFWMD standards (to detain or retain excess stormwater to match the predevelopment discharge rate for the 25 year, 3 day storm event [rainfall]). Stormwater discharges from development must meet relevant water quality and surface water management standards as set forth in Chapters 17-3, 17-40, and 17-302, and rule 40E-4, F.A.C. New developments must be designed to avoid increased flooding of surrounding areas. Development must be designed to minimize increases of discharge to public water management infrastructure (or to evapotranspiration) that exceed historic rates, to approximate the natural surface water systems in terms of rate, hydroperiod, basin and quality, and to eliminate the disruption of wetlands and flow ways, whose preservation is deemed in the public interest. (Amended by Ordinance No. 92-35, 94-29, 00-22)~~

POLICY 60.3.2: The county will continue to maintain and update annually the CIP to provide for the needs of the surface water management program. (Amended by Ordinance No. 94-30)

~~**POLICY 60.3.3:** The revised levels of service required to guide future investments in surface water management facilities will be based on the recommendations of the Surface Water Management Master Plan, as updated, and procedures will be established to keep current the levels of service, remaining capacity of existing facilities, and demand for new facilities.~~

~~**POLICY 60.3.4:** Water management projects will be evaluated and ranked according to the priorities adopted into this plan. Major emphasis will be given to improving existing drainage facilities in and around future urban areas as shown on the Future Land Use Map, and to enhancing or restoring environmental quality. (Amended by Ordinance No. 00-22)~~

POLICY 61.1.6: When and where available, reuse water should be the first option for meeting irrigation needs of a development. Where reuse water is not available, surface water or low quality groundwater should be utilized for irrigation. All other potential water sources must be eliminated prior to selecting potable water as the sole source for meeting the irrigation needs of a development. New developments will coordinate with County staff regarding the source of irrigation water.

~~**POLICY 62.2.5:** The minimum acceptable level of service level of service standard for availability of solid waste disposal facilities will be 7 pounds per capita per day (see also is provided in Policy 95.1.3).~~

~~**GOAL 64: LIBRARIES.** To increase the availability of information services throughout Lee County by increasing the size and quality of the Lee County library system and by ensuring that library services are provided in a manner that is responsive to the needs of the community and of specific targeted constituencies. To meet the demand for literacy and reference services throughout Lee County by ensuring that library services are provided in a manner that is responsive to the needs of the community.~~

~~**OBJECTIVE 64.1: STANDARDS.** Raise the non regulatory standards for building and collection size to meet the following Florida Library Association standards by the year 2010:~~

- ~~• Level C collection size of 2.8 items per capita (permanent residents); and~~
- ~~• Minimum building size level of .6 square feet per capita (permanent residents). (Amended by Ordinance No. 94-30)~~

~~**POLICY 64.1.1:** The following standards are the current acceptable non regulatory levels of service for the Lee County library system (see Policy 95.1.3):~~

- ~~• Maintain existing per capita inventory of 1.6 library items per capita (permanent residents); and~~
- ~~• Provide .274 square feet of library space per capita (permanent residents). (Amended by Ordinance No. 94-30)~~

~~**POLICY 64.1.2:** The following standards are the desired non regulatory future levels of service for the Lee County library system by the year 2000 (see Policy 95.1.4):~~

- ~~Increase the inventory to 2.0 items per capita (permanent residents); and~~
- ~~Maintain .424 square feet of library space per capita (permanent residents). (Amended by Ordinance No. 94-30)~~

OBJECTIVE 64.2: MONITORING. ~~By 2009, establish a system to accurately assess the information needs of the various constituencies in the community. (Amended by Ordinance No. 94-30, 07-12)~~

POLICY 64.2.1: ~~The county library system will periodically survey the service and information needs and preferences of the business community, government, media, general public, and special targeted constituencies, adjusting acquisitions and personnel assignments accordingly. This will be done by periodic surveys of users and non-users. (Amended by Ordinance No. 94-30, 00-22)~~

POLICY 64.2.2: ~~The Fort Myers Lee County Main Library will be the central county resource for reference facilities and services. Such services and facilities are extended to member libraries on demand. (Amended by Ordinance No. 94-30, 00-22)~~

POLICY 64.2.3: ~~The county library system will strive to ensure that programs of cooperation and collaboration between the county library system and the libraries of Edison Community College, USF Fort Myers, and Florida's tenth university are established and carried out. Interlibrary loan programs will be enhanced through program expansion and automation. (Amended by Ordinance No. 94-30)~~

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 Urban, Suburban and Non-Urban areas.

POLICY 64.1.1: Ensure that appropriate accommodations are provided for patrons with disabilities.

POLICY 64.1.2: Provide a balance between physical and virtual services with a focus on virtual services rather than on building new, or expanding current, library facilities.

POLICY 64.1.3: Monitor performance at all library locations to ensure that community needs are being met through:

1. On-going customer satisfaction surveys of current library users;
2. On-going tracking and reporting of designated library performance measures; and
3. Periodic surveys of the information needs of both current and potential library users.

OBJECTIVE 64.2: Ensure that the library contents, programs and services are authoritative, trustworthy and relevant.

POLICY 64.2.1: Develop a collection of resources, in both physical and electronic formats, in response to usage and community needs.

POLICY 64.2.2: Collaborate with various County and municipal departments and community members to meet community information needs.

OBJECTIVE 66.2: COOPERATION. The eCounty will develop programs of collaboration between economic development agencies, the School District of Lee County District Board of Education, the Edison Community Florida Southwestern State College District, and the administration of Florida Gulf Coast University, and USF at Fort Myers to ensure participation and achievement of shared economic goals. (Amended by Ordinance No. 94-30, 00-22)

OBJECTIVE 67.1: ADEQUATE SCHOOL FACILITIES. Establish and maintain specific level of service standards for public schools in order to ensure that there is adequate school capacity for all existing and expected High School, Middle School, Elementary School, and Special Purpose students. ~~Incorporate and maintain Lee Plan Map, Map 23, depicting the existing educational and public School District Facilities in Lee County. This Map also generally depicts the anticipated location of educational and ancillary plants over the five year and long term planning period.~~ (Added by Ordinance No. 08-17)

POLICY 67.1.1: ~~The County adopts the following Level of Sservice (LOS) standards for public schools, based upon Permanent Florida Inventory School Houses (FISH) capacity are established through an interlocal agreement and are provided in Policy 95.1.3.~~

- ~~a. Elementary Schools: 100% of Permanent FISH Capacity as adjusted by the School Board annually to account for measurable programmatic changes.~~
- ~~b. Middle Schools: 100% of Permanent FISH Capacity as adjusted by the School Board annually to account for measurable programmatic changes.~~
- ~~c. High Schools: 100% of Permanent FISH Capacity as adjusted by the School Board annually to account for measurable programmatic changes.~~
- ~~d. Special Purpose Facilities: 100% of Permanent FISH Capacity as adjusted by the School Board annually to account for measurable programmatic changes.~~

~~For purposes of this subsection, a “measurable programmatic change” means a change to the operation of a school and measurable capacity impacts including, but not limited to, double sessions, floating teachers, year round schools and special educational programs.~~

~~Relocatable classrooms may be utilized to maintain the LOS on a temporary basis when construction to increase capacity is planned and in process. The temporary capacity provided by relocatables may not exceed 20% of the Permanent FISH Capacity and may be used for a period not to exceed three years.~~

~~Relocatables may also be used to accommodate special education programs as required by law and to provide temporary classrooms while a portion of an existing school is under renovation.~~ (Added by Ordinance No. 08-17; Amended by Ordinance No. 08-27)

POLICY 67.1.2: ~~Any modification of pPublic school Llevel of Sservice (LOS) standards must be accomplished by amending the 2008 School Concurrency Interlocal Agreement and the adoption of amendments to the County’s comprehensive plan. No LOS will be amended without a showing that the amended LOS is financially feasible, supported by adequate data and analysis, and can be achieved and maintained within the period covered by the School District’s Five Year Capital Facilities Plan.~~ (Added by Ordinance No. 08-17)

POLICY 67.1.3: The County adopts the School Board’s current School Choice Zone boundaries depicted on Lee Plan Map 2423, as Concurrency Service Areas (CSAs). CSAs exclude multizone

magnet schools and Special Purpose Facilities. Concurrency for new development will be measured against capacity in the 3 Student Assignment Zones (West Zone, East Zone, and South Zone) depicted on Map 2423. Special Purpose Facility capacity will be added to the total CSA capacity as these facilities potentially provide service to students from all CSAs. ~~Following the release of the 2010 census data~~ As needed, Lee County and the School District will evaluate expanding the number of CSAs to utilize the CSA Zone geography as the basis for measuring school concurrency. (Added by Ordinance No. 08-17; Amended by Ordinance No. 08-27)

~~**POLICY 67.1.4:** The School District staff and County staff will discuss the need to amend the CSAs, as contained in the Lee Plan, prior to the initiation of the annual regular amendment cycle following the release of the 2010 census data. School District staff will informally present any proposed modification to Lee County staff for initial comments and input. The School District will be the lead agency and will make application for an amendment to the Lee Plan to change the CSAs. (Added by Ordinance No. 08-17)~~ Maintain Lee Plan Map 23 depicting the existing Educational and Public School District Facilities in Lee County. Map 23 generally depicts the anticipated location of educational and ancillary facilities over the five-year and long-term planning period.

POLICY 67.1.5: CSA boundary changes will require a Lee Plan amendment initiated by the School District of Lee County. Any proposed boundary changes to the CSAs will require the School District demonstrate a demonstration by the School District that the change complies with the adopted LOS standard and that utilization of school capacity is maximized to the greatest extent possible. (Added by Ordinance No. 08-17)

OBJECTIVE 67.2: PUBLIC SCHOOL CONCURRENCY MANAGEMENT SYSTEM. Lee County will utilize a public school concurrency management system consistent with the requirements of Section 163.3180, F.S., ~~and Rule 9J-5.025, F.A.C.~~ (Added by Ordinance No. 08-17)

POLICY 67.2.1: ~~By December 2008, the County will adopt~~ Maintain school concurrency provisions ~~into its~~ in the Land Development Code ~~Regulations (LDRs).~~ (Added by Ordinance No. 08-17)

POLICY 67.2.4: ~~By December 2008, the LDC will be amended to establish~~ Maintain mitigation options for proposed developments that cannot meet school concurrency in the Land Development Code. ~~Mitigation options may include, but are not limited to:~~

~~The donation of land or funding of land acquisition or construction of a public school facility sufficient to offset the demand for public school facilities created by the proposed development; and Establishment of a Charter School with facilities constructed in accordance with the State Requirements for Educational Facilities (SREF) on a site that meets the minimum acreage provided in SREF and subject to guarantees that the facility will be conveyed to the School Board at no cost to the Board if the Charter School ceases to operate.~~

~~Proposed mitigation must be directed towards a permanent school capacity improvement identified in the School Board's financially feasible work program, which satisfies the demands created by the proposed development. If mitigation can be agreed upon, the County and the School District must enter into an enforceable binding developer agreement with the developer. If mitigation cannot be agreed upon, the County must deny the application based upon inadequate school capacity.~~

~~Relocatable classrooms will not be accepted as mitigation.~~
(Added by Ordinance No. 08-17)

POLICY 67.2.6: For school concurrency purposes, the number of projected students from a proposed residential development will be calculated using the student generation rate for the unit type identified in the current School Impact Fee Update Study ~~prepared by Duncan Associates adopted on September 23, 2008.~~ The projected number of students is the product of the number of residential units multiplied by the student generation rate for each unit type. (Added by Ordinance 08-27)

OBJECTIVE 67.4: ELIMINATION OF SCHOOL DEFICIENCIES. To prioritize the Elimination of Existing School Facility Deficiencies. (Added by Ordinance No. 08-17)

~~**POLICY 67.4.1:** The School District Capital Improvement Program, which will annually be incorporated into the Lee Plan's Capital Improvement Element, will prioritize projects that eliminate existing school facility deficiencies and projects that are needed to meet future level of service standards. (Added by Ordinance No. 08-17)~~

V. Parks, Recreation and Open Space

~~**OBJECTIVE 76.1:** During each five year Evaluation and Appraisal Report, or sSubsequent to each decennial census, the county will examine the composition and location of population growth to determine if redistricting of community park impact fee districts is warranted. (Amended by Ordinance No. 94-30, 00-22)~~

~~**GOAL 79: BOAT RAMPS.** To provide a share of the boat ramps needed to allow county residents and visitors inexpensive access to public waterways. [Reserved]~~

~~**OBJECTIVE 79.1:** The "non-regulatory" minimum acceptable level of service is one boat ramp lane, with adequate parking, per 12,500 people, based on seasonal population (see Policy 95.1.3). Boat ramp lanes will include federal, state, county, municipal, and non-government boat ramp lanes that are open to the public and have adequate on-site parking. (Amended by Ordinance No. 00-22,11-22)~~

~~**POLICY 79.1.1:** Lee County will maintain a classification system for boat ramps which addresses location guidelines, types of boat ramp facilities for different areas, and needs and standards for parking for the different types of facilities. (Amended by Ordinance No. 94-30, 00-22)~~

~~**OBJECTIVE 82.1: WATER ACCESS STANDARD ACQUISITION.** The county will mMaintain an its current inventory of water accesses and will acquire additional water accesses if needed and whenever and wherever economically feasible ("non-regulatory" desired future level of service, see Policy 95.1.4). (Amended by Ordinance No. 94-30, 00-22)~~

OBJECTIVE 83.1: COMMUNITY PARK STANDARD. Lee County will provide for the active recreational needs of unincorporated Lee County ~~in community parks~~ by providing ~~a minimum of 0.8 acres of developed~~ Community Parks open for public use per 1,000 population ~~(minimum acceptable level of service, see Policy 95.1.3). However, the County strives to provide 2 or more acres per 1,000 population (desired future level of service, see Policy 95.1.4), unincorporated county only.~~ The population used for calculating these standards is the unincorporated Lee County permanent population. ~~The acres used in calculating these standards are improved Community Park acres that are open for public use. The Community Park standards are non regulatory and are not required for concurrency purposes.~~ Provide community parks for the active recreation of unincorporated Lee County residents as established in Policy 95.1.3. (Amended by Ordinance No. 93-25, 94-30, 98-09, 00-22, 14-09)

POLICY 83.1.1: Typical facilities at a community park may include ball fields, tennis courts, play areas, picnic areas, multipurpose courts, pools, recreation buildings and sports fields. The specific design for community parks will be tailored to meet the needs of the community to be served while recognizing the particular attributes of the park site. A standard community park may or may not include a community recreation center and/or a community pool. (Amended by Ordinance No. 94-30, 98-09, 00-22)

OBJECTIVE 83.2: COMMUNITY RECREATION CENTERS STANDARD. Lee County will ~~provide four~~ Community Recreation Centers ~~of 25,000 square feet or more to provide~~ for the need of unincorporated Lee County residents. (Amended by Ordinance No. 00-22, 11-22)

POLICY 83.2.1: Community recreation centers are typically 25,000 square feet or more, and should be designed to accommodate active indoor recreation, physical improvement, and meeting places for the community, including social, educational, and cultural activities. (Amended by Ordinance No. 11-22)

OBJECTIVE 83.3: [RESERVED] COMMUNITY POOL STANDARD. Lee County will maintain and operate community pools. (Amended by Ordinance No. 00-22)

~~**POLICY 83.3.1:** The county will continue to research national or regional standards for pool development and make recommendations, as needed for adoption of a local, non-regulatory standard. (Added by Ordinance No. 94-30, Amended by Ordinance No. 00-22, 07-12)~~

OBJECTIVE 84.1: REGIONAL PARK STANDARD. Lee County will provide regional parks for public use as established in Policy 95.1.3, ~~a minimum of 6 acres per 1,000 population (minimum acceptable level of service, see Policy 95.1.3). However, the County strives to provide 8 or more acres per 1,000 population (desired future level of service, see Policy 95.1.4).~~ The population used for calculating this standard is the total seasonal population for all of Lee County. ~~The acres used in calculating this standard are improved Regional Park acres that are open for public use. Federal and state facilities in Lee County are to be counted in meeting this standard. The Regional Park standards~~

~~are non-regulatory and are not required for concurrency purposes.~~ (Amended by Ordinance No. 94-30, 98-09, 00-22, 14-09)

VI. Capital Improvements

OBJECTIVE 95.1: CAPITAL IMPROVEMENTS. ~~Ensure the provision of public facilities and other non-regulatory public services at the adopted "Minimum Acceptable Levels of Service" (LOS) by continuing the established capital improvements programming and budgeting system and using those "Minimum Acceptable Levels of Service" as the basic gauge of need and compliance.~~ (Amended by Ordinance No. 94-30)

POLICY 95.1.1: CAPITAL IMPROVEMENTS PROGRAM (CIP). ~~The county will annually evaluate and update this Capital Improvements element to incorporate the schedule of capital improvements adopted as part of the annual operating budget on an annual basis. The schedule must show Table 3 includes estimated costs, timing of need, location, and revenue sources for all public facility projects to be undertaken during the ensuing five-year period. The following policies will govern the development of the CIP CIP project priorities for public facilities will be based on:~~

~~a. Preparation of the CIP:~~

- ~~1. Each county department having responsibility for public facilities for which levels of service have been set under this plan will annually review existing facilities, level of service standards, and current and projected deficiencies using the level of service standards contained in this plan, the established minimum geographic units for each facility, and the latest population projections from the Planning Division. Based on identified current and projected deficiencies, each department will prepare a capital improvements program based on facilities needed to meet these deficiencies.~~
- ~~2. Staff and members of the Board of County Commissioners will communicate with the general public in this process to ascertain the perceived need for each kind of public facility in each commission district and planning district. Ensure that all large CIP projects include broad public education efforts and information exchange as a component for securing public support.~~
- ~~3. A proposed CIP will be presented by the County Administrator in conjunction with the presentation of the proposed annual operating budget. The proposed CIP will be "balanced" (i.e., proposed expenditures will not be greater than the amount of revenues available to fund the expenditures, on a fund by fund basis). Attached to the proposed balanced CIP will be a report of the projects designated as needed, but which cannot be funded.~~
- ~~4. The Board of County Commissioners will by resolution adopt a CIP at approximately the same time as the adoption of the annual operating budget. The annual operating budget must be consistent with the first year of the adopted CIP. The schedule of capital improvements adopted as part of the annual operating budget will be incorporated into the Lee Plan annually by ordinance.~~
- ~~5. The adopted CIP may be reviewed by the Board of County Commissioners during periodic public meetings. The Board may amend the CIP at these meetings by resolution after making findings of fact that the amendment is consistent with the priorities in this policy and with the Lee Plan in general.~~

~~6. All estimates of facility or service demand used to develop specific facility plans or any annual update of the capital improvements program will be based on the specific volume and location of demand represented by developments for which local and DRI Development Orders were issued prior to the effective date of this plan, as well as more general estimates of population and land use intensity.~~

~~b. Priorities for the CIP:~~

~~Where needs based on current and/or projected deficiencies exceed revenues projected to be available, projects will be included according to certain priorities which are listed below. In addition, these priorities will be considered in reviewing proposals to amend the CIP.~~

- ~~1. Projects that remove a direct and immediate threat to the public health or safety~~System preservation/maintenance of assets;
- ~~2. Projects that are directed by a court order or otherwise by law~~Operation at or below the applicable minimum LOS, existing or projected, based on approved development orders;
- ~~3. Projects that are essential for the maintenance of the county's investment in existing infrastructure~~Provision of system continuity;
- ~~4. Projects that remove a service level deficiency that affects developed area~~Removal of a direct and immediate threat to the public health or safety; and
- ~~5. Projects that provide new or additional facility capacity for undeveloped~~Future Urban areas. Donation or matching fund offers;
- ~~6. Return on investment; and~~
- ~~7. Other considerations (e.g. improving facilities in urban areas, consistency with applicable adopted government plans, emergency evacuation, regulatory or non-regulatory LOS, competition with other governmental or private sector facilities, revenue-generating potential, similar projects in planning and commission districts).~~

~~For the purpose of ranking projects in categories 4 – 5 that fall into the same category, the following will be considered:~~

- ~~(a) Priorities found elsewhere in this plan, including, but not limited to, Objective 2.3 and Policies 36.1.5, 37.3.3, 38.1.7, 38.2.1, 38.2.4, 38.2.6, 40.2.2, 40.2.6, 76.1.2, and 109.1.3; and~~
- ~~(b) Whether the facility is needed to satisfy a regulatory or a non-regulatory level of service requirement in this element.~~

~~Other factors that may be considered in ranking projects that are otherwise equal in priority include (in no particular order of significance):~~

- ~~(a) Whether the project competes with other facilities that have been or could reasonably be provided by other governmental entities or the private sector;~~
- ~~(b) The revenue generating potential of the project;~~
- ~~(c) Offers of donations of lands and/or services by the private sector and/or other governmental entities; and~~
- ~~(d) The size and number of similar projects in each of the county's planning and commission districts.~~

~~e. Effect of the CIP:~~

- ~~1. After adoption of the CIP, no public facility project will be constructed by the county, nor will land be acquired for such project, except in conformity with the adopted CIP.~~
- ~~2. It is the intent of this plan to actively pursue the development of any public facility project once it has been included in the CIP. Any CIP amendment which delays or cancels a project should only be made after consideration of:
 - ~~(a) Changes in facility needs based on more up to date population projections;~~
 - ~~(b) Changes in revenues compared with previous projections; and~~
 - ~~(c) Changes in adjusted level of service standards.~~~~
- ~~3. The county will consider and may accept dedication of facilities contributed to the county. Where contributed facilities are not provided by county funds, they need not be included in the CIP prior to acceptance. The county may, however, establish procedures for including contributed facilities in the CIP where inclusion in the CIP is a requirement of the Concurrency Management System.~~

(Amended by Ordinance No. 94-30, 00-22, 07-16, 16-03)

POLICY 95.1.2: CAPITAL FACILITY FINANCING POLICIES.

- ~~a. The use of ad valorem tax revenues for capital facilities should be limited to the General, MSTU, Library, Transportation Improvement, and Capital Improvement Funds, unless required in other funds by bond indenture agreements or by the terms of municipal service taxing/benefit units. Where a project may be funded from ad valorem tax revenues and other sources (except impact fees), other sources should be used before ad valorem tax funds are used.~~
- ~~b. The use of gas tax revenues should be limited to the Transportation Improvement Fund, unless required in other funds by bond indenture agreements.~~
- ~~c. The use of sales tax revenues for capital facilities should be limited to the General and MSTU Funds, unless required in other funds by bond indenture agreements.~~
- ~~d. The use of revenues which have been pledged to bondholders must conform in every respect to bond covenants which commit those revenues.~~
- ~~e. The county should annually prepare revenue estimates to provide information about revenue sources available to support capital facility construction.~~
- ~~f. Staff will prepare estimates of the operating and maintenance costs of each CIP project along with the capital costs of each facility.~~
- ~~g. The county should actively seek grant funds from federal, state, and other sources where available and when appropriate for capital facility construction. Consideration will be given to limitations (including operating restrictions) involved in such grants.~~
- ~~h. The county should investigate the feasibility of charging user fees to offset the cost of each new CIP project for which user fees could reasonably and legally be collected.~~
- ~~i. Capital Improvement Funds will be anticipated at millages which will generate sufficient revenue to make all required payments.~~
- ~~j. The county should allocate county wide revenues only to facilities which provide services to the entire county. Where benefits are limited to a specific area or function; revenues derived from that geographical area or function should be used to the maximum extent feasible.~~
- ~~k. A reserve for contingency of not less than 3% nor more than 10% of the fund total should be budgeted in each capital fund. These funds should be available for reallocation by the Board as needed during the year to fund unexpected increases in capital costs and/or to fund additional projects which could not be anticipated in the annual CIP.~~
- ~~l. A reserve for cash flow will be budgeted in any fund which requires monies to be carried forward into the following year to support needed expenditures until sufficient current revenues are received, but in no case will exceed the projected cash needs for 90 days or 20% of the fund budget, whichever is greater.~~

- m. ~~The county should prepare an annual analysis of financial condition. This analysis will include consideration of capital facility financing needs and revenues available to finance such needs.~~
- n. ~~Capital Project budgets will only be altered in one of two ways:

 - 1. ~~Administrative approval of transfer of funds to reserves for projects funds not required for authorized expenditures; or~~
 - 2. ~~Board approval of transfer of funds from reserves to increase a project budget and concurrently revise the 5 year Capital Improvements Program.~~~~
- o. ~~At the end of each fiscal year, unexpended fund balance at the project level in each fund will be carried over to the subsequent fiscal year budget in an amount equal to the prior year's unexpended project budget. Any unexpended fund balance in excess of project budget will be redistributed to fund other capital obligations, if necessary. The excess fund balance will be treated as capital reserves to be allocated in subsequent fiscal years.~~
- p. ~~The county will not limit the use of revenue bond funded projects to a specified percentage of total debt. The county will address the use of debt financing in a comprehensive manner which precludes establishing limitations on the use of revenue bonds or other forms of debt financing.~~
- q. ~~The county will not limit the ratio of total debt service to total revenues to any specified amount.~~
- r. ~~The county will not limit the ratio of total capital indebtedness to the property tax base. Currently Lee County has no debt financing that relies on property taxes as its source of revenue. (Amended by Ordinance No. 94-30, 00-22)~~

Within the Coastal High Hazard Area, Lee County will inventory existing public facilities and infrastructure and design new public facilities and infrastructure to address high tide events, storm surge, flash floods, stormwater runoff, and the related impacts of sea level rise.

POLICY 95.1.3: MINIMUM ACCEPTABLE LEVEL OF SERVICE LEVEL OF SERVICE (LOS) STANDARDS. ~~Level of service (LOS) standards will be the basis for planning the and provision of required public facilities and services within Lee County. Some of these Regulatory LOS standards will be the basis for determining the adequacy of public facilities for the purposes of permitting new development. Compliance with non-regulatory LOS standards will not be a requirement for continued development permitting, but will be used for facility planning purposes. The "Minimum Acceptable Level of Service" will be the basis for facility design, for setting impact fees, and (where applicable) for the operation of the Concurrency Management System (CMS).~~

~~Two classes of standards are established. "Regulatory" standards are those which apply to facilities identified in state law or inter-local agreements as being essential to support development. These consist of facilities for the provision of public schools, potable water, sanitary sewer, disposal of solid waste, and stormwater management. (It is the intent of this element that these standards will be the same as those established in the various relevant plan elements. If there are discrepancies between standards contained in the elements and standards as set forth herein, the standards as set forth herein will govern.) The second class, "non-regulatory" standards, are those which apply to other facilities for which the county desires to set standards for its own use. These consist of facilities for the provision of community and regional parks, and transportation. Compliance with non-regulatory standards will not be a requirement for continued development permitting, but will be used for facility planning purposes.~~

REGULATORY STANDARDS

1. Potable Water Facilities:
 - Minimum Acceptable Level of Service:
 - Within certificated, franchised, or designated service areas only: supply and treatment capacity of 250 gallons per day per Equivalent Residential Connection (ERC) ~~for the peak month~~, except that facilities serving only multi-family or mobile home residential structures must have a

capacity of ~~187.5~~ 200 gallons per day, and facilities serving only recreational vehicle or travel trailer residential structures must have a capacity of ~~150~~ 100 gallons per day. Where a private water utility has provided an alternate standard for application within its certificated or franchised area, and that standard has been adopted into this comprehensive plan, that will be the standard to be used for concurrency management in the respective certificated or franchised area.

2. Sanitary Sewer Facilities:

Minimum Acceptable Level of Service:

Within certificated, franchised, or designated service areas only: average treatment and disposal capacity of 200 gallons per day per Equivalent Residential Connection (ERC) ~~for the peak month~~, except that facilities serving only multi-family or mobile home residential structures must have a capacity of ~~150-160~~ gallons per day, and facilities serving only recreational vehicles or travel trailer residential structures must have a capacity of ~~120~~ 80 gallons per day. Where a private sewer utility has provided an alternate standard for application within its certificated or franchised area, and that standard has been adopted into this comprehensive plan, that will be the standard to be used for concurrency management in the respective certificated or franchised area.

