

**LEE COUNTY BOARD OF COUNTY COMMISSIONERS
2013 REGULAR LEE PLAN AMENDMENTS
TRANSMITTAL/ADOPTION HEARING**

**COMMISSION CHAMBERS
2120 MAIN STREET**

**JANUARY 22, 2014
9:30 A.M.**

AGENDA

- 1. Call to order; Certification of Affidavit of Publication**
- 2. Consideration and Motion for Transmittal:**
 - A. **[CPA2013-07: Wellfield Protection.](#)** This amendment proposes two changes to the Lee Plan. The first change, following a request by the South Florida Water Management District (SFWMD), removes language in the Plan pertaining to SFWMD permitting authority. The second change updates the Lee Plan Map that identifies Lee County Utility wells and their associated protection zones which identify adjacent lands needed to protect the public water supply.
- 3. Consideration and Motion for Adoption:**
 - A. **[CPA2013-02: Agricultural Rezoning in Suburban Areas.](#)** Amend Policy 9.2.1 to allow rezoning to Agricultural land uses in the Suburban land use categories in the Greater Pine Island and Caloosahatchee Shores planning areas.
 - B. **[CPA2013-03: Southwest Florida International Airport Layout Plan Update.](#)** Amend Lee Plan Map 3(f) to incorporate the Airport Layout Plan (ALP) for Southwest Florida International Airport that was recently adopted by the Federal Aviation Administration (FAA).
 - C. **[CPA2013-05: University Community DRI Requirement.](#)** Amend Policy 18.1.5, Policy 18.1.16, and Policy 18.2.2 to make the Lee Plan consistent with State requirements that prohibit local governments from requiring Development of Regional Impact (DRI) review for projects that don't meet or exceed state established thresholds.
- 4. Motion to Adjourn**

MEMORANDUM

FROM
THE DEPARTMENT OF
COMMUNITY DEVELOPMENT
DIVISION OF PLANNING

DATE: January 15, 2014

TO: Board of County Commissioners

FROM: 
Paul O'Connor, AICP, Director

RE: January 22, 2014 Comprehensive Plan Amendment Transmittal and Adoption Hearings

Attached please find the meeting packet for the 9:30 a.m. January 22, 2014 Board of County Commissioners Comprehensive Plan Amendment Public Hearings. We will be conducting two separate hearings, a Transmittal and Adoption Hearing. This packet contains an agenda and a staff report for each proposed amendment. State reviewing agencies' comments and draft ordinances for the amendments being proposed for adoption are also included.

The **Transmittal Hearing** is for a single plan amendment:

- CPA 2013-07 – Wellfield Protection

The **Adoption Hearing** includes three amendments to the Lee Plan. These include:

- CPA2013-02 – Agricultural Rezoning in Suburban Areas,
- CPA2013-03 – Southwest Florida International Airport Layout Plan Update, and
- CPA2013-05 – University Community DRI Requirement.

Brief descriptions of the proposed plan amendments can be found on the attached agenda.

If you have any questions about the proposed amendments or the attached materials, please contact me at 533-8309 or Brandon Dunn at 533-8585.

CPA2013-07

WELLFIELD

PROTECTION

**CPA2013-07
WELLFIELD AND IRRIGATION
OVERLAY COMPREHENSIVE PLAN
AMENDMENT
TO THE**

LEE COUNTY COMPREHENSIVE PLAN

THE LEE PLAN

Lee County Board of County Commissioners
Sponsored Amendment and Staff Analysis

**BoCC Public Hearing Document
For the
January 22, 2014 Transmittal Hearing**

*Lee County Planning Division
1500 Monroe Street
P.O. Box 398
Fort Myers, FL 33902-0398
(239) 533-8585*

January 15, 2014

**LEE COUNTY
DIVISION OF PLANNING
STAFF REPORT FOR
COMPREHENSIVE PLAN AMENDMENT
CPA2013-07**



Text Amendment



Map Amendment

This Document Contains the Following Reviews	
<input checked="" type="checkbox"/>	Staff Review
<input checked="" type="checkbox"/>	Local Planning Agency Review and Recommendation
	Board of County Commissioners Hearing for Transmittal
	Staff Response to Review Agencies' Comments
	Board of County Commissioners Hearing for Adoption

STAFF REPORT PREPARATION DATE: November 26, 2013

PART I - BACKGROUND AND STAFF RECOMMENDATION

A. SUMMARY OF APPLICATION

1. EXECUTIVE SUMMARY:

This amendment proposes two changes to the Lee Plan. The first change, following a request by the South Florida Water Management District (SFWMD), removes language in the Plan pertaining to SFWMD permitting authority.

The second change updates the Lee Plan Map that identifies Lee County Utility wells and their associated protection zones. These zones regulate uses which may contaminate the public water supply.

2. RECOMMENDATION:

Staff recommends that the Board of County Commissioners *transmit* the proposed amendment to the Lee Plan. This recommendation includes deleting Map 13, updating Map 8, and renaming Map 8 to "Wellfield Protection Zones." The recommendation includes transmitting the following modified Lee Plan language shown in strikethrough/underline form:

~~**POLICY 1.7.10:** The Irrigation Well overlay in Bonita Springs (as defined in this plan) is hereby declared a critical area for future potable water supply, based on evidence that withdrawals from the main potable aquifer, the lower Tamiami aquifer, are approaching or exceeding the maximum safe yield. In response to this designation, the county will maintain current regulations to provide that new irrigation well permits in the Irrigation Well overlay may not utilize the main potable water source. For the purposes of this plan, the boundaries of the Irrigation Well overlay are indicated on Map 13 of the Future Land Use Map series. (Also see Policy 54.1.9 for new permit requirements for wells in Lehigh Acres, and Policy 2.4.2 for special requirements for amendments to the Future Land Use Map). (Amended by Ordinance No. 94-30, 00-22, Amended and Relocated by Ordinance No. 02-02)~~

POLICY 2.4.2: All proposed changes to the Future Land Use Map in critical areas for future potable water supply (~~Bonita Springs as described in Policy 1.7.10;~~ Lehigh Acres as described in Policy 54.1.9; and all land in the Density Reduction/ Groundwater Resource land use category) will be subject to a special review by the staff of Lee County. This review will analyze the proposed land uses to determine the short-term and long-term availability of irrigation and domestic water sources, and will assess whether the proposed land uses would cause any significant impact on present or future water resources. If the Board of County Commissioners wishes to approve any such changes to the Future Land Use Map, it must make a formal finding that no significant impacts on present or future water resources will result from the change. (Amended by Ordinance No. 92-47, 94-30, 00-22, 02-02)

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 county will amend current regulations to provide that new wells in Lehigh Acres must be constructed to accommodate submersible pumps. (Also see ~~Policy 1.7.10 for new permit requirements for irrigation wells in Bonita Springs,~~ and 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)

3. APPLICANT/REPRESENTATIVES:

Lee County Board of County Commissioners/Lee County Division of Planning staff in conjunction with Lee County Utilities and Natural Resources staff.

4. REQUEST:

Amend the Lee Plan to remove provisions which regulate permitting of the use of water for irrigation from the Lower Tamiami aquifer. Also update Map 8 of the Lee Plan, which

identifies the Wellfield Protection Zones for Lee County public wells and Aquifer Storage and Recovery wells.

B. FINDINGS OF FACT SUMMARY

BASIS AND RECOMMENDED FINDINGS OF FACT:

- The Lee County Board of County Commissioners initiated the proposed amendment on November 19, 2013 through Blue Sheet No. 20130964.
- Florida Statute Section 373.016(4)(a) states that waters in the state should be managed on a regional basis.
- Florida Statute 373.217 gives the Department of Environmental Protection (DEP) or water management districts exclusive authority for requiring permits for water consumption.
- Currently, Lee Plan Map 13 depicts the Irrigation Well Overlay.
- The South Florida Water Management District (SFWMD) currently maintains a comprehensive regulatory program.
- SFWMD has determined that Lee Plan Policy 1.7.10 conflicts with the districts jurisdiction.
- The proposed amendment would remove a redundant water management policy.
- Map 8 identifies Wellfield Protection Zones for permitted wells in the County.
- Lee County Land Development Code Chapter 14 Article III addresses contamination of potable water supplies through the creation of Wellfield Protection Zones. These zones are defined by the transit time of water within the aquifer.
- The Florida DEP is requiring Lee County to expand Aquifer Storage and Recovery (ASR) well protection zones.
- New public water supply production wells have been installed, and Map 8 should also be updated to include these new wells and provide more accurate location of existing wells.

C. BACKGROUND INFORMATION

Lee Plan Map 13, The Irrigation Well Overlay, depicts the area identified in Policy 1.7.10 as a critical area for future potable water supply. The Overlay originally depicted a large area in the southern portion of the County including areas in Bonita Springs. The incorporation of the City of Bonita Springs and the subsequent removal of regulations specific to the area of the city from the Lee Plan resulted in the current extent of Map 13. The Overlay currently covers portions of the Southeast Lee County and Estero Planning Communities.

Lee Plan Map 8, currently titled “Cones of Influence,” indicates the travel time of groundwater surrounding various wellfields within the County and establishes protection from certain land uses within these zones. Florida DEP is currently requiring Lee County

Utilities to expand ASR protection zones from 500 to 2,640 feet. These zones are not depicted on the current Map 8.

PART II - STAFF ANALYSIS

A. STAFF DISCUSSION

INTRODUCTION

In a letter dated October 16, 2013 (see Attachment #1), the South Florida Water Management District (SFWMD) identified provisions in the Lee Plan that do not conform to Florida Statutes. This letter provides that these provisions intrude on the jurisdiction of the SFWMD in regards to the permitting of irrigation wells in the Lower Tamiami Aquifer. The main source of this conflict is Policy 1.7.10 which regulates permits in the Irrigation Well Overlay identified in Lee Plan Map 13. To remove this conflict, the SFWMD has requested that Policy 1.7.10 be deleted. This will require deletion of references to Policy 1.7.10 in two other policies, Policy 2.4.2 and 54.1.9. Lee Plan Map 13 will also be deleted as it will be unnecessary without Policy 1.7.10.

Staff is also taking this opportunity to update Lee Plan Map 8 to more accurately identify the purpose of the map. The map should be named "Wellfield Protection Zones." Map 8 needs to be updated for several reasons. New public water supply production wells have been installed, and the map should also be updated to include these new wells. In addition, due to recent groundwater modeling FDEP is currently requiring Lee County Utilities to expand the ASR well protection zones from 500 feet to 2,640 feet. These ASR boundaries are depicted on proposed Map 8.

PROPOSED CHANGES

The amendment proposes the deletion of Policy 1.7.10. This will remove a conflict between the Lee Plan and the SFWMD in the Estero area. Lee Plan Policies 1.7.11 through 1.7.15 will be renumbered. Lee Plan Policies 2.4.2 and 54.1.9 both contain references to Policy 1.7.10. The references will be deleted. Policies 2.4.3 and 2.4.4 will be renumbered as will Policies 54.1.10 through 54.1.12.

Another proposed change is the deletion of Lee Plan Map 13, the Irrigation Well Overlay. The deletion of Policy 1.7.10 will render this map irrelevant and it should be removed from the Lee Plan.

The last proposed change is to adopt an updated version of Lee Plan Map 8, Cones of Influence, in order to include the latest data from the Division of Utilities and rename the map as previously discussed.

The changes to the relevant Lee Policies are shown here in strikethrough/underline format:

~~**POLICY 1.7.10:** The Irrigation Well overlay in Bonita Springs (as defined in this plan) is hereby declared a critical area for future potable water supply, based on evidence that withdrawals from the main potable aquifer, the lower Tamiami aquifer, are approaching or exceeding the maximum safe yield. In response to this designation, the county will maintain current regulations to provide that new irrigation well permits in the Irrigation Well overlay may not utilize the main potable water source. For the purposes of this plan, the boundaries of the Irrigation Well overlay are indicated on Map 13 of the Future Land Use Map series. (Also see Policy 54.1.9 for new permit requirements for wells in Lehigh Acres, and Policy 2.4.2 for special requirements for amendments to the Future Land Use Map). (Amended by Ordinance No. 94-30, 00-22, Amended and Relocated by Ordinance No. 02-02)~~

Lee Plan policies 1.7.11 through 1.7.15 will be renumbered to reflect this deletion.

~~**POLICY 2.4.2:** All proposed changes to the Future Land Use Map in critical areas for future potable water supply (Bonita Springs as described in Policy 1.7.10; Lehigh Acres as described in Policy 54.1.9; and all land in the Density Reduction/ Groundwater Resource land use category) will be subject to a special review by the staff of Lee County. This review will analyze the proposed land uses to determine the short-term and long-term availability of irrigation and domestic water sources, and will assess whether the proposed land uses would cause any significant impact on present or future water resources. If the Board of County Commissioners wishes to approve any such changes to the Future Land Use Map, it must make a formal finding that no significant impacts on present or future water resources will result from the change. (Amended by Ordinance No. 92-47, 94-30, 00-22, 02-02)~~

~~**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 county will amend current regulations to provide that new wells in Lehigh Acres must be constructed to accommodate submersible pumps. (Also see Policy 1.7.10 for new permit requirements for irrigation wells in Bonita Springs, and 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)~~

Deletion of Policy 1.7.10 and references to it will bring the Lee Plan into conformance with Florida Statute 373.106(4)(a). Deleting Lee Plan Map 13 will remove an unnecessary provision from the Lee Plan. Adoption of an updated Lee Plan Map 8 will keep groundwater protection policies current, will more accurately depict existing and new wells, and will now depict ASR well protection zones.

B. STAFF RECOMMENDATION

County staff recommends that the Board of County Commissioners *transmit* the proposed amendment.

**PART III - LOCAL PLANNING AGENCY
REVIEW AND RECOMMENDATION**

DATE OF PUBLIC HEARING: December 11, 2013

A. LOCAL PLANNING AGENCY REVIEW

Staff gave a brief presentation regarding the proposed amendment. LPA member asked if there were other regulations addressing water permitting in Bonita Springs. Natural Resources Staff answered that there are and that staff is currently addressing them. No members of the public spoke, appeared, or addressed the proposed plan amendment.

B. LOCAL PLANNING AGENCY RECOMMENDATION AND FINDINGS OF FACT SUMMARY

1. RECOMMENDATION:

The LPA recommends that the Lee County Board of County Commissioners *transmit* the proposed Lee Plan amendment as recommended by staff.

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

The LPA accepted the basis and recommended findings of fact as advanced by staff.