3. Facilities for Disposal of Solid Waste:

Minimum Acceptable Level of Service:

Disposal facility capacity for 7 pounds of waste (or equivalent volume) per day per capita

4. Stormwater Management Facilities:

Minimum Acceptable Level of Service:

(a) ~~Existing Infrastructure/Interim Standard~~— The existing surface water management system in the unincorporated areas of the county will be sufficient to prevent the flooding of designated evacuation routes (see Map ~~453J~~) from the 25-year, 3-day storm event (rainfall) for more than 24 hours.

(b) ~~Six Mile Cypress Watershed~~— ~~The level of service level of service standard for the Six Mile Cypress Watershed will be that~~ Maintain adequate public infrastructure ~~remains adequate such so~~ that floor slabs for all new private and public structures which are constructed a minimum of one (1) foot above the 100-year, 3-day storm event flood plain level for ~~Six Mile Cypress Watershed~~ will be safe from flooding from a 100-year, 3-day storm event (rainfall). ~~The 100-year level and watershed boundaries are as established in Volume IV of the Six Mile Cypress Watershed Plan.~~

(c) Regulation of Private and Public Development - Surface water management systems in new private and public developments (excluding widening of existing roads) will be designed to SFWMD standards (to detain or retain excess stormwater to match the predevelopment discharge rate for the 25-year, 3-day storm event [rainfall]). Stormwater discharges from development must meet relevant water quality and surface water management standards as set forth in ~~Chapters 17-3, 17-40, and 17-302, and Rule 40E-4, F.A.C state rules including but not limited to requirements listed in Numeric Nutrient Criteria and Total Maximum Daily Load and Basin Management Action Plan.~~ New developments will be designed to avoid increased flooding of surrounding areas. These standards are designed to minimize increases of discharge to public water management infrastructure (or to evapotranspiration) that exceed historic rates, to minimize change to the historic hydroperiod of receiving waters, to maintain the quality of receiving waters, and to eliminate the disruption of wetlands and flow-ways, whose preservation is deemed in the public interest.

(d) Design trunk conveyance crossings of arterial roads to be free of flooding from 25-year, 3-day storm event.

(e) Design major collectors and arterial roadways to have no more than 6 inches of water for a 25-year, 3-day storm event.

5. Public School Facilities^{1,2}:
The following Level of Service (LOS) standards for public schools are based upon Permanent Florida Inventory School Houses (FISH) capacity.
- (a) Elementary Schools: 100% of Permanent FISH Capacity as adjusted by the School Board annually to account for measurable programmatic changes.
 - (b) Middle Schools: 100% of Permanent FISH Capacity as adjusted by the School Board annually to account for measurable programmatic changes.
 - (c) High Schools: 100% of Permanent FISH Capacity as adjusted by the School Board annually to account for measurable programmatic changes.
 - (d) Special Purpose Facilities: 100% of Permanent FISH Capacity as adjusted by the School Board annually to account for measurable programmatic changes.

¹Relocatable classrooms may be utilized to maintain the LOS on a temporary basis when construction to increase capacity is planned and in process. The temporary capacity provided by relocatable classrooms may not exceed 20% of the Permanent FISH Capacity and may be used for a period not to exceed three years.

²Relocatable classrooms may also be used to accommodate special education programs as required by law and to provide temporary classrooms while a portion of an existing school is under renovation.

NON-REGULATORY STANDARDS

6. Parks and Recreation Facilities:
Minimum Level of Service:
- (a) Regional Parks - 6 acres of developed regional park land open for public use per 1000 total seasonal county population for all of Lee County.
 - (b) Community Parks - 0.8 acres of developed ~~standard~~ community parks land open for public use per 1,000 unincorporated Lee County permanent population, ~~unincorporated county only.~~
7. Roadway Facilities:
LOS "E" is the standard LOS for principal and minor arterials, and major collectors on county-maintained transportation facilities. Level of service standards for the State Highway System during peak travel hours are D in urbanized areas and C outside urbanized areas.

Due to scenic, historic, environmental, aesthetic, and right-of-way characteristics and considerations, Lee County has determined that certain roadway segments will not be widened. Therefore, reduced peak hour levels of service will be accepted on those constrained roads within unincorporated Lee County as a trade-off for the preservation of the scenic, historic, environmental, and aesthetic character of the community. These constrained roads are defined in Table 2(a). (Amended by Ordinance No. 16-07)

8. ~~Recreation Facilities:~~
- ~~(a) Community Recreation Centers — four recreation centers of 25,000 square feet or more within unincorporated Lee County.~~
 - ~~(b) Boat Ramps — One boat ramp lane with adequate parking per 12,500 people, based on seasonal population.~~
 - ~~(c) Water (Beach) Accesses — Retain current inventory, and develop or redevelop accesses throughout Lee County.~~
- Evacuation and Shelter:
- (a) Category 5 storm event out of county hurricane evacuation in 18 hours countywide.

(b) In-county and on-site shelter for 10 percent of the population at risk in the Hurricane Vulnerability Zone under a Category 5 storm hazard scenario.

9. Libraries:

Maintain existing per capita inventory; provide 1.6 items and .274 square feet of library space per capita (permanent residents).

10. Emergency Medical Service:

3.18 advanced life support ambulance stations per 100,000 population with a five and one half (5 1/2) minute average response time.

(Amended by Ordinance No. 91-19, 92-35, 94-30, 99-15, 00-08, 00-22, 02-02, 07-09, [Partially] Renumbered by Ordinance No. 08-17, Amended by Ordinance No. 08-27, 10-36, 11-22, 14-09)

~~**POLICY 95.1.4: DESIRED FUTURE LEVEL OF SERVICE STANDARDS.** For certain facilities, a second LOS standard, a "Desired Future Level of Service," is set forth. These standards represent a community goal of higher levels of public service and facility provision than can be achieved with current resources. It is the intent of Lee County to achieve these levels of facility provision by the dates prescribed in this policy. However, failure to achieve these goals will not halt the issuance of development orders under the Concurrency Management System.~~

~~1. Stormwater Management Facilities:~~

~~To be established basin by basin subsequent to the county wide surface water management master plan. Future service standards can only be finalized upon the completion of the basin studies and will be based upon providing a defined level of flood protection, balanced with the protection of natural flow ways and associated wetland systems. The following additional standards are hereby established for the Six Mile Cypress Watershed:~~

- ~~• The Six Mile Cypress Slough and its major tributaries as identified in the Six Mile Cypress Watershed Plan (February 1990) must accommodate the associated discharge from the 25-year, 3 day storm event (rainfall). (Ref: Six Mile Cypress Watershed Plan (February 1990) –Volume II, page 10-5.)~~
- ~~• Water quality must be improved in accordance with EPA's NPDES and Rule 17-40 F.A.C. criteria for stormwater discharges.~~

~~2. Parks and Recreation Facilities:~~

~~a. Regional Parks:~~

~~Lee County will provide 8 acres of improved regional park land open for public use per 1000 total seasonal population for all of Lee County.~~

~~b. Community Parks:~~

~~Lee County will provide 2.0 acres of improved standard community parks open for public use per 1000 unincorporated Lee County permanent population.~~

~~3. Libraries:~~

~~2 items per capita (permanent residents) and .424 square feet of space per capita in 2000.~~

~~(Amended by Ordinance No. 91-19, 93-25, 94-30, 98-09, 00-22, 14-10)~~

~~**POLICY 95.1.5:** In accordance with Florida Statute §163.3177(3), Table 3 contains a schedule of capital improvements, extracted from the most recently adopted CIP and incorporated into the Lee Plan by ordinance. This schedule provides, by operating department and type of improvement, a list of projects identified by project number and descriptive name, with the proposed annual budget and five year total expenditures. Table 3A provides the location of the project by Planning District, the plan criteria by priority numbers established in Policy 95.1.1(b), and specific references to the Lee Plan policies which require or encourage the proposed capital project. (Amended by Ordinance No. 94-30, 16-03)~~

~~**POLICY 95.1.6:** In accordance with Florida Statute §163.3177(3), Table 3 is hereby provided as the required list of projected costs and revenue sources by the type of public facility. Additional~~

~~information may be obtained by consulting the annual update of the Lee County Capital Improvements Program or the Lee County annual fiscal year budget document. (Amended by Ordinance No. 94-30, 16-03)~~

OBJECTIVE 95.2: CONCURRENCY MANAGEMENT SYSTEM. Maintain a "Concurrency Management System" (CMS) within the land development code ~~development regulations~~ in accordance with F.S. 163.32023180. The CMS will ensure that public facilities will be in place or prioritized no later than issuance of a certificate of occupancy or functional equivalent ~~no development permits will be issued unless the established regulatory level of service requirements are met or will be met as needed to serve the development.~~ (Amended by Ordinance No. 94-30, 00-22)

POLICY 95.2.1:

- ~~a. The purpose of the CMS will be Track development permit approvals and available capacities of public facilities using the CMS to ensure that ~~no development permit is issued unless the facilities necessary to serve the development are in place and have adequate capacity as defined by the adopted level of service~~ level of service standards are achieved and can be reasonably met in the Capital Improvements Program. ~~Only those facilities for which "regulatory" standards are established will be incorporated in the CMS.~~~~
- ~~b. The CMS will consider:~~
 - ~~1. The service actually provided by the type of facility and the factors which contribute to the adequacy of that service;~~
 - ~~2. The proximity and/or accessibility of the service in relation to the site of the individual development permit under consideration; and~~
 - ~~3. The type of land use proposed and the density or intensity of use.~~
- ~~c. The CMS will include a review and appeal process to ensure adequate due process for any situation where operation of the CMS results in the denial of permission to make reasonable beneficial use of the land in question. Under this process variances may be issued, but will be limited to allow only such development rights as are necessary to avoid the unconstitutional taking of private property without due process of law.~~
- ~~d. In administering the CMS, the estimated (remaining) capacity of any specified facility will be adjusted to take into account the dormant demand represented by land for which local or DRI Development Orders were issued prior to the effective date of this plan, and by any land the development of which is exempt from the requirements of the Land Development Code.~~

(Amended by Ordinance No. 94-30, 00-08, 00-22)

OBJECTIVE 95.3: ~~OTHER FINANCING POLICIES.~~ Establish a broad-based system of revenue regulations that ensure that new development pays an appropriate share of the capital costs of the public infrastructure directly attributable to that new development. (Amended by Ordinance No. 94- 30, 14-10)

POLICY 95.3.3: Financing of public facilities and services will utilize appropriate revenue sources. The cost for the provision and expansion of services and facilities will be borne primarily by those who benefit, using funding mechanisms such as impact fees, special taxing or benefit districts, community development districts, dedication of land and facilities, in-lieu-of fees, and capital construction, operation, and maintenance funds.

OBJECTIVE 95.4: ~~FLORIDA'S TENTH UNIVERSITY.~~ ~~Recognize the unique advantages and obligations which accompany the development and maturation of Florida's Tenth University. (Added by Ordinance No. 92-47)~~ **NON-COUNTY FUNDED PROJECTS.** Recognize that non-county funded projects may contribute towards the achievement or maintenance of adopted level of service standards.

~~**POLICY 95.4.1:** Upon completion of the Conceptual Master Plan required by Policy 18.1.9 the Capital Improvements Element and Capital Improvement Program will be amended to reflect the unique obligations which will accompany the development and maturation of Florida's Tenth University. (Added by Ordinance No. 92-47, Amended by Ordinance No. 00-22) Identify or include by reference in the Capital Improvement Program, any federal, state, local, or privately funded project which contributes to the achievement or maintenance of adopted LOS standards.~~

~~**POLICY 95.4.2:** The infrastructure improvements necessitated by Florida's Tenth University which will require the expenditure of public funds will be consolidated, as a package, for public review and comment prior to amending the Capital Improvements Element. (Added by Ordinance No. 92-47, Amended by Ordinance No. 00-22) Infrastructure improvements that result from interlocal agreement obligations (e.g. FDOT, Florida Gulf Coast Universities, Florida Southwestern State College) will be identified in the Capital Improvements Program.~~

~~**POLICY 95.5.1:** The County will annually incorporate by ordinance into the Capital Improvements element the School District's annually adopted Five Year Capital Facilities Plan. The School District Capital Improvement Program will annually be incorporated into the Lee Plan's Capital Improvement Element by Ordinance. Table 3(a) includes all projects to be undertaken by the School District during the ensuing five-year period. (Added by Ordinance No. 08-17; Amended by Ordinance No. 08-27, 16-03)~~

~~**GOAL 115: WATER QUALITY AND WASTEWATER.** To ensure that water quality is maintained or improved for the protection of the environment and people of Lee County.~~

~~**POLICY 117.1.9:** The county will utilize the recommendations made in the Water Supply Facilities Work Plan (see Policy 55.1.3) as a guide to potable water facilities planning, potable water resources, and water conservation as well as expanding potable water facilities consistent with Table 6, the Water Supply Development Projects Table. (Added by Ordinance No. 09-13)~~

XII. Glossary

~~**BASIC FACILITY** – As used in the Potable Water and Sanitary Sewer sub-elements of the Community Facilities and Services element, this term is intended to identify the principal productive capital of a water or sewer system, i.e., a wellfield and water treatment plant, as distinguished from the distribution system (see also “infrastructure”).~~

~~**CONCURRENCY** – Land use regulations ensuring that existing or programmed public facilities for potable water, wastewater, solid waste, stormwater discharge and public education meet or exceed adopted levels of service and will be available for new development.~~

~~**INFRASTRUCTURE** - As used in the Potable Water and Sanitary Sewer sub-elements of the Community Facilities and Services element, this term is intended to identify the capital facilities that distribute a service,~~

i.e., the sewer mains, manholes, lift and pump stations, and trunk and interceptor sewers, as distinguished from the wastewater treatment plant and effluent disposal system (~~see also "basic facility"~~).

LEVEL OF SERVICE (LOS)- An indicator of the extent or degree of service provided by, or proposed to be provided by a facility based on and related to the operational characteristics of a facility. Levels of service ~~are generally expressed as~~ indicates the capacity per unit of demand for each public facility. (~~See Policy 95.1.3 for a description of the various levels of service contained in this plan.~~)

NON-REGULATORY LOS – Standards which apply to facilities and services for which the county desires to set standards for its own use and that are not required by state law or inter-local agreement, including community and regional parks, transportation, emergency medical services, and evacuation/shelter.

REGULATORY LOS – Standards which apply to facilities and services identified in state law or inter-local agreements as being essential to support development, including public schools, potable water, sanitary sewer, disposal of solid waste, and stormwater management.

WATER SUPPLY FACILITIES WORK PLAN – Identifies and plans for the water supply sources and facilities needed to serve existing and new development within Lee County, and will refer to the version most recently adopted by the Board of County Commissioners. A copy of the adopted Water Supply Facilities Work Plan will be maintained and kept on file by Lee County Utilities.

Map Amendments:






Map 23: Educational and School District Facilities in Lee County

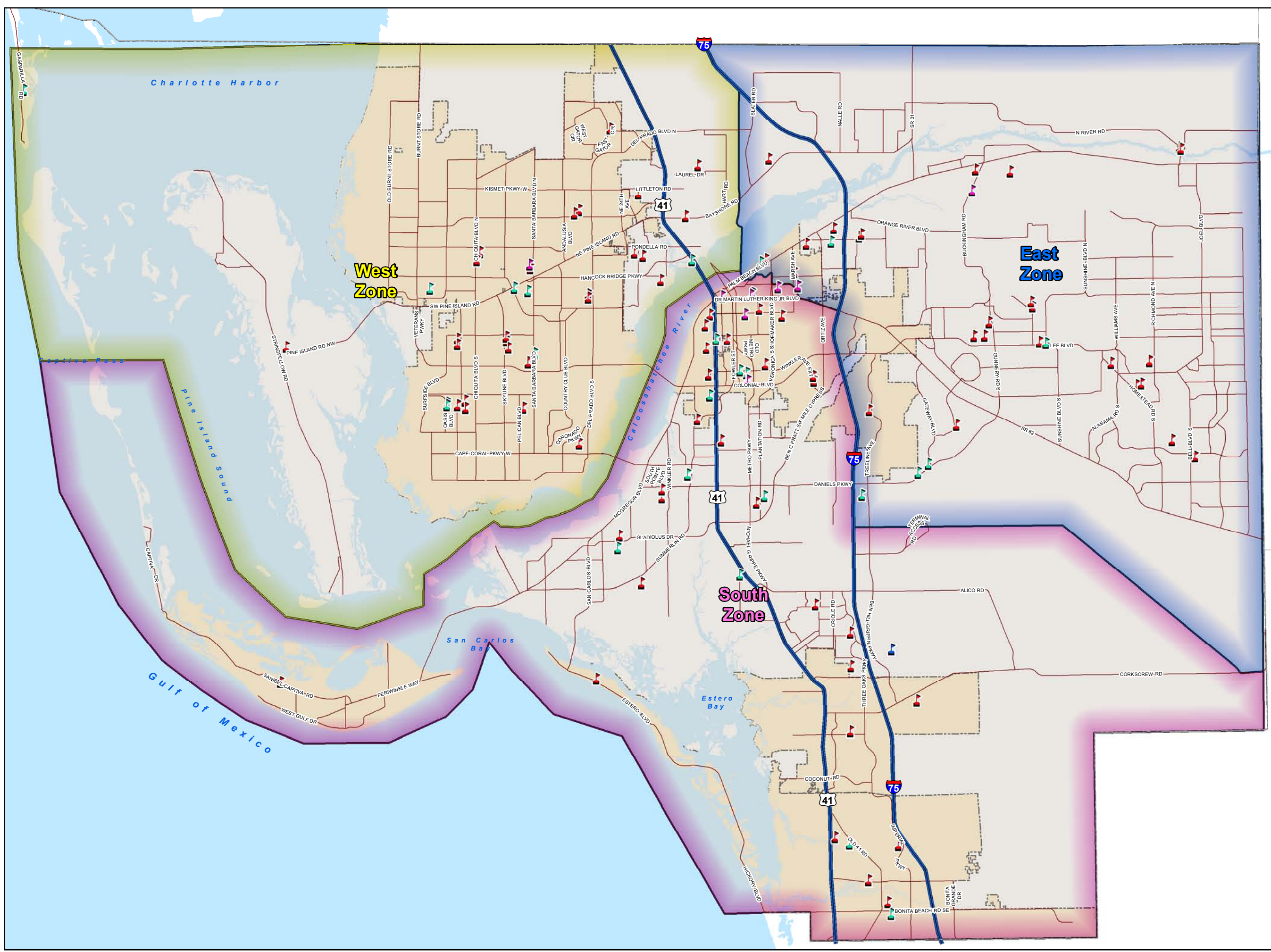
Amend Map 23 to identify updated list of educational facilities and combine with Map 24: School Concurrency Service Areas.

Map 24: School Concurrency Service Areas

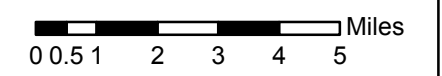
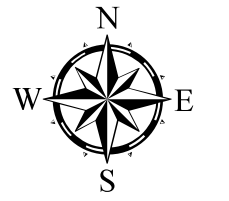
Delete

EDUCATIONAL AND SCHOOL DISTRICT FACILITIES IN LEE COUNTY

-  Public School
-  Charter School
-  Higher Education
-  Specialized Education Centers
-  City Limits



Proposed

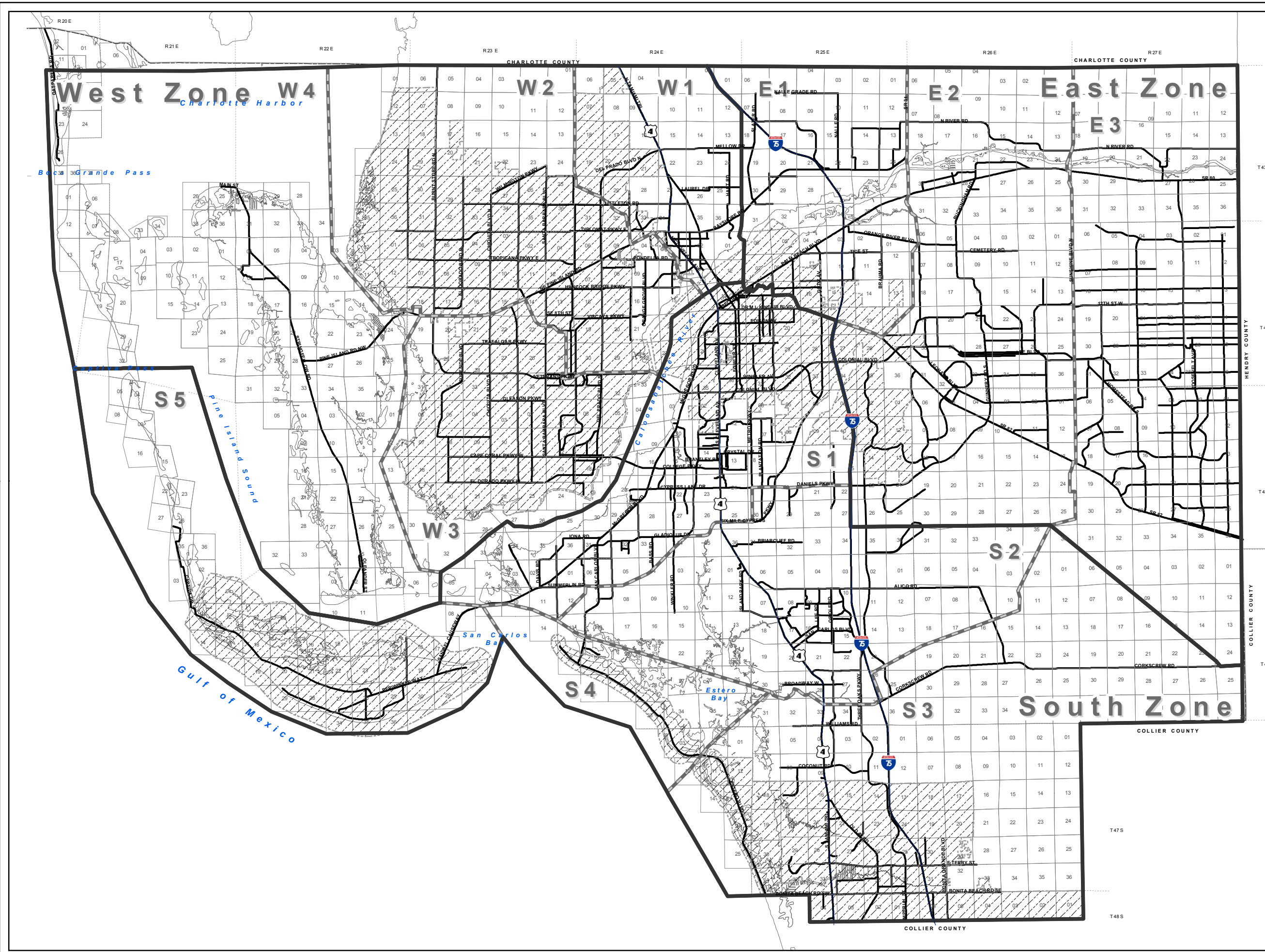


Map Generated: August 2017
 City Limits current to date of map generation




Adopted August 26, 2008
 Effective November 7, 2008
 Adopted by Ordinance No. 08-17

Lee Plan Map 23

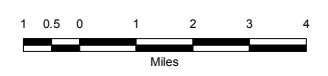
School Concurrency Service Areas



Legend

-  Assignment Zones
-  Sub-Zones
-  City Limits

DELETE



Map Generated: May 2009
City Limits current to date of map generation

Adopted August 26, 2008
Effective November 7, 2008
Adopted by Ordinance No. 08-17

Lee Plan Map 24

STAFF REPORT FOR
**CPA2017-03: Capital Improvements
 and Water Supply Management**



County Initiated **Text** and **Map** Amendments to the Lee Plan

Applicant:
 Board of County Commissioners

Representative:
 Department of Community Development

Location:
 Unincorporated Lee County

Amended Elements:

- Future Land Use
- Community Facilities and Services
- Parks, Recreation and Open Space
- Capital Improvements
- Conservation and Coastal Management
- Glossary

Hearing Dates:
 LPA:
 8/28/2017

Transmittal:
 9/20/2017

Adoption:
 11/22/2017

REQUEST

Amend the Lee Plan to align provisions within Lee Plan Goals 2, 4, 53, 54, 55, 56, 57, 58, 60, 61, 62, 64, 66, 67, 76, 79, 82, 83, 84, 95, 115, and 117 with the Board of County Commissioners strategic policy priority of managing growth (provision of adequate public facilities and services). The amendments will also reduce redundancies; align with state statutes; and, provide better organization of the Lee Plan.

RECOMMENDATION

Staff recommends that the Board of County Commissioners **transmit** the proposed amendments based on the analysis and findings in this staff report.

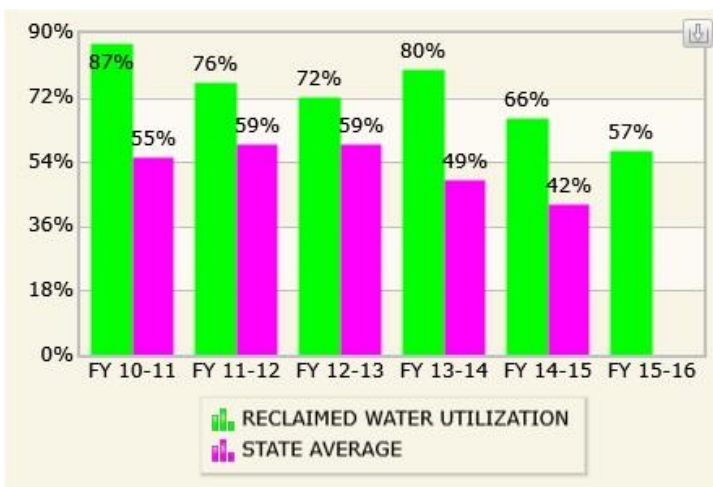
SUMMARY OF SUBSTANTIVE CHANGES

Capital Improvement Element Changes:

- Align capital improvement prioritization methods with those implemented by the BoCC.
- Prioritize investment in infrastructure that support infill and redevelopment in designated Future Urban Areas.
- Update level of service standards to reflect current state statutes and demand on public infrastructure and services.

Water Supply Management Changes:

- Establish hierarchy of water sources based on different uses.
 - Require that irrigation demands be met by reuse water, if available.
 - Require alternative design options if reuse water is not available.
 - Require implementation through the Land Development Code.
- Encourage expansion of reuse water infrastructure.



Lee County's utilization of reclaimed water is consistently above state averages.

PART 1
BACKGROUND INFORMATION

On November 17, 2015, the Board of County Commissioners provided direction for staff to complete a coordinated planning review to identify Lee Plan amendments that: better align with the BoCC strategic planning initiatives; streamline; eliminate potential liabilities; reduce redundancy and conflict within and between Lee Plan Goals; and, relocate regulatory provisions to the Land Development Code and procedures to the administrative codes. Based on this direction, staff identified and presented potential amendments to the Board at the May 3, 2016 Board Work Session.

These capital improvements and water supply management amendments are intended to align Lee Plan Goals with the Board's strategic policy priority of managing growth (provision of adequate public facilities and services). Staff made presentations to the Board at their January 24, 2017 Work Session regarding the objectives of the capital improvement/public facilities amendments and at their February 7, 2017 Work Session regarding the objectives of the water supply management amendments. The objectives of these amendments are discussed below.

PART 2
STAFF DISCUSSION and ANALYSIS

The proposed amendments related to capital improvements and public facilities and services are based on the following objectives:

1. Align the Capital Improvement Program (CIP) prioritization method with method implemented by the Board of County Commissioners
2. Update Level of Service Standards to meet current and projected needs
3. Create hierarchy of water source for irrigation use
4. Organize and streamline by reducing redundancies in the Lee Plan where appropriate

Staff has also recommended updates necessary to maintain consistency with Florida Statutes or reflect current conditions. Each objective is explained in greater detail below.

Amendment Objective 1: Align CIP prioritization method with method implemented by BoCC

On December 1, 2015 the Board of County Commissioners provided direction to implement updated criteria in order to prioritize Capital Improvement Program projects consistent with their strategic policy priorities. The new criterion will standardize various County departments' prioritization methods with that used for transportation projects by the BoCC. The updated criteria include the following:

1. System preservation/maintenance of assets;
2. Operation at or below the applicable minimum LOS, existing or projected, based on approved development orders;
3. Provision of system continuity;
4. Removal of a direct and immediate threat to the public health or safety;
5. Donation or matching fund offers;
6. Return on investment; and

7. Other considerations (e.g. improving facilities in urban areas, consistency with applicable adopted government plans, emergency evacuation, regulatory or non-regulatory LOS, competition with other governmental or private sector facilities, revenue-generating potential, similar projects in planning and commission districts).

These criteria provide for system maintenance and reinvestment into existing infrastructure and facilities thereby supporting redevelopment and infill projects. The amendments will formalize the Board of County Commissioners' prioritization methods and provide a consistent method for ranking infrastructure projects and meeting levels of service.

Amendment Objective 2: Update Level of Service Standards to meet current and projected needs

Revisions to level of service standards are necessary to reflect current state statutes and demands on public infrastructure and services. These include amending sanitary sewer levels of service to be consistent with potable water levels of service and updates to stormwater management facilities to remove specific references to out of date Florida statutory rules and include requirements to be consistent with adopted Total Maximum Daily Load (TDML) and Basin Management Action Plan (BMAP) requirements. In addition, staff is recommending that the "desired" future level of service standards in Policy 95.1.4 be deleted because they are not required by Florida Statutes.

Amendment Objective 3: Create hierarchy of water source for irrigation use

Traditional potable water supply is a limited resource and should be supplemented with alternative water supplies to ensure sustainability. Florida's climate offers water management challenges, such as seasonal high flows during low demand for potable water and irrigation demands. Excessive groundwater withdrawal can create salt intrusion limiting traditional water supply. This creates a challenge of balancing the increased cost of developing alternative water sources while maintaining reasonable utility rates.

Therefore, it is important for Lee County to adopt an integrated water management approach to ensure a sustainable source of water for all users, achieve a balance among competing water uses, and provide protection of natural systems. An integrated water management structure will help balance the needs of all uses by requiring that water demands for a specific use are met by the lowest acceptable water quality available for that use – with drinking (potable) water demands met by the highest quality water and irrigation demands being met by a lower quality source.

Currently the Lee Plan provides the following:

- Re-use will be provided at cost and encourages conservation to reduce consumption of potable water. (Goal 54 and 57)
- Connection to re-use system is required when available. (Goal 54 and 57)
- Development designs are required to maintain surface water flows and groundwater levels at or above existing conditions. (Goal 117)
- Plant species which have lower demand for irrigation, thereby conserving the water supply is encouraged. (Goal 117)
- Protection of the County's water resources through the application of innovative and sound methods of surface water management and the recognition of surface water runoff as a possible resource. (Goal 61)

- Protection of the County’s groundwater resources from activities having the potential of depleting or degrading those supplies. (Goal 63)

Amendments to the Lee Plan that will help to provide a more sustainable water supply for all uses include:

- Creating a hierarchy of water source for irrigation needs to limit potable water demands and strengthen existing policies to require the use of the lowest quality water that is acceptable for its intended use. (Goal 61)
- Encouraging the continued expansion of existing reuse infrastructure. (Goals 57)
- Creating reuse water standards. (Standard 4.3)
- Coordinating with developers to identify irrigation sources through alternative design options such as stormwater if water reuse is not available. (Standard 4.3, Goals 61)

Amendment Objective 4: Better organize and streamline the Lee Plan and LDC where appropriate

Over the past two decades there have been numerous publically and privately initiated Lee Plan amendments which have inadvertently resulted in redundancies, outdated cross-references and an unpredictable organization. Also, there are many provisions of the Lee Plan that are regulatory in nature and better suited to be in the Land Development Code. Staff is proposing amendments to create a more user friendly document by:

- Relocating policies as necessary to provide rational continuity throughout Lee Plan;
- Revising or rewriting certain policies in an effort to make them more clear and concise;
- Relocating regulatory language to the LDC and procedural language to the Administrative Code; and,
- Removing duplicative policies and updating cross-references.

**PART 3
SUMMARY OF AMENDMENTS**

Below is a summary of the proposed amendments. The full proposed strikethrough and underline text and map amendments are included in Attachment 1. The page numbers in parentheses in this portion of the staff report refer to the page number of the corresponding amendments in Attachment 1.

Chapter 2 (Future Land Use Element)

Objective 2.2 (Page 1)

Change: Amend Objective 2.2 to update cross reference from the “County’s Concurrency Management Ordinance” to “concurrency requirements in the Land Development Code.”

Reason: Update cross reference.

Objective 2.3, Policies 2.3.1, 2.3.2, and 2.3.3 (Page 1)

Change: Delete Objective 2.3 and subsequent policies to remove duplication with the Capital Improvement Element.

Reason: Remove redundant language.

Standards 4.1 and 4.2 (Page 1)

Change: Clarify that Lee County Utilities is a utilities provider to request service extension to properties that currently do not have service.

Reason: Clarification.

Standard 4.3 (Page 2)

Change: Create new standard for reuse water as an irrigation supply. Standards are based on proximity to infrastructure and available capacity of reuse water.

Reason: Implements water supply hierarchy by making reuse water first source for irrigation supply.

Community Facilities and Services (Chapter 4)

Goal 53, Policies 53.1.1, 53.1.2, 53.1.3, 53.1.4, 53.1.5, 53.1.10 (Page 3)

Change: Remove unnecessary and redundant language, clarify that Lee County has the option to object to the expansion of franchised/certificated utilities providers, and update/move language related to level of service standards.

Reason: Better organization of the Lee Plan, remove redundant language.

Objective 53.2 and Policy 53.2.1 (Page 5)

Change: Amend to update cross references and streamline language.

Reason: Streamline language.

Objective 54.1 and Policies 54.1.1, 54.1.5, 54.1.6, 54.1.7, 54.1.9, 54.1.10, and 54.1.11 (Page 5)

Change: Remove out-of-date requirements, streamline language, and update opportunities to educate the public about ways to conserve water.

Reason: Streamline language, update policies, remove out of date requirements, and align with current BoCC policy.

Objective 55.1, Policies 55.1.1, 55.1.2, 55.1.3, and 55.1.4 (Page 7)

Change: Remove out-of-date requirements, and streamline language.

Reason: Streamline and clarify language, and remove out of date requirements.

Goal 56, Policies 56.1.1, 56.1.2, 56.1.3, 56.1.4, 56.1.5, 56.1.6, 56.1.7, 56.1.8, 56.1.9 (Page 7)

Change: Remove unnecessary and redundant language, clarify that Lee County has the option to object to the expansion of franchised/certificated utilities providers, and update/move language related to level of service standards.

Reason: Better organization of the Lee Plan, remove redundant language.

Policies 56.2.1, 56.2.2, and 56.2.3 (Page 9)

Change: Combine Policies 56.2.1 and 56.2.2 and delete 56.2.3 which duplicates FDEP requirements.

Reason: Better organization of the Lee Plan, remove redundant language.

Policies 57.1.1, 57.1.2, 57.1.3, 57.1.4, 57.1.5, 57.1.6, 57.1.7, 57.1.8, and 57.1.9 (Page 9)

Change: Combine policies within the objective to streamline the language, add Policy about developer driven expansion of reuse water system for irrigation needs.

Reason: Better organization of the Lee Plan, remove redundant language, and provide water supply based on use.

Goal 58, Objective 58.1, and Policy 58.1.1 (Page 10)

Change: The Goal, Objective and Policy are proposed to be deleted because they are duplicative of language elsewhere in the Lee Plan.

Reason: Remove redundant language.

Policies 60.1.6, 60.1.7, and 60.1.8 (Page 11)

Change: Relocate Policy 60.3.2 to 60.1.6, Policy 60.3.4 to Policy 60.1.8, and combine Objective 60.3 and Policy 60.3.3 into Policy 60.1.7.

Reason: Better organization of the Lee Plan.

Objective 60.3, Policies 60.3.1, 60.3.2, 60.3.3, and 60.3.4 (Page 11)

Change: Objective and all policies will be deleted. Policy 60.3.1 is redundant with the Capital Improvements Element (Policy 95.1.3). Remaining Policies - 60.3.2, 60.3.3, and 60.3.3 will be relocated to Objective 60.1.

Reason: Better organization of the Lee Plan, and remove redundant language.

Policy 61.1.6 (New)(Page 13)

Change: New Policy to create a hierarchy of water use and work with developers to identify irrigation water resources.

Reason: BoCC direction to address water supply.

Policy 62.2.5 (Page 13)

Change: Delete specific requirements for solid waste facility capacity because it duplicates language in Policy 95.1.3.

Reason: Remove redundant language.

Goal 64 and subsequent Objectives and Policies (Page 13)

Change: Goal 64 and the Objectives and Policies within the Goal have not been updated since 1994. The libraries goal is being updated to reflect changes in technology to focus on an online presence.

Reason: Remove out of date language, update level of service standards.

Objective 66.2 (Page 15)

Change: Update Edison Community College to Florida Southwestern State College and remove reference to "USF at Fort Myers."

Reason: Remove out of date language.

Objective 67.1, Policies 67.1.1, 67.1.2, 67.1.3, 67.1.4, and 67.1.5 (Page 15)

Change: Relocate level of service language to Policy 95.1.3, delete language redundant or procedural in nature, update out of date requirements and streamline language.

Reason: Better organization of the Lee plan, and remove redundant language.

Objective 67.2, Policies 67.2.1, 67.2.4, and 67.2.6 (Page 16)

Change: Update out of date requirements and remove cross reference to Rule 9J5.025. Delete “mitigation options” because they have been included within Chapter 2 of the LDC and are not appropriate for Lee Plan language.

Reason: Remove out of date language and move development requirements to the LDC.

Objective 67.4 and Policy 67.4.1 (Page 17)

Change: Remove language that is redundant with the Capital Improvement Element.

Reason: Remove redundant language.

Parks, Recreation and Open Space (Chapter 5)

Objective 76.1 (Page 17)

Change: Remove requirement to review the distribution of park facilities during each five-year evaluation and appraisal report.

Reason: The change will still require review after updated census data is available which is more relevant to the requirement.

Goal 79, Objective 79.1, and Policy 79.1.1 (Page 17)

Change: Delete specific requirements for boat ramps because it duplicates language in Policy 95.1.3.

Reason: Remove redundant language.

Objective 82.1 (Page 18)

Change: Delete out of date cross references and streamline language.

Reason: Streamline language.

Objective 83.1 and Policy 83.1.1 (Page 18)

Change: Delete specific requirements for community parks because it duplicates language in Policy 95.1.3 and add pools to community park facilities in order to combine objective for community pools.

Reason: Remove redundant language and streamline language.

Objective 83.2 and Policy 83.2.1 (Page 18)

Change: Delete specific requirements for community recreation centers.

Reason: Update out of date requirements and streamline language.

Objective 83.3 and Policy 83.3.1 (Page 18)

Change: Community pool objective deleted and combined with community parks objective.

Reason: Better organization of the Lee plan, and streamline language.

Objective 84.1 (Page 19)

Change: Delete specific requirements for regional parks because it duplicates language in Policy 95.1.3.

Reason: Remove redundant language and streamline language.

Capital Improvements (Chapter 6)

Objective 95.1 and Policy 95.1.1 (Page 19)

Change: Amend to reflect recent changes to F.S. 163.3164, delete redundant language and update CIP priorities based on the Board of County Commissioners strategic priorities.

Reason: Remove redundant language, update based on changes to Florida statutes and BoCC strategic priorities.

Policy 95.1.2 (Page 21)

Change: Delete existing policy because it is procedural in nature. New language will be added to Policy 95.1.2 that provides public facilities within the Coastal High Hazard Area will be designed to high tide events, storm surge, flash floods, stormwater runoff, and the related impacts of sea level rise to comply with 2015 amendments to Chapter 163.3178 F.S.

Reason: Move procedural provisions to the administrative codes and meet the requirements of Florida Statutes.

Policy 95.1.3 (Page 22)

Change: Amend policy to reflect changes to Florida Statutes, streamline language, update sanitary sewer minimum level of service to be consistent with the potable water level of service, remove out of date references to Florida Rules and Statutes, allow capital improvements program to include projects that help Lee County meet Total Maximum Daily Load (TDML) and Basin Management Action Plans (BMAP), move minimum level of service requirements to this policy from Goal 67 (Public School Facilities), and add minimum level of service for hurricane evacuation and shelters.

Reason: Remove redundant language, better organize the Lee Plan, update based on changes to Florida statutes and BoCC strategic priorities.

Policies 95.1.4, 95.1.5, and 95.1.6 (Page 25)

Change: Policies have been deleted because they are redundant with policies in the Community Facilities and Services and Parks, Recreation and Open Space Elements and Florida Statutes.

Reason: Remove redundant language.

Objective 95.2 and Policy 95.2.1 (Page 26)

Change: The objective and policy amended to include update concurrency cross reference in Florida Statutes, revised to be consistent with 163.3180 of the Florida Statutes, move definition of concurrency to the Glossary, and delete language that is redundant with Goals 2 and 38.

Reason: Remove redundant language, better organize the Lee Plan, and update based on changes to Florida statutes.

Objective 95.3, and 95.3.3 (Page 26)

Change: Revise the name of Objective 95.3 and add new policy providing that the cost for the provision and expansion of services and facilities will be borne primarily by those who benefit. This concept has been moved from Policy 2.3.2, which is proposed to be deleted.

Reason: Better organization of the Lee Plan, and remove redundant language.

Objective 95.4, Policies 95.4.1, and 95.4.2 (Page 27)

Change: Update because Florida Gulf Coast University has been constructed, and revise Policy to recognize that other future non-county funded projects may help to achieve the minimum level of service requirements.

Reason: Update out of date policies.

Policy 95.5.1 (Page 27)

Change: Amend policy to identify Table 3(a) of the Lee Plan as the School District's five-year Capital Improvement Plan.

Reason: Better organization of the Lee Plan.

Conservation and Coastal Management (Chapter 7)

Goal 115 (Page 27)

Change: Update goal to delete "waste water" because it can be misinterpreted as sanitary sewer. Goal 115 is about surface water quality.

Reason: Clarification.

Policy 117.1.9 (Page 27)

Change: Delete policy because it is redundant with Policy 55.1.3.

Reason: Remove redundant language.

Glossary

Added Definitions: Concurrency, and Water Supply Work Plan.

Deleted Definitions: Basic Facility.

Amended Definitions:

Infrastructure

Change: Delete cross reference to Basic Facility

Level of Service

Change: Add distinction between Regulatory and Non-Regulatory Levels of Service.

Lee Plan Maps

Map 23: Education Facilities and School Concurrency Service Areas Map

Change: Update data from Education Facilities Map to include additional facilities and combine with Map 24 School Concurrency Service Areas.

Reason: Update out of date information and streamline the Lee Plan.

**PART 4
CONCLUSION**

The amendments to the Lee Plan will help achieve the Board of County Commissioner’s strategic policy for water supply management and capital improvements program prioritization by: establishing an integrated water management structure; prioritizing system maintenance and reinvestment into existing infrastructure and facilities; modernizing level of service standards; and, better organizing and streamlining the Lee Plan where appropriate. The amendments also include updates necessary to maintain consistency with Florida Statutes and reflect current conditions.

Staff recommends that the Board of County Commissioners **transmit** the proposed amendments based on the analysis and findings in this staff report.

**PART 5
LOCAL PLANNING AGENCY
REVIEW AND RECOMMENDATION**

DATE OF PUBLIC HEARING: August 28, 2017

A. LOCAL PLANNING AGENCY REVIEW:

Staff provided a brief presentation for the proposed amendments which covered consistency with the Lee Plan, reasons for the proposed amendments, and staff recommendation.

Following staff’s presentation members of the LPA asked questions about the water reuse standards and recommended that a minimum threshold should be evaluated and added to proposed Standard 4.3 for water reuse.

Following this there was a discussion about the existing capacity of Lee County’s reuse system. Staff responded that currently there is only excess capacity in the Fiesta Village service area. There was also a question about the evacuation and shelter non-regulatory standards being added to Policy 95.1.3. Staff responded that those are already requirements within the Lee Plan and Land Development Code. It should also be noted that the evacuation and shelter requirements are also requirements of Florida Statutes.

B. LOCAL PLANNING AGENCY RECOMMENDATION:

A motion was made to recommend that the Board of County Commissioners **transmit** CPA2017-00003 with the addition of a minimum development threshold for requiring connection to a water reuse system. The motion was passed 4 to 0.

VOTE:

NOEL ANDRESS	AYE
DENNIS CHURCH	AYE
JIM GREEN	AYE
CHRISTINE SMALE	ABSENT
STAN STOUDER	ABSENT

GARY TASMAN
JUSTIN THIBAUT

AYE

ABSENT

C. STAFF RESPONSE TO LPA RECOMMENDATION:

Staff has reviewed suggestion made by the LPA and has provided changes to the proposed amendments as follows:

STANDARD 4.3: REUSE.

1. Any development that requires a development order, on a property that is adjacent to public reuse infrastructure with sufficient capacity, must connect to the reuse system for irrigation needs.
2. Any new residential development that exceeds 2.5 dwelling units per gross acre, and any new single non residential development in excess of 30,000 square feet of gross leasable (floor) area per parcel, must connect to a public reuse system for irrigation needs when sufficient capacity and adequate infrastructure is within 1/4 mile from any part of the development. Any new development that, at build-out, has an anticipated irrigation demand of 50,000 gallons per day, or more, using the Blaney-Criddle method, must connect to a public reuse system for irrigation needs when sufficient capacity and adequate infrastructure is within 1/4 mile from any part of the development.
3. If there is not sufficient capacity or adequate infrastructure within 1/4 mile of the development, the developer must provide proof in the form of a clearly stated rejection of service.
4. If a development has been rejected for reuse service the proposed source of irrigation water must be identified consistent with Policy 61.1.6.

Staff recommends that the Board of County Commissioners transmit CPA2017-00003 including the changes identified above. Staff's complete and updated recommendation is included within Attachment 1 to the staff report.

PART 6
BOARD OF COUNTY COMMISSIONERS
TRANSMITTAL HEARING FOR PROPOSED AMENDMENT

DATE OF PUBLIC HEARING: September 20, 2017

A. BOARD REVIEW:

Staff provided a brief presentation for the proposed amendments, reasons for the proposed amendments, and staff recommendation. No members of the public were present at the hearing. There were no questions concerning the proposed amendments from the Board.

B. BOARD ACTION:

A motion was made to transmit CPA2017-00003 as recommended by staff. The motion was passed 4 to 0.

VOTE:

BRIAN HAMMAN	<u>AYE</u>
LARRY KIKER	<u>AYE</u>
FRANK MANN	<u>AYE</u>
JOHN MANNING	<u>ABSENT</u>
CECIL L. PENDERGRASS	<u>AYE</u>

PART 7
STATE REVIEWING AGENCIES'
OBJECTIONS, RECOMMENDATIONS, AND COMMENTS

Comments from the State Reviewing Agencies were due to Lee County by October 25, 2017.

A. OBJECTIONS, RECOMMENDATIONS AND COMMENTS:

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

- Florida Department of Economic Opportunity,
- Florida Department of Environmental Protection,
- Florida Department of Transportation,
- Florida Department of Agriculture and Consumer Services, and
- Southwest Florida Regional Planning Council.

There were **no objections or comments** concerning the proposed amendments.

B. STAFF RECOMMENDATION

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

II. Future Land Use

OBJECTIVE 2.2: DEVELOPMENT TIMING. Direct new growth to those portions of the Future Urban Areas where adequate public facilities exist or are assured and where compact and contiguous development patterns can be created. Development orders and permits (as defined in F.S. 163.3164(7)) will be granted only when consistent with the provisions of Sections 163.3202(2)(g) and 163.3180, F.S. Florida Statutes and the county's Concurrency Management Ordinance concurrency requirements in the Land Development Code. (Amended by Ordinance No. 94-30, 00-22)

OBJECTIVE 2.3: [RESERVED]. PUBLIC PROVISION OF INFRASTRUCTURE. The Capital Improvements Program will give the highest priority to the planning, programming, and construction of urban services and facilities in the existing developed areas where facilities are inadequate. Next priority will be given to service expansions in existing developed areas, followed by further expansion into other portions of the Future Urban Areas. Sufficient land will be identified and protected for utility facilities that will be necessary to support the proposed level of development. Other infrastructure planning priorities are contained in Policy 38.2.4 and Policy 95.1.1. (Amended by Ordinance No. 94-30, 00-22)

POLICY 2.3.1: Specific level of service standards and capital improvement priorities will be detailed in the relevant elements of this plan and carried out through a capital improvements program as described in the Capital Improvements element. (Amended by Ordinance No. 00-22)

POLICY 2.3.2: The cost for the provision and expansion of services and facilities that benefit new development will be borne primarily by those who benefit. Such funding may include (but is not limited to) impact fees, special taxing or benefit districts, community development districts, dedication of land and facilities, in lieu of fees, and capital construction, operation, and maintenance funds. (Amended by Ordinance No. 00-22)

POLICY 2.3.3: All facility provisions from the special funding sources in Policy 2.3.2 must be consistent with this plan.

STANDARD 4.1.1: WATER.

- 1. Any new residential development that exceeds 2.5 dwelling units per gross acre, and any new single commercial or industrial development in excess of 30,000 square feet of gross leasable (floor) area per parcel, must connect to a public water system (or a "community" water system as that is defined by Chapter 47-22 62-550, F.A.C.).
2. If the proposed development lies within the boundaries of a water utility's certificated or franchised service area, or Lee County Utilities' future potable water service area (see Map 6), then the development must be connected to that utility.
3. The developer must provide proof that the prior commitments of the water utility, plus the projected need of the developer, do not exceed the supply and facility capacity of the utility.
4. All waterline extensions to new development will be designed to provide minimum fire flows, as well as adequate domestic services as required by Chapter 40D-4 62-555, F.A.C.
5. If a new development is located in a certificated or franchised service area, or Lee County Utilities' future potable water service area (see Map 6), and the utility cannot provide the

- service or cannot provide the service except at a clearly unreasonable cost to the developer, the developer is encouraged to petition the appropriate regulatory agency to contract the service area so that the development may establish its own community water system or invite another adjacent utility to expand its service area in order to provide the required service.
6. If a development lies outside any service area as described above, the developer may:
 - request that the service area of Lee County Utilities or an adjacent water utility be extended to incorporate the property;
 - establish a community water system for the development; or
 - develop at an intensity that does not require a community water system.
 7. Lee County Utilities may provide potable water service to properties not located within the Future Water Service Area when such potable water service is found to benefit public health, safety, and welfare, including protection of Lee County's natural resources.
- (Amended by Ordinance No. 94-30, 00-22, 16-01)

STANDARD 4.1.2: SEWER.

1. Any new residential development that exceeds 2.5 dwelling units per gross acre, and any new single commercial or industrial development that generates more than 5,000 gallons of sewage per day, must connect to a sanitary sewer system.
 2. If the proposed development exceeds the thresholds listed above and lies within the boundaries of a sewer utility's certificated or franchised service area, or Lee County Utilities' future sanitary sewer service area (see Map 7), and that utility has sufficient capacity to provide minimum service to the development, then the development must connect to that sewer utility if there is existing infrastructure adequate to accept the effluents of the development within 1/4 mile from any part of the development.
 3. If there is not sufficient capacity nor adequate infrastructure within 1/4 mile of the development, the developer must provide proof in the form of a clearly stated rejection of service.
 4. If a new development is located in a certificated or franchised service area, or Lee County Utilities' future sanitary sewer service area (see Map 7), and the utility cannot provide the service, or cannot provide the service except at a clearly unreasonable cost to the developer, the developer may establish on a temporary basis a self-provided sanitary sewer facility for the development, to be abated when the utility extends service to the site. The developer may also petition the appropriate regulatory agency to contract the service area of the utility in order that another utility may be invited to provide the service.
 5. If a development lies outside any service area as described above, the developer may:
 - request that the service area of Lee County Utilities or an adjacent sewer utility be expanded to incorporate the property;
 - establish a self-provided sanitary sewer system for the development;
 - develop at an intensity that does not require sanitary sewer service; or
 - if no more than 5000 gallons of effluent per day per parcel is produced, an individual sewage disposal system per Chapter ~~10D-6~~ 64E-6, F.A.C. may be utilized, contingent on approval by all relevant authorities.
 6. Lee County Utilities may provide sanitary sewer service to properties not located within the Future Sewer Service Area when such sanitary sewer service is found to benefit public health, safety, and welfare, including protection of Lee County's natural resources.
- (Amended by Ordinance No. 94-30, 00-22, 16-01)

STANDARD 4.1.3: REUSE.

1. Any development that requires a development order, on a property that is adjacent to public reuse infrastructure with sufficient capacity, must connect to the reuse system for irrigation needs.

2. Any new development that, at build-out, has an anticipated irrigation demand of 50,000 gallons per day, or more, using the Blaney-Criddle method, must connect to a public reuse system for irrigation needs when sufficient capacity and adequate infrastructure is within 1/4 mile from any part of the development.
3. If there is not sufficient capacity or adequate infrastructure within 1/4 mile of the development, the developer must provide proof in the form of a clearly stated rejection of service.
4. If a development has been rejected for reuse service the proposed source of irrigation water must be identified consistent with Policy 61.1.6.

STANDARD ~~4.1.3~~ 4.1.4: ENVIRONMENTAL REVIEW FACTORS.

IV. Community Facilities and Services

GOAL 53: POTABLE WATER INFRASTRUCTURE. ~~To ensure the public health, welfare, and safety by the provision of~~ Provide high-quality central potable water service throughout the future urban areas of unincorporated Lee County, and to ensure ~~Ensure~~ that the costs of providing facilities for the supply of potable water are is borne by those who benefit from them.

POLICY 53.1.1: ~~The Board of County Commissioners hereby establishes~~ Service areas, illustrated in Map 6, are established for the Lee County Utilities water systems throughout which it will provide standard service as required by demand, and within which it will challenge applications by private water utilities to obtain a Certificate of Operation from the Florida Public Service Commission and reject all applications for a county franchise therein. ~~These service areas are illustrated in Map 6. Lee County, at its discretion, may object to water utilities applying to provide or expand potable water service to areas within unincorporated Lee County that are not included in the area illustrated on Map 6 or within a franchised/certificated potable water service area. Within the Fort Myers urban reserve area, the service areas shown on the map are subject to modifications in accordance with existing and future interlocal agreements.~~ (Amended by Ordinance No. 93-25)

POLICY 53.1.2: The minimum acceptable ~~level of service~~ level of service standards (see Policy 95.1.3) for potable water connections to Lee County Utilities ~~will be:~~ are established in Policy 95.1.3.