C. VOTE:

NOEL ANDRESS	<u>ABSENT</u>
STEVE BRODKIN	<u>AYE</u>
WAYNE DALTRY	<u>AYE</u>
JIM GREEN	<u>AYE</u>
MITCH HUTCHCRAFT	<u>AYE</u>
ANN PIERCE	<u>ABSENT</u>
ROGER STRELOW	<u>ABSENT</u>

**PART IV - BOARD OF COUNTY COMMISSIONERS
HEARING FOR TRANSMITTAL OF PROPOSED AMENDMENT**

DATE OF TRANSMITTAL HEARING: January 22, 2014

A. BOARD REVIEW:

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

1. BOARD ACTION:

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

C. VOTE:

BRIAN HAMMAN

LARRY KIKER

FRANK MANN

JOHN MANNING

CECIL L PENDERGRASS



SOUTH FLORIDA WATER MANAGEMENT DISTRICT

October 16, 2013

Lee Werst
Lee County Natural Resources Management
1500 Monroe Street
Ft. Myers, Florida 33901

LEE COUNTY DIV. OF
NATURAL RESOURCES
OCT 18 2013

RECEIVED

Re: Lee County Comprehensive Plan

Dear Mr. Werst:

Thank you for providing the South Florida Water Management District (District) with the opportunity to review Lee County's proposed changes to Ordinance No. 06-09. As noted in its September 12, 2013 letter, the District requested deletion of the renumbered Section 8.3.2(16), previously Section 9.3.2(16), purporting to regulate the use of water for irrigation from the Lower Tamiami aquifer, as such regulation is preempted to the District.

It has come to the District's attention that Policy 1.7.10 of the Lee County Comprehensive Plan ("Lee Plan") also intrudes into the District's exclusive jurisdiction. The Policy states:

The Irrigation Well overlay in Bonita Springs (as defined in this plan) is hereby declared a critical area for future potable water supply, based on evidence that withdrawals from the main potable aquifer, the lower Tamiami aquifer, are approaching or exceeding the maximum safe yield. In response to this designation, the county will maintain current regulations to provide that new irrigation well permits in the Irrigation Well overlay may not utilize the main potable water source. For the purposes of this plan, the boundaries of the Irrigation Well overlay are indicated on Map 13 of the Future Land Use Map series.

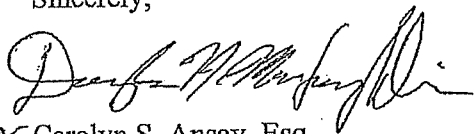
The Legislature stated that the waters in the state should be managed on a statewide and regional basis. See § 373.016(4)(a), Fla. Stat. (2013). To effectuate this goal, the Legislature enacted Section 373.217, Fla. Stat., giving the Department of Environmental Protection or water management districts exclusive authority for requiring permits for the consumptive use of water under Part II of Chapter 373, F.S. The law also superseded any existing state or local laws that conflicted with the Part II of Chapter 373, F.S., and preempted the enactment of future regulations.

The District adopted a comprehensive regulatory program. The Consumptive Use Permitting (CUP) Program protects the water resources from harm. § 373.216, Fla. Stat. (2013). All CUPs issued have been technically evaluated to determine if the water use has the potential to cause harm to the resources of the area. To further protect the Lower Tamiami aquifer, the District has adopted a minimum level for the aquifer. Fla. Admin. Code R. 40E-8.331. To prevent the

aquifer from reaching the minimum level, maximum developable limits have been set. See Section 3.2.4 of the Basis of Review for Water Use Permits within the South Florida Water Management District. Taken together, these rules and criteria are sufficient to accomplish the goals espoused by the Lee Plan.

Therefore, the District respectfully requests Lee County remove Policy 1.7.10 of the Lee Plan which purports to prohibit the construction of irrigation wells into the Lower Tamiami aquifer within a portion of Bonita Springs. If you have any questions, feel free to contact Jennifer Bokankowitz at 561-682-2258, or jbokanko@sfwmd.gov

Sincerely,


for Carolyn S. Ansay, Esq.
General Counsel

CSA/jdb

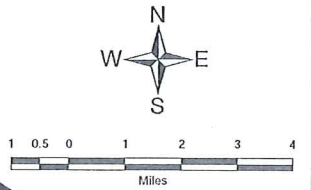
IRRIGATION WELL OVERLAY

(Lee Plan Map 13)

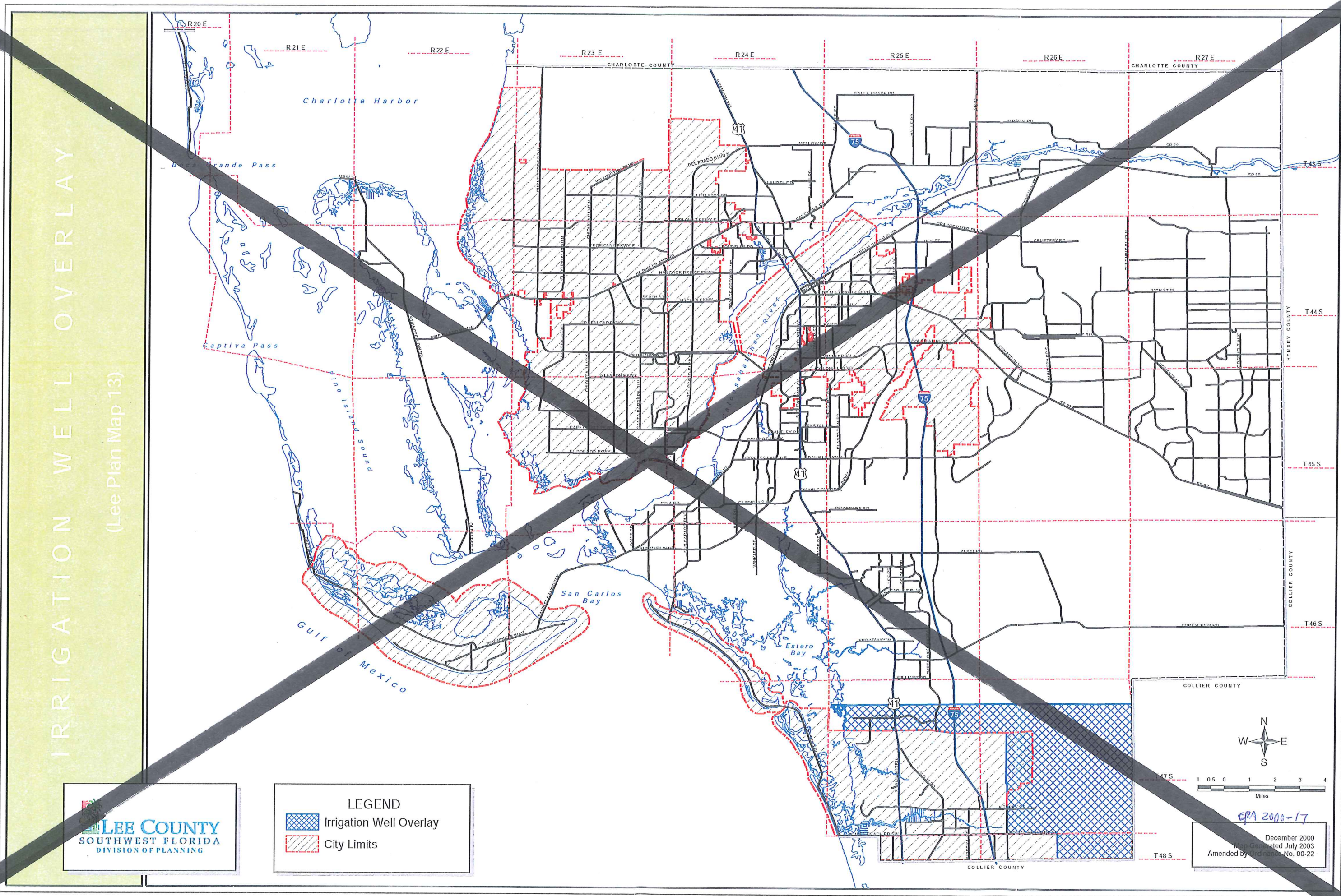


LEGEND

- Irrigation Well Overlay
- City Limits



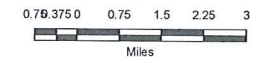
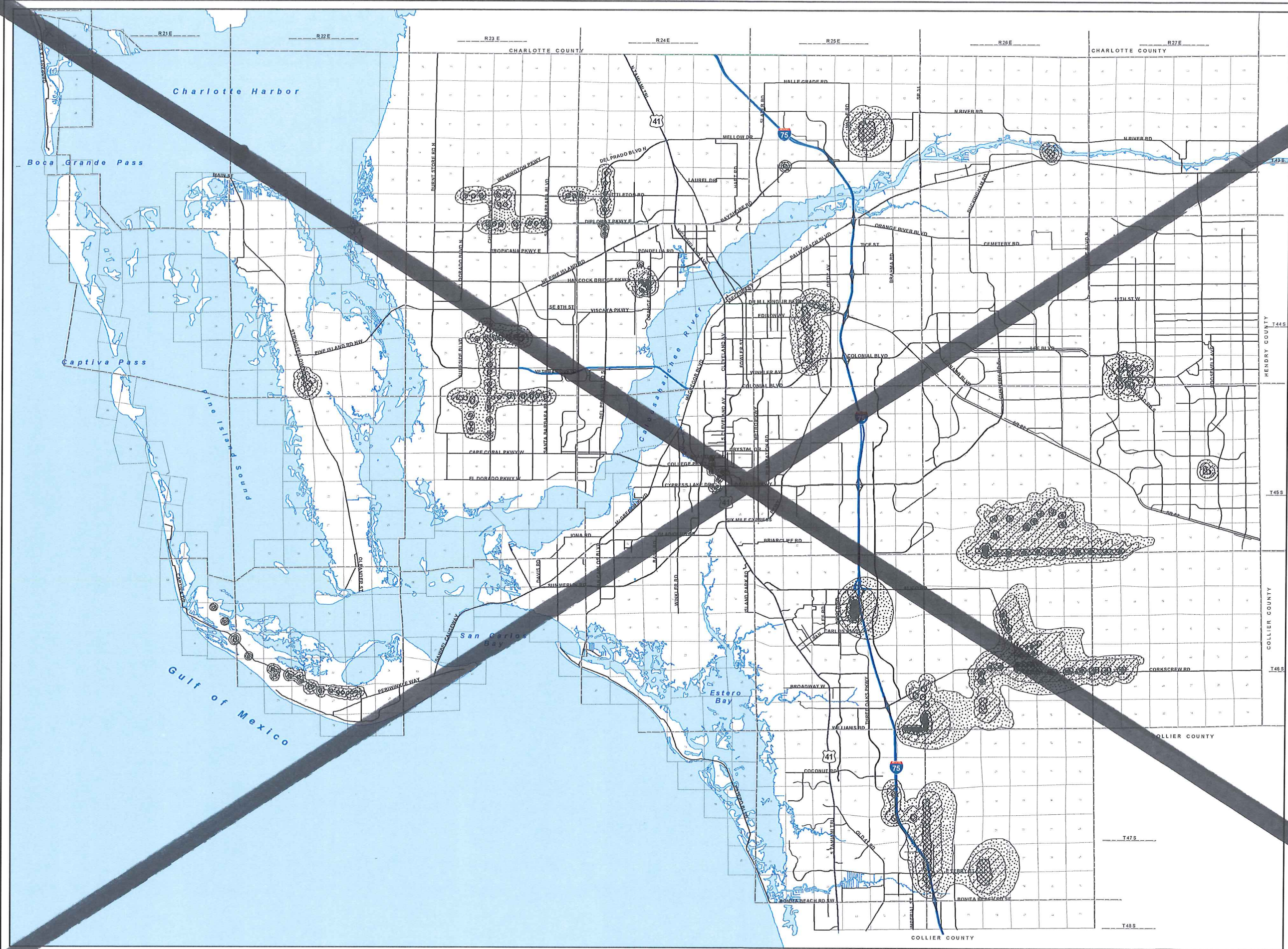
December 2000
Map Generated July 2003
Amended by Ordinance No. 00-22



CONES OF INFLUENCE

Travel Times

- * Permitted Wells
- 6-Months
- ▨ 1-Year
- ▧ 5-Years
- ▩ 10-Years



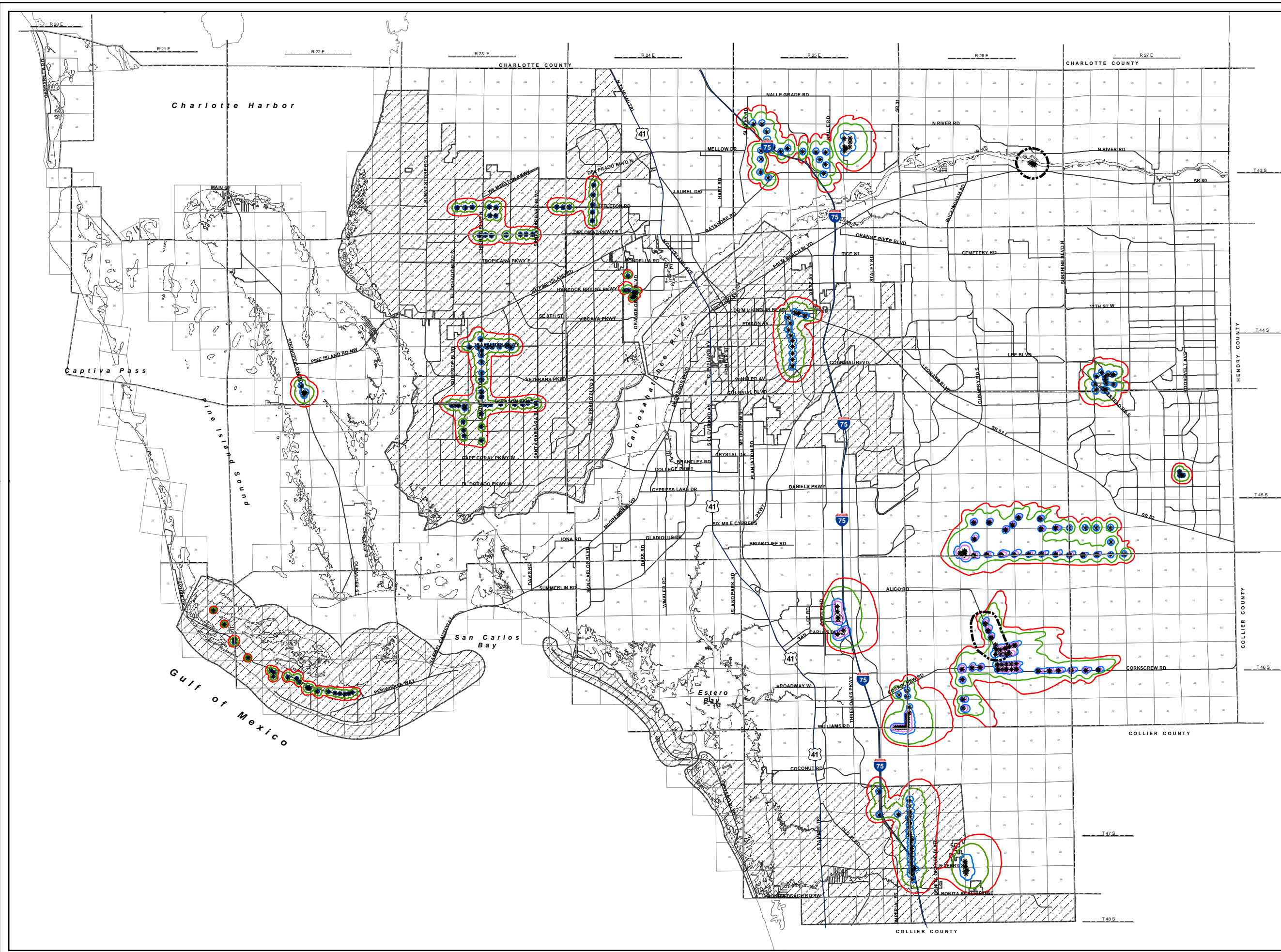
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 City Limits current to date of map generation
 Last Amended: August 13, 2007
 Amended by Ordinance No. 07-13