- ~~An available supply and treatment capacity of 250 gallons per day per equivalent residential connection (ERC) for the peak month, except that facilities serving only mobile home residential structures must have a capacity of 187.5 gallons per day and facilities serving only travel trailer residential structures must have a capacity of 150 gallons per day.~~ (Amended by Ordinance No. 92-35, 00-22)

POLICY 53.1.3: ~~The Board of County Commissioners encourages all private utilities to set a minimum acceptable level of service to be adopted herein for use in the concurrency management~~

~~system within their respective franchised or certificated areas. After the effective date of this plan or September 1, 1989, whichever is later, if the county has not adopted such standards into this plan, the standards~~ The minimum acceptable levels of service standards adopted for the Lee County Utilities' water systems will apply in those applies to franchised/certificated or franchised areas and will be used in enforcing concurrency regulations (see Policy 95.1.3).

~~After the deadline set above any private utility~~ Private utilities that cannot meet the ~~Level of Service level of service~~ standards set forth for Lee County Utilities will have the opportunity to may petition for a Plan Amendment for a revised ~~Level of Service level of service~~ requirement for the specific private utility ~~system plant~~ if it can be proved that ~~the such~~ utility has sufficient plant and system capacity to ~~properly service the~~ its franchised-~~or/~~ certificated area. ~~The p~~Proof will be in the form of properly documented daily must include flow reports, occupancy rates or related statistical information, ~~and any other necessary information that may be pertinent to the justification of the requested action, to establish a new individual Level Of Service standard. This~~ The data should must cover be for a period covering at least the last two prior years.

(Amended by Ordinance No. 92-35, 00-22)

POLICY 53.1.4: ~~The Board of County Commissioners urges all u~~Utilities are encouraged to construct and install sufficient treatment facilities and distribution systems ~~that will to~~ meet or exceed the minimum acceptable service standards and with the capacity to deliver water at a pressure of ~~20~~ 40 pounds per square inch (wp PSI static) at the meter anywhere on the individual system (excluding fire flow conditions). ~~In addition, by September 30, 1994, all utilities are urged to deliver water pressure of 40 pounds per square inch (static pressure, excluding fire flow conditions). Each utility is encouraged to~~ All utilities will be required to advise the planning and engineering staffs of the county regarding of system expansions or modifications ~~to ensure coordination with other utilities and with all other issues of public interest and to prevent duplication of facilities and services.~~ (Amended by Ordinance No. 92-35)

POLICY 53.1.5: ~~No county development order under the Land Development Code for a residential development more intense than 2.5 dwelling units per gross acre, for a commercial development of more than 30,000 square feet of gross floor area, or for any industrial plant of more than 30,000 square feet of gross floor area, will be issued in any franchised or certificated water service area, or within Lee County Utilities' future service area, unless potable water service, at the minimum acceptable level of service, is available at the property line, or surety is given that it will be installed prior to occupancy. This policy will in no way exempt any development of any size from meeting the levels of service required for concurrency under Policies 53.1.2 and 95.1.3. (Amended by Ordinance No. 00 22, 09 13)~~ Maintain regulations that require development connect to Lee County Utilities or other franchised/certificated potable water service provider.

POLICY 53.1.10: ~~By 1999, county staff will formulate the study proposal to determine the appropriateness of requiring certain existing residential developments at a density equal to or in excess of 2.5 dwelling units per acre to connect to a potable water or sewer system, if available. The study will address the issue of health related problems and will include the collection and analysis of well samples to determine if there is an immediate health problem as well as a cost benefit analysis. This study proposal will include recommendations regarding which pre-platted communities and subdivisions should be required to connect to a potable water or sewer system, if available. (Added by Ordinance No. 98-09, Amended by Ordinance No. 00-22)~~

OBJECTIVE 53.2: WATER SUPPLY CONCURRENCY. Lee County will incorporate water supply into the concurrency management system consistent with the requirements of Section 163.3180(2)(a), F.S. (Added by Ordinance No. 09-13)

POLICY 53.2.1: ~~County Maintain~~ development regulations ~~will be amended to specify that no to prohibit the issuance of building permits under the Land Development Code will be issued~~ in a franchised/ ~~or~~ certificated water service area, or within Lee County Utilities' future service area, unless potable water supply will be available to meet current and projected growth demands, or surety is given that it will be available prior to occupancy. This policy does not exempt development of any size from meeting the levels of service required for concurrency under ~~Policyes 53.1.2 and~~ 95.1.3. (Added by Ordinance No. 09-13)

OBJECTIVE 54.1: ~~The county will e~~Continue its programs in education, technical advice, demonstration, rate revisions, and reuse to reduce potable water consumption and the consumption of large volumes of potentially potable water. ~~Water consumption per Equivalent Residential Unit will be decreased by 2.5% annually through the year 2000.~~ (Amended by Ordinance No. 94-30, 00-22)

POLICY 54.1.1: ~~Using the personnel and resources of various county agencies, Lee County will e~~Continue to offer a program of public information and education programs. ~~This program should include the use of print media, advertising, and public service announcements on radio and television highlighting and advocating various strategies of water conservation, including, but not limited to:~~

- creating incentives for “gray water” systems or other recycling activities;
- adopting incentives for household and commercial use of appliances and ultralow volume plumbing fixtures with low water consumption rates;
- advising householders to reduce water use;
- creating a demand for low water use appliances by publishing ratings of water use efficiency for appliances analogous to the energy efficiency ratings for electrical appliances;
- advocating the cost-effective use of appliances and water: i.e. run only full loads or use low water settings when appropriate;
- encouraging ~~the building or grounds manager, including the individual householder, to maintain the~~ maintenance of water systems, i.e. timely repair of dripping faucets, leaking water closets, broken or maladjusted sprinkler heads, etc.;
- installing alternatives to spray irrigation devices for lawns and grounds management such as drip or seep systems, or at least attending to the ambient humidity and evapotranspiration rates in controlling sprinkler systems;
- promoting the installation of a “rain sensor device” or “automatic switch” on all new irrigation systems to override the irrigation cycle of the sprinkler system when adequate rainfall has occurred;
- encouraging the use of drought-tolerant ground covers and shrubbery according to the principles of “Florida friendly landscaping” (see glossary and Objective 117.2) and demonstrating the uses of native vegetation in landscaping; and
- generally encouraging the thoughtful use of water ~~in all necessary activities.~~

(Amended by Ordinance No. 94-30, 00-22, 16-01)

POLICY 54.1.5: ~~The Board of County Commissioners will encourage p~~Privately operated potable water utilities with a franchise granted by the County are encouraged to adopt a “conservation” rate structure for users in their respective service areas and employ water conservation public information and education programs similar to those described in Policy 54.1.1. (Amended by Ordinance No. 00-22)

POLICY 54.1.6: ~~Development regulations will continue to require that any~~ Maintain development regulations that require new development will pay the appropriate fees and to connect to a re-use reuse water system if such a system is near or adjacent to the development and has sufficient surplus capacity. to supply the development. Development regulations will be amended further as follows:

- ~~Where a significant modification is proposed to a major development subject to Chapter 10 of the Land Development Code, wastewater reuse systems will be required in the same manner as for new developments.~~
- ~~The county will require by ordinance the connection of specified existing development to a utility wastewater distribution system when one is available near or adjacent to the property.~~

(Amended by Ordinance No. 91-19, 94-30, 00-22)

POLICY 54.1.7: Lee County may provide reuse water at a price significantly lower than finished potable water in order to incentivize its use because ~~It is hereby declared that the conservation of potable water supply and facility capacity is important to ensure of such importance to the orderly growth of the community, that in order to further provide incentive for its use, reuse water may be provided at a price significantly lower than finished potable water (the residual costs of operation being charged to the sewer users as part of the cost of effluent disposal).~~

POLICY 54.1.9: ~~Lehigh Acres (as defined by outer boundaries of its Privately Funded Infrastructure overlay on the Future Land Use Map) is hereby declared a critical area for future potable water supply due to fluctuating water levels in the Sandstone aquifer. In response to this designation, the Lee Ceounty will amend current maintain regulations to provide that require all new wells in Lehigh Acres and San Carlos Park Planning Communities (as defined on Map 16), and wells 30 feet deep or more in other areas of unincorporated Lee County to must be constructed to accommodate submersible pumps. (Also see Policy 2.4.2 for special requirements for amendments to the Future Land Use Map.)~~ (Amended by Ordinance No. 94-30, 00-22, 02-02, 14-09)

POLICY 54.1.10: ~~The county will continue to implement and enforce regulations to reduce the amount of effluent being discharged into surface waters~~ Maintain regulations that require reuse of effluent water in order to reduce disposal through surface water discharge. (Amended by Ordinance No. 91-19, 94-30, 00-22)

POLICY 54.1.11: ~~Continue to e~~Encourage new and existing developments to utilize reuse water distribution systems. ~~the Fort Myers Beach/Iona McGregor sewer system's dual water system.~~ (Amended by Ordinance No. 94-30, Amended and Relocated by Ordinance No. 98-09)

OBJECTIVE 55.1: Ensure an adequate, reliable, and economical supply of potable water and sanitary sewer service to meet the forecasted needs for all residents of Lee County ~~through the year 2030 through regional planning and intergovernmental participation.~~ (Amended by Ordinance No. 94-30)

POLICY 55.1.1: ~~Lee County Utilities and Lee County Division of Natural Resources will p~~Plan and coordinate with other government agencies ~~in the development of comprehensive plans as they relate to~~ for well field protection, aquifer recharge, water supply, sanitary sewer service, and related capital facilities. (Added by Ordinance No. 00-22, Amended and Relocated by Ordinance No. 03-04).

POLICY 55.1.2: ~~Lee County Division of Natural Resources in conjunction with Lee County Utilities will p~~Perform groundwater modeling and analysis ~~for new development,~~ as needed, to assess the potential impact of land use changes on the water resources of Lee the County. ~~The a~~Analysis will focus on ~~the following issues:~~ adequacy of water supply, including groundwater level draw-down, and avoidance of adverse impacts on natural systems from water supply withdrawals. Modeling and analysis performed by the County does not eliminate any site specific requirements that are part of an application for new or proposed development. (Added by Ordinance No. 00-22, Amended and Relocated by Ordinance No. 03-04)

POLICY 55.1.3: ~~Lee County will a~~Actively implement and utilize the Water Supply Facilities Work Plan, as adopted by the Board of County Commissioners, ~~Lee County will utilize the document as the County's a~~ guide to potable water supply facility planning, consistent with Table 6, the Water Supply Development Projects Table, potable water resources, and water conservation, with a planning horizon through the year 2030. A copy of the adopted Water Supply Facilities Work Plan will be maintained and kept on file by Lee County Utilities. (Amended by Ordinance No. 94-30, Amended and Relocated by Ordinance No. 00-22, Relocated by Ordinance No. 03-04, Amended by Ordinance No. 09-13, 16-01)

POLICY 55.1.4: ~~Lee County will e~~Continue to collect data on a yearly basis from private suppliers of potable water and sanitary sewer services, including reporting of water flows, storage capacity, pressures, number of customers, ~~and~~ committed future connections, and proposed expansion plans. ~~This data will be updated on a yearly basis.~~ (Amended by Ordinance No. 94-30, Relocated by Ordinance No. 00-22)

GOAL 56: SANITARY SEWER INFRASTRUCTURE. ~~To protect the public health and environmental quality by encouraging and ensuring the provision of~~ In partnership with franchised/certificated utilities providers, provide sanitary sewer service and wastewater treatment and disposal throughout the future urban areas of the unincorporated Lee Ceounty and to Fort Myers Beach. (Amended by Ordinance No. 98-09)

POLICY 56.1.1: ~~The Board of County Commissioners hereby establishes s~~Service areas, illustrated on Map 7, are established for the Fort Myers Beach/Iona sewer system, the South Fort Myers sewer system, the East Lee County sewer system, and the Matlacha Lee County Utilities sewer system throughout which it will provide standard service as required by demand, and

within which it will challenge applications by private sanitary sewer utilities to obtain a Certificate of Operation from the Florida Public Service Commission, ~~and~~ ~~Reject~~ all applications for a county franchise therein. ~~These service areas are illustrated in Map 7. Lee County, at its discretion, may object to sanitary sewer utilities applying to provide or expand sanitary sewer service to areas within unincorporated Lee County that are not included in the area illustrated in Map 7 or within a franchised/certificated sanitary sewer service area. Within the Fort Myers urban reserve area, the service areas shown on the map are subject to modifications in accordance with existing and future interlocal agreements.~~ (Amended by Ordinance No. 93-25)

POLICY 56.1.2: The minimum acceptable ~~level of service~~ level of service standard (see Policy 95.1.3) for sanitary sewer connections to Lee County Utilities ~~will be:~~ are established in Policy 95.1.3.

- ~~• available basic facility capacity (see glossary) to treat and dispose of a volume of wastewater equal to 200 gallons per day per equivalent residential connection (ERC) for the peak month, except that facilities serving only mobile home residential structures shall have a capacity of 150 gallons per day and facilities serving only travel trailer residential structures must have a capacity of 120 gallons per day. (Amended by Ordinance No. 92-35, 00-22)~~

~~**POLICY 56.1.3:** The Board of County Commissioners encourages all private utilities to set a minimum acceptable level of service to be adopted herein for use in the concurrency management system within their respective franchised or certificated areas. After the effective date of this plan or September 1, 1989, whichever is later, if the county has not adopted such standards into this plan, The minimum acceptable level of service the standards adopted for Lee County Utilities' sanitary sewer systems will apply in those franchised/certificated or franchised areas and will be used in enforcing concurrency regulations (see Policy 95.1.3).~~

~~After the deadline set above any pPrivate utility utilities that cannot meet the Level of Service level of service standards set forth for Lee County Utilities will have the opportunity to may petition for a Pplan A amendment for a revised Level of Service level of service requirement for the specific private utility plant system if it can be proved that such the utility has sufficient plant and system capacity to properly service it's the franchised or /certificated area. The pProof will be in the form of properly documented daily must include flow reports, occupancy rates or related statistical information, and any other necessary information that may be pertinent to the justification of the requested action, to establish a new individual Level Of Service standard. This The data should be for a period covering at least must cover the last two prior years. (Amended by Ordinance No. 92-35, 00-22)~~

~~**POLICY 56.1.43:** The Board of County Commissioners urges aAll utilities are encouraged to construct and install sufficient treatment facilities and collection systems that will meet or exceed the minimum acceptable service standards, and with the These facilities will have capacity to service the demand so generated and will meet or exceed the minimum requirements of the Department of Environmental Protection, the Department of Health and Rehabilitative Services, U.S. Environmental Protection Agency, or any local ordinances which that exceeds the foregoing those requirements. Each utility is encouraged to All utilities will advise the planning and utility engineering staffs of the eCounty regarding of system expansions or modification to ensure coordination with other utilities and with all other issues of public interest and to prevent duplication of facilities and services. (Amended by Ordinance No. 92-35, 94-30)~~

~~**POLICY 56.1.54:** County development regulations will be amended to specify that no county development order under the Development Standards Ordinance for a residential development~~

~~more intense than 2.5 dwelling units per gross acre, or for any commercial or industrial development that generates more than 5,000 gallons of sewage per day, will be issued in any franchised or certificated sanitary sewer service area, without a connection to such service if capacity is available at the minimum acceptable level of service anywhere within 1/4 mile of the development. This policy will in no way exempt any development of any size from meeting the levels of service required for concurrency under Policies 56.1.2 and 95.1.3. (Amended by Ordinance No. 93-25, 00-22) Maintain regulations that require development connect to Lee County Utilities or other franchised/certificated sanitary sewer service provider, if capacity is available within 1/4 mile of the development.~~

POLICY 56.1.65: No permit will be issued allowing any utility to use a public right-of-way or to cut a pavement in a public right-of-way to extend service outside of its certificated or franchised area or to extend service into an area allocated to another utility, unless the other utility concurs in writing. This will be enforced along municipal and state rights-of-way by interlocal agreement and memorandum of agreement as required. (Amended by Ordinance No. 00-22)

POLICY 56.1.76: In allocating Industrial Development Revenue Bond capacity, the county will give highest priority to private sanitary sewer utilities proposing to construct basic facilities and/or to provide or upgrade infrastructure serving developed areas and antiquated subdivision undergoing redevelopment. (Amended by Ordinance No. 00-22)

~~**POLICY 56.1.8:** County development regulations will be amended to specify that any change in use or intensity in an approved development order will be subject to compliance with Policy 56.1.5. (Added by Ordinance No. 93-25, Amended by Ordinance No. 00-22)~~

~~**POLICY 56.1.97:** Lee County Utilities will continue to identify those properties within the Fort Myers Beach Fire Control District that are not fully connected to the wastewater collection system and require them to connect. Properties located in franchised/certificated sanitary sewer service areas will connect to sanitary sewer service, when capacity is available at the minimum adopted level of service and is adjacent to the property. (Amended by Ordinance No. 94-30, Amended and Relocated by Ordinance No. 98-09)~~

~~**POLICY 56.2.1:** It is hereby declared that in the interests of preserving protecting public health and of preserving and enhancing environmental quality, it is in the public interest to Maintain programs and regulations to abate and cease use of septic tanks and wastewater treatment package plants where and when central sewer is available and in areas where assessment districts are established for upgrading sewer availability.~~

~~**POLICY 56.2.2:** With the cooperation of the respective utility firms or agencies, the county will maintain a program for the abatement of septic tanks and package plants in areas in which sewer is presently available and in areas encompassed by assessment districts established for upgrading sewer availability. (Amended by Ordinance No. 94-30, 00-22)~~

~~**POLICY 56.2.3:** The county will encourage utilities to maintain or plan sufficient treatment capacity for near term (2 years) availability to provide capacity for unserved development surrounded by existing areas with sewer service. (Amended by Ordinance No. 00-22)~~

~~**POLICY 57.1.1:** Using the personnel and resources of various county agencies, Lee County will continue to design programs of public information and education to reduce demands on sewer facilities and natural systems. This program should include the use of print media, advertising, and public service announcements on radio and television highlighting and advocating various strategies to reduce demand for wastewater services, including, but not limited to:~~

- ~~• creating incentives for "gray water" systems or other recycling activities;~~
- ~~• adopting incentives for household and commercial use of appliances with low water consumption rates;~~
- ~~• advising householders to reduce water use;~~
- ~~• supporting various aspects of the concurrent water conservation program, particularly reliance on appliances and fixtures that use less water and maximizing the cost-effective use of those appliances;~~
- ~~• providing information on proper maintenance of septic tanks and package plants; and~~
- ~~• generally encouraging the thoughtful use of water in all necessary activities that generate wastewater. (Amended by Ordinance No. 94-30, 00-22)~~

~~**POLICY 57.1.21:** Consider programs to reduce the time and cost to treat wastewater ~~will be considered~~, including discouraging excessive use of garbage grinders or toxic discharges which may stop or inhibit the treatment process. (Amended by Ordinance No. 94-30, 00-22)~~

~~**POLICY 57.1.32:** The Board of County Commissioners will eEncourage privately operated sanitary sewer utilities to adopt a "conservation" rate structure for users in their respective service areas. (Amended by Ordinance No. 00-22)~~

~~**POLICY 57.1.43:** Encourage ~~In~~ the design of each new wastewater treatment plant or on-site sewer plant to, the county will dispose of effluent through reuse water systems. (Amended by Ordinance No. 00-22)~~

~~**POLICY 57.1.54:** Development regulations will eContinue to require that ~~any~~ all development will pay the appropriate fees and connect to a reuse water system if such system is near or adjacent to the development and has sufficient surplus to supply the development. (Amended by Ordinance No. 94-30, 00-22)~~

~~**POLICY 57.1.5:** Continue to encourage the developer driven expansion of infrastructure to provide reuse water service when sufficient supply is available.~~

~~**POLICY 57.1.6:** On-site sewer plants serving new golf course communities must be designed to reuse effluent for irrigation purposes. (Amended by Ordinance No. 00-22)~~

~~**POLICY 57.1.7:** In order to ensure its effectiveness as an effluent disposal system, reuse water may be provided at cost.~~

~~**POLICY 57.1.8:** In order to ensure the equitable distribution of the costs of a reuse water system, the costs of operation not covered by the commodity charge should fall to the sewer users as a charge for effluent disposal.~~

~~**POLICY 57.1.9:** Priority in the use of Industrial Development Revenue Bonds or other mechanisms of public finance will be given to regulated private utilities where not prohibited by the Florida constitution or statutes in order to achieve these public ends. (Amended by Ordinance No. 00-22)~~

GOAL 58: ~~[RESERVED] ORGANIZATION OF SERVICE AND FACILITY DELIVERY.~~ To provide greater local coordination of the activities of public and private utility facilities within the county.

~~OBJECTIVE 58.1:~~ ~~Oversee sewer service delivery management through a joint effort between Lee County and the various private sector providers. Re evaluate, as needed the effectiveness of this effort. (Amended by Ordinance No. 94-30, 07-12)~~

~~POLICY 58.1.1:~~ ~~Lee County will continue to collect data from private sanitary sewer providers, including reporting of sewage flows, holding and treatment capacity, number of customers, committed future connections, and proposed expansion plans. Thereafter, this data will be updated on a yearly basis. (Amended by Ordinance No. 94-30, 00-22, 07-12)~~

POLICY 60.1.6: The county will continue to maintain and update the CIP to provide for the needs of the surface water management program. (Amended by Ordinance No. 94-30)

POLICY 60.1.7: The level of service standards identified in Policy 95.1.3 will be updated as necessary based on new basin studies or more accurate information and will guide future investments in surface water management facilities. Procedures will be maintained to: keep levels of service current; maintain capacity of existing facilities; and, identify demand for new facilities.

POLICY 60.1.8: Water management projects will be evaluated and ranked according to the priorities adopted into this plan. Major emphasis will be given to improving existing drainage facilities in and around future urban areas as shown on the Future Land Use Map, and to enhancing or restoring environmental quality. (Amended by Ordinance No. 00-22)

OBJECTIVE 60.3: [RESERVED] LEVEL OF SERVICE STANDARDS. ~~Level of Service Standards have been established for basins identified in the surface water master plan and are provided in the following policies. The Level of Service Standards will be updated as necessary based on new basin studies or more accurate information. (Amended by Ordinance No. 94-30, 07-12)~~

~~POLICY 60.3.1:~~ ~~The following surface water management standards are adopted as minimum acceptable levels of service for unincorporated Lee County (see Policy 95.1.3).~~

~~A. Existing Infrastructure/Interim Standard~~

~~The existing surface water management system in the unincorporated areas of the county will be sufficient to prevent the flooding of designated evacuation routes (see Map 15) from the 25-year, 3-day storm event (rainfall) for more than 24 hours.~~

~~B. Six Mile Cypress Watershed (see Map 18):~~

~~The level of service standard for the Six Mile Cypress Watershed will be that public infrastructure remains adequate such that floor slabs for all new private and public structures which are constructed a minimum of one (1) foot above the 100-year, 3 day storm event flood plain level for Six Mile Cypress Watershed will be safe from flooding from a 100-year,~~

~~3-day storm event (rainfall). The 100-year level and watershed boundaries are as established in Volume IV of the Six Mile Cypress Watershed Plan.~~

~~The following additional standards are hereby established as desired future level of service standards, to be achieved by September 30, 1994:~~

- ~~1. The Six Mile Cypress Slough and its major tributaries as identified in the Six Mile Cypress Watershed Plan (February 1990) must accommodate the associated discharge from the 25-year, 3-day storm event (rainfall). [Ref: Six Mile Cypress Watershed Plan (February 1990) Volume II, Pages 10-5.]~~
- ~~2. Water quality will be improved in accordance with EPA's NPDES and Rule 17-40 F.A.C. criteria for stormwater discharges.~~

~~C. Other Watersheds (see Map 18):~~

~~Gator Slough, Yellow Fever Creek, Yellow Fever Creek East Branch, Powell Creek, Billy Creek, Whiskey Creek, Deep Lagoon, Cow Creek, Hendry Creek, Ten Mile Canal, and Imperial River Watersheds.~~

~~The level of service standard for the above watersheds will be that all arterial roads at their crossing of the trunk conveyances, as referenced in the Lee County Surface Water Management Master Plan, will be free of flooding from the 25-year, 3-day storm event (rainfall). This standard will not apply to Chiquita Boulevard because it is located within the City of Cape Coral.~~

~~The following additional standards are hereby established as desired future level of service standards to be achieved by September 30, 1994:~~

- ~~1. Floor slabs for all new private and public structures which are constructed a minimum of one (1) foot above the 100-year, 3-day storm event flood plain level will be safe from flooding from a 100-year, 3-day storm event (rainfall).~~
- ~~2. Water quality will be improved in accordance with EPA's NPDES and Rule 17-40 F.A.C. criteria for stormwater discharges.~~

~~D. Regulation of Private and Public Development~~

~~Surface water management systems in new private and public developments (excluding widening of existing roads) must be designed to SFWMD standards (to detain or retain excess stormwater to match the predevelopment discharge rate for the 25-year, 3-day storm event [rainfall]). Stormwater discharges from development must meet relevant water quality and surface water management standards as set forth in Chapters 17-3, 17-40, and 17-302, and rule 40E-4, F.A.C. New developments must be designed to avoid increased flooding of surrounding areas. Development must be designed to minimize increases of discharge to public water management infrastructure (or to evapotranspiration) that exceed historic rates, to approximate the natural surface water systems in terms of rate, hydroperiod, basin and quality, and to eliminate the disruption of wetlands and flow ways, whose preservation is deemed in the public interest. (Amended by Ordinance No. 92-35, 94-29, 00-22)~~

~~**POLICY 60.3.2:** The county will continue to maintain and update annually the CIP to provide for the needs of the surface water management program. (Amended by Ordinance No. 94-30)~~

~~**POLICY 60.3.3:** The revised levels of service required to guide future investments in surface water management facilities will be based on the recommendations of the Surface Water Management Master Plan, as updated, and procedures will be established to keep current the levels of service, remaining capacity of existing facilities, and demand for new facilities.~~

~~**POLICY 60.3.4:** Water management projects will be evaluated and ranked according to the priorities adopted into this plan. Major emphasis will be given to improving existing drainage facilities in and around future urban areas as shown on the Future Land Use Map, and to enhancing or restoring environmental quality. (Amended by Ordinance No. 00-22)~~

POLICY 61.1.6: When and where available, reuse water should be the first option for meeting irrigation needs of a development. Where reuse water is not available, surface water or low quality groundwater should be utilized for irrigation. All other potential water sources must be eliminated prior to selecting potable water as the sole source for meeting the irrigation needs of a development. New developments will coordinate with County staff regarding the source of irrigation water.

~~**POLICY 62.2.5:** The minimum acceptable level of service level of service standard for availability of solid waste disposal facilities will be 7 pounds per capita per day (see also is provided in Policy 95.1.3).~~

~~**GOAL 64: LIBRARIES.** To increase the availability of information services throughout Lee County by increasing the size and quality of the Lee County library system and by ensuring that library services are provided in a manner that is responsive to the needs of the community and of specific targeted constituencies. To meet the demand for literacy and reference services throughout Lee County by ensuring that library services are provided in a manner that is responsive to the needs of the community.~~

~~**OBJECTIVE 64.1: STANDARDS.** Raise the non-regulatory standards for building and collection size to meet the following Florida Library Association standards by the year 2010:~~

- ~~• Level C collection size of 2.8 items per capita (permanent residents); and~~
- ~~• Minimum building size level of .6 square feet per capita (permanent residents). (Amended by Ordinance No. 94-30)~~

~~**POLICY 64.1.1:** The following standards are the current acceptable non-regulatory levels of service for the Lee County library system (see Policy 95.1.3):~~

- ~~• Maintain existing per capita inventory of 1.6 library items per capita (permanent residents); and~~
- ~~• Provide .274 square feet of library space per capita (permanent residents). (Amended by Ordinance No. 94-30)~~

~~**POLICY 64.1.2:** The following standards are the desired non-regulatory future levels of service for the Lee County library system by the year 2000 (see Policy 95.1.4):~~

~~• Increase the inventory to 2.0 items per capita (permanent residents); and~~

~~• Maintain .424 square feet of library space per capita (permanent residents). (Amended by Ordinance No. 94-30)~~

~~**OBJECTIVE 64.2: MONITORING.** By 2009, establish a system to accurately assess the information needs of the various constituencies in the community. (Amended by Ordinance No. 94-30, 07-12)~~

~~**POLICY 64.2.1:** The county library system will periodically survey the service and information needs and preferences of the business community, government, media, general public, and special targeted constituencies, adjusting acquisitions and personnel assignments accordingly. This will be done by periodic surveys of users and non-users. (Amended by Ordinance No. 94-30, 00-22)~~

~~**POLICY 64.2.2:** The Fort Myers Lee County Main Library will be the central county resource for reference facilities and services. Such services and facilities are extended to member libraries on demand. (Amended by Ordinance No. 94-30, 00-22)~~

~~**POLICY 64.2.3:** The county library system will strive to ensure that programs of cooperation and collaboration between the county library system and the libraries of Edison Community College, USF Fort Myers, and Florida's tenth university are established and carried out. Interlibrary loan programs will be enhanced through program expansion and automation. (Amended by Ordinance No. 94-30)~~

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 Urban, Suburban and Non-Urban areas.

POLICY 64.1.1: Ensure that appropriate accommodations are provided for patrons with disabilities.

POLICY 64.1.2: Provide a balance between physical and virtual services with a focus on virtual services rather than on building new, or expanding current, library facilities.

POLICY 64.1.3: Monitor performance at all library locations to ensure that community needs are being met through:

1. On-going customer satisfaction surveys of current library users;
2. On-going tracking and reporting of designated library performance measures; and
3. Periodic surveys of the information needs of both current and potential library users.

OBJECTIVE 64.2: Ensure that the library contents, programs and services are authoritative, trustworthy and relevant.

POLICY 64.2.1: Develop a collection of resources, in both physical and electronic formats, in response to usage and community needs.

POLICY 64.2.2: Collaborate with various County and municipal departments and community members to meet community information needs.

OBJECTIVE 66.2: COOPERATION. The eCounty will develop programs of collaboration between economic development agencies, the School District of Lee County District Board of Education, the Edison—Community Florida Southwestern State College District, and the administration of Florida Gulf Coast University, and USF at Fort Myers to ensure participation and achievement of shared economic goals. (Amended by Ordinance No. 94-30, 00-22)

OBJECTIVE 67.1: ADEQUATE SCHOOL FACILITIES. Establish and maintain specific level of service standards for public schools in order to ensure that there is adequate school capacity for all existing and expected High School, Middle School, Elementary School, and Special Purpose students. ~~Incorporate and maintain Lee Plan Map, Map 23, depicting the existing educational and public School District Facilities in Lee County. This Map also generally depicts the anticipated location of educational and ancillary plants over the five year and long term planning period.~~ (Added by Ordinance No. 08-17)

POLICY 67.1.1: ~~The County adopts the following Level of Sservice (LOS) standards for public schools, based upon Permanent Florida Inventory School Houses (FISH) capacity are established through an interlocal agreement and are provided in Policy 95.1.3.~~

- ~~a. Elementary Schools: 100% of Permanent FISH Capacity as adjusted by the School Board annually to account for measurable programmatic changes.~~
- ~~b. Middle Schools: 100% of Permanent FISH Capacity as adjusted by the School Board annually to account for measurable programmatic changes.~~
- ~~c. High Schools: 100% of Permanent FISH Capacity as adjusted by the School Board annually to account for measurable programmatic changes.~~
- ~~d. Special Purpose Facilities: 100% of Permanent FISH Capacity as adjusted by the School Board annually to account for measurable programmatic changes.~~

~~For purposes of this subsection, a “measurable programmatic change” means a change to the operation of a school and measurable capacity impacts including, but not limited to, double sessions, floating teachers, year-round schools and special educational programs.~~

~~Relocatable classrooms may be utilized to maintain the LOS on a temporary basis when construction to increase capacity is planned and in process. The temporary capacity provided by relocatables may not exceed 20% of the Permanent FISH Capacity and may be used for a period not to exceed three years.~~

~~Relocatables may also be used to accommodate special education programs as required by law and to provide temporary classrooms while a portion of an existing school is under renovation. (Added by Ordinance No. 08-17; Amended by Ordinance No. 08-27)~~

POLICY 67.1.2: ~~Any modification of pPublic school Llevel of Sservice (LOS) standards must be accomplished by amending the 2008 School Concurrency Interlocal Agreement and the adoption of amendments to the County's comprehensive plan. No LOS will be amended without a showing that the amended LOS is financially feasible, supported by adequate data and analysis,~~

and can be achieved and maintained within the period covered by the School District's Five Year Capital Facilities Plan. (Added by Ordinance No. 08-17)

POLICY 67.1.3: The County adopts the School Board’s current School Choice Zone boundaries depicted on Lee Plan Map 2423, as Concurrency Service Areas (CSAs). CSAs exclude multizone magnet schools and Special Purpose Facilities. Concurrency for new development will be measured against capacity in the 3 Student Assignment Zones (West Zone, East Zone, and South Zone) depicted on Map 2423. Special Purpose Facility capacity will be added to the total CSA capacity as these facilities potentially provide service to students from all CSAs. ~~Following the release of the 2010 census data~~ As needed, Lee County and the School District will evaluate expanding the number of CSAs to utilize the CSA Zone geography as the basis for measuring school concurrency. (Added by Ordinance No. 08-17; Amended by Ordinance No. 08-27)

~~**POLICY 67.1.4:** The School District staff and County staff will discuss the need to amend the CSAs, as contained in the Lee Plan, prior to the initiation of the annual regular amendment cycle following the release of the 2010 census data. School District staff will informally present any proposed modification to Lee County staff for initial comments and input. The School District will be the lead agency and will make application for an amendment to the Lee Plan to change the CSAs. (Added by Ordinance No. 08-17)~~ Maintain Lee Plan Map 23 depicting the existing Educational and Public School District Facilities in Lee County. Map 23 generally depicts the anticipated location of educational and ancillary facilities over the five-year and long-term planning period.

POLICY 67.1.5: CSA boundary changes will require a Lee Plan amendment initiated by the School District of Lee County. Any proposed boundary changes to the CSAs will require the School District demonstrate a demonstration by the School District that the change complies with the adopted LOS standard and that utilization of school capacity is maximized to the greatest extent possible. (Added by Ordinance No. 08-17)

OBJECTIVE 67.2: PUBLIC SCHOOL CONCURRENCY MANAGEMENT SYSTEM. Lee County will utilize a public school concurrency management system consistent with the requirements of Section 163.3180, F.S., ~~and Rule 9J 5.025, F.A.C.~~ (Added by Ordinance No. 08-17)

~~**POLICY 67.2.1:** By December 2008, the County will adopt Maintain school concurrency provisions into its in the Land Development CodeRegulations (LDRs). (Added by Ordinance No. 08-17)~~

~~**POLICY 67.2.4:** By December 2008, the LDC will be amended to establish Maintain mitigation options for proposed developments that cannot meet school concurrency in the Land Development Code. Mitigation options may include, but are not limited to:~~

~~The donation of land or funding of land acquisition or construction of a public school facility sufficient to offset the demand for public school facilities created by the proposed development; and Establishment of a Charter School with facilities constructed in accordance with the State Requirements for Educational Facilities (SREF) on a site that meets the minimum acreage provided in SREF and subject to guarantees that the facility will be conveyed to the School Board at no cost to the Board if the Charter School ceases to operate.~~

~~Proposed mitigation must be directed towards a permanent school capacity improvement identified in the School Board's financially feasible work program, which satisfies the demands created by the proposed development. If mitigation can be agreed upon, the County and the School District must enter into an enforceable binding developer agreement with the developer. If mitigation cannot be agreed upon, the County must deny the application based upon inadequate school capacity.~~

~~Relocatable classrooms will not be accepted as mitigation.
(Added by Ordinance No. 08-17)~~

~~**POLICY 67.2.6:** For school concurrency purposes, the number of projected students from a proposed residential development will be calculated using the student generation rate for the unit type identified in the current School Impact Fee Update Study prepared by Duncan Associates adopted on September 23, 2008. The projected number of students is the product of the number of residential units multiplied by the student generation rate for each unit type. (Added by Ordinance 08-27)~~

~~**OBJECTIVE 67.4: ELIMINATION OF SCHOOL DEFICIENCIES.** To prioritize the Elimination of Existing School Facility Deficiencies. (Added by Ordinance No. 08-17)~~

~~**POLICY 67.4.1:** The School District Capital Improvement Program, which will annually be incorporated into the Lee Plan's Capital Improvement Element, will prioritize projects that eliminate existing school facility deficiencies and projects that are needed to meet future level of service standards. (Added by Ordinance No. 08-17)~~

V. Parks, Recreation and Open Space

~~**OBJECTIVE 76.1:** During each five year Evaluation and Appraisal Report, or subsequent to each decennial census, the county will examine the composition and location of population growth to determine if redistricting of community park impact fee districts is warranted. (Amended by Ordinance No. 94-30, 00-22)~~

~~**GOAL 79: BOAT RAMPS.** To provide a share of the boat ramps needed to allow county residents and visitors inexpensive access to public waterways. [Reserved]~~

~~**OBJECTIVE 79.1:** The "non-regulatory" minimum acceptable level of service is one boat ramp lane, with adequate parking, per 12,500 people, based on seasonal population (see Policy 95.1.3). Boat ramp lanes will include federal, state, county, municipal, and non-government boat ramp lanes that are open to the public and have adequate on-site parking. (Amended by Ordinance No. 00-22, 11-22)~~

~~**POLICY 79.1.1:** Lee County will maintain a classification system for boat ramps which addresses location guidelines, types of boat ramp facilities for different areas, and needs and~~

~~standards for parking for the different types of facilities. (Amended by Ordinance No. 94-30, 00-22)~~

OBJECTIVE 82.1: WATER ACCESS STANDARD-ACQUISITION. ~~The county will m~~Maintain an ~~its current inventory of~~ water accesses and ~~will~~ acquire additional water accesses if needed and whenever and wherever economically feasible ("~~non-regulatory~~" ~~desired future level of service, see Policy 95.1.4~~). (Amended by Ordinance No. 94-30, 00-22)

OBJECTIVE 83.1: COMMUNITY PARK STANDARD. Lee County will provide for the active recreational needs of unincorporated Lee County ~~in community parks~~ by providing ~~a minimum of 0.8 acres of developed~~ Community Parks open for public use per 1,000 population (~~minimum acceptable level of service, see Policy 95.1.3~~). ~~However, the County strives to provide 2 or more acres per 1,000 population (desired future level of service, see Policy 95.1.4), unincorporated county only. The population used for calculating these standards is the unincorporated Lee County permanent population. The acres used in calculating these standards are improved Community Park acres that are open for public use. The Community Park standards are non-regulatory and are not required for concurrency purposes.~~ Provide community parks for the active recreation of unincorporated Lee County residents as established in Policy 95.1.3.(Amended by Ordinance No. 93-25, 94-30, 98-09, 00-22, 14-09)

POLICY 83.1.1: Typical facilities at a community park may include ball fields, tennis courts, play areas, picnic areas, multipurpose courts, pools, recreation buildings and sports fields. The specific design for community parks will be tailored to meet the needs of the community to be served while recognizing the particular attributes of the park site. A standard community park may or may not include a community recreation center and/or a community pool. (Amended by Ordinance No. 94-30, 98-09, 00-22)

OBJECTIVE 83.2: COMMUNITY RECREATION CENTERS STANDARD. ~~Lee County will p~~Provide ~~four~~ Community Recreation Centers of ~~25,000 square feet or more to provide for the need of~~ unincorporated Lee County residents. (Amended by Ordinance No. 00-22, 11-22)

POLICY 83.2.1: Community recreation centers are typically 25,000 square feet or more, and should be designed to accommodate active indoor recreation, physical improvement, and meeting places for the community, including social, educational, and cultural activities. (Amended by Ordinance No. 11-22)

OBJECTIVE 83.3: [RESERVED] COMMUNITY POOL STANDARD. ~~Lee County will maintain and operate community pools. (Amended by Ordinance No. 00-22)~~

~~**POLICY 83.3.1:** The county will continue to research national or regional standards for pool development and make recommendations, as needed for adoption of a local, non-regulatory standard. (Added by Ordinance No. 94-30, Amended by Ordinance No. 00-22, 07-12)~~

OBJECTIVE 84.1: REGIONAL PARK STANDARD. Lee County will provide regional parks for public use as established in Policy 95.1.3, a minimum of 6 acres per 1,000 population (minimum acceptable level of service, see Policy 95.1.3). However, the County strives to provide 8 or more acres per 1,000 population (desired future level of service, see Policy 95.1.4). The population used for calculating this standard is the total seasonal population for all of Lee County. The acres used in calculating this standard are improved Regional Park acres that are open for public use. Federal and state facilities in Lee County are to be counted in meeting this standard. The Regional Park standards are non-regulatory and are not required for concurrency purposes. (Amended by Ordinance No. 94-30, 98-09, 00-22, 14-09)

VI. Capital Improvements

OBJECTIVE 95.1: CAPITAL IMPROVEMENTS. Ensure the provision of public facilities and other non-regulatory public services at the adopted "Minimum Acceptable Levels of Service" (LOS), by continuing the established capital improvements programming and budgeting system and using those "Minimum Acceptable Levels of Service" as the basic gauge of need and compliance. (Amended by Ordinance No. 94-30)

POLICY 95.1.1: CAPITAL IMPROVEMENTS PROGRAM (CIP). The county will annually evaluate and update this Capital Improvements element to incorporate the schedule of capital improvements adopted as part of the annual operating budget on an annual basis. The schedule must show Table 3 includes estimated costs, timing of need, location, and revenue sources for all public facility projects to be undertaken during the ensuing five-year period. The following policies will govern the development of the CIP. CIP project priorities for public facilities will be based on:

a. Preparation of the CIP:

1. Each county department having responsibility for public facilities for which levels of service have been set under this plan will annually review existing facilities, level of service standards, and current and projected deficiencies using the level of service standards contained in this plan, the established minimum geographic units for each facility, and the latest population projections from the Planning Division. Based on identified current and projected deficiencies, each department will prepare a capital improvements program based on facilities needed to meet these deficiencies.
2. Staff and members of the Board of County Commissioners will communicate with the general public in this process to ascertain the perceived need for each kind of public facility in each commission district and planning district. Ensure that all large CIP projects include broad public education efforts and information exchange as a component for securing public support.
3. A proposed CIP will be presented by the County Administrator in conjunction with the presentation of the proposed annual operating budget. The proposed CIP will be "balanced" (i.e., proposed expenditures will not be greater than the amount of revenues available to fund the expenditures, on a fund by fund basis). Attached to the proposed balanced CIP will be a report of the projects designated as needed, but which cannot be funded.

4. ~~The Board of County Commissioners will by resolution adopt a CIP at approximately the same time as the adoption of the annual operating budget. The annual operating budget must be consistent with the first year of the adopted CIP. The schedule of capital improvements adopted as part of the annual operating budget will be incorporated into the Lee Plan annually by ordinance.~~
5. ~~The adopted CIP may be reviewed by the Board of County Commissioners during periodic public meetings. The Board may amend the CIP at these meetings by resolution after making findings of fact that the amendment is consistent with the priorities in this policy and with the Lee Plan in general.~~
6. ~~All estimates of facility or service demand used to develop specific facility plans or any annual update of the capital improvements program will be based on the specific volume and location of demand represented by developments for which local and DRI Development Orders were issued prior to the effective date of this plan, as well as more general estimates of population and land use intensity.~~

b. ~~Priorities for the CIP:~~

~~Where needs based on current and/or projected deficiencies exceed revenues projected to be available, projects will be included according to certain priorities which are listed below. In addition, these priorities will be considered in reviewing proposals to amend the CIP.~~

1. ~~Projects that remove a direct and immediate threat to the public health or safety~~System preservation/maintenance of assets;
2. ~~Projects that are directed by a court order or otherwise by law~~Operation at or below the applicable minimum LOS, existing or projected, based on approved development orders;
3. ~~Projects that are essential for the maintenance of the county's investment in existing infrastructure~~Provision of system continuity;
4. ~~Projects that remove a service level deficiency that affects developed area~~Removal of a direct and immediate threat to the public health or safety; and
5. ~~Projects that provide new or additional facility capacity for undeveloped~~Future Urban areas: Donation or matching fund offers;
6. Return on investment; and
7. Other considerations (e.g. improving facilities in urban areas, consistency with applicable adopted government plans, emergency evacuation, regulatory or non-regulatory LOS, competition with other governmental or private sector facilities, revenue-generating potential, similar projects in planning and commission districts).

~~For the purpose of ranking projects in categories 4 – 5 that fall into the same category, the following will be considered:~~

- (a) ~~Priorities found elsewhere in this plan, including, but not limited to, Objective 2.3 and Policies 36.1.5, 37.3.3, 38.1.7, 38.2.1, 38.2.4, 38.2.6, 40.2.2, 40.2.6, 76.1.2, and 109.1.3; and~~
- (b) ~~Whether the facility is needed to satisfy a regulatory or a non-regulatory level of service requirement in this element.~~

~~Other factors that may be considered in ranking projects that are otherwise equal in priority include (in no particular order of significance):~~

- ~~(a) Whether the project competes with other facilities that have been or could reasonably be provided by other governmental entities or the private sector;~~
- ~~(b) The revenue generating potential of the project;~~
- ~~(c) Offers of donations of lands and/or services by the private sector and/or other governmental entities; and~~
- ~~(d) The size and number of similar projects in each of the county's planning and commission districts.~~

~~e. Effect of the CIP:~~

- ~~1. After adoption of the CIP, no public facility project will be constructed by the county, nor will land be acquired for such project, except in conformity with the adopted CIP.~~
- ~~2. It is the intent of this plan to actively pursue the development of any public facility project once it has been included in the CIP. Any CIP amendment which delays or cancels a project should only be made after consideration of:

 - ~~(a) Changes in facility needs based on more up to date population projections;~~
 - ~~(b) Changes in revenues compared with previous projections; and~~
 - ~~(c) Changes in adjusted level of service standards.~~~~
- ~~3. The county will consider and may accept dedication of facilities contributed to the county. Where contributed facilities are not provided by county funds, they need not be included in the CIP prior to acceptance. The county may, however, establish procedures for including contributed facilities in the CIP where inclusion in the CIP is a requirement of the Concurrency Management System.~~

(Amended by Ordinance No. 94-30, 00-22, 07-16, 16-03)

POLICY 95.1.2: CAPITAL FACILITY FINANCING POLICIES.

- ~~a. The use of ad valorem tax revenues for capital facilities should be limited to the General, MSTU, Library, Transportation Improvement, and Capital Improvement Funds, unless required in other funds by bond indenture agreements or by the terms of municipal service taxing/benefit units. Where a project may be funded from ad valorem tax revenues and other sources (except impact fees), other sources should be used before ad valorem tax funds are used.~~
- ~~b. The use of gas tax revenues should be limited to the Transportation Improvement Fund, unless required in other funds by bond indenture agreements.~~
- ~~c. The use of sales tax revenues for capital facilities should be limited to the General and MSTU Funds, unless required in other funds by bond indenture agreements.~~
- ~~d. The use of revenues which have been pledged to bondholders must conform in every respect to bond covenants which commit those revenues.~~
- ~~e. The county should annually prepare revenue estimates to provide information about revenue sources available to support capital facility construction.~~
- ~~f. Staff will prepare estimates of the operating and maintenance costs of each CIP project along with the capital costs of each facility.~~
- ~~g. The county should actively seek grant funds from federal, state, and other sources where available and when appropriate for capital facility construction. Consideration will be given to limitations (including operating restrictions) involved in such grants.~~
- ~~h. The county should investigate the feasibility of charging user fees to offset the cost of each new CIP project for which user fees could reasonably and legally be collected.~~
- ~~i. Capital Improvement Funds will be anticipated at millages which will generate sufficient revenue to make all required payments.~~

- ~~j. The county should allocate county wide revenues only to facilities which provide services to the entire county. Where benefits are limited to a specific area or function; revenues derived from that geographical area or function should be used to the maximum extent feasible.~~
- ~~k. A reserve for contingency of not less than 3% nor more than 10% of the fund total should be budgeted in each capital fund. These funds should be available for reallocation by the Board as needed during the year to fund unexpected increases in capital costs and/or to fund additional projects which could not be anticipated in the annual CIP.~~
- ~~l. A reserve for cash flow will be budgeted in any fund which requires monies to be carried forward into the following year to support needed expenditures until sufficient current revenues are received, but in no case will exceed the projected cash needs for 90 days or 20% of the fund budget, whichever is greater.~~
- ~~m. The county should prepare an annual analysis of financial condition. This analysis will include consideration of capital facility financing needs and revenues available to finance such needs.~~
- ~~n. Capital Project budgets will only be altered in one of two ways:

 - ~~1. Administrative approval of transfer of funds to reserves for projects funds not required for authorized expenditures; or~~
 - ~~2. Board approval of transfer of funds from reserves to increase a project budget and concurrently revise the 5 year Capital Improvements Program.~~~~
- ~~o. At the end of each fiscal year, unexpended fund balance at the project level in each fund will be carried over to the subsequent fiscal year budget in an amount equal to the prior year's unexpended project budget. Any unexpended fund balance in excess of project budget will be redistributed to fund other capital obligations, if necessary. The excess fund balance will be treated as capital reserves to be allocated in subsequent fiscal years.~~
- ~~p. The county will not limit the use of revenue bond funded projects to a specified percentage of total debt. The county will address the use of debt financing in a comprehensive manner which precludes establishing limitations on the use of revenue bonds or other forms of debt financing.~~
- ~~q. The county will not limit the ratio of total debt service to total revenues to any specified amount.~~
- ~~r. The county will not limit the ratio of total capital indebtedness to the property tax base. Currently Lee County has no debt financing that relies on property taxes as its source of revenue. (Amended by Ordinance No. 94-30, 00-22)~~

Within the Coastal High Hazard Area, Lee County will inventory existing public facilities and infrastructure and design new public facilities and infrastructure to address high tide events, storm surge, flash floods, stormwater runoff, and the related impacts of sea level rise.

POLICY 95.1.3: MINIMUM ACCEPTABLE LEVEL OF SERVICE LEVEL OF SERVICE (LOS) STANDARDS. ~~Level of service (LOS) standards will be the basis for planning the and provision of required public facilities and services within Lee County. Some of these Regulatory LOS standards will be the basis for determining the adequacy of public facilities for the purposes of permitting new development. Compliance with non-regulatory LOS standards will not be a requirement for continued development permitting, but will be used for facility planning purposes.~~ The "Minimum Acceptable Level of Service" will be the basis for facility design, for setting impact fees, and (where applicable) for the operation of the Concurrency Management System (CMS).

~~Two classes of standards are established. "Regulatory" standards are those which apply to facilities identified in state law or inter local agreements as being essential to support development. These consist of facilities for the provision of public schools, potable water,~~

~~sanitary sewer, disposal of solid waste, and stormwater management. (It is the intent of this element that these standards will be the same as those established in the various relevant plan elements. If there are discrepancies between standards contained in the elements and standards as set forth herein, the standards as set forth herein will govern.) The second class, "non-regulatory" standards, are those which apply to other facilities for which the county desires to set standards for its own use. These consist of facilities for the provision of community and regional parks, and transportation. Compliance with non-regulatory standards will not be a requirement for continued development permitting, but will be used for facility planning purposes.~~

REGULATORY STANDARDS

1. Potable Water Facilities:

Minimum Acceptable Level of Service:

Within certificated, franchised, or designated service areas only: supply and treatment capacity of 250 gallons per day per Equivalent Residential Connection (ERC) ~~for the peak month~~, except that facilities serving only multi-family or mobile home residential structures must have a capacity of ~~487.5~~ 200 gallons per day, and facilities serving only recreational vehicle or travel trailer residential structures must have a capacity of ~~450~~ 100 gallons per day. Where a private water utility has provided an alternate standard for application within its certificated or franchised area, and that standard has been adopted into this comprehensive plan, that will be the standard to be used for concurrency management in the respective certificated or franchised area.

2. Sanitary Sewer Facilities:

Minimum Acceptable Level of Service:

Within certificated, franchised, or designated service areas only: average treatment and disposal capacity of 200 gallons per day per Equivalent Residential Connection (ERC) ~~for the peak month~~, except that facilities serving only multi-family or mobile home residential structures must have a capacity of ~~450-160~~ gallons per day, and facilities serving only recreational vehicles or travel trailer residential structures must have a capacity of ~~420~~ 80 gallons per day. Where a private sewer utility has provided an alternate standard for application within its certificated or franchised area, and that standard has been adopted into this comprehensive plan, that will be the standard to be used for concurrency management in the respective certificated or franchised area.

3. Facilities for Disposal of Solid Waste:

Minimum Acceptable Level of Service:

Disposal facility capacity for 7 pounds of waste (or equivalent volume) per day per capita

4. Stormwater Management Facilities:

Minimum Acceptable Level of Service:

(a) ~~Existing Infrastructure/Interim Standard~~ – The existing surface water management system in the unincorporated areas of the county will be sufficient to prevent the flooding of designated evacuation routes (see Map ~~453J~~) from the 25-year, 3-day storm event (rainfall) for more than 24 hours.

(b) ~~Six Mile Cypress Watershed~~ – ~~The level of service level of service standard for the Six Mile Cypress Watershed will be that~~ Maintain adequate public infrastructure remains adequate such so that floor slabs for all new private and public structures which are constructed a minimum of one (1) foot above the 100-year, 3-day storm event flood plain level ~~for Six Mile Cypress Watershed~~ will be safe from flooding from a 100-year, 3-day storm event (rainfall). ~~The 100-year level and watershed boundaries are as established in Volume IV of the Six Mile Cypress Watershed Plan.~~

(c) Regulation of Private and Public Development - Surface water management systems in new private and public developments (excluding widening of existing roads) will be designed to SFWMD standards (to detain or retain excess stormwater to match the

predevelopment discharge rate for the 25-year, 3-day storm event [rainfall]). Stormwater discharges from development must meet relevant water quality and surface water management standards as set forth in ~~Chapters 17-3, 17-40, and 17-302, and Rule 40E-4, F.A.C~~ state rules including but not limited to requirements listed in Numeric Nutrient Criteria and Total Maximum Daily Load and Basin Management Action Plan. New developments will be designed to avoid increased flooding of surrounding areas. These standards are designed to minimize increases of discharge to public water management infrastructure (or to evapotranspiration) that exceed historic rates, to minimize change to the historic hydroperiod of receiving waters, to maintain the quality of receiving waters, and to eliminate the disruption of wetlands and flow-ways, whose preservation is deemed in the public interest.

- (d) Design trunk conveyance crossings of arterial roads to be free of flooding from 25-year, 3-day storm event.
- (e) Design major collectors and arterial roadways to have no more than 6 inches of water for a 25-year, 3-day storm event.

5. Public School Facilities^{1,2}:

The following Level of Service (LOS) standards for public schools are based upon Permanent Florida Inventory School Houses (FISH) capacity.

- (a) Elementary Schools: 100% of Permanent FISH Capacity as adjusted by the School Board annually to account for measurable programmatic changes.
- (b) Middle Schools: 100% of Permanent FISH Capacity as adjusted by the School Board annually to account for measurable programmatic changes.
- (c) High Schools: 100% of Permanent FISH Capacity as adjusted by the School Board annually to account for measurable programmatic changes.
- (d) Special Purpose Facilities: 100% of Permanent FISH Capacity as adjusted by the School Board annually to account for measurable programmatic changes.

¹Relocatable classrooms may be utilized to maintain the LOS on a temporary basis when construction to increase capacity is planned and in process. The temporary capacity provided by relocatable classrooms may not exceed 20% of the Permanent FISH Capacity and may be used for a period not to exceed three years.

²Relocatable classrooms may also be used to accommodate special education programs as required by law and to provide temporary classrooms while a portion of an existing school is under renovation.