Wellfield Protection Zones

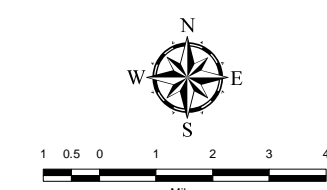
COMPOSITE ISO-TRAVEL TIME MAP

Travel Time

- 6-MONTHS
- 1-YEAR
- 5-YEARS
- 10-YEARS
- ASR PROTECTION ZONE
- * Permitted Well
- City Limits



LEE COUNTY
SOUTHWEST FLORIDA
DIVISION OF PLANNING



Map Generated: November 2013
City Limits current to date of map generation

Last Amended: August 13, 2007
Amended by Ordinance No. 07-13

CPA2013-02

AGRICULTURAL

REZONING IN

SUBURBAN AREAS

LEE COUNTY ORDINANCE NO. _____
AG REZONING IN SUBURBAN AREAS
(CPA2013-00002)

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 AMENDMENTS PERTAINING TO AG REZONING IN SUBURBAN AREAS – POLICY 9.2.1 (CPA2013-00002) APPROVED DURING A PUBLIC HEARING; PROVIDING FOR PURPOSE, INTENT, AND SHORT TITLE; AMENDMENTS TO ADOPTED TEXT; LEGAL EFFECT OF “THE LEE PLAN”; 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 amendments in accordance with Florida Statutes and the Lee County Administrative Code on September 23, 2013; and,

WHEREAS, the Board held a public hearing for the transmittal of the proposed amendment on October 21, 2013. At that hearing, the Board approved a motion to send, and did later send, proposed amendments pertaining to Policy 9.2.1, Ag Rezoning in Suburban Areas (CPA2013-00002) to the reviewing agencies set forth in Section 163.3184(1)(c), F.S. for review and comment; and,

WHEREAS, at the October 21, 2013 meeting, the Board announced its intention to hold a public hearing after the receipt of the reviewing agencies’ written comments; and,

WHEREAS, on January 22, 2014, the Board held a public hearing and adopted the proposed amendments to the Lee Plan set forth herein.

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

SECTION ONE: PURPOSE, INTENT AND SHORT TITLE

The Board of County Commissioners of Lee County, Florida, in compliance with Chapter 163, Part II, Florida Statutes, and with Lee County Administrative Code AC-13-6, conducted public hearings to review proposed amendments to the Lee Plan. The purpose of this ordinance is to adopt text 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 "Ag Rezoning in Suburban Areas Ordinance (CPA2013-00002)."**

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 Policy 9.2.1 to Goal 9: Agricultural Land Uses known as Ag Rezoning in Suburban Areas (CPA2013-00002).

The corresponding Staff Reports and Analysis, along with all attachments 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: 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 FIVE: 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 SIX: 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 or her designee, without need of public hearing, by filing a corrected or recodified copy with the Clerk of the Circuit Court.

SECTION SEVEN: 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 January 2014.

ATTEST:
LINDA DOGGETT, CLERK

LEE COUNTY
BOARD OF COUNTY
COMMISSIONERS

BY: _____
Deputy Clerk

BY: _____
Larry Kiker, Chair

DATE: _____

Approved as to form by:

Michael D. Jacob
County Attorney's Office

Exhibit A: Adopted revisions to Policy 9.2.1 (Adopted by BOCC January 22, 2014)

EXHIBIT A

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

POLICY 9.2.1: Rezoning of land to agricultural zoning districts is prohibited in those areas designated by the Lee Plan as Future Urban Areas, with the exception of those areas designated as Sub-Outlying Suburban, Outlying Suburban, or Suburban where parcels five acres or larger may request rezoning to an agricultural zoning district. These requests will be reviewed on a case by case basis. Approval will be based on:

- a. current and future availability of urban infrastructure;
- b. compatibility of the existing and future land uses;
- c. acreage of rezoning request;
- d. cumulative effect on county tax base; and
- e. Suburban and Sub-Outlying Suburban lands must be located within the Pine Island and Caloosahatchee Shores Planning Communities;
- f. evaluation of how environmental features, including but not limited to flowways, protected species, and habitat, will be protected or mitigated.

~~In Outlying Suburban areas, such requests will be reviewed on a case by case basis, and recommendations will be made based on current and future availability of urban infrastructure and compatibility with existing and future land uses.~~

**CPA2013-02
AG REZONING
IN SUBURBAN AREAS
PLAN AMENDMENT
TO THE**

LEE COUNTY COMPREHENSIVE PLAN

THE LEE PLAN

Privately Initiated Amendment and Staff Analysis

**BoCC Public Hearing Document
For the
January 22nd, 2014 Adoption Hearing**

*Lee County Planning Division
1500 Monroe Street
P.O. Box 398
Fort Myers, FL 33902-0398
(239) 533-8585*

January 15, 2014

**LEE COUNTY
DIVISION OF PLANNING
STAFF REPORT FOR
COMPREHENSIVE PLAN AMENDMENT
CPA2013-02**

Text Amendment

Map Amendment

	This Document Contains the Following Reviews
✓	Staff Review
✓	Local Planning Agency Review and Recommendation
✓	Board of County Commissioners Hearing for Transmittal
✓	Staff Response to the Review Agencies' Comments
	Board of County Commissioners Hearing for Adoption

STAFF REPORT PREPARATION DATE: September 13, 2013

PART I - BACKGROUND AND STAFF RECOMMENDATION

A. SUMMARY OF APPLICATION

1. APPLICANT/REPRESENTATIVES:

Barry C. Denicola and Toni O. Denicola / Beverly Grady, Roetzel & Andress

2. REQUEST:

Amend Policy 9.2.1 of the Lee Plan to allow for rezoning to an agricultural zoning district on a case by case basis in the Suburban future land use categories.

B. STAFF RECOMMENDATION AND FINDINGS OF FACT SUMMARY

1. RECOMMENDATION:

Staff recommends that the Board of County Commissioners *adopt* the proposed amendment to Policy 9.2.1 of the Lee Plan as transmitted by the Board of County Commissioners. The specific language is provided below:

TEXT AMENDMENT

Policy 9.2.1: Rezoning of land to agricultural zoning districts is prohibited in those areas designed by the Lee Plan as Future Urban Areas, with the exception of those areas designated as Sub-Outlying Suburban, Outlying Suburban, or Suburban where parcels five acres or larger may request rezoning to an agricultural zoning district. These requests will be reviewed on a case by case basis. Approval will be based on:

- a. current and future availability of urban infrastructure;
- b. compatibility of the existing and future land uses;
- c. acreage of rezoning request
- d. cumulative effect on county tax base; and
- e. Suburban and Sub-Outlying Suburban lands must be located within the Pine Island and Caloosahatchee Shores Planning Communities.
- f. evaluation of how environmental features, including but not limited to flowways, protected species, and habitat, will be protected or mitigated.

~~In Outlying Suburban areas, such requests will be reviewed on a case by case basis, and recommendations will be made based on current and future availability of urban infrastructure and compatibility of existing and future land uses.~~

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

- CPA2013-02, a privately sponsored amendment was submitted by the applicant on June 25, 2013.
- Policy 9.2.1 currently allows for rezoning an agriculture zoning district in the Outlying Suburban Future Land Use Category on a case by case basis.
- Policy 9.2.1 was added to the Lee Plan on November 1, 2000 by PAT98-18.
- A new category, the Sub-Outlying Suburban future land use category, was created by the 2004 Evaluation and Appraisal Amendments. CPA2005-40 was adopted by the Board of County Commissioners on May 16, 2007 by Ordinance 07-09. Policy 9.2.1 was not modified to reflect this new category.
- Prior to CPA2005-40, the Sub-Outlying Suburban areas were designated Outlying Suburban with a footnote on Table 1(a) limiting density to 2 dwelling units per acre.
- Several community plans have been adopted expressing a desire to preserve or maintain a rural character.
- The proposed amendment will still preclude the consideration of new agriculture uses in the more urban land use categories (Intensive Development, Central Urban, and Urban Community).
- The proposed plan amendment requires evaluation of the potential loss of tax revenue over time.
- The proposed amendment addresses efficient use of infrastructure and compatibility with neighboring uses.

C. BACKGROUND INFORMATION

The policy subject to this private amendment request, Policy 9.2.1, was incorporated into the Lee Plan as part of a publically sponsored amendment to the plan known as PAT98-18. PAT 98-18

amended Goal 9, Agricultural Lands, by adding a new objective and subsequent policies that address the permitting of new, or extension of existing agricultural uses within lands designated as Future Urban Areas. PAT98-18 provided in part the following background discussion:

This amendment was initiated in response to several rezoning requests in which property owners attempted to down zone property to an agricultural category in a Future Urban Area, as designated by the Lee Plan. In many cases, these requests are made for the sole purpose of gaining an agricultural tax exemption. Prior to 1989, one could obtain the exemption regardless of the zoning of the property. After 1989, however, land had to be zoned agricultural in order to receive the Agricultural Exemption. In these down zoning cases, the County has opposed such requests, with a couple of notable exceptions. The following paragraphs discuss some of the zoning history that is relevant to the plan amendment at hand.

A parcel of land on Fiddlesticks Boulevard, located in the Outlying Suburban land use category was proposed for a rezoning from RM-2 to AG-2 on two separate occasions in the early 1990s (Case #91-05-14-Z-04, Resolution Z-91-057 and Case #93-09-21-Z-01, Resolution Z-93-073). In both cases, the request was denied by the Hearing Examiner and the Board. The first request was denied solely on the basis that the proposed rezoning would allow a range of agricultural activities on the subject property, many of which would have been incompatible with the residential uses on abutting properties. Despite its ultimate denial, this request was found to be compatible with the Outlying Suburban land use category, and was recommended for approval by county staff. The second request, however, received a more thorough analysis by staff, and received a denial recommendation based upon substantial Lee Plan inconsistencies. Staff asserted that the rezoning was not consistent with the Lee Plan because the designation description for the Outlying Suburban category did not identify "agriculture" as a permitted use, whereas the various Non-Urban classifications did. The staff analysis went on to note that such a rezoning would have been inconsistent with Goal 9 of the Lee Plan which is, "To protect existing and potential agricultural lands from the encroachment of incompatible land uses." This Goal supports the basic dichotomy set out in the Lee Plan which is to direct agricultural development to rural areas rather than urban areas. The staff denial was also based upon the lack of compatibility between some of the potential agricultural uses and the surrounding residential properties. The lack of compatibility made the request inconsistent with Policy 5.1.5 which requires the protection of existing and future residential areas from the encroachment of uses which are destructive to the character and integrity of the residential environment. Based on these inconsistencies, the second request received a recommendation of denial from the Hearing Examiner and a denial by the Board of County Commissioners.

In 1993, a request to rezone from IL to AG-2 within the Intensive Development land use category was denied by the Board (Case #93-11-02-Z-01, Resolution Z-93-083).

Planning staff recommended denial of the request because it was inconsistent with the intent of Future Urban Areas, and because it represented an inefficient use of existing and planned infrastructure. The Board of County Commissioners denied the request based on inconsistency with Lee Plan Policy 1.1.2 which defines the Intensive Development land use category, and inconsistency with Policy 5.1.5, which requires the protection of existing and future residential areas from encroachment of uses that are potentially destructive to the character and integrity of the residential neighborhood.

Two down zonings to AG-2 within the Outlying Suburban land use category have been approved by the Board, but there were unique circumstances that warranted down zoning in each case. Both parcels were part of the abandoned Danport DRI and CPD. Both sites were being utilized at the time of the rezoning request for agricultural purposes. One tract was a 45-acre tract that was shown on the Master Concept Plan as the water management area for the overall DRI (Case #97-03-029.03Z 01.01, Resolution Z-97-078). Without a rezoning to something other than CPD, the owner would have been bound by the Master Concept Plan of that CPD, which would have made other development on that site unachievable. The only thing that could have built on this property was a lake/water management system. The DRI ownership was fragmented and no longer under unified control, so an amendment of the DRI/CPD was determined to be inappropriate. It was determined that the AG-2 zoning district could act as a “holding district” until firm plans were made. The other site within the DRI was a five acre tract that did not have road access (Case #99-02-193.01Z 01.01, Resolution Z-99-083).

A recent request to down zone a property from Community Commercial (CC) to Agricultural (AG-2) in the Urban Community land use category (Case #REZ1999-00018) further highlights this issue. Staff was prepared to recommend denial of the request based on the potential underutilization of public services and the potential for urban sprawl. Also, the subject property is at an intersection that can meet the current Lee Plan interpretation for retail site location standards for a Neighborhood Commercial project. Staff asserted that CC is the correct zoning for the property because it has commercial potential and it is within a Future Urban Area. This case was withdrawn by the applicant as the County Attorney’s Office opined that the 1981 rezoning was void. The Development Services letter to the applicant’s representative informing him of this decision provides the following:

Mr. Paletsky has not attempted to develop the parcel based upon the rights apparently granted in the Resolution and does not claim any benefit of equitable estoppel relating to the 1981 Resolution. Mr. Paletsky has indicated, by requesting a rezoning to AG-2 the original zoning, that the property revert to the agricultural zoning that existed prior to the 1981 action.

The County Attorney's Office reviews conventional rezoning resolutions containing conditions on a case-by-case basis. Where the facts establish the basis of an equitable estoppel claim, that office will generally consider the zoning change, without the conditions, as appropriate and correct. When the facts establish that an equitable estoppel claim is not appropriate, then that office will generally recommend that the rezoning be considered void ab initio, causing the zoning district to be the one applicable prior to the void zoning action. The County Attorney's office has opined that Zoning Resolution Z-81-29 is void ab initio with respect to the 10 acre parcel currently owned by Steven Paletsky.

Also at issue with this plan amendment is the establishment of new agricultural lands within Planned Development zoning districts once the property has been rezoned. After a property has been rezoned to a Planned Development district, there is a period of time, sometimes several years, before a development order is approved and development begins. There have been instances where agricultural uses have expanded within a vacant Planned Development, and land has been cleared or otherwise disturbed in areas that are shown on the Master Concept Plan as conservation or open space. It has been the policy of the County in such cases to allow existing bona fide agricultural uses to continue within a newly established Planned Development until development commences, but to prohibit the establishment of new agricultural uses on the property once rezoning has been approved. The Board has supported this position for a long period of time.