NON-REGULATORY STANDARDS

6. Parks and Recreation Facilities:

Minimum Level of Service:

- (a) Regional Parks - 6 acres of developed regional park land open for public use per 1000 total seasonal county population for all of Lee County.
- (b) Community Parks - 0.8 acres of developed ~~standard~~ community parks land open for public use per 1,000 unincorporated Lee County permanent population, ~~unincorporated county only~~.

7. Roadway Facilities:

LOS "E" is the standard LOS for principal and minor arterials, and major collectors on county-maintained transportation facilities. Level of service standards for the State Highway System during peak travel hours are D in urbanized areas and C outside urbanized areas.

Due to scenic, historic, environmental, aesthetic, and right-of-way characteristics and considerations, Lee County has determined that certain roadway segments will not be widened. Therefore, reduced peak hour levels of service will be accepted on those constrained roads within unincorporated Lee County as a trade-off for the preservation of the scenic, historic, environmental, and aesthetic character of the community. These constrained roads are defined in Table 2(a). (Amended by Ordinance No. 16-07)

8. ~~Recreation Facilities:~~

~~(a) Community Recreation Centers—four recreation centers of 25,000 square feet or more within unincorporated Lee County.~~

~~(b) Boat Ramps—One boat ramp lane with adequate parking per 12,500 people, based on seasonal population.~~

~~(c) Water (Beach) Accesses—Retain current inventory, and develop or redevelop accesses throughout Lee County.~~

Evacuation and Shelter:

(a) Category 5 storm event out of county hurricane evacuation in 18 hours countywide.

(b) In-county and on-site shelter for 10 percent of the population at risk in the Hurricane Vulnerability Zone under a Category 5 storm hazard scenario.

9. ~~Libraries:~~

~~Maintain existing per capita inventory; provide 1.6 items and .274 square feet of library space per capita (permanent residents).~~

10. ~~Emergency Medical Service:~~

~~3.18 advanced life support ambulance stations per 100,000 population with a five and one half (5 1/2) minute average response time.~~

(Amended by Ordinance No. 91-19, 92-35, 94-30, 99-15, 00-08, 00-22, 02-02, 07-09, [Partially] Renumbered by Ordinance No. 08-17, Amended by Ordinance No. 08-27, 10-36, 11-22, 14-09)

~~**POLICY 95.1.4: DESIRED FUTURE LEVEL-OF-SERVICE STANDARDS.** For certain facilities, a second LOS standard, a "Desired Future Level of Service," is set forth. These standards represent a community goal of higher levels of public service and facility provision than can be achieved with current resources. It is the intent of Lee County to achieve these levels of facility provision by the dates prescribed in this policy. However, failure to achieve these goals will not halt the issuance of development orders under the Concurrency Management System.~~

~~1. Stormwater Management Facilities:~~

~~To be established basin by basin subsequent to the county wide surface water management master plan. Future service standards can only be finalized upon the completion of the basin studies and will be based upon providing a defined level of flood protection, balanced with the protection of natural flow ways and associated wetland systems. The following additional standards are hereby established for the Six Mile Cypress Watershed:~~

~~• The Six Mile Cypress Slough and its major tributaries as identified in the Six Mile Cypress Watershed Plan (February 1990) must accommodate the associated discharge from the 25 year, 3 day storm event (rainfall). (Ref: Six Mile Cypress Watershed Plan (February 1990) Volume II, page 10-5.)~~

~~• Water quality must be improved in accordance with EPA's NPDES and Rule 17-40 F.A.C. criteria for stormwater discharges.~~

~~2. Parks and Recreation Facilities:~~

~~a. Regional Parks:~~

~~Lee County will provide 8 acres of improved regional park land open for public use per 1000 total seasonal population for all of Lee County.~~

~~b. Community Parks:~~

~~Lee County will provide 2.0 acres of improved standard community parks open for public use per 1000 unincorporated Lee County permanent population.~~

3. ~~Libraries:~~

~~2 items per capita (permanent residents) and .424 square feet of space per capita in 2000.
(Amended by Ordinance No. 91-19, 93-25, 94-30, 98-09, 00-22, 14-10)~~

~~**POLICY 95.1.5:** In accordance with Florida Statute §163.3177(3), Table 3 contains a schedule of capital improvements, extracted from the most recently adopted CIP and incorporated into the Lee Plan by ordinance. This schedule provides, by operating department and type of improvement, a list of projects identified by project number and descriptive name, with the proposed annual budget and five-year total expenditures. Table 3A provides the location of the project by Planning District, the plan criteria by priority numbers established in Policy 95.1.1(b), and specific references to the Lee Plan policies which require or encourage the proposed capital project. (Amended by Ordinance No. 94-30, 16-03)~~

~~**POLICY 95.1.6:** In accordance with Florida Statute §163.3177(3), Table 3 is hereby provided as the required list of projected costs and revenue sources by the type of public facility. Additional information may be obtained by consulting the annual update of the Lee County Capital Improvements Program or the Lee County annual fiscal year budget document. (Amended by Ordinance No. 94-30, 16-03)~~

OBJECTIVE 95.2: CONCURRENCY MANAGEMENT SYSTEM. Maintain a "Concurrency Management System" (CMS) within the land development code development regulations in accordance with F.S. ~~163.3202~~3180. The CMS will ensure that public facilities will be in place or prioritized no later than issuance of a certificate of occupancy or functional equivalent ~~no~~ development permits will be issued unless the established regulatory level of service requirements are met or will be met as needed to serve the development. (Amended by Ordinance No. 94-30, 00-22)

POLICY 95.2.1:

- ~~a. The purpose of the CMS will be Track development permit approvals and available capacities of public facilities using the CMS to ensure that no development permit is issued unless the facilities necessary to serve the development are in place and have adequate capacity as defined by the adopted level of service level of service standards are achieved and can be reasonably met in the Capital Improvements Program. Only those facilities for which "regulatory" standards are established will be incorporated in the CMS.~~
- ~~b. The CMS will consider:~~
- ~~1. The service actually provided by the type of facility and the factors which contribute to the adequacy of that service;~~
 - ~~2. The proximity and/or accessibility of the service in relation to the site of the individual development permit under consideration; and~~
 - ~~3. The type of land use proposed and the density or intensity of use.~~
- ~~c. The CMS will include a review and appeal process to ensure adequate due process for any situation where operation of the CMS results in the denial of permission to make reasonable beneficial use of the land in question. Under this process variances may be issued, but will be limited to allow only such development rights as are necessary to avoid the unconstitutional taking of private property without due process of law.~~
- ~~d. In administering the CMS, the estimated (remaining) capacity of any specified facility will be adjusted to take into account the dormant demand represented by land for which local or DRI Development Orders were issued prior to the effective date of this plan, and by any land the development of which is exempt from the requirements of the Land Development Code.~~

(Amended by Ordinance No. 94-30, 00-08, 00-22)

OBJECTIVE 95.3: OTHER FINANCING POLICIES. Establish a broad-based system of revenue regulations that ensure that new development pays an appropriate share of the capital costs of the public infrastructure directly attributable to that new development. (Amended by Ordinance No. 94-30, 14-10)

POLICY 95.3.3: Financing of public facilities and services will utilize appropriate revenue sources. The cost for the provision and expansion of services and facilities will be borne primarily by those who benefit, using funding mechanisms such as impact fees, special taxing or benefit districts, community development districts, dedication of land and facilities, in-lieu-of fees, and capital construction, operation, and maintenance funds.

~~OBJECTIVE 95.4: FLORIDA'S TENTH UNIVERSITY.~~ Recognize the unique advantages and obligations which accompany the development and maturation of Florida's Tenth University. (Added by Ordinance No. 92-47) **NON-COUNTY FUNDED PROJECTS.** Recognize that non-county funded projects may contribute towards the achievement or maintenance of adopted level of service standards.

~~POLICY 95.4.1: Upon completion of the Conceptual Master Plan required by Policy 18.1.9 the Capital Improvements Element and Capital Improvement Program will be amended to reflect the unique obligations which will accompany the development and maturation of Florida's Tenth University. (Added by Ordinance No. 92-47, Amended by Ordinance No. 00-22) Identify or include by reference in the Capital Improvement Program, any federal, state, local, or privately funded project which contributes to the achievement or maintenance of adopted LOS standards.~~

~~POLICY 95.4.2: The infrastructure improvements necessitated by Florida's Tenth University which will require the expenditure of public funds will be consolidated, as a package, for public review and comment prior to amending the Capital Improvements Element. (Added by Ordinance No. 92-47, Amended by Ordinance No. 00-22) Infrastructure improvements that result from interlocal agreement obligations (e.g. FDOT, Florida Gulf Coast Universities, Florida Southwestern State College) will be identified in the Capital Improvements Program.~~

~~POLICY 95.5.1: The County will annually incorporate by ordinance into the Capital Improvements element the School District's annually adopted Five Year Capital Facilities Plan. The School District Capital Improvement Program will annually be incorporated into the Lee Plan's Capital Improvement Element by Ordinance. Table 3(a) includes all projects to be undertaken by the School District during the ensuing five-year period. (Added by Ordinance No. 08-17; Amended by Ordinance No. 08-27, 16-03)~~

GOAL 115: WATER QUALITY AND WASTEWATER. To ensure that water quality is maintained or improved for the protection of the environment and people of Lee County.

~~POLICY 117.1.9: The county will utilize the recommendations made in the Water Supply Facilities Work Plan (see Policy 55.1.3) as a guide to potable water facilities planning, potable water resources, and water conservation as well as expanding potable water facilities consistent with Table 6, the Water Supply Development Projects Table. (Added by Ordinance No. 09-13)~~

XII. Glossary

BASIC FACILITY – ~~As used in the Potable Water and Sanitary Sewer sub- elements of the Community Facilities and Services element, this term is intended to identify the principal productive capital of a water or sewer system, i.e., a wellfield and water treatment plant, as distinguished from the distribution system (see also “infrastructure”).~~

CONCURRENCY – Land use regulations ensuring that existing or programmed public facilities for potable water, wastewater, solid waste, stormwater discharge and public education meet or exceed adopted levels of service and will be available for new development.

INFRASTRUCTURE - As used in the Potable Water and Sanitary Sewer sub- elements of the Community Facilities and Services element, this term is intended to identify the capital facilities that distribute a service, i.e., the sewer mains, manholes, lift and pump stations, and trunk and interceptor sewers, as distinguished from the wastewater treatment plant and effluent disposal system (~~see also “basic facility”).~~

LEVEL OF SERVICE (LOS)- An indicator of the extent or degree of service provided by, or proposed to be provided by a facility based on and related to the operational characteristics of a facility. Levels of service ~~are generally expressed as~~ indicates the capacity per unit of demand for each public facility. (~~See Policy 95.1.3 for a description of the various levels of service contained in this plan.~~)

NON-REGULATORY LOS – Standards which apply to facilities and services for which the county desires to set standards for its own use and that are not required by state law or inter-local agreement, including community and regional parks, transportation, emergency medical services, and evacuation/shelter.

REGULATORY LOS – Standards which apply to facilities and services identified in state law or inter-local agreements as being essential to support development, including public schools, potable water, sanitary sewer, disposal of solid waste, and stormwater management.

WATER SUPPLY FACILITIES WORK PLAN – Identifies and plans for the water supply sources and facilities needed to serve existing and new development within Lee County, and will refer to the version most recently adopted by the Board of County Commissioners. A copy of the adopted Water Supply Facilities Work Plan will be maintained and kept on file by Lee County Utilities.

Map Amendments:






Map 23: Educational and School District Facilities in Lee County

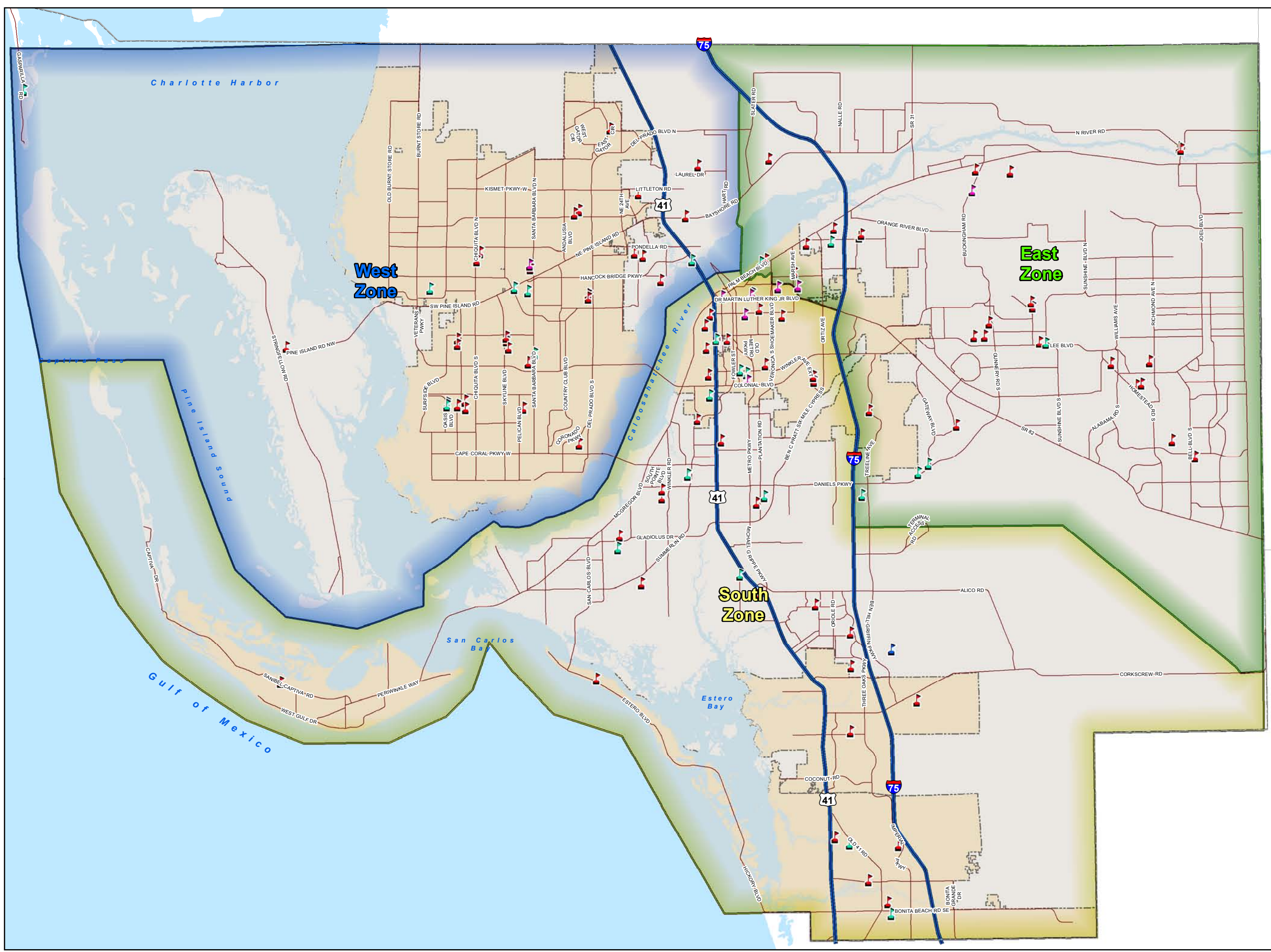
Amend Map 23 to identify updated list of educational facilities and combine with Map 24: School Concurrency Service Areas.

Map 24: School Concurrency Service Areas

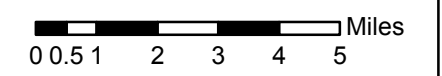
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EDUCATIONAL AND SCHOOL DISTRICT FACILITIES IN LEE COUNTY

-  Public School
-  Charter School
-  Higher Education
-  Specialized Education Centers
-  City Limits



Proposed

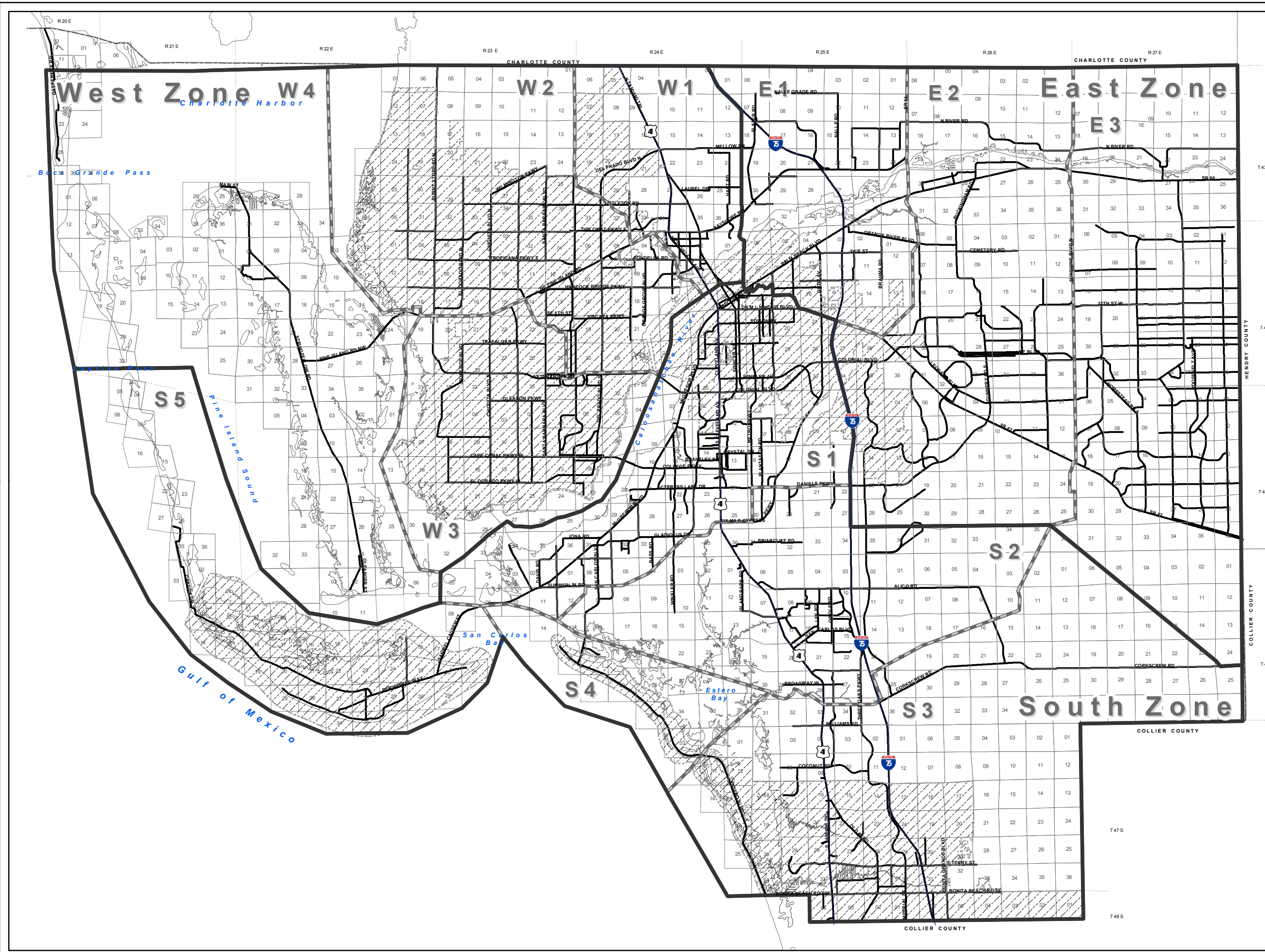


Map Generated: August 2017
 City Limits current to date of map generation

Adopted August 26, 2008
 Effective November 7, 2008
 Adopted by Ordinance No. 08-17

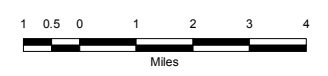
Lee Plan Map 23

School Concurrency Service Areas



- Legend**
- Assignment Zones
 - Sub-Zones
 - City Limits

DELETE



Map Generated: May 2009
 City Limits current to date of map generation

Adopted August 26, 2008
 Effective November 7, 2008
 Adopted by Ordinance No. 08-17

Lee Plan Map 24

CPA2017-00004

North Fort Myers
Mixed Use Overlay
Expansion

Summary Sheet
North Fort Myers Mixed Use Overlay Expansion
CPA2017-04

Request:

Amend Lee Plan Map 1, Page 6, to expand the Mixed Use Overlay on 56 properties, approximately 287.57 acres, located at the intersections of US 41 and Diplomat and Littleton Roads, and the intersection of North Tamiami Trail and Pine Island Road, and along North Key Drive in North Fort Myers.

LPA Motion:

The LPA recommends the Board of County Commissioners *transmit* CPA2017-04. The motion was passed 7 to 0.

Transmittal Hearing:

A motion was made to *transmit* CPA2017-00004. The motion was passed 5 to 0.

BRIAN HAMMAN	<u>AYE</u>
LARRY KIKER	<u>AYE</u>
FRANK MANN	<u>AYE</u>
JOHN MANNING	<u>AYE</u>
CECIL L. PENDERGRASS	<u>AYE</u>

Public Comments:

There was no public comment concerning the proposed amendments.

Objections, Recommendations, and Comments:

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

- Florida Department of Economic Opportunity,
- Florida Department of Environmental Protection,
- Florida Department of Transportation,
- Florida Department of Agriculture and Consumer Services, and
- Southwest Florida Regional Planning Council.

There were no objections or comments concerning the proposed amendments.

Staff Recommendation:

Staff recommends the Board of County Commissioners adopt the amendment as it was transmitted to the state reviewing agencies.

LEE COUNTY ORDINANCE NO. _____
North Fort Myers Mixed Use Overlay Expansion
(CPA2017-00004)

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 NORTH FORT MYERS MIXED USE OVERLAY EXPANSION (CPA2017-00004) APPROVED DURING A PUBLIC HEARING; PROVIDING FOR PURPOSE, INTENT, AND SHORT TITLE; AMENDMENTS TO ADOPTED MAP; 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”) Policy 2.4.1. 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 August 28, 2017; and,

WHEREAS, the Board held a public hearing for the transmittal of the proposed amendment on September 20, 2017. At that hearing, the Board approved a motion to send, and did later send, proposed amendment pertaining to North Fort Myers Mixed Use Overlay Expansion (CPA2017-00004) to the reviewing agencies set forth in Section 163.3184(1)(c), F.S. for review and comment; and,

WHEREAS, at the September 20, 2017 meeting, the Board announced its intention to hold a public hearing after the receipt of the reviewing agencies’ written comments; and,

WHEREAS, on November 22, 2017, the Board held a public hearing and adopted the proposed amendment to the Lee Plan set forth herein.

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

SECTION ONE: PURPOSE, INTENT AND SHORT TITLE

The Board of County Commissioners of Lee County, Florida, in compliance with Chapter 163, Part II, Florida Statutes, and with Lee County Administrative Code AC-13-6, conducted public hearings to review proposed amendments to the Lee Plan. The purpose of this ordinance is to adopt map 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 “North Fort Myers Mixed Use Overlay Expansion Ordinance (CPA2017-00004).”**

SECTION TWO: ADOPTION OF COMPREHENSIVE PLAN AMENDMENT

The Lee County Board of County Commissioners amends the existing Lee Plan, adopted by Ordinance Number 89-02, as amended, by adopting an amendment, which amends Lee Plan Map 1, Page 6, known as North Fort Myers Mixed Use Overlay Expansion (CPA2017-00004).

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

SECTION THREE: LEGAL EFFECT OF THE “LEE PLAN”

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

SECTION FOUR: MODIFICATION

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

SECTION FIVE: GEOGRAPHIC APPLICABILITY

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

SECTION SIX: SEVERABILITY

The provisions of this ordinance are severable and it is the intention of the Board of County Commissioners of Lee County, Florida, to confer the whole or any part of the powers herein provided. If any of the provisions of this ordinance are held

unconstitutional by a court of competent jurisdiction, the decision of that court will not affect or impair the remaining provisions of this ordinance. It is hereby declared to be the legislative intent of the Board that this ordinance would have been adopted had the unconstitutional provisions not been included therein.

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

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

SECTION EIGHT: EFFECTIVE DATE

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

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

John E. Manning	_____
Cecil L Pendergrass	_____
Larry Kiker	_____
Brian Hamman	_____
Frank Mann	_____

DONE AND ADOPTED this 22nd day of November 2017.

ATTEST:
LINDA DOGGETT, CLERK

LEE COUNTY BOARD OF
COUNTY COMMISSIONERS

BY: _____
Deputy Clerk

BY: _____
_____, Chair

DATE: _____

APPROVED AS TO FORM FOR THE
RELIANCE OF LEE COUNTY ONLY

County Attorney's Office

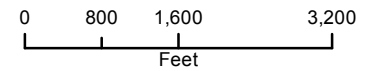
Exhibit A: Adopted revisions to Map 1 (Adopted by BOCC November 22, 2017)

CPA2017-00004 Mixed Use Overlay

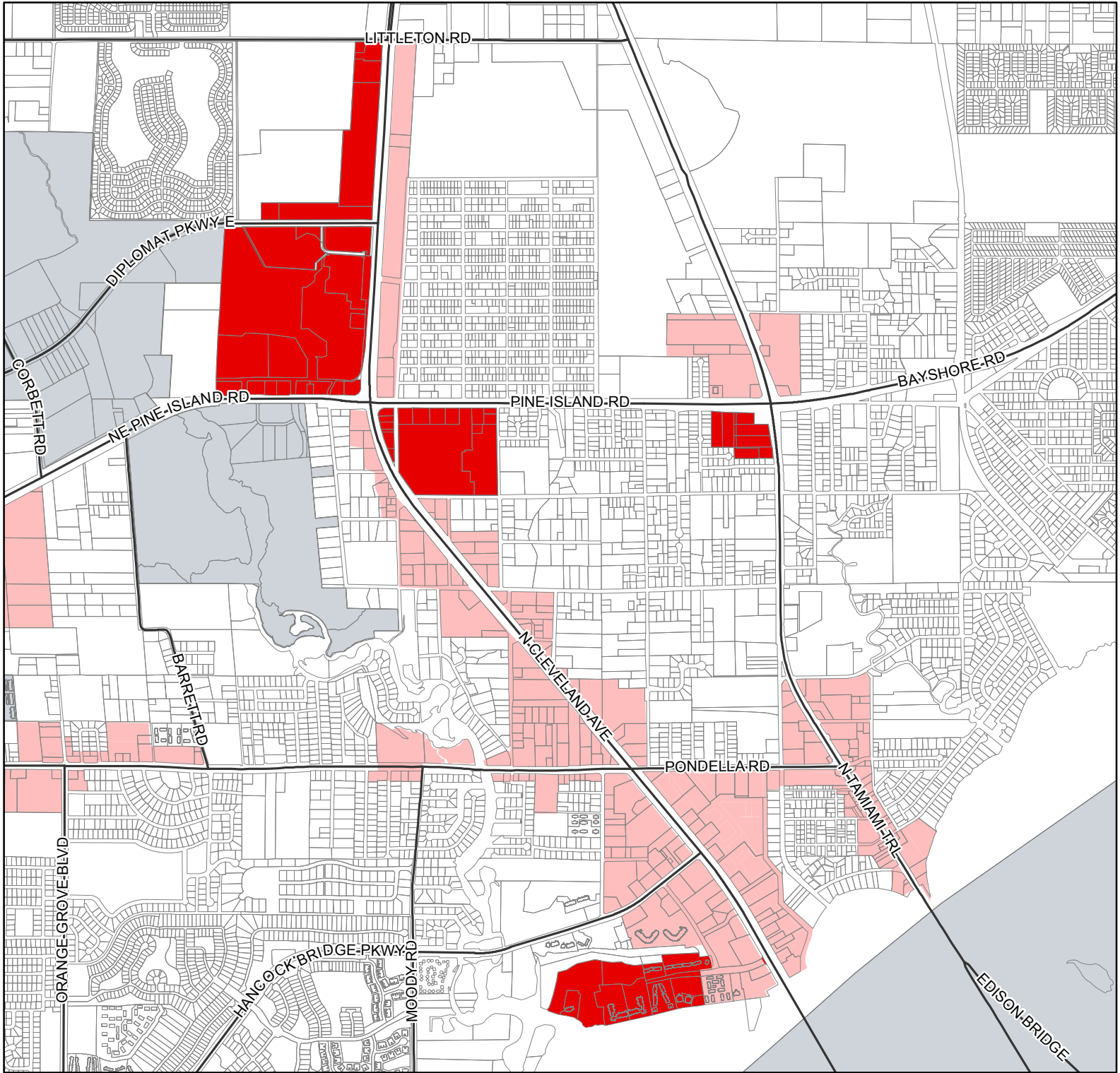
Exhibit A

Legend

- Parcels
- Mixed Use Overlay (existing)
- Mixed Use Overlay (additions)
- City Limits



Map Generated: July 2017



STAFF REPORT FOR
CPA2017-04: North Fort Myers
Mixed Use Overlay Expansion
 County Initiated Map Amendment to the Lee Plan



Applicant:

Board of County Commissioners

Representative:

Department of Community Development

Commissioner

District: 4

Property Size:

56 properties;
 287.57± Acres

Current FLUC:

Intensive & Central Urban

Current Zoning:

C-1A, MH-2, CPD, RPD, C-1, AG-2, TFC-2, CG, CS-1

Attachments:

Location Map
 FLUM Existing
 FLUM Proposed

Hearing Dates:

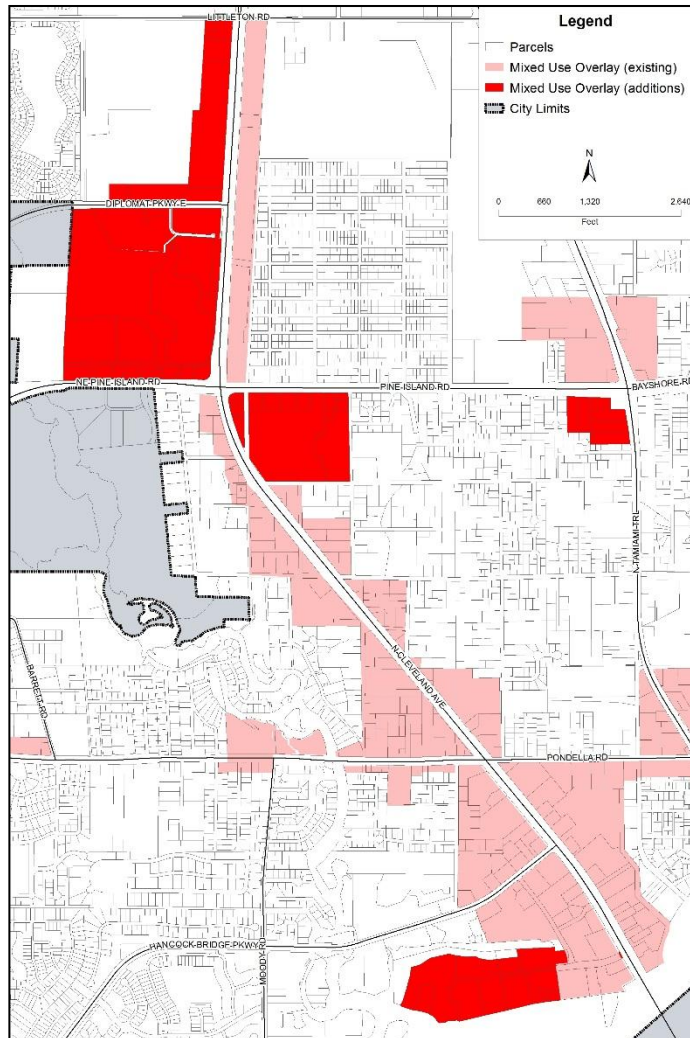
LPA:
 8/28/2017

BoCC Transmittal:
 9/20/2017

BoCC Adoption:
 11/22/2017

REQUEST

Amend Lee Plan Map 1, Page 6, to expand the Mixed Use Overlay on 56 properties, approximately 287.57 acres, located at the intersections of US 41 and Diplomat and Littleton Roads, and the intersection of North Tamiami Trail and Pine Island Road along North Key Drive in North Fort Myers.



PROJECT SUMMARY

The amendment would add properties located in North Fort Myers to the Mixed Use Overlay. The overlay was designed to encourage mixed use development in areas of the county suitable for combination of commercial and residential uses. The Mixed Use Overlay incentivizes properties in conventional zoning districts to maximize their development potential by allowing density/intensity calculations to be based on both the residential and non-residential areas of developments.

PROPERTY LOCATION

There are four distinct areas, consisting of 56 parcels that are proposed to be added to the North Fort Myers Mixed Use Overlay. They are generally located along US 41 from Littleton Road to Pine Island Road, at the intersections of US 41 and Pine Island Road, Business 41 and Pine Island Road, and the western end of North Key Drive.

RECOMMENDATION

Staff recommends that the Board of County Commissioners **transmit** the map amendment provided in Attachment 1 based on the analysis and findings of this staff report. Staff also requests that the Board direct staff to review community specific policies and regulations in the Lee Plan and the Land Development Code that conflict with the development standards permitted within the Mixed Use Overlay and propose amendments where appropriate.

PART 1 BACKGROUND

As set forth in the Lee Plan, the Mixed Use Overlay (Map 1, Page 6) identifies “locations desirable for mixed use that are located in close proximity to: public transit routes; education facilities; recreation opportunities; and existing residential, shopping and employment centers.” The Mixed Use Overlay was adopted by Lee County Ordinance 07-15 on May 16, 2007, as recommended by staff in CPA2005-37. The Staff Report for CPA2005-37 provided that:

“The intent of the Mixed Use Overlay is to designate areas where commercial activity can occur with the added element of residential uses. In order to implement many of the principles of Smart Growth and New Urbanism it is critical that the selection of these sites follow a firm set of criteria. The objective specifies the desired development pattern will be mixed use, traditional neighborhood, and transit oriented designs. Clearly, transit oriented developments require close proximity to transit routes. Currently, Lee County’s only transit system is the Lee Tran bus system. Therefore, overlay locations will be evaluated for proximity to existing and future routes on this system. When possible, access to multiple routes is preferred to allow residents access to a greater array of destinations from a single site as well as access to the site from a variety of areas of the county without the need to transfer between routes.”

The Mixed Use Overlay does not increase cost or regulatory burdens on developers and property owners, but rather allows for greater diversity of uses. Moreover, properties in the Mixed Use Overlay that are developed according to the mixed use standards will help create a more compact form of development that will minimize the per capita cost of public services and infrastructure such as transportation and utilities facilities.

The CPA2017-01 Comprehensive Plan Amendment has also added new aspects to the Mixed Use Overlay. These Growth Management amendments are intended to align Lee County’s Land Use and Transportation Goals based on the Board’s strategic policy priority of managing growth. The Board of County Commissioners transmitted the Growth Management amendments to the Lee Plan to the state on June 21, 2017.

On May 2, 2017 the Board of County Commissioners gave staff direction to review properties along State Route 41 and Business 41 in North Fort Myers to determine if additional lands should be included in the Mixed Use Overlay in order to encourage redevelopment. The properties analyzed in this report include 56 parcels in four distinct areas in the Intensive Development and Central Urban future land use categories (see Attachment 2 for list of properties).

The Intensive Development future land use categories allows for densities from 8 to 30 dwelling units per acre (with Greater Pine Island Transferable Density Units), while the Central Urban future land use category allows for densities of 4 to 20 dwelling units per acre (with Greater Pine Island Transferable Density Units). They are described in Lee Plan as follows:

POLICY 1.1.2: The Intensive Development 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, they are well suited to accommodate high densities and intensities. Planned mixed-use centers of

high-density residential, commercial, limited light industrial (see Policy 7.1.6), and office uses are encouraged to be developed as described in Policy 2.12.3., where appropriate. As Lee County develops as a metropolitan complex, these centrally located urban nodes can offer a diversity of lifestyles, cosmopolitan shopping opportunities, and specialized professional services that befit such a region. The standard density range is from eight dwelling units per acre (8 du/acre) to fourteen dwelling units per acre (14 du/acre). Maximum total density 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 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. This is the part of the county that is already most heavily settled and which has or will have the greatest range and highest levels of 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 area with future development in this category encouraged to be developed as a mixed-use, as described in Policy 2.12.3., where appropriate. This category has a standard density range from four dwelling units per acre (4 du/acre) to ten dwelling units per acre (10 du/acre) 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.

These two categories are two of the most intense future land use categories within unincorporated Lee County.

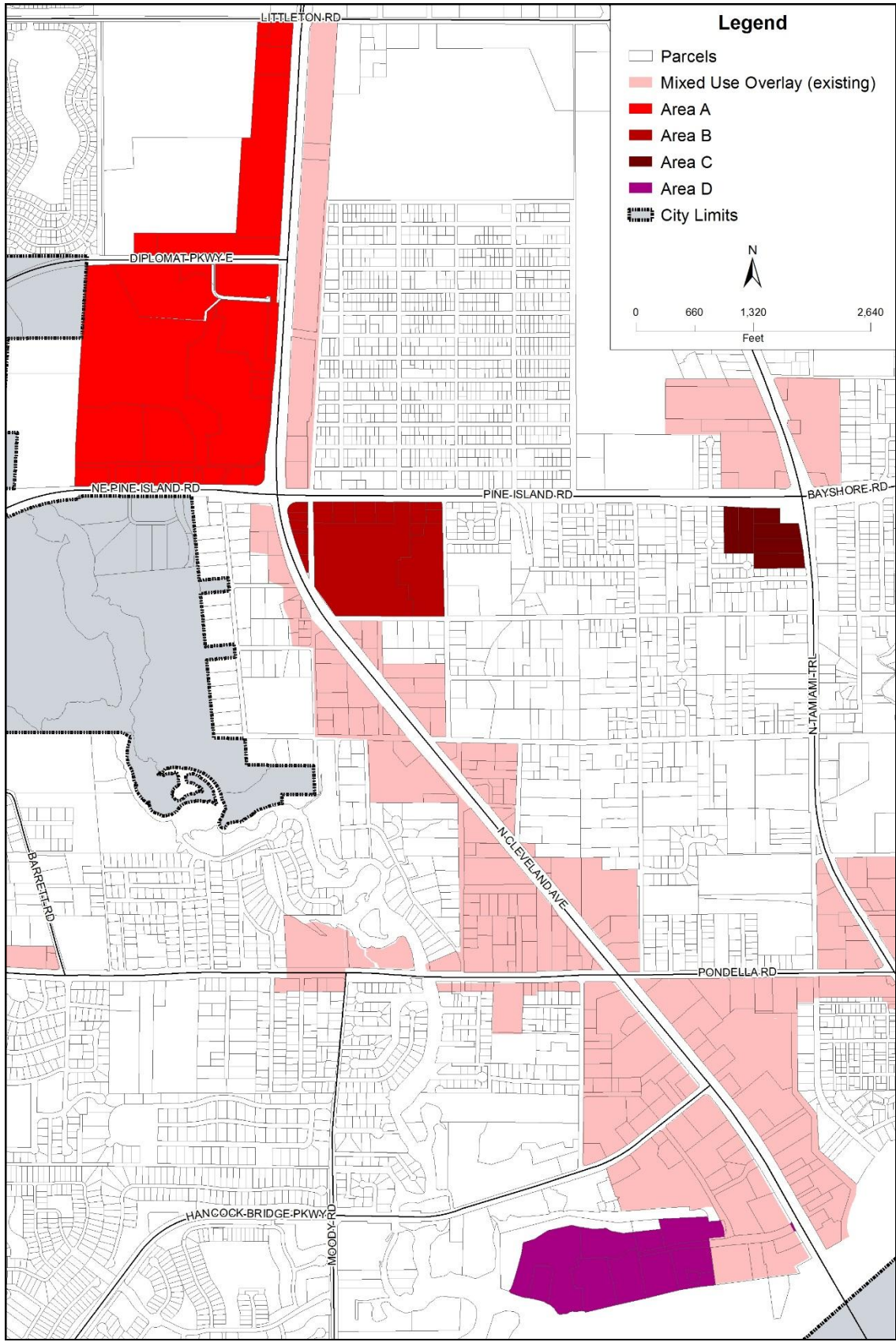
PART 2 STAFF DISCUSSION AND ANALYSIS

STAFF DISCUSSION

1. OVERLAY EXPANSION AREAS

The Mixed Use Overlay is for properties that are desirable for mixed use, identified by proximity to public transit, education facilities, recreational opportunities, and existing residential, shopping and employment centers.

The properties proposed to be added to the North Fort Myers Mixed Use Overlay exist in four areas. They include an area directly south of Littleton Road down to Pine Island Road on the west side of US 41 (Area A), one at the southeast corner of the intersection of Pine Island and US 41 (Area B), another one at the southwest corner of Business 41 and Pine Island Road (Area C), and the southernmost area is located along North Key Drive just north of the Caloosahatchee River (Area D). The properties proposed to be added in this amendment have been reviewed to determine if they are appropriate to be included in the overlay.



Area A is across the street from existing Mixed Use Overlay properties. This area, which includes a strip mall development with retail, restaurant, and entertainment-related uses and includes the northernmost properties being added in this overlay. The Future Land Use Category is predominantly Central Urban, with the exception of two properties at the southern end, which are Intensive Development. Most of these properties are either part of Commercial or Residential Planned Developments (RPD or CPD zoning districts). There is some C-1A, AG-2, and MH-2 zoning.

To the southeast is Area B, which includes numerous retail and fast-food uses. This area is largely built-out, but may benefit from being in the Mixed Use Overlay if redevelopment happens in the future. The Future Land Use Category is entirely Intensive Development. The zoning districts C-1, CC, and CPD.

Area C, at the southwest corner of the intersection of Tamiami Trail and Pine Island, has a number of vacant properties. These properties are suitable for a variety of residential and commercial-type developments. The Future Land Use Category is mostly Central Urban, except for 41 Pine Island Road, which is Intensive Development. The zoning districts are AG-2, TFC-2, CG, C-1A, CS-1 and R-1.

Area D is predominantly condominium development. Located along the Caloosahatchee River waterfront, this area could benefit from being added to the Mixed Use Overlay if some of the vacant properties were developed. The Future Land Use Category is Intensive Development and the zoning district is CT.

2. INTENT OF AMENDMENT

This map amendment seeks to address the growing population of Lee County in North Fort Myers. According to BEBR projections, by 2040 the population of North Fort Myers will have grown 56%, from 45,553 persons in 2016 to 71,058 persons. The population of North Fort Myers relative to the county as whole will remain around 7% through 2040. Shown below is a map of the Lee County residential population densities in 2010 and 2040 projections based MPO projected distribution, showing relatively higher densities throughout the county's Future Urban Areas, including North Fort Myers.

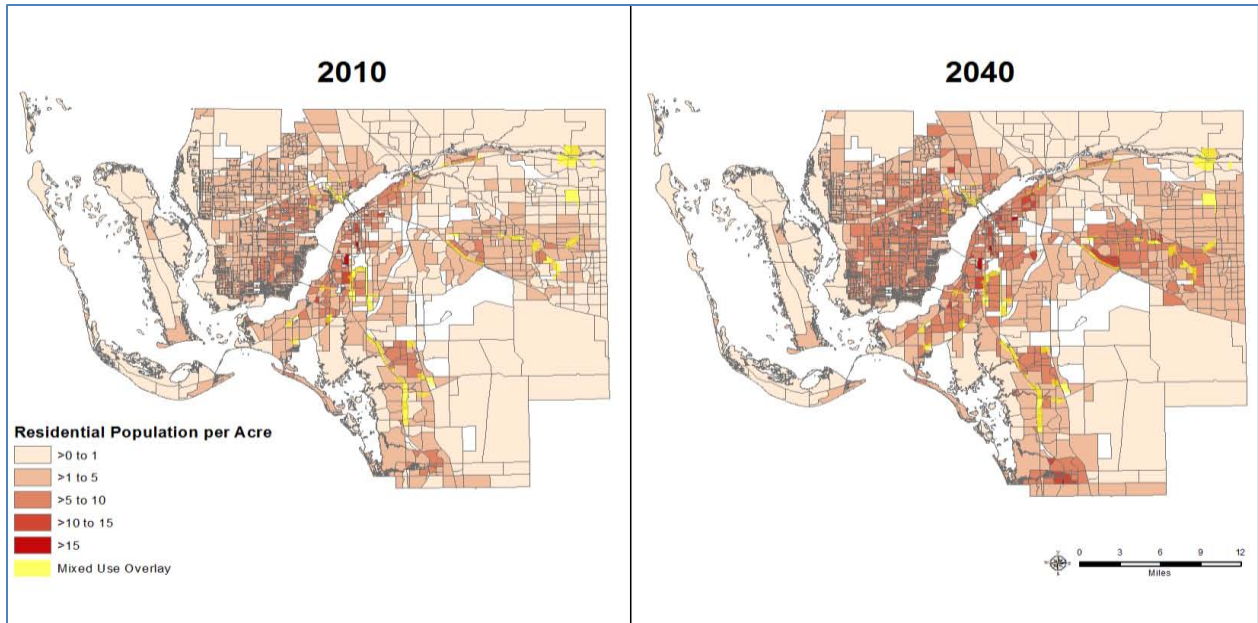


Figure 1: 2010 and 2040 (Projected) residential population densities per acre.

The proposed amendment will also help to accommodate anticipated employment density in the areas in Lee County where employment is projected to increase. Figure 2, shows employment density based on 2010 employment data and the 2040 Transportation Model adopted by the MPO.

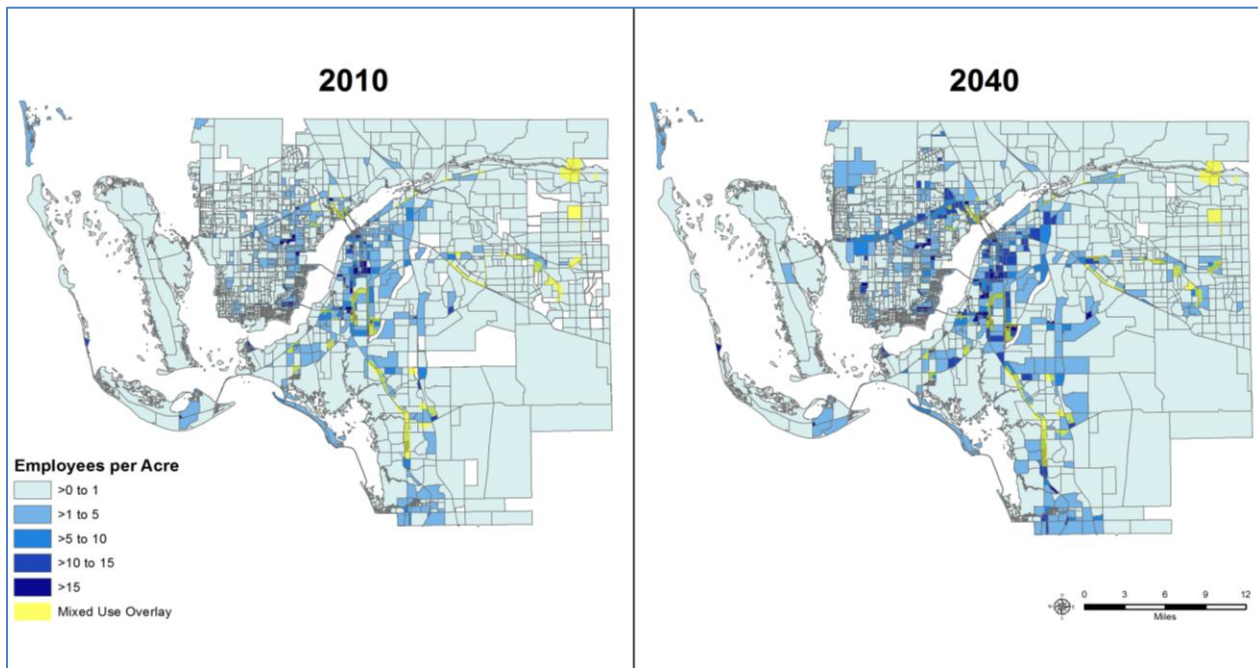


Figure 2: 2010 and 2040 (Projected) employment densities per acre.

Adding properties to the Mixed Use Overlay that are located in the Intensive Development and Central Urban future land use categories along major transportation corridors in North Fort Myers

will help to accommodate the projected 2040 population and employment distribution within the Future Urban Areas of Lee County.

2. LEE PLAN ANALYSIS

Staff has reviewed the identified properties and determined that **including the subject properties within the Mixed Use Overlay is consistent with the Lee Plan**. The Lee Plan analysis is provided below.

The Lee Plan Vision Statement identifies six themes of great importance. The first of these addresses growth patterns and encourages a clear distinction between urban and rural areas. Including these properties in the Mixed Use Overlay will help to enhance the distinction between urban and rural areas within North Fort Myers. Their inclusion within the Mixed Use Overlay will allow properties to develop in a more urban form of development.

Developers should work to make sure any future development coordinates with the Lee Plan, as there are number of objectives and policies that govern uses and activities in the overlay. Objective 2.1 states that, “Contiguous and compact growth patterns will be promoted through the rezoning process to contain urban sprawl, minimize energy costs, conserve land, water, and natural resources, minimize the cost of services”. These properties have access to arterial roadways, transit services, utilities, and open space. Adding these properties to the Mixed Use Overlay would encourage contiguous and compact growth patterns in appropriate areas, and are therefore consistent with Objective 2.1 of the Lee Plan.

Lee Plan Policy 2.1.1 provides that “Most residential, commercial, industrial and public development is expected to occur within the designated Future Urban Areas on the Future Land Use Map through the assignment of very low densities to the non-urban categories.” The properties in this amendment are all within the Intensive Development or Central Urban future land use categories. The Growth Management Amendments transmitted on June 21st, 2017 identified Intensive Development and Central Urban land use categories as Future Urban Areas. Therefore, the proposed amendment will encourage additional residential, commercial, and industrial uses within Lee County’s Future Urban Areas. This will help to prevent the intrusion of mixed uses into established single-family neighborhoods designated as Suburban on the future land use map. Since adding these properties will only potentially increase residential, commercial, industrial and public development in Future Urban areas, they conform with Policy 2.1.1 of the Lee Plan.

Policy 2.12.1 states that the County encourages and promotes clustered, mixed use development within certain Future Urban Area land use categories to spur cluster development and smart growth where sufficient infrastructure exists to support development and the economic well-being of the county. It further states mixed use development is to “provide for diversified land development; and provide for cohesive, viable, well-integrated, and pedestrian and transit oriented projects. This is intended to encourage development to be consistent with Smart Growth principles.” The properties included within this amendment are clustered at major intersections in North Fort Myers. Sufficient infrastructure exists in these places to allow for diversified uses (commercial, residential, light industrial, and public), and for transit and pedestrian oriented projects, and is therefore consistent with Policy 2.12.1 of the Lee Plan.

Policy 2.12.3 states that future development within Intensive Development and Central Urban (the two Future Land Use Categories assigned to all properties in this overlay) are encouraged to include two or more of the following uses: residential, commercial (including office), and light industrial (including research and development use). It goes on to state, “When residential use is one of the three uses proposed, in a mixed use development, residential densities may be developed as provided for under the Glossary: “Mixed Use”, “Mixed Use Building”, and “Density.” These properties already have commercial (mostly retail) or residential (mostly condominiums). Adding the subject properties to the Mixed Use Overlay will promote redevelopment of the subject properties to include a mixture of uses. Given the potential of these properties to develop with multiple uses, it can be strongly argued that their addition to the Mixed Use Overlay fulfills Policy 2.12.3.

Lastly, Policy 11.2.1 (proposed in the Growth Management amendments) identifies criteria for lands to be added to the Mixed Use Overlay. These criteria are listed below:

1. Located within the extended pedestrian shed of established transit routes; and
2. Distinct pedestrian and automobile connections to adjacent uses can be achieved without accessing arterial roadways; and,
3. Located within the Intensive Development, Central Urban, or Urban Community future land use categories; and,
4. Availability of adequate public facilities and infrastructure; and,
5. Will not intrude into predominantly single-family residential neighborhoods.

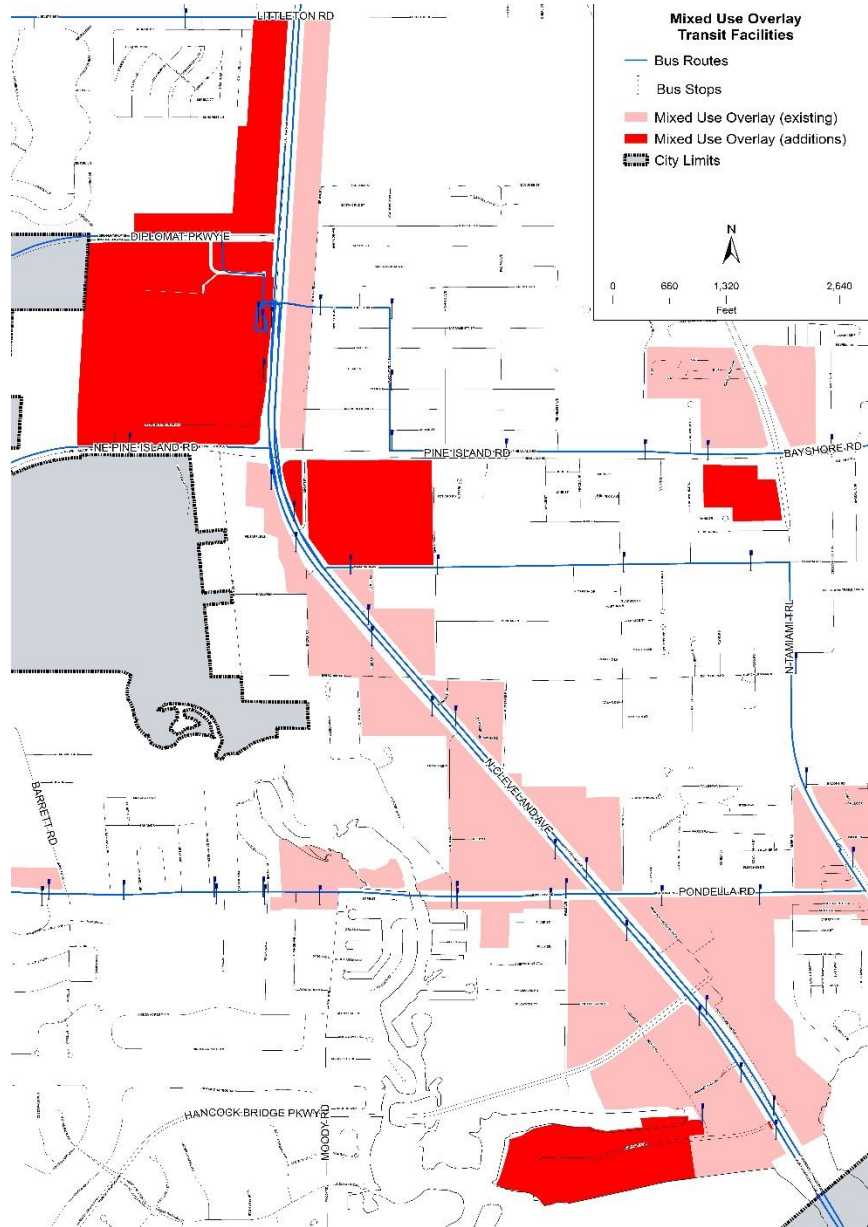


Figure 3: Transit Facilities in proximity to areas proposed to be added to MUO.