PAT98-18 recognized that the establishment of new agricultural uses could potentially be appropriate in Outlying Suburban areas based on a lack of available infrastructure, compatibility with surrounding land uses, and the location of these areas at the urban fringe. This amendment recognized that permitting new agricultural uses in the Future Urban Areas could represent an underutilization of existing and planned infrastructure in these areas. Rezoning for agricultural uses in Future Urban Areas potentially could lead to tax revenue losses that could hinder the County's ability to provide urban services in these areas.

The amendment also recognized that down zoning to agricultural zoning districts within the Future Urban Areas could cause compatibility problems between urban uses such as residences and businesses, and agricultural uses such as raising of livestock and other farming activities. The amendment staff report also noted that the Lee Plan does not envision the establishment of new agricultural uses within the Future Urban Areas, with the exception of the Outlying Suburban category. PAT98-18 contained the following discussion concerning this point:

As the above-referenced cases show, rezoning to Agricultural districts has been consistently denied by the Board in all Future Urban land use categories except Outlying Suburban. The requests have been denied based mainly on the inefficient use of existing or planned infrastructure, and the lack of compatibility with surrounding land uses.

Rezoning were approved in Outlying Suburban because of a lack of available infrastructure and because the property was beyond the existing urban fringe. According to the Lee Plan, Outlying Suburban areas are characterized by their peripheral location in relation to established urban areas. Some, but not all of the requisite infrastructure needed for higher density development is generally planned or in place. Given the nature of the Outlying Suburban category, rezonings to agricultural districts should be given consideration in these areas.

PAT98-18 was adopted by the Board of County Commissioners on November 1, 2000.

Subsequent to the adoption of PAT98-18 and Policy 9.2.1, the Lee Plan incorporated a new category out of areas that were designated Outlying Suburban and limited to a maximum of 2 dwelling units per acre. This new category, the Sub-Outlying Suburban future land use category, was called for by the 2004 Evaluation and Appraisal Report (EAR). An EAR plan amendment, CPA2005-40, was prepared by staff, and adopted by the Board of County Commissioners on May 16, 2007 by Ordinance 07-09. Policy 9.2.1 was not modified to reflect this new category. Not referencing this new category in Policy 9.2.1 was an oversight, as these lands had previously been allowed the consideration of agricultural rezoning under Policy 9.2.1 when they were designated as Outlying Suburban.

PART II - STAFF ANALYSIS

A. STAFF DISCUSSION

The applicant of this instant request, CPA2013-00002, submitted a privately sponsored text amendment on June 25th, 2013. The amendment is similar to a staff proposed modification contained in the EAR based amendments.

The applicant is proposing the following amendment to Policy 9.2.1:

Policy 9.2.1: Rezoning of land to agricultural zoning districts is prohibited in those areas designed by the Lee Plan as Future Urban Areas, with the exception of those areas designated as Outlying Suburban or Suburban where rezoning of parcels five acres or more to an agriculture zoning district may be reviewed and approved on a case by case basis. The recommendations will be based on:

- a. current and future availability of Urban infrastructure;
- b. compatibility of the existing and future land uses;
- c. acreage of rezoning request; and
- d. consideration of applicable community plans.

~~In Outlying Suburban areas, such requests will be reviewed on a case by case basis, and recommendations will be made based on current and future availability of urban infrastructure and compatibility of existing and future land uses.~~

Staff notes that several community plans have been adopted expressing a desire to preserve or maintain a rural character. The Pine Island and Caloosahatchee Shores community plans are two examples. The EAR process also stressed maintaining rural character in appropriate communities. Staff finds that allowing rezoning for new agricultural uses on a case by case basis, with the criteria that is outlined by the EAR amendment language and the applicant submitted language may be appropriate in Suburban areas. The specific criteria include consideration of applicable community plans. The criteria also include assuring compatibility of existing and future land uses as well as the efficient use of infrastructure. The proposed language also incorporates a minimum parcel size of 5 acres, further assuring compatibility and preventing single family lot consideration in existing subdivisions. Rezoning to achieve new agriculture uses in the more urban land use categories (Intensive Development, Central Urban, and Urban Community) will remain inconsistent with the Lee Plan.

The current language of Policy 9.2.1 allows consideration for agricultural rezoning in the Outlying Suburban future land use category. The Sub-Outlying Suburban future land use category is a less intense category and should be allowed this same consideration. The applicant, however, neglected to include this category in their proposed language. Staff finds that the applicant's language should be modified to include the Sub-Outlying Suburban category. Staff also proposes an additional criterion to assure that the cumulative affect of new rezonings to agricultural districts in these suburban categories is evaluated over time. In addition, staff proposes other minor modifications to more closely match the proposed EAR amendment language. Staff proposes the following modifications to Policy 9.2.1 below:

Policy 9.2.1: Rezoning of land to agricultural zoning districts is prohibited in those areas designed by the Lee Plan as Future Urban Areas, with the exception of those areas designated as Sub-Outlying Suburban, Outlying Suburban, or Suburban where parcels five acres or larger may request rezoning to an agricultural zoning district. These requests will be reviewed on a case by case basis. Approval will be based on:

- a. current and future availability of urban infrastructure;
- b. compatibility of the existing and future land uses;
- c. acreage of rezoning request
- d. cumulative effect on county tax base; and
- e. support of applicable community plans.

~~In Outlying Suburban areas, such requests will be reviewed on a case by case basis, and recommendations will be made based on current and future availability of urban infrastructure and compatibility of existing and future land uses.~~

B. STAFF RECOMMENDATION

Staff recommends that the Board of County Commissioners **transmit** the proposed amendment to Policy 9.2.1 of the Lee Plan.

**PART III - LOCAL PLANNING AGENCY
REVIEW AND RECOMMENDATION**

DATE OF PUBLIC HEARING: September 23, 2013

A. LOCAL PLANNING AGENCY REVIEW

Planning staff provided a brief summary of the proposed amendment. The staff offered revised language that includes an additional Suburban category not included in the applicant's proposed language. The recommended revision includes criteria that should be evaluated at time of rezoning such as impact on the county tax rolls. One LPA member asked a question concerning zoning and an agricultural exemption. Staff responded that zoning is just one factor; the actual use is also another important factor. One LPA member asked for a clarification concerning the compatibility criteria in 9.2.1.b. as to whether it is the subject parcel or surrounding parcels. This member suggested adding the word "surrounding" to the criteria. One LPA member stated that rezoning to an AG district in one of the Suburban areas should not be seen as a precedent to preclude development rights on adjacent properties. Staff agreed that the rezoning should not be seen as a precedent.

The applicant's representative addressed the LPA and introduced the applicant's to the Board. He discussed the applicant's property on S. Olga Road and the recent planned development rezoning on the property, and their desire to rezone the property back to an agricultural district. The representative next responded to LPA questions about agricultural exemptions by citing Supreme Court of Florida case, *Schultz v. Love PGI Partners, LP*, 1999. The court found that, "Thus, making the good faith agricultural use determination based exclusively on zoned use as a matter of law, would violate the broad examination required by statute, which is properly focused on the actual use of the land." The representative stated that the property appraiser will make the determination on the actual use of the property. The representative provided that the Florida legislature has been concerned with preservation of agricultural lands. The representative also provided that the Caloosahatchee Shores planning panel reviewed the application on September 17th and supports the application.

No members of the public appeared before the LPA.

One LPA member further discussed the issue of not limiting suburban uses for adjacent parcels as a result of a rezoning back to an agricultural use. Another member brought up that many agricultural uses are not compatible with Suburban residential uses, such as slaughterhouses, hog farms, chicken farms, and runoff issues that may have an adverse impact on adjacent uses. Staff responded that these are factors to be considered at the

rezoning stage. One member brought up the goat farm on College Parkway adjacent to a shopping center, and that they seemed to coexist, and that his point was to have these issues discussed on the record for later reference.

B. LOCAL PLANNING AGENCY RECOMMENDATION AND FINDINGS OF FACT SUMMARY

- 1. RECOMMENDATION:** The LPA recommends that the Board of County transmit the proposed amendment as modified by staff.
- 2. BASIS AND RECOMMENDED FINDINGS OF FACT:** The LPA accepted the findings of fact as advanced by the staff.

C. VOTE:

NOEL ANDRESS	AYE
STEVE BRODKIN	AYE
WAYNE DALTRY	AYE
JIM GREEN	AYE
MITCH HUTCHCRAFT	AYE
ANN PIERCE	AYE
ROGER STRELOW	AYE

D. ACTIONS SUBSEQUENT TO THE LPA MEETING

Following the LPA meeting, Lee County Planning staff met with Zoning and Environmental Sciences staff. At this meeting potential adverse environmental impacts of rezoning to an agricultural district were discussed. Staff also discussed possible land clearing activities that could occur as part of an agricultural operation. Planned development rezoning allow for conditions to be placed on the approval. These conditions are often used to address environmental features on the site such as protection of flowways, protected species, and indigenous habitat. These types of environmental features can occur in all future land use categories. Conventional rezonings do not allow for conditions to be attached to the approval. However, the Land Development Code (LDC) contains minimum requirements to address these features for residential, commercial and industrial uses. The LDC does not have minimum development requirements for agricultural uses, and Development Orders are not required for most

agricultural activities. Agricultural operations are protected under the state's "Right to Farm" act as defined in the Florida Statutes.

The applicant for the proposed Lee Plan amendment has also submitted a rezoning case that would rezone a Residential Planned Development to AG-2. The approved planned development provided for the protection of onsite flowways. Rezoning the applicant's property to an agricultural district would eliminate the conditions that protect the onsite flowways.

In light of these discussions, staff believes that Policy 9.2.1 should be revised to address potential environmental impacts as the result of allowing rezonings to agricultural districts in suburban areas. Staff recommends that a criterion be added to Policy 9.2.1 to address this. Staff recommends the following additional criteria:

- f. evaluation of how environmental features, including but not limited to flowways, protected species, and habitat, will be protected or mitigated.

**PART IV – BOARD OF COUNTY COMMISSIONERS
HEARING FOR TRANSMITTAL OF PROPOSED AMENDMENT**

DATE OF PUBLIC HEARING: October 21, 2013

A. BOARD REVIEW

Planning staff provided a brief summary of the proposed amendment. One Board member expressed concern over compatibility issues created by agricultural uses with surrounding urban uses. This member also expressed concern as to the type of agricultural uses that could result such as hog and chicken farms and potential runoff and odor concerns. Another Board member asked for clarification of the land use categories that this amendment affects. Staff responded that the Suburban and Sub-Outlying Suburban categories would be added for case by case consideration in addition to the already permitted Outlying Suburban category. Staff stated that compatibility concerns could lead to a recommendation of denial of a requested rezoning. The Assistant County Attorney clarified that the requested zonings would be conventional requests with no ability to condition the requested uses.

The applicant's representative next provided a brief presentation concerning the request. The Chairman next called for public input, however, no members of the public came forward to address the proposed amendment.

The Chairman asked the Assistant County Attorney the extent of liability that the amendment could potentially create. The Attorney said liability exposure does not exist in denying the transmittal request. Liability may exist on individual rezoning requests. The applicant's representative suggested that the Board could limit the applicability of the proposed policy to the Pine Island and Caloosahatchee Shores Community Planning areas. The Board accepted this restriction and incorporated this into the transmittal motion.

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY

1. **RECOMMENDATION:** The Board approved a motion to transmit the proposed amendment and restrict the applicability of the proposed amendment to the Pine Island and the Caloosahatchee Shores Community Plan areas.
2. **BASIS AND RECOMMENDED FINDINGS OF FACT:** The Board accepted the recommended findings of fact with the restriction of applicability to the Pine Island and Caloosahatchee Shores Community Plan areas.

C. VOTE:

LARRY KIKER	AYE
FRANK MANN	ABSENT
JOHN MANNING	AYE
CECIL L PENDERGRASS	AYE
VACANT	VACANT

**PART V – STATE REVIEWING AGENCIES OBJECTIONS,
RECOMMENDATIONS AND COMMENTS**

DATE OF REVIEWING AGENCY COMMENTS: Comments from the State Reviewing Agencies were due to Lee County by November 30, 2013.

A. OBJECTIONS, RECOMMENDATIONS AND COMMENTS:

Lee County received responses from the following review agencies addressing the transmitted amendment: Florida Departments of Agriculture and Consumer Services, Economic Opportunity, Education, Environmental Protection, and Transportation; and the South Florida Water Management District.

These agencies stated that they had no further comments or concerns about the proposed amendment.

B. STAFF RECOMMENDATION

Staff recommends that the Board of County Commissioners *adopt* the amendments to the Lee Plan as transmitted.

**PART VI – BOARD OF COUNTY COMMISSIONERS
HEARING FOR ADOPTION OF PROPOSED AMENDMENT**

DATE OF PUBLIC HEARING: January 22, 2014

A. BOARD REVIEW

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY

1. BOARD ACTION:

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

C. VOTE:

BRIAN HAMMAN

LARRY KIKER

FRANK MANN

JOHN MANNING

CECIL L PENDERGRASS

**AGENCY COMMENTS
FOR CPA2013-02
AGRICULTURAL
REZONING IN
SUBURBAN AREAS**

Rick Scott
GOVERNOR



Jesse Panuccio
EXECUTIVE DIRECTOR

RECEIVED
DEC 02 2013

November 25, 2013

COMMUNITY DEVELOPMENT

The Honorable Cecil L. Pendergrass, Chairman
Lee County Board of County Commissioners
Post Office Box 398
Fort Myers, Florida 33902-0398

Dear Chairman Pendergrass:

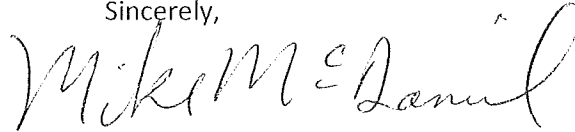
The Department of Economic Opportunity has completed its review of the proposed comprehensive plan amendment for Lee County (Amendment 13-2ESR) which was received on October 31, 2013. We have reviewed the proposed amendment pursuant to Sections 163.3184(2) and (3), Florida Statutes (F.S.), and identified no comments related to important state resources and facilities within the Department of Economic Opportunity's authorized scope of review that will be adversely impacted by the amendment if adopted.

The County is reminded that pursuant to Section 163.3184(3)(b), F.S., other reviewing agencies have the authority to provide comments directly to the County. If other reviewing agencies provide comments, we recommend the County consider appropriate changes to the amendment based on those comments. If unresolved, such comments could form the basis for a challenge to the amendment after adoption.

The County should act by choosing to adopt, adopt with changes, or not adopt the proposed amendment. Also, please note that Section 163.3184(3)(c)1, F.S., provides that if the second public hearing is not held and the amendment adopted within 180 days of your receipt of agency comments, the amendment shall be deemed withdrawn unless extended by agreement with notice to the Department of Economic Opportunity and any affected party that provided comment on the amendment. For your assistance, we have attached procedures for adoption and transmittal of the comprehensive plan amendment.

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

Sincerely,

A handwritten signature in black ink that reads "Mike McDaniel". The signature is written in a cursive, flowing style.

Mike McDaniel
Comprehensive Planning Manager

MM/sr

Enclosure: Procedures for Adoption

cc: Paul O'Connor, Director, Lee County Division of Planning
Margaret Wuerstle, Executive Director, Southwest Florida Regional Planning Council

**SUBMITTAL OF ADOPTED COMPREHENSIVE PLAN AMENDMENTS
FOR EXPEDITED STATE REVIEW**

Section 163.3184(3), Florida Statutes

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

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

_____ Department of Economic Opportunity identification number for adopted amendment package;

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

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

_____ Ordinance number and adoption date;

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

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

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

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

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

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

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

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

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

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

The effective date of this plan amendment, if the amendment is not timely challenged, shall be 31 days after the Department of Economic Opportunity notifies the local government that the plan amendment package is complete. If timely challenged, this amendment shall become effective on the date the Department of Economic Opportunity or the Administration Commission enters a final order determining this adopted amendment to be in compliance. No development orders, development permits, or land uses dependent on this amendment may be issued or commence before it 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, a copy of which resolution shall be sent to the Department of Economic Opportunity.

_____ List of additional changes made in the adopted amendment that the Department of Economic Opportunity did not previously review;

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

_____ Statement indicating the relationship of the additional changes not previously reviewed by the Department of Economic Opportunity in response to the comment letter from the Department of Economic Opportunity.

Dunn, Brandon

From: O'Connor, Paul
Sent: Monday, December 02, 2013 8:22 AM
To: Noble, Matthew; Dunn, Brandon
Subject: FW: Lee County 13-2ESR Proposed

From: Stahl, Chris [<mailto:Chris.Stahl@dep.state.fl.us>]
Sent: Monday, November 25, 2013 3:34 PM
To: O'Connor, Paul
Cc: Craig, Kae; 'DCPexter@deo.myflorida.com' (DCPexter@deo.myflorida.com)
Subject: Lee County 13-2ESR Proposed

To: Paul O'Connor, Lee County Planning Division Director

Re: Lee County 13-2ESR – Expedited Review of Proposed Comprehensive Plan Amendment

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

Based on our review of the submitted amendment package, **the Department has found no provision that, if adopted, would result in adverse impacts to important state resources subject to the Department's jurisdiction.** Please feel free to contact me with any questions.

Christopher Stahl
DEP Office of Intergovernmental Programs
3900 Commonwealth Blvd., MS 47
Tallahassee, FL 32399-3000
(850) 245-2169 office

Thank you!
cjs

Please note: Florida has a very broad public records law. Most written communications to or from County Employees and officials regarding County business are public records available to the public and media upon request. Your email communication may be subject to public disclosure.

Under Florida law, email addresses are public records. If you do not want your email address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.

OFFICE OF THE COMMISSIONER
(850) 617-7700



THE CAPITOL
400 SOUTH MONROE STREET
TALLAHASSEE, FLORIDA 32399-0800

FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
COMMISSIONER ADAM H. PUTNAM

November 20, 2013

VIA EMAIL (oconnops@leegov.com)

Lee County Planning Division Director
Attn: Paul O'Connor
P.O. Box 398
Fort Myers, Florida 33902-0398

Re: DACS Docket # -- 20131031-290
Lee County CPA A2013-02
Submission dated October 24, 2013

Dear Mr. O'Connor:

The Florida Department of Agriculture and Consumer Services (the "Department") received the above-referenced proposed comprehensive plan amendment on October 31, 2013 and has reviewed it pursuant to the provisions of Chapter 163, Florida Statutes to address any potential adverse impacts to important state resources or facilities related to agricultural, aquacultural, or forestry resources in Florida if the proposed amendment(s) are adopted. Based on our review of your county's submission, the Department has no comment on the proposal.

If we may be of further assistance, please do not hesitate to contact me at 850-410-2291.

Sincerely,

A handwritten signature in black ink, appearing to read "Sergio Alvarez".

Sergio Alvarez
Senior Economist
Office of Policy and Budget

cc: Florida Department of Economic Opportunity
(SLPA #: Lee County 13-2 ESR)



Florida Department of Transportation

RICK SCOTT
GOVERNOR

10041 Daniels Parkway
Fort Myers, FL 33913

ANANTH PRASAD, P.E.
SECRETARY

November 22, 2013

Mr. Paul O'Connor, AICP
Lee County Planning Division Director
P.O. Box 398
Fort Myers, FL 33902-0398

RE: Lee County 13-2ESR Proposed Comprehensive Plan Amendment (Expedited State Review Process) – FDOT Comments and Recommendations

Dear Paul:

The Florida Department of Transportation, District 1, has reviewed the Lee County 13-2ESR, Proposed Comprehensive Plan Amendment (*transmitted by the Board of County Commissioners on October 21, 2013*) in accordance with the requirements of Florida Statutes (F.S.) Section 163 and Chapter 9J-11 of the Florida Administrative Code (F.A.C.).

The Department reviewed the proposed CPA 2013-02 and determined that the changes associated with this amendment are not anticipated to adversely impact important state transportation resources or facilities. **Therefore FDOT offers no comment.**

Thank you for providing the Department with the opportunity to review and comment on the proposed amendment. If you need additional information or would like to discuss these comments, please contact me at (239) 461-4300 or lawrence.massey@dot.state.fl.us.

Sincerely,

Lawrence Massey
District 1 Growth Management Coordinator
Southwest Area Urban Office

LLM/lm

Cc: Mr. Ray Eubanks, Florida Department of Economic Opportunity
Ms. Scott Rogers, Florida Department of Economic Opportunity

FLORIDA DEPARTMENT OF EDUCATION



STATE BOARD OF EDUCATION

GARY CHARTRAND, *Chair*

JOHN R. PADGET, *Vice Chair*

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KATHLEEN SHANAHAN

Pam Stewart
Commissioner of Education

November 22, 2013

Mr. Paul O'Connor, AICP
Lee County Planning Division Director
P.O. Box 398
Fort Myers, Florida 33902-0398
Via E-mail: oconnops@leegov.com

Dear Mr. O'Connor:

Re: Lee County 13-2 ESR

Thank you for the opportunity to review the Lee County 13-2 ESR amendment package, which the Florida Department of Education received on October 30, 2013. According to the department's responsibilities under section 163.3184(3), Florida Statutes, I reviewed the amendment considering provisions of chapter 163, part II, F.S., and to determine whether the proposal, if adopted, would have potential to create significant adverse effects on public school facilities.

The proposal would amend Policy 9.2.1 related to agricultural zoning in certain areas. Because the amendment does not appear to create adverse effects on public school facilities or sites, I offer no comment.

Again, thank you for the opportunity to review the amendment package. If I may be of assistance, please contact me at (850) 245-9312 or Tracy.Suber@fldoe.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Tracy D. Suber".

Tracy D. Suber
Growth Management and Facilities Policy Liaison

TDS/

cc: Ms. Dawn Huff, Lee County School District
Mr. Scott Rogers and Ms. Brenda Winningham, DEO/State Land Planning Agency

THOMAS H. INSERRA
DIRECTOR, OFFICE OF EDUCATIONAL FACILITIES



SOUTH FLORIDA WATER MANAGEMENT DISTRICT

November 19, 2013

Mr. Paul O'Connor, AICP
Lee County Planning Division Director
P.O. Box 398
Fort Myers, FL 33902-0398

**Subject: Lee County, DEO #13-2ESR
Comments on Proposed Comprehensive Plan Amendment Package**

Dear Mr. O'Connor:

The South Florida Water Management District (District) has completed its review of the proposed amendment package submitted by Lee County (County). A text amendment allowing rezoning to agricultural zoning on a case by case basis in the Suburban future land use categories. There appear to be no regionally significant water resource issues; therefore, the District forwards no comments on the proposed amendment package.

The District offers its technical assistance to the County and the Department of Economic Opportunity in developing sound, sustainable solutions to meet the County's future water supply needs and to protect the region's water resources. Please forward a copy of adopted amendments to the District. For assistance or additional information, please contact Deborah Oblaczynski, Policy and Planning Analyst, at (561) 682-2544 or doblaczy@sfwmd.gov.

Sincerely,

A handwritten signature in black ink that reads "De Powell".

Dean Powell
Water Supply Bureau Chief

DP/do

c:

Ray Eubanks, DEO
Deborah Oblaczynski, SFWMD
Brenda Winningham, DEO
Margaret Wuerstle, SWFRPC

CPA2013-03

SOUTHWEST FLORIDA

INTERNATIONAL

AIRPORT LAYOUT PLAN

UPDATE

LEE COUNTY ORDINANCE NO. _____
SOUTHWEST FLORIDA INTERNATIONAL AIRPORT (RSW)
AIRPORT LAYOUT PLAN UPDATE, MAP 3F
CPA2013-00003

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 AMENDMENTS PERTAINING TO THE SOUTHWEST FLORIDA INTERNATIONAL AIRPORT (RSW), AIRPORT LAYOUT PLAN UPDATE, MAP 3F (CPA2013-00003) APPROVED DURING A PUBLIC HEARING; PROVIDING FOR PURPOSE, INTENT, AND SHORT TITLE; AMENDMENTS TO ADOPTED MAP; LEGAL EFFECT OF “THE LEE PLAN”; 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 amendments in accordance with Florida Statutes and the Lee County Administrative Code on October 28, 2013, and,

WHEREAS, the Board held a public hearing for the transmittal of the proposed amendments on November 18, 2013. At that hearing, the Board approved a motion to send, and did later send, proposed amendments pertaining to Southwest Florida International Airport (RSW), Airport Layout Plan Update, Map 3F (CPA2013-00003) to the reviewing agencies set forth in Section 163.3184(1)(c), F.S. for review and comment; and,

WHEREAS, at the November 18, 2013 meeting, the Board announced its intention to hold a public hearing after the receipt of the reviewing agencies’ written comments; and,

WHEREAS, on January 22, 2014 the Board held a public hearing and adopted the proposed amendments 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 "Southwest Florida International Airport (RSW), Airport Layout Plan Update, Map 3F Ordinance (CPA2013-00003)."**

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 Map 3F known as Southwest Florida International Airport, Airport Layout Plan (CPA2013-00003).

The corresponding Staff Reports and Analysis, along with all attachments 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: 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 FIVE: 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 SIX: 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 or her designee, without need of public hearing, by filing a corrected or recodified copy with the Clerk of the Circuit Court.

SECTION SEVEN: 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 January 2014.

ATTEST:
LINDA DOGGETT, CLERK

LEE COUNTY
BOARD OF COUNTY
COMMISSIONERS

BY: _____
Deputy Clerk

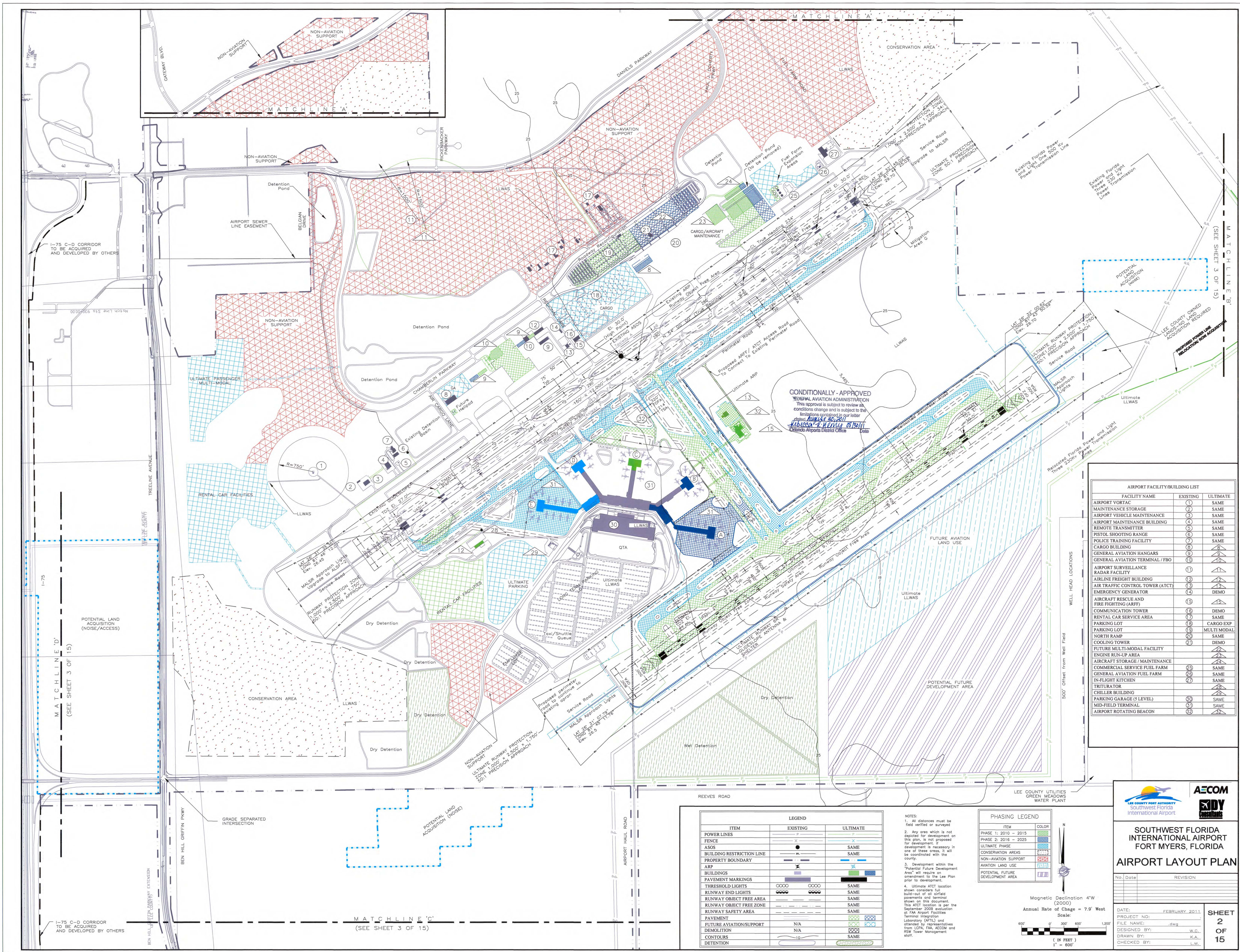
BY: _____
Larry Kiker, Chair

DATE: _____

Approved as to form by:

Michael D. Jacob
County Attorney's Office

Exhibit A: Adopted revisions to Lee Plan Map 3F (Adopted by BOCC January 22, 2014)