Staff has reviewed the properties included in the proposed plan amendment and has found that all of the properties are within a ½ mile of a Lee Tran bus stop as demonstrated in Figure 3 below.

In addition the properties have access to the following pedestrian facilities as shown if Figure 4:

- Sidewalks exist for the properties on US 41 and Business 41.
- An undesignated bicycle lane, sidewalk, and shared use path lie north of the properties at the intersection of Pine Island Road and US 41. A sidewalk also runs south, and a share use path and paved shoulder run east to west.

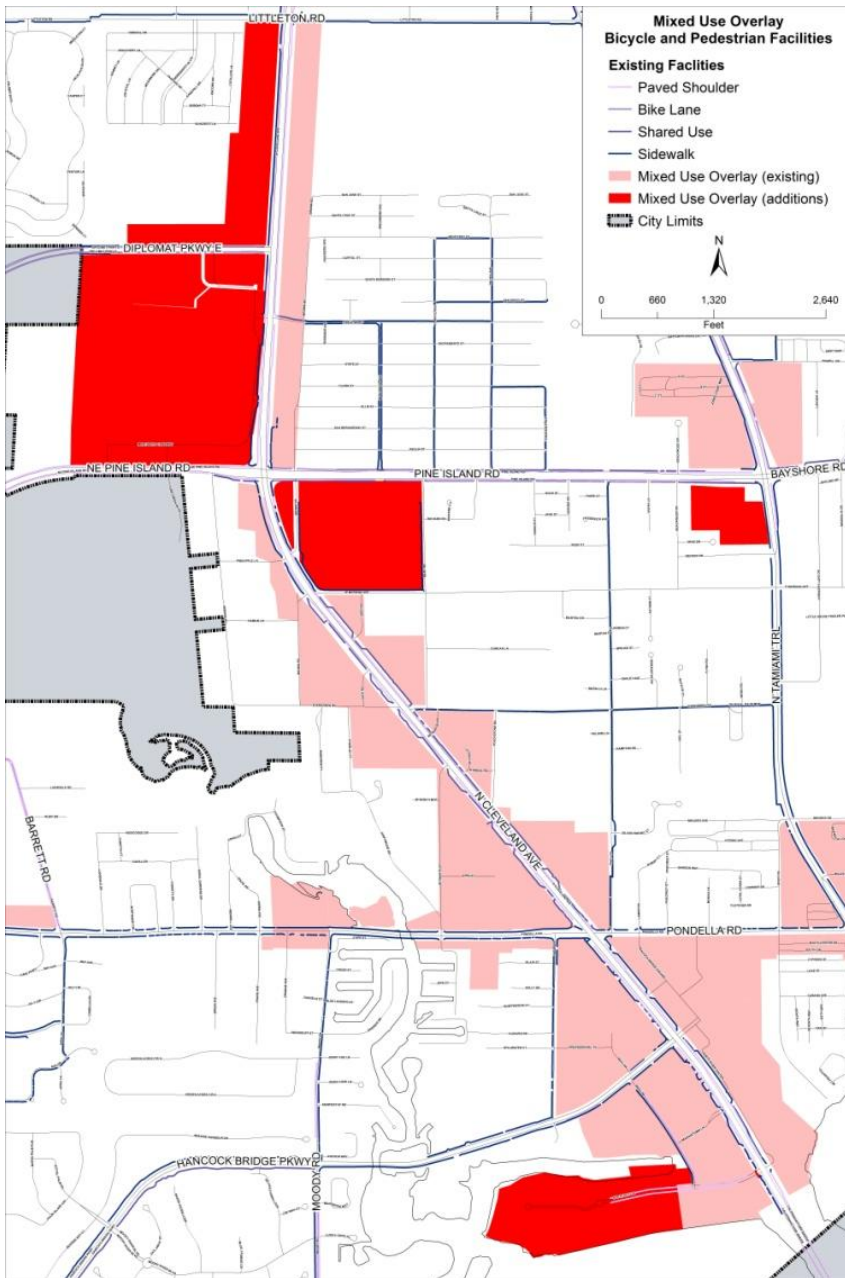


Figure 4: Pedestrian and bicycle facilities in proximity to areas proposed to be added to MUO.

All of the properties to be added are Intensive Development and Central Urban and none of these properties are in single-family neighborhoods as required by Policy 11.2.1. Therefore, addition of these properties to the Mixed Use Overlay is consistent with Policy 11.2.1.

The proposed additions to the Mixed Use Overlay will also be consistent with the North Fort Myers Community Plan as outlined in Goal 28 of the Lee Plan. This community plan describes the uses, activities, character, projects, and initiatives encourage community livability and economic vitality. A number of these policies refer specifically to the Mixed Use Overlay.

There are policies in both the North Fort Myers community plan and Land Development Code (LDC) requirements that will limit the potential benefits of being located within the Mixed Use Overlay. Within the LDC, these include regulations for architectural

standards, use limitations, landscape buffers, and setbacks that supersede the alternative development standards that are permitted within the Mixed Use Overlay, thus increasing development requirements and providing suburban development standards.

Policy 28.1.4 states, “To support the diversity of housing types available, the North Fort Myers Community supports utilizing the Mixed Use Overlay to apply to small scale mixed use projects with residential above or adjacent to retail and service uses.” The addition of these properties along with the recently adopted Growth Management amendments will help to provide diverse housing types within small-scale mixed use developments; therefore, the addition of these parcels are consistent with Policy 28.1.4. In addition, the proposed amendment is consistent with Policy 28.1.10, which is to increase affordability of housing units by allowing smaller dwelling units within the Mixed Use Overlay. The added Mixed Use Overlay properties will further these policies of the North Fort Myers Planning Community.

The Plan also includes Policy 28.2.5: Designation of Neighborhood Centers, which identifies areas within the North Fort Myers Community that are appropriate for moderate intensity, pedestrian-oriented, mixed use development. With the exception of the area along North Key Drive, the properties that are proposed to be added to the Mixed Use Overlay by this amendment are in areas listed in Policy 28.2.5. Adding the Mixed Use Overlay to these properties will help to achieve “pedestrian-oriented, mixed use development.” The proposed amendment is consistent with Policy 28.2.5

Objective 28.7 recognizes the importance of redeveloping the “North Fort Myers Downtown Waterfront” area. In addition, Policy 28.7.3 states, “The land use component of Downtown Waterfront will include land uses that assist in completing North Fort Myers employment base, and broaden housing base for those who will be employed by the new center.” The properties at North Key Drive will be in this Downtown Waterfront area and their addition to the Mixed Use Overlay will allow for design standards that enhance the employment base, housing types and activities in this area. The proposed amendment is consistent with Objective 28.7 and Policy 28.7.3.

PART 3 INFRASTRUCTURE ANALYSIS

The following is a summary of the infrastructure and services available to the subject properties. Any development or redevelopment of the properties within this amendment will be reviewed to determine if adequate infrastructure is available at the time of rezoning or development order. The inclusion of these properties within the Mixed Use Overlay does not increase the density or intensity allowable by the Lee Plan.

Potable Water

The subject properties are located within the Lee County Utilities Future Service Area as depicted on Map 6 of the Lee Plan. Potable water lines are in operation adjacent to the properties.

Sewer

The subject properties are in the Florida Governmental Utility Authority service area.

Solid Waste

Disposal of the solid waste from developments within the subject properties will be accomplished at the Lee County Resource Recovery Facility and the Lee-Hendry Regional Landfill. Plans have been made to maintain long-term disposal capacity at these facilities to allow for growth.

Fire/EMS

The subject properties will be served by the North Fort Myers Fire Department and the Lee County Emergency Medical Services.

Transportation

The subject properties are located on major roadways. The 2016 Concurrency Report indicates that US 41 is a six-lane median divided arterial roadway operating at a Level of Service (LOS) "C" between Pondella Road and Pine Island Road. US 41 is a four-lane median divided arterial roadway operating at a LOS "C" between Pondella Road and Pine Island Road, operating as LOS "B" between Pine Island Road and Littleton Road, and operating at LOS "D" between Fountain Interchange and North Key Drive. Future development of the properties will be reviewed to determine if adequate transportation infrastructure is available at the time of rezoning or development order.

Transit

The subject properties are all within the extended pedestrian shed of a Lee Tran Bus Route as follows:

- The area to be added along North Key Drive is served by LeeTran Routes 140 and 595.
- The area to be added at the intersection of Pine Island Road and US 41 is served by LeeTran Routes 140, 590, and 595.
- The area to be added at the intersection of Pine Island Road and Business 41 is served by LeeTran routes 590 and 595.
- The area to be added along US 41, between Littleton Road and Pine Island Road is served by Lee Tran routes 140, 590, and 595.

Education

All of the properties discussed within the proposed amendment are within the West School Concurrency Service Area (CSA). Future development of the properties will be reviewed to determine if adequate educational facilities are available at the time of rezoning or development order.

PART 4 CONCLUSION

Placement of the properties discussed in this staff report into the Mixed Use Overlay is consistent with Lee Plan policies specifically related to the Mixed Use Overlay and the North Fort Myers Community Planning area as discussed in this report. In conclusion this amendment provides opportunities for development or redevelopment that will:

- Provide for diverse mix of housing types, sizes, prices, and rents;
- Allow for pedestrian connections with surrounding land uses and properties;
- Encourage infill development within Lee County's Future Urban Areas;

- Encourage use of Lee County's existing infrastructure and public services; and
- Incentivize development and redevelopment at important points along Cleveland Avenue and Tamiami Trail.

Staff recommends that the Board of County Commissioners **transmit** the proposed amendment to amend the Mixed Use Overlay to add the properties identified in this staff report and shown in Attachment 1. Staff also recommends that the Board direct staff to review community specific policies and regulations in the Lee Plan and the Land Development Code that conflict with the alternative development standards permitted within the Mixed Use Overlay and propose amendments where appropriate.

**PART 5
LOCAL PLANNING AGENCY
REVIEW AND RECOMMENDATION**

DATE OF PUBLIC HEARING: August 28, 2017

A. LOCAL PLANNING AGENCY REVIEW:

Staff provided a brief presentation for the proposed amendment which covered consistency with the Lee Plan, Board direction, and staff recommendation. Following staff's presentation, members of the LPA asked questions about appropriateness of the properties added to the overlay, notification of property owners, and the regulations within the Mixed Use Overlay.

No members of the public spoke in favor of or against the proposed amendments.

A member of the LPA asked for clarification on the differences in the level of development intensity allowed by the proposed change. Another asked about the benefit of adding already-developed properties to the Mixed Use Overlay. Staff discussed the regulations regarding the Mixed Overlay and the North Fort Myers community provided in the Lee Plan.

Two members of the LPA expressed concern that the changes requested at the meeting were not discussed with the affected community. Staff explained that the North Fort Myers Civic Association was aware of the changes and welcomed them. Staff also noted that the regulations would not add any additional restrictions on development.

B. LOCAL PLANNING AGENCY RECOMMENDATION:

A motion was made to recommend that the Board of County Commissioners transmit CPA2017-00004. The motion was passed 4 to 0.

VOTE:

NOEL ANDRESS	<u>AYE</u>
DENNIS CHURCH	<u>AYE</u>
JIM GREEN	<u>AYE</u>
CHRISTINE SMALE	<u>ABSENT</u>
STAN STOUDE	<u>ABSENT</u>
GARY TASMAN	<u>AYE</u>
JUSTIN THIBAUT	<u>ABSENT</u>

PART 6
BOARD OF COUNTY COMMISSIONERS
TRANSMITTAL HEARING FOR PROPOSED AMENDMENT

DATE OF PUBLIC HEARING: September 20, 2017

A. BOARD REVIEW:

Staff provided a brief presentation for the proposed amendments, which covered consistency with the Lee Plan, reasons for the proposed amendments, and staff recommendation. No members of the public spoke in favor the proposed amendments, as none was present. Commissioner Hamman pointed out the drawing of the potential Mixed Use project from the PowerPoint presentation. Hamman discussed this drawing favorably, suggesting that future development of a similar nature would benefit a number of communities in Lee County, in addition to North Fort Myers.

B. BOARD ACTION:

A motion was made to transmit CPA2017-00004 as recommended by staff. The motion was passed 4 to 0.

VOTE:

BRIAN HAMMAN	AYE
LARRY KIKER	AYE
FRANK MANN	AYE
JOHN MANNING	ABSENT
CECIL L. PENDERGRASS	AYE

PART 7
STATE REVIEWING AGENCIES'
OBJECTIONS, RECOMMENDATIONS, AND COMMENTS

Comments from the State Reviewing Agencies were due to Lee County by October 25, 2017.

A. OBJECTIONS, RECOMMENDATIONS AND COMMENTS:

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

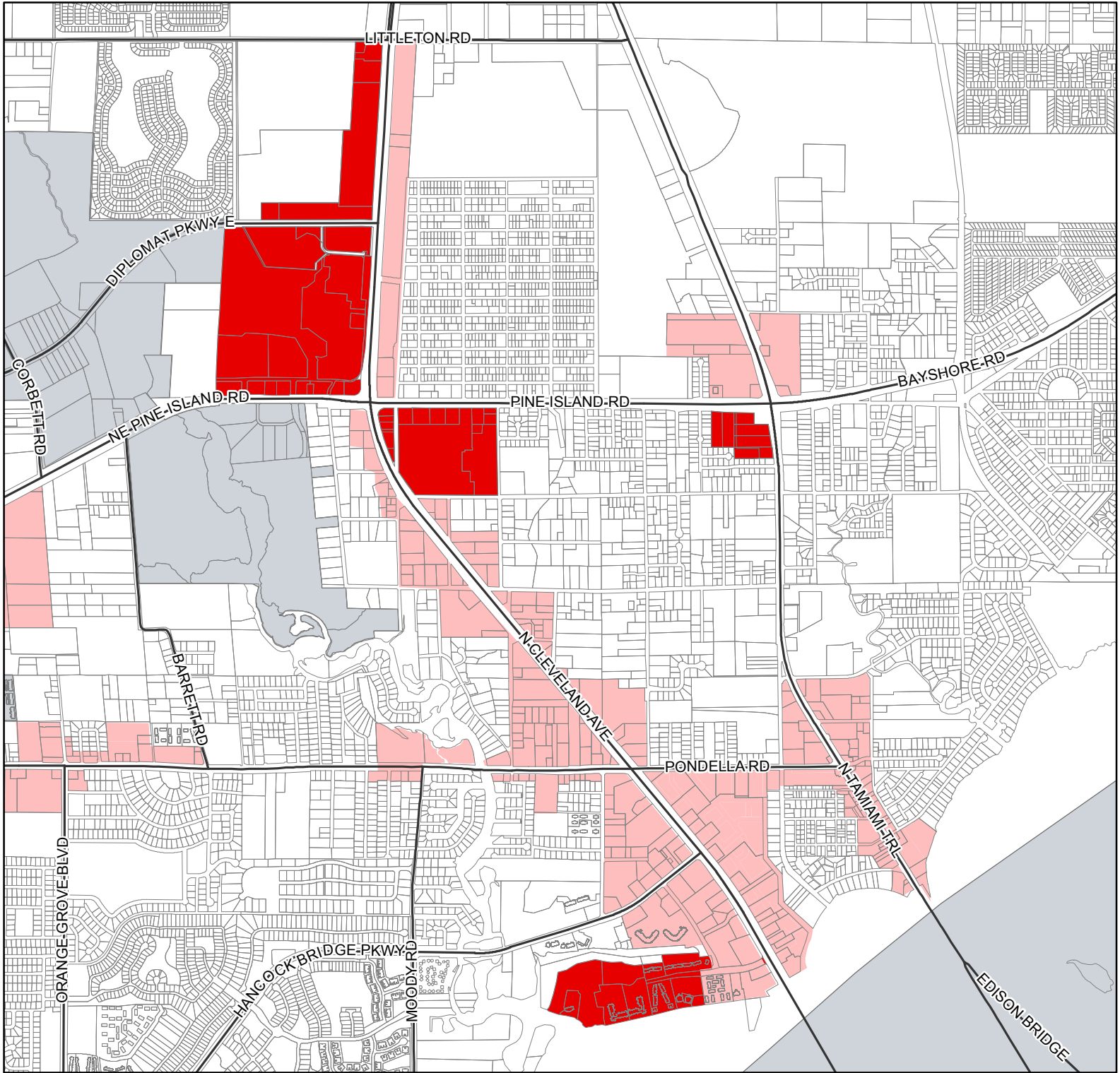
- Florida Department of Economic Opportunity,
- Florida Department of Environmental Protection,
- Florida Department of Transportation,
- Florida Fish and Wildlife Conservation Commission, and
- South Florida Water Management District.

There were no objections or comments concerning the amendments.

B. STAFF RECOMMENDATION

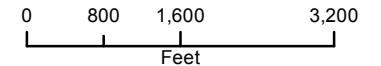
Staff continues to recommend that the Board of County Commissioners **adopt** the amendments as proposed by staff to the Lee Plan as provided in Attachment 1.

CPA2017-00004 Mixed Use Overlay



Legend

- Parcels
- Mixed Use Overlay (existing)
- Mixed Use Overlay (additions)
- City Limits



Map Generated: July 2017



Attachment 2 - North Fort Myers Parcels to be added to the Mixed Use Overlay

STRAP #	Address	Use	FLUC	Owner	Zoning	Size
Area A						
34-43-24-00-00001.003C	15999 N Cleveland Ave	Gas station	Central Urban	7-Eleven, Inc	C-1A	1.97 acres
34-43-24-00-00001.0030	15991 N Cleveland Ave	Vacant	Central Urban	Avesta Development, LLC	C-1A (91.08%), MH-2 (7.56%)	2.99 acres
34-43-24-00-00001.3020	15781 N Cleveland Ave	Vacant	Central Urban	Hallin Family LLC	CPD (66.35%), C-1A (30.92%), MI-I-2 (2.72%)	19.43 acres
34-43-24-00-00001.3050	Undetermined	Vacant	Central Urban	Cooper Street Property, Inc	CPD (48.21%), CPD (41.15%), RPD (8.4%)	14.53 acres
34-43-24-00-00001.303A	Diplomat Parkway E	Vacant	Central Urban	Diplomat Capital LLC	RPD (96.59%), CPD (3.41%)	12.49 acres
34-43-24-00-00001.3030	Access undetermined	Vacant	Central Urban	Diplomat Capital LLC	RPD (77.68%), CPD (21.66%)	38.13 acres
34-43-24-00-00001.003B	8671 Littleton Rd	Gas station	Central Urban	Hamza Properties, Inc	C-1 (82.44%), MI-I-2 (17.56%)	0.55 acres
34-43-24-00-00001.0010	3121 NE Pine Island Rd	Vacant	Central Urban	Clemons Naomi W	AG-2	0.35 acres
34-43-24-03-000Q0.0000	3131 NE Pine Island Rd	Vacant	Central Urban	Stonegate Bank	CPD	1.10 acres

Attachment 2 - North Fort Myers Parcels to be added to the Mixed Use Overlay

STRAP #	Address	Use	FLUC	Owner	Zoning	Size
34-43-24-03-0000H.0000	3071 NE Pine Island Rd	Retail store	Central Urban	Hart Centers Nine LLC	CPD	7.27 acres
34-43-24-03-0000I.0000	3031 NE Pine Island Rd	Home improvement retail store	Central Urban	Home Depot USA Inc	CPD	11.15 acres
34-43-24-03-0000C.00CE	Merchant's Crossing C/E	Vacant/lake	Central Urban	RB Merchant's LLC, RD Management LLC	CPD	44.7 acres
34-43-24-03-0000A.0000	15351 N Cleveland Ave	Retail store	Central Urban	RB Merchant's LLC, RD Management LLC	CPD	8.15 acres
34-43-24-03-0000B.0000	15201 N Cleveland Ave	Retail store	Central Urban	RB Merchant's LLC, RD Management LLC	CPD	21.75 acres
34-43-24-03-0000G.0000	15151 N Cleveland Ave	Restaurant	Central Urban	SCF RC Funding LLC	CPD	1.05 acres
34-43-24-03-0000K.0000	3021 NE Pine Island Rd	Vacant	Central Urban	Loforti Richard V Tr	CPD	1.82 acres
34-43-24-03-0000M.0000	3041 NE Pine Island Rd	Bank	Central Urban	Wachovia Bank NA	CPD	1.21 acres
34-43-24-03-0000N.0000	3051 NE Pine Island Rd	Fast food restaurant	Central Urban	CRC Investors LLC	CPD	0.87 acres
34-43-24-03-0000O.0000	3061 NE Pine Island Rd	Fast food restaurant	Central Urban	McDonalds Corp	CPD	1.02 acres
34-43-24-03-0000P.0000	3111 NE Pine Island Rd	Fast food restaurant	Central Urban	Pop Holdings LP	CPD	0.79 acres
34-43-24-03-0000R.00000	3141 NE Pine Island Rd	Vacant	Intensive Development	Stradastell Acquisition LLC	CPD	0.83 acres
34-43-24-03-0000S.0000	15051 N Cleveland Ave	Bank	Intensive Development	Sun Bank of Lee County	CPD	1.14 acres

Attachment 2 - North Fort Myers Parcels to be added to the Mixed Use Overlay

STRAP #	Address	Use	FLUC	Owner	Zoning	Size
Area B						
03-44-24-02-00000.0070	571 Pine Island Rd	Bank	Intensive Development	Bank of America	C-1	1.19 acres
03-44-24-92-00000.0060	565 Pine Island Rd	Bank	Central Urban	SunCoast Credit Union	C-1A	1.19 acres
03-44-24-02-00000.0050	555 Pine Island Rd	Fast food restaurant	Intensive Development	Sri Real Estate Properties, LLC	C-1	1.276 acrea
03-44-24-02-00000.0040	547 Pine Island Rd	Restaurant	Intensive Development	NFM Pizza Venutre, LLC	C-1	1.15 avres
03-44-24-02-00000.0030	545 Pine Island Rd	Fast food restaurant	Intensive Development	Wal-Mart Stores East LP	CPD	25.12 acres
03-44-24-02-00000.0130	525/535 Pine Island Rd	Retail store	Intensive Development	Myers Sand Realty LLC	CPD	9.40 acres
03-44-24-02-00000.013A	515 Pine Island Rd	Cell phone retailer	Intensive Development	Myers Sand Realty LLC	CPD	0.46 acres
03-44-24-02-00000.0020	451 Pine Island Rd	Detention pond	Intensive Development	State of FL DOT	CPD	0.98 acres
03-44-24-02-00000.001A	445 Pine Island	Vacant	Intensive Development	Southwest Florida Properties	CPD	0.37 acres
03-44-24-06-00000.0010	14900 N Cleveland Ave	Vacant	Intensive Development	TLC Properties, Inc	CC	0.325 acres
03-44-24-01-00000.007B	14910 N Cleveland Ave	Furtniture retail store	Intensive Development	Granitstein Jeff TR	C-1	0.76 acres

Attachment 2 - North Fort Myers Parcels to be added to the Mixed Use Overlay

STRAP #	Address	Use	FLUC	Owner	Zoning	Size
03-44-24-01-00000.007E	14930 N Cleveland Ave	Pawn shop	Intensive Development	Asset Recover 911, LLC	C-1	0.15 acres
03-44-24-01-00000.007D	14940 N Cleveland Ave	Cell phone retailer	Intensive Development	Investment LLC	C-1	0.50 acres
03-44-24-01-00000.0070	14950 N Cleveland Ave	Auto repair busine	Intensive Development	TNT of Lee County Inc	C-1	0.45 acres
03-44-24-01-00000.007A	14990 N Cleveland Ave	Car wash	Intensive Development	TNT of Lee County Inc	C-1 (64.41%), C-1 (35.59%)	0.56 acres
03-44-24-02-00000.0010	1770 Many Rd	Cell phone retailer	Intensive Development	Southwest Florida Properties	C-1	0.65 acres

Attachment 2 - North Fort Myers Parcels to be added to the Mixed Use Overlay

STRAP #	Address	Use	FLUC	Owner	Zoning	Size
Area C						
02-44-24-04-00002.0000	1765 N Tamiami Trl	Vacant	Central Urban	Thomas E Woodyard Trustee	AG-2 (68.81%), C-1 (31.18%)	2.04 acres
02-44-24-04-00003.0000	1733 N Tamiami Trl	Vacant	Central Urban	Conger Jacob Trust	TFC-2 (45.01%), CG (34.13%), CG (20.85%)	2.085 acres
02-44-24-04-00004.0000	1701 N Tamiami Trl	Vacant	Central Urban	Zbigniew J Ecker	RS-1 (65.92%), C-1 (34.08%)	2.19 acres
02-44-24-04-00001.0000	41 Pine Island Rd	Vacant	Central Urban (11.69%), Intensive Development (88.31%)	Thomas E Woodyard Trustee	C-1A	1.16 acres
02-44-24-04-00036.0000	51 Pine Island Rd	Vacant	Central Urban	Thomas E Woodyard Trustee	CS-1 (65.57%), TFC-2 (23.43%)	1.99 acres
02-44-24-04-00036.0010	71 Pine Island Rd	Vacant	Central Urban	Thomas E Woodyard Trustee	CS-1 (77.11%), TFC-2 (22.89%)	2.00 acres

Attachment 2 - North Fort Myers Parcels to be added to the Mixed Use Overlay

STRAP #	Address	Use	FLUC	Owner	Zoning	Size
Area D						
11-44-24-17-00000.00CE (multiple)	North Shore Place PHA+B/3350 North Key Dr	Condominiums	Intensive Development	North Shore Place C/E	CT	3.40 acres
11-44-24-18-00000.00CE (multiple)	North Shore Place PHA-B/3350 North Key Dr	Condominiums	Intensive Development	North Shore Place C/E	CT	0.41 acres
11-44-24-10-00004.0010	3334 North Key Drive	Condominiums	Intensive Development	NSP Site C LLC	CT	0.62 acres
11-44-24-11-00000.00CE (multiple)	3400 North Key Dr (includes 3354 North Key Dr, 3364 North Key Dr, 3376 North Key Dr, 3386 North Key Dr, 3394 North Key Dr, 3396 North Key Dr)	Condominiums	Intensive Development	Bay Harbor Condo Assoc.	CT	3.92 acres
11-44-24-13-00000.00CE	Schooner Bay Enterprise C/E	Condominiums	Intensive Development	Schooner Bay Enterprise	CT	4.27 acres
11-44-24-12-00000.00CE (multiple)	Schooner Bay Columbia Condo C/E	Condominiums	Intensive Development	Schooner Bay Columbia	CT	5.13 acres
10-44-24-10-0030C.0000	North Key C/E	Open Space for condo development	Intensive Development	Coastal Living Villas Inc	CT	11.08 acres
10-44-24-20-00000.00CE (multiple)	Moorings Point C/E	Condominiums	Intensive Development	Moorings Point Condo Phi I	CT	1.94 acres
10-44-24-20-0000F.8060 (multiple)	4510 North Key Dr	Condominiums	Intensive Development	(many)	CT	0.15 acres
11-44-24-10-0030C.0000	3461 North Key Dr	Vacant	Intensive Development	Coastal Living Villas Inc	CT	4.14 acres

Attachment 2 - North Fort Myers Parcels to be added to the Mixed Use Overlay

STRAP #	Address	Use	FLUC	Owner	Zoning	Size
11-44-24-16-00000.00CE (multiple)	Key Harbour Condo C/E	Condominiums	Intensive Development	Key Harbour Condo	CT (99.26%)	1.55 acres
11-44-24-24-00000.00CE (multiple)	Shipyard Villas (3341 North Key Dr, 3345 North Key Dr, 3347 North Key Dr, 3351 North Key Dr, 3355 North Key Dr)	Condominiums	Intensive Development	Shipyard Villas C/E	CT (97.44%), RM-2 (2.56%)	4.35 acres

Total
acreage is
287.57
acres