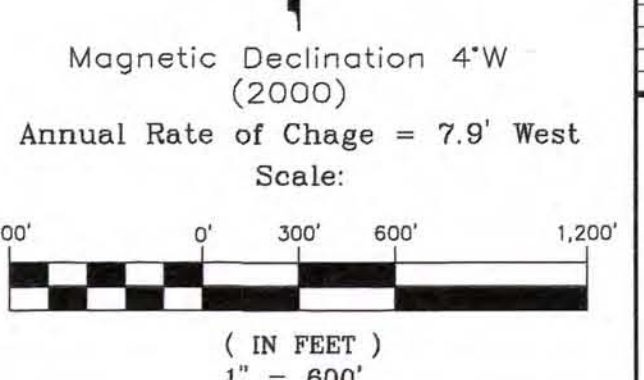
CONDITIONALLY-APPROVED
 FEDERAL AVIATION ADMINISTRATION
 This approval is subject to review as conditions change and is subject to the limitations contained in our letter of approval dated 01/14/2011.
 01/14/2011
 Orlando Airport District Office

AIRPORT FACILITY/BUILDING LIST		
FACILITY NAME	EXISTING	ULTIMATE
AIRPORT VORTAC	1	SAME
MAINTENANCE STORAGE	2	SAME
AIRPORT VEHICLE MAINTENANCE	3	SAME
AIRPORT MAINTENANCE BUILDING	4	SAME
REMOTE TRANSMITTER	5	SAME
PISTOL SHOOTING RANGE	6	SAME
POLICE TRAINING FACILITY	7	SAME
CARGO BUILDING	8	8
GENERAL AVIATION HANGARS	9	9
GENERAL AVIATION TERMINAL/FBO	10	10
AIRPORT SURVEILLANCE RADAR FACILITY	11	11
AIRLINE FREIGHT BUILDING	12	12
AIR TRAFFIC CONTROL TOWER (ATCT)	13	13
EMERGENCY GENERATOR	14	DEMO
AIRCRAFT RESCUE AND FIRE FIGHTING (ARFF)	15	15
COMMUNICATION TOWER	16	DEMO
RENTAL CAR SERVICE AREA	17	SAME
PARKING LOT	18	CARGO EXP
PARKING LOT	19	MULTI MODAL
NORTH BARR	20	SAME
COOLING TOWER	21	DEMO
FUTURE MULTI-MODAL FACILITY	22	22
ENGINE RUN-UP AREA	23	23
AIRCRAFT STORAGE / MAINTENANCE	24	24
COMMERCIAL SERVICE FUEL FARM	25	SAME
GENERAL AVIATION FUEL FARM	26	SAME
IN-FLIGHT KITCHEN	27	SAME
TITRATOR	28	28
CHILLER BUILDING	29	29
PARKING GARAGE (5 LEVEL)	30	SAME
MID-FIELD TERMINAL	31	SAME
AIRPORT ROTATING BEACON	32	32

ITEM	EXISTING	ULTIMATE
POWER LINES	P	P
FENCE	X	X
ASOS	●	●
BUILDING RESTRICTION LINE	—	—
PROPERTY BOUNDARY	—	—
ARP	✕	✕
BUILDINGS	■	■
PAVEMENT MARKINGS	—	—
THRESHOLD LIGHTS	OOOO	OOOO
RUNWAY END LIGHTS	—	—
RUNWAY OBJECT FREE AREA	—	—
RUNWAY SAFETY AREA	—	—
PAVEMENT	—	—
FUTURE AVIATION/SUPPORT	N/A	—
DEMOLITION	N/A	—
CONTOURS	—	—
DETENTION	—	—

NOTES:
 1. All distances must be field verified or surveyed.
 2. Any area which is not depicted for development on this plan, is not proposed for development. If development is necessary in one of these areas, it will be coordinated with the county.
 3. Development within the 'Potential Future Development Area' will require an amendment to the Lee Plan prior to development.
 4. Ultimate ATCT location shown considers full build-out of all airfield covenants and terminal shown on this document. This ATCT location is per the September 2009 evolution of FAA Airport Facilities Terminal Integration Laboratory (ATIL) and attended by representatives from LOR, FAA, ACCOM and RSW Tower Management staff.

ITEM	COLOR
PHASE 1: 2010 - 2015	Light Green
PHASE 2: 2016 - 2025	Dark Green
ULTIMATE PHASE	Blue
CONSERVATION AREAS	Red Hatched
NON-AVIATION SUPPORT	Orange Hatched
AVIATION LAND USE	Blue Hatched
POTENTIAL FUTURE DEVELOPMENT AREA	Yellow Hatched



AECOM
 SOUTHWEST FLORIDA INTERNATIONAL AIRPORT
 FORT MYERS, FLORIDA
AIRPORT LAYOUT PLAN

No.	Date	REVISION

DATE: FEBRUARY 2011
 PROJECT NO.:
 FILE NAME: .dwg
 DESIGNED BY: W.C.
 DRAWN BY: K.A.
 CHECKED BY: L.M.

SHEET 2 OF 15

**CPA2013-03
SOUTHWEST FLORIDA
INTERNATIONAL AIRPORT (RSW)
AIRPORT LAYOUT PLAN UPDATE,
MAP 3F
COMPREHENSIVE PLAN AMENDMENT
TO THE**

LEE COUNTY COMPREHENSIVE PLAN

THE LEE PLAN

Lee County Board of County Commissioners
Sponsored Amendment and Staff Analysis

**BoCC Public Hearing Document
For The
January 22, 2014 Adoption Hearing**

*Lee County Planning Division
1500 Monroe Street
P.O. Box 398
Fort Myers, FL 33902-0398
(239) 533-8585*

January 15, 2014

**LEE COUNTY
DIVISION OF PLANNING
STAFF REPORT FOR
COMPREHENSIVE PLAN AMENDMENT
CPA2013-03**

Text Amendment

Map Amendment

This Document Contains the Following Reviews	
✓	Staff Review
✓	Local Planning Agency Review and Recommendation
✓	Board of County Commissioners Hearing for Transmittal
✓	Staff Response to Review Agencies' Comments
	Board of County Commissioners Hearing for Adoption

STAFF REPORT PREPARATION DATE: October 17, 2013

PART I - BACKGROUND AND STAFF RECOMMENDATION

A. SUMMARY OF APPLICATION

1. APPLICANT/REPRESENTATIVES:

Lee County Board of County Commissioners/Lee County Port Authority staff and Division of Planning staff

2. REQUEST:

Amend Lee Plan Map 3F, Airport Layout Plan, for the Southwest Florida International Airport (RSW), to reflect the revised Airport Layout Plan (ALP) approved by the Federal Aviation Administration.

B. STAFF RECOMMENDATION AND FINDINGS OF FACT SUMMARY

1. RECOMMENDATION:

Staff recommends that the Board of County Commissioners *adopt* the proposed amendment to Map 3F of the Lee Plan.

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

- The Lee County Board of County Commissioners initiated the proposed amendment on August 27, 2013 through Blue Sheet No. 20130718.
- The proposed amendment does not affect the airport boundaries as contained on the Lee Plan Future Land Use Map.
- The Federal Aviation Administration (FAA) has conditionally approved the Airport Layout Plan on August 30, 2011.
- Florida Statutes 163.3177(6)(b)2d and (b)4 provide that airport development that is addressed by local comprehensive plans that integrate airport layout plans does not constitute a development of regional impact.
- The last amendment to the Airport Layout Plan was adopted on September 22, 2004 by Lee Plan Amendment CPA2003-02.
- The proposed amendment provides sound planning coordination between Lee County staff and Port Authority staff.
- The proposed ALP includes new proposed locations for additional crossfield taxiways, the airport fire department and control tower.
- The proposed ALP depicts facilities that have been constructed since the adoption of CPA2003-02.

C. BACKGROUND INFORMATION

1. EXISTING CONDITIONS

SIZE OF PROPERTY: Airport property is approximately 6,372 acres.

PROPERTY LOCATION: The airport property is generally located on the east side of I-75, south of Daniels Parkway and north of Alico Road.

EXISTING LAND USE: The airport property is developed as an operating commercial airport.

CURRENT ZONING: The airport property is zoned Airport Operations Planned Development (AOPD).

CURRENT FUTURE LAND USE CATEGORY: The airport property has two Future Land Use designations: Airport and Wetlands.

2. INFRASTRUCTURE AND SERVICES:

FIRE: Lee County Port Authority Aircraft Rescue and Fire.

EMS: Lee County EMS service area.

LAW ENFORCEMENT: Airport Police and Security.

SOLID WASTE: The subject site is located in solid waste Service Area 3 and is serviced by Waste Pro.

MASS TRANSIT: LeeTran Route 50 provides regular service to the Southwest Florida International Airport.

WATER AND SEWER: The subject site is located within the Lee County water and sewer Future Service Areas as identified on Maps 6 and 7 of the Lee Plan.

PART II - STAFF ANALYSIS

A. STAFF DISCUSSION

INTRODUCTION

Lee County Port Authority staff, on May 7, 2013, provided to Division of Planning staff materials, including a revised ALP and a letter and report that describes changes that have been made to the ALP. The letter requests that the revised ALP be incorporated into the Lee Plan. The letter provides the following summary concerning the proposed change for the subject property:

The Lee County Port Authority has recently completed a multi-year planning and design analysis for the future parallel runway. As a result of the extensive alternatives analysis undertaken during this program a slight modification to the proposed runway layout and associated facilities as depicted on the 2004 ALP was determined to provide the most flexibility for future and ultimate airport development. These minor design changes were submitted to the FAA and subsequently approved on August 30, 2011.

Staff proposed to expedite the replacement of Map 3F with the updated and FAA approved ALP. The Lee County Board of County Commissioners initiated the proposed amendment on August 27, 2013 through Blue Sheet No. 20130718.

COMPREHENSIVE PLAN BACKGROUND

Lee Plan future land use designations for the airport property have changed over time as the Plan has been amended and the airport expanded. The current designation for RSW property is Airport and Wetlands

Recent changes include the ALP which was first adopted into the Lee Plan as Map 3F by Comprehensive Plan amendment CPA2003-02. It incorporated the results of the Airport Master Plan process that was ongoing at the time. Lee Plan Amendment CPA2005-10 amended the Airport Noise Zones. Lee Plan Amendments CPA2007-57 and CPA2010-08 amended policies relating to development within the airport boundaries.

SURROUNDING ZONING, LAND USES, & FUTURE LAND USE CATEGORIES

The surrounding future land use categories consist of New Community, Tradeport, DR/GR, Wetlands, and Conservation Lands. The New Community designated lands are located to the northeast, on the north side of Daniels Parkway. The Tradeport designated lands are located to the north, on the north side of Daniels Parkway, to the west of the subject site across Treeline Avenue, and along the western end of the south boundary of the airport property. Along the eastern end of the southern boundary of the airport are lands designated as DR/GR, Wetlands, and Conservation Lands.

The Southwest Florida International Airport is zoned Airport Operations Planned Development (AOPD). East of the subject property is vacant AG-2 zoned land. West of the subject site are partly developed properties in the Tradeport future land use category that are zoned IPD, CPD, MPD and AG-2. North of Daniels Parkway within the Tradeport future land use category are industrial, commercial and vacant properties zoned CPD, IPD, MPD, AG-2, CC, CT, and IL. This includes the site of the new Boston Red Sox stadium. Northeast of the subject site, north of Daniels Parkway in the New Community future land use category is the Gateway Community, with a mix of commercial, light industrial and residential development zoned MPD and PUD.

PROPOSED CHANGES TO THE ALP

The revised ALP contains five changes from what is currently depicted on Map 3F of the Lee Plan. The first change is the shift of the new parallel runway (6R/24L) eighty feet to the south from its proposed location on the previous ALP. Second, a third crossfield taxiway for commercial aircraft has been proposed for the new ALP. This additional taxiway will allow the airport to maintain unrestricted operations. Third and fourth, the location of the future fire department and control tower are shifted from the currently depicted Map 3F. This is to accommodate the additional third crossfield taxiway. The proposed new location of the control tower is intended to provide proper visibility of the airport after completion of the second runway. The proposed new location of the fire department will allow quick access to both the existing runway and the future parallel runway. Fifth, the proposed ALP now depicts existing facilities that have been constructed since the adoption of the 2004 ALP. This includes the midfield terminal and its apron and taxiway, long term and employee parking, detention areas and other facilities.

EFFECT OF THE PROPOSED CHANGES

The proposed shift of the 6R/24L runway will provide the airport with an unconstrained commercial aircraft runway and parallel taxiway. The eighty foot shift also creates more area for the future Concourse A terminal. Although the shift places the proposed runway

closer to FPL power lines, an analysis performed during the design process showed no conflict. The relocation of the control tower and fire department will allow them to better operate within the airport. None of these internal operational changes cause an increase in the offsite impacts of the airport and therefore, no additional mitigation to public services is required.

B. STAFF RECOMMENDATION

County staff recommends that the Board of County Commissioners *transmit* the proposed amendment to Lee Plan Map 3F.

**PART III - LOCAL PLANNING AGENCY
REVIEW AND RECOMMENDATION**

DATE OF PUBLIC HEARING: October 28, 2013

A. LOCAL PLANNING AGENCY REVIEW

Staff gave a brief presentation regarding the proposed amendment. No members of the LPA had any comments concerning the amendment. No members of the public spoke, appeared, or addressed the proposed plan amendment.

B. LOCAL PLANNING AGENCY RECOMMENDATION AND FINDINGS OF FACT SUMMARY

1. RECOMMENDATION:

The LPA recommends that the Lee County Board of County Commissioners *transmit* the proposed Lee Plan amendment as recommended by staff.

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

The LPA accepted the basis and recommended findings of fact as advanced by staff.

C. VOTE:

NOEL ANDRESS	<u>AYE</u>
STEVE BRODKIN	<u>AYE</u>
WAYNE DALTRY	<u>AYE</u>
JIM GREEN	<u>AYE</u>
MITCH HUTCHCRAFT	<u>AYE</u>
ANN PIERCE	<u>AYE</u>
ROGER STRELOW	<u>AYE</u>

**PART IV - BOARD OF COUNTY COMMISSIONERS
HEARING FOR TRANSMITTAL OF PROPOSED AMENDMENT**

DATE OF TRANSMITTAL HEARING: November 18, 2013

A. BOARD REVIEW:

Staff provided a brief overview of the proposed amendment. The Board of County Commissioners did not make any comments or have any questions concerning the proposed amendment. No members of the public addressed the Board of County Commissioners concerning the proposed amendment.

A motion was made to transmit the proposed amendment. The motion passed 5-0.

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

1. **BOARD ACTION:** The Board of County Commissioners transmitted the proposed amendment as recommended by staff.
2. **BASIS AND RECOMMENDED FINDINGS OF FACT:** The Board of County Commissioners accepted the findings of fact as advanced by staff and the LPA.

C. VOTE:

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>

**PART V – STATE REVIEWING AGENCIES OBJECTIONS,
RECOMMENDATIONS AND COMMENTS**

DATE OF REVIEWING AGENCY COMMENTS: Comments from the State Reviewing Agencies were due to Lee County by January 1, 2014.

A. OBJECTIONS, RECOMMENDATIONS AND COMMENTS:

Lee County received responses from the following review agencies addressing the transmitted amendment: Florida Departments of Agriculture and Consumer Services, Economic Opportunity, and Education, and the South Florida Water Management District.

These agencies stated that they had no further comments or concerns about the proposed amendment

B. STAFF RECOMMENDATION

Staff recommends that the Board of County Commissioners *adopt* the amendment to the Lee Plan as transmitted.

**PART IV - BOARD OF COUNTY COMMISSIONERS
HEARING FOR ADOPTION OF PROPOSED AMENDMENT**

DATE OF PUBLIC HEARING: January 22, 2014

A. BOARD REVIEW:

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

1. BOARD ACTION:

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

C. VOTE:

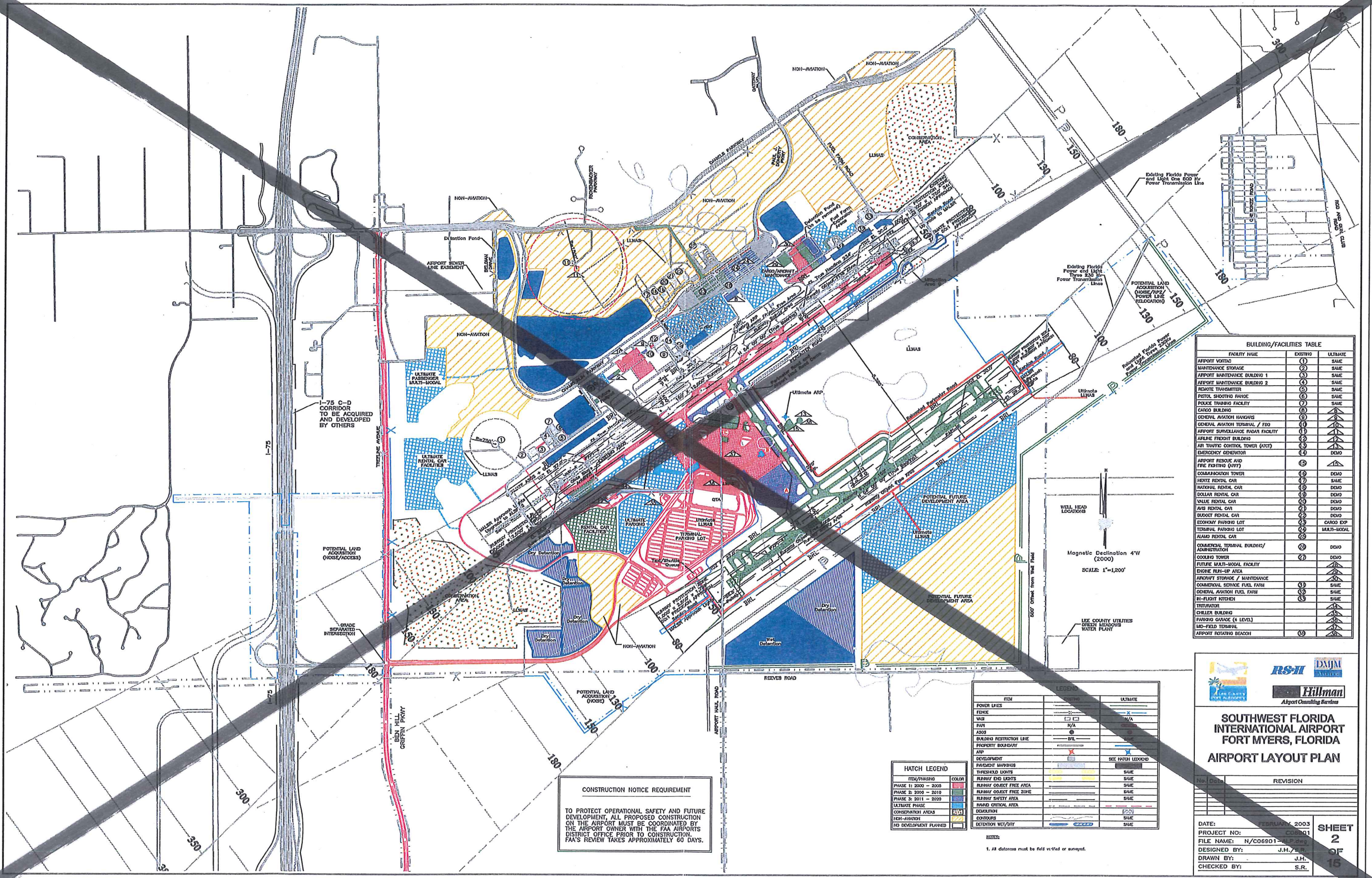
BRIAN HAMMAN

LARRY KIKER

FRANK MANN

JOHN MANNING

CECIL L PENDERGRASS



BUILDING/FACILITIES TABLE

FACILITY NAME	EXISTING	ULTIMATE
AIRPORT VORTOX	(1)	SALE
MAINTENANCE STORAGE	(2)	SALE
AIRPORT MAINTENANCE BUILDING 1	(3)	SALE
AIRPORT MAINTENANCE BUILDING 2	(4)	SALE
REMOTE TRANSMITTER	(5)	SALE
RIFTEL SHOOTING RANGE	(6)	SALE
POLICE TRAINING FACILITY	(7)	SALE
CARGO BUILDING	(8)	SALE
GENERAL AVIATION HANGARS	(9)	SALE
GENERAL AVIATION TERMINAL / FBO	(10)	SALE
AIRPORT SURVEILLANCE RADAR FACILITY	(11)	SALE
AIRLINE FREIGHT BUILDING	(12)	SALE
AIR TRAFFIC CONTROL TOWER (ATCT)	(13)	SALE
EMERGENCY GENERATOR	(14)	DEM
AIRPORT RESCUE AND FIRE FIGHTING (ARFF)	(15)	DEM
COMMUNICATION TOWER	(16)	DEM
HERTZ RENTAL CAR	(17)	SALE
NATIONAL RENTAL CAR	(18)	DEM
DOLLAR RENTAL CAR	(19)	DEM
VALISE RENTAL CAR	(20)	DEM
AVIS RENTAL CAR	(21)	DEM
BUDGET RENTAL CAR	(22)	DEM
ECONOMY PARKING LOT	(23)	CARGO EXP
TERMINAL PARKING LOT	(24)	MULTI-MODAL
ALAMO RENTAL CAR	(25)	DEM
COMMERCIAL TERMINAL BUILDING / ADMINISTRATION	(26)	DEM
COLLEGE TOWER	(27)	DEM
FUTURE MULTI-MODAL FACILITY	(28)	DEM
DIKNE FLUR-UP AREA	(29)	DEM
AIRPORT STORAGE / MAINTENANCE	(30)	DEM
COMMERCIAL SERVICE FUEL FARM	(31)	SALE
GENERAL AVIATION FUEL FARM	(32)	SALE
BI-FLIGHT KITCHEN	(33)	SALE
TERMINAL	(34)	SALE
COLLEGE BUILDING	(35)	SALE
PARKING GARAGE (4 LEVEL)	(36)	SALE
LEO-FIELD TERMINAL	(37)	SALE
AIRPORT ROTATING BEACON	(38)	SALE

LEGEND

ITEM	SYMBOL	ULTIMATE
POWER LINES	---	---
FENCE	---	---
WASI	---	---
PAVE	---	---
ASCS	---	---
BUILDING RESTRICTION LINE	---	---
PROPERTY BOUNDARY	---	---
APP	---	---
DEVELOPMENT	---	SEE HATCH LEGEND
PROTECT SURFACES	---	---
THRESHOLD LIGHTS	---	---
RUNWAY END LIGHTS	---	---
RUNWAY OBJECT FREE AREA	---	---
RUNWAY OBJECT FREE ZONE	---	---
RUNWAY SAFETY AREA	---	---
PAVED CRITICAL AREA	---	---
DEMOLITION	---	---
CONTIGUOUS	---	---
DETENTION WET/DRY	---	---

HATCH LEGEND

ITEM/PHASE	COLOR
PHASE 1: 2000 - 2005	Red
PHASE 2: 2005 - 2010	Blue
PHASE 3: 2011 - 2020	Green
ULTIMATE PHASE	Yellow
CONSERVATION AREA	Green with dots
NON-AVIATION	White
NO DEVELOPMENT PLANNED	White

CONSTRUCTION NOTICE REQUIREMENT

TO PROTECT OPERATIONAL SAFETY AND FUTURE DEVELOPMENT, ALL PROPOSED CONSTRUCTION ON THE AIRPORT MUST BE COORDINATED BY THE AIRPORT OWNER WITH THE FAA AIRPORTS DISTRICT OFFICE PRIOR TO CONSTRUCTION. FAA'S REVIEW TAKES APPROXIMATELY 60 DAYS.

WELL HEAD LOCATIONS

Magnetic Declination 4'W (2000)

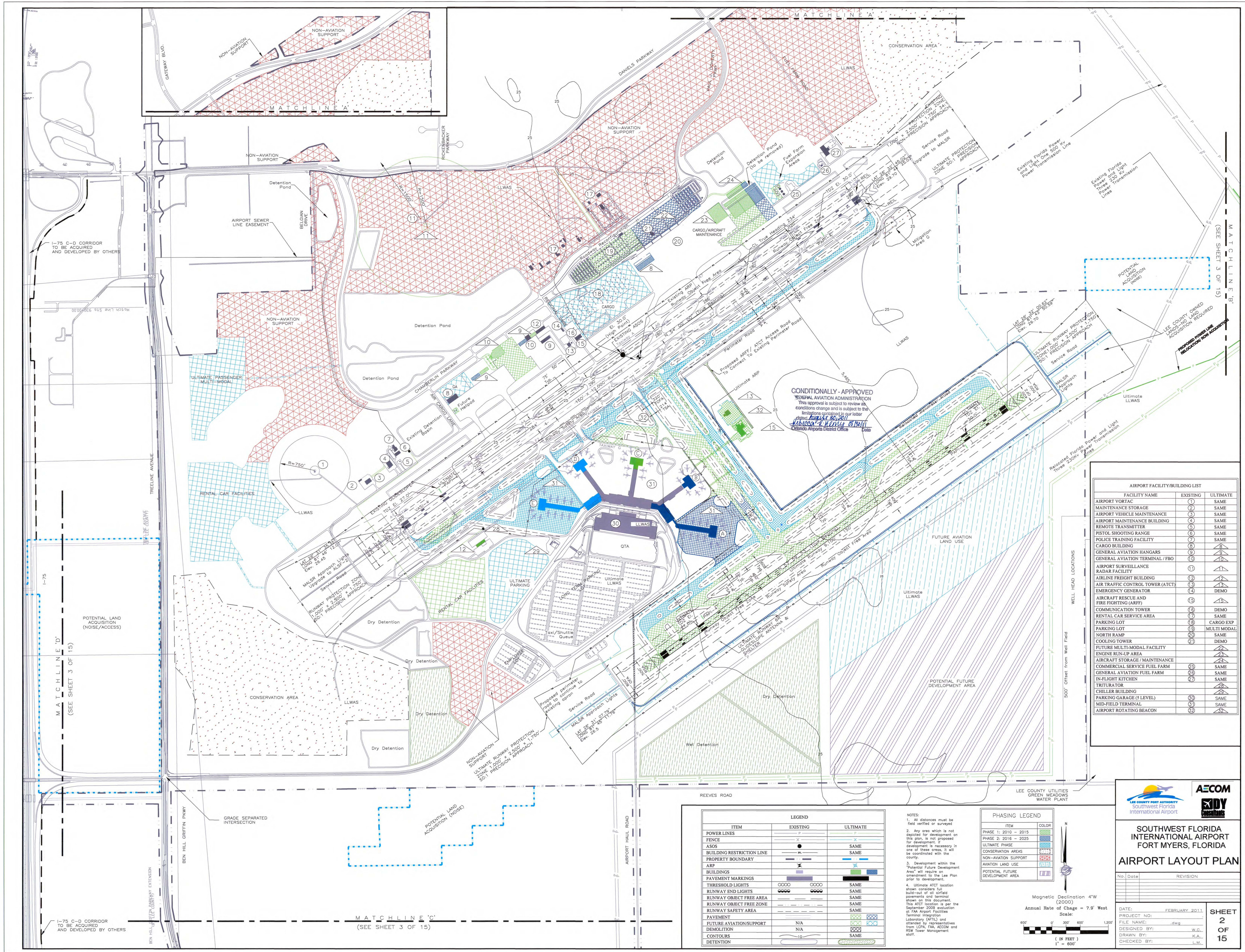
SCALE: 1"=1,200'

LEE COUNTY UTILITIES GREEN MEADOWS WATER PLANT

**SOUTHWEST FLORIDA INTERNATIONAL AIRPORT
FORT MYERS, FLORIDA
AIRPORT LAYOUT PLAN**

DATE: FEBRUARY 2003
PROJECT NO: C06901
FILE NAME: N/C06901-ALP.dwg
DESIGNED BY: J.H./S.R.
DRAWN BY: J.H.
CHECKED BY: S.R.

SHEET 2 OF 15

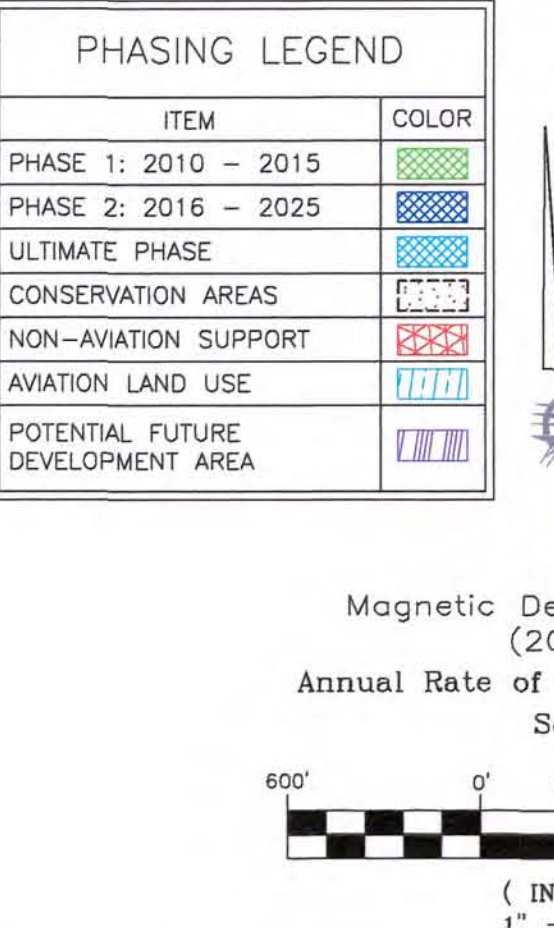


CONDITIONALLY-APPROVED
 FEDERAL AVIATION ADMINISTRATION
 This approval is subject to review as conditions change and is subject to the limitations contained in our letter of approval dated 8/30/2011.
 Issued August 30, 2011
 Orlando Airports District Office

AIRPORT FACILITY/BUILDING LIST		
FACILITY NAME	EXISTING	ULTIMATE
AIRPORT VORTAC	1	SAME
MAINTENANCE STORAGE	2	SAME
AIRPORT VEHICLE MAINTENANCE	3	SAME
AIRPORT MAINTENANCE BUILDING	4	SAME
REMOTE TRANSMITTER	5	SAME
PISTOL SHOOTING RANGE	6	SAME
POLICE TRAINING FACILITY	7	SAME
CARGO BUILDING	8	8
GENERAL AVIATION HANGARS	9	9
GENERAL AVIATION TERMINAL/FBO	10	10
AIRPORT SURVEILLANCE RADAR FACILITY	11	11
AIRLINE FREIGHT BUILDING	12	12
AIR TRAFFIC CONTROL TOWER (ATCT)	13	13
EMERGENCY GENERATOR	14	DEMO
AIRCRAFT RESCUE AND FIRE FIGHTING (ARFF)	15	15
COMMUNICATION TOWER	16	DEMO
RENTAL CAR SERVICE AREA	17	SAME
PARKING LOT	18	CARGO EXP
PARKING LOT	19	MULTI MODAL
NORTH BARR	20	SAME
COOLING TOWER	21	DEMO
FUTURE MULTI-MODAL FACILITY	22	22
ENGINE RUN-UP AREA	23	23
AIRCRAFT STORAGE / MAINTENANCE	24	24
COMMERCIAL SERVICE FUEL FARM	25	SAME
GENERAL AVIATION FUEL FARM	26	SAME
IN-FLIGHT KITCHEN	27	SAME
TITRATOR	28	28
CHILLER BUILDING	29	29
PARKING GARAGE (5 LEVEL)	30	SAME
MID-FIELD TERMINAL	31	SAME
AIRPORT ROTATING BEACON	32	32

ITEM	EXISTING	ULTIMATE
POWER LINES	P	P
FENCE	X	X
ASOS	●	●
BUILDING RESTRICTION LINE	—	—
PROPERTY BOUNDARY	—	—
ARP	✱	✱
BUILDINGS	■	■
PAVEMENT MARKINGS	—	—
THRESHOLD LIGHTS	OOOO	OOOO
RUNWAY END LIGHTS	—	—
RUNWAY OBJECT FREE AREA	—	—
RUNWAY SAFETY AREA	—	—
PAVEMENT	—	—
FUTURE AVIATION/SUPPORT	N/A	—
DEMOLITION	N/A	—
CONTOURS	—	—
DETENTION	—	—

NOTES:
 1. All distances must be field verified or surveyed.
 2. Any area which is not depicted for development on this plan, is not proposed for development. If development is necessary in one of these areas, it will be coordinated with the county.
 3. Development within the 'Potential Future Development Area' will require an amendment to the Lee Plan prior to development.
 4. Ultimate ATCT location shown considers full build-out of all airfield covenants and terminal shown on this document. This ATCT location is per the September 2009 evolution of FAA Airport Facilities Terminal Integration Laboratory (ATIL) and attended by representatives from LOR, FAA, ACCOM and RSW Tower Management staff.



AECOM
 SOUTHWEST FLORIDA INTERNATIONAL AIRPORT
 FORT MYERS, FLORIDA
AIRPORT LAYOUT PLAN

No.	Date	REVISION

DATE: FEBRUARY 2011
 PROJECT NO:
 FILE NAME:
 DRAWN BY:
 CHECKED BY:
SHEET 2 OF 15

**AGENCY COMMENTS
FOR CPA2013-03
SOUTHWEST FLORIDA
INTERNATIONAL
AIRPORT LAYOUT PLAN
UPDATE**

Rick Scott
GOVERNOR



Jesse Panuccio
EXECUTIVE DIRECTOR

December 16, 2013

RECEIVED
DEC 19 2013
COMMUNITY DEVELOPMENT

The Honorable Cecil L. Pendergrass, Chairman
Lee County Board of County Commissioners
Post Office Box 398
Fort Myers, Florida 33902-0398

Dear Chairman Pendergrass:

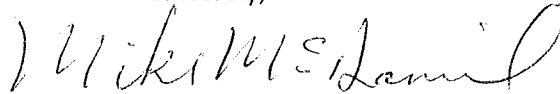
The Department of Economic Opportunity has completed its review of the proposed comprehensive plan amendment for Lee County (Amendment 14-1ESR) which was received on December 2, 2013. We have reviewed the proposed amendment pursuant to Sections 163.3184(2) and (3), Florida Statutes (F.S.), and identified no comments related to important state resources and facilities within the Department of Economic Opportunity's authorized scope of review that will be adversely impacted by the amendment if adopted.

The County is reminded that pursuant to Section 163.3184(3)(b), F.S., other reviewing agencies have the authority to provide comments directly to the County. If other reviewing agencies provide comments, we recommend the County consider appropriate changes to the amendment based on those comments. If unresolved, such comments could form the basis for a challenge to the amendment after adoption.

The County should act by choosing to adopt, adopt with changes, or not adopt the proposed amendment. Also, please note that Section 163.3184(3)(c)1, F.S., provides that if the second public hearing is not held and the amendment adopted within 180 days of your receipt of agency comments, the amendment shall be deemed withdrawn unless extended by agreement with notice to the Department of Economic Opportunity and any affected party that provided comment on the amendment. For your assistance, we have attached procedures for adoption and transmittal of the comprehensive plan amendment.

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

Sincerely,

A handwritten signature in black ink that reads "Mike McDaniel". The signature is written in a cursive style with a large initial "M".

Mike McDaniel
Comprehensive Planning Manager

MM/sr

Enclosure: Procedures for Adoption

cc: Paul O'Connor, Director, Lee County Division of Planning
Margaret Wuerstle, Executive Director, Southwest Florida Regional Planning Council

SUBMITTAL OF ADOPTED COMPREHENSIVE PLAN AMENDMENTS

FOR EXPEDITED STATE REVIEW

Section 163.3184(3), Florida Statutes

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

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

_____ Department of Economic Opportunity identification number for adopted amendment package;

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

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

_____ Ordinance number and adoption date;

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

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

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

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

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

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

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

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

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

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

The effective date of this plan amendment, if the amendment is not timely challenged, shall be 31 days after the Department of Economic Opportunity notifies the local government that the plan amendment package is complete. If timely challenged, this amendment shall become effective on the date the Department of Economic Opportunity or the Administration Commission enters a final order determining this adopted amendment to be in compliance. No development orders, development permits, or land uses dependent on this amendment may be issued or commence before it 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, a copy of which resolution shall be sent to the Department of Economic Opportunity.

_____ List of additional changes made in the adopted amendment that the Department of Economic Opportunity did not previously review;

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

_____ Statement indicating the relationship of the additional changes not previously reviewed by the Department of Economic Opportunity in response to the comment letter from the Department of Economic Opportunity.



Southwest Florida Regional Planning Council

Serving Charlotte, Collier, Glades, Hendry, Lee and Sarasota Counties

1926 Victoria Ave, Fort Myers, Florida 33901-3414 (239) 338-2550 FAX (239) 338-2560 www.swfrpc.org

January 7, 2013

Mr. D. Ray Eubanks
Administrator
Plan Review and Processing
Department of Economic Development
Caldwell Building
107 East Madison – MSC 160
Tallahassee, Florida 32399-0800

Re: Lee County / DEO 14-1ESR

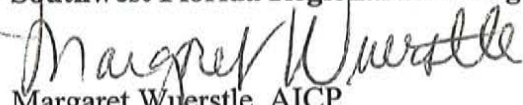
Dear Mr. Eubanks:

The staff of the Southwest Florida Regional Planning Council has reviewed the proposed amendments (DEO 14-1ESR) to the Lee Plan. The review was performed according to the requirements of the Local Government Comprehensive Planning and Land Development Regulation Act.

The Council will review the proposed amendments to the Lee Plan and the staff recommendations at its January 16, 2014 meeting. Council staff has recommended that Council find the requested changes to the Airport Layout Plan procedural, regionally significant, and consistent with the Strategic Regional Policy Plan. Also, Council staff has recommended that the changes to the DRI review process for the University Community land use designation be found to be procedural, regionally significant, and consistent with the Strategic Regional Policy Plan. Council staff is also recommending that the proposed changes be found as not producing extra-jurisdictional impacts that are inconsistent with the comprehensive plans of other local governments.

A copy of the official staff report explaining the Council staff's recommendation is attached. If Council action differs from the staff recommendation, we will notify you.

Sincerely,
Southwest Florida Regional Planning Council


Margaret Wuerstle, AICP
Executive Director

MW/DEC
Attachment

Cc: Mr. Paul O'Connor, AICP, Director, Planning Division, Lee County

RECEIVED
JAN 09 2014

COMMUNITY DEVELOPMENT

**LOCAL GOVERNMENT COMPREHENSIVE PLAN AMENDMENTS
LEE COUNTY**

The Council staff has reviewed proposed changes to the Lee County Growth Management Plan (DEO 14-1ESR). A synopsis of the requirements of the Act and Council responsibilities is provided as Attachment I. Comments are provided in Attachment II. Site location maps can be reviewed in Attachment III.

Staff review of the proposed amendments was based on whether they were likely to be of regional concern. This was determined through assessment of the following factors:

1. Location--in or near a regional resource or regional activity center, such that it impacts the regional resource or facility; on or within one mile of a county boundary; generally applied to sites of five acres or more; size alone is not necessarily a determinant of regional significance;
2. Magnitude--equal to or greater than the threshold for a Development of Regional Impact of the same type (a DRI-related amendment is considered regionally significant); and
3. Character--of a unique type or use, a use of regional significance, or a change in the local comprehensive plan that could be applied throughout the local jurisdiction; updates, editorial revisions, etc. are not regionally significant.

A summary of the results of the review follows:

<u>Proposed Amendment</u>	<u>Location</u>	<u>Factors of Regional Significance</u>		
		<u>Magnitude</u>	<u>Character</u>	<u>Consistent</u>
SW Florida International Airport Layout Plan (CPA 2013-03)	no	no	yes	(1) procedural (2) regionally significant; and (3) consistent with SRPP
Lee Plan Consistency for DRI Review Thresholds (CPA 2013-05)	no	no	yes	(1) procedural (2) regionally significant; and (3) consistent with SRPP

RECOMMENDED ACTION: Approve staff comments. Authorize staff to forward comments to the Department of Economic Opportunity and Lee County.

01/14

COMMUNITY PLANNING ACT

Local Government Comprehensive Plans

The Act requires each municipal and county government to prepare a comprehensive plan that must include at least the following nine elements:

1. Future Land Use Element;
2. Traffic Circulation Element;
A local government with all or part of its jurisdiction within the urbanized area of a Metropolitan Planning Organization shall prepare and adopt a transportation element to replace the traffic circulation; mass transit; and ports, aviation, and related facilities elements. [9J-5.019(1), FAC]
3. General Sanitary Sewer, Solid Waste, Drainage, and Potable Water and Natural Groundwater Aquifer Recharge Element;
4. Conservation Element;
5. Recreation and Open Space Element;
6. Housing Element;
7. Coastal Management Element for coastal jurisdictions;
8. Intergovernmental Coordination Element; and
9. Capital Improvements Element.

The local government may add optional elements (e. g., community design, redevelopment, safety, historical and scenic preservation, and economic).

All local governments in Southwest Florida have adopted revised plans:

Charlotte County, Punta Gorda
Collier County, Everglades City, Marco Island, Naples
Glades County, Moore Haven
Hendry County, Clewiston, LaBelle
Lee County, Bonita Springs, Cape Coral, Fort Myers, Fort Myers Beach, Sanibel
Sarasota County, Longboat Key, North Port, Sarasota, Venice

Comprehensive Plan Amendments

A local government may amend its plan at any time during the calendar year. Six copies of the amendment are sent to the Department of Economic Opportunity (DEO) for review. A copy is also sent to the Regional Planning Council, the Water Management District, the Florida Department of Transportation, and the Florida Department of Environmental Protection.

The proposed amendments will be reviewed by DEO in two situations. In the first, there must be a written request to DEO. The request for review must be received within forty-five days after transmittal of the proposed amendment. Reviews can be requested by one of the following:

- the local government that transmits the amendment,
- the regional planning council, or
- an affected person.

In the second situation, DEO can decide to review the proposed amendment without a request. In that case, DEO must give notice within thirty days of transmittal.

Within five working days after deciding to conduct a review, DEO may forward copies to various reviewing agencies, including the Regional Planning Council.

Regional Planning Council Review

The Regional Planning Council must submit its comments in writing within thirty days of receipt of the proposed amendment from DEO. It must specify any objections and may make recommendations for changes. The review of the proposed amendment by the Regional Planning Council must be limited to "effects on regional resources or facilities identified in the Strategic Regional Policy plan and extra-jurisdictional impacts which would be inconsistent with the comprehensive plan of the affected local government.

After receipt of comments from the Regional Planning Council and other reviewing agencies, DEO has thirty days to conduct its own review and determine compliance with state law. Within that thirty-day period, DEO transmits its written comments to the local government.

NOTE: THE ABOVE IS A SIMPLIFIED VERSION OF THE LAW. REFER TO THE STATUTE (CH. 163, FS) FOR DETAILS.

SOUTHWEST FLORIDA REGIONAL PLANNING COUNCIL
LOCAL GOVERNMENT COMPREHENSIVE PLAN REVIEW
FORM 01

Pursuant to Section 163.3184, Florida Statutes, Council review of proposed amendments to local government Comprehensive Plans is limited to adverse effects on regional resources and facilities identified in the Strategic Regional Policy Plan and extra-jurisdictional impacts that would be inconsistent with the Comprehensive Plan of any affected local government within the region. A written report containing the evaluation of these impacts, pursuant to Section 163.3184, Florida Statutes, is to be provided to the local government and the State land planning agency within 30 calendar days of receipt of the amendment.

LOCAL GOVERNMENT:

Lee County

DATE AMENDMENT RECEIVED:

December 2, 2013

DATE AMENDMENT MAILED TO LOCAL GOVERNMENT AND STATE:

January 6, 2014

1. AMENDMENT NAME

Southwest Florida International Airport – Airport Layout Plan
Lee Plan Consistency for DRI Review Thresholds

2. DESCRIPTION OF AMENDMENT(S):

Southwest Florida International Airport – Airport Layout Plan (CPA 2013-03)

The Lee County Port Authority staff, on May 7, 2013, submitted to the Lee County Division of Planning a request to change the Lee Plan to reflect changes that the Airport Authority desired to make to the Airport Layout Plan (ALP), Map 3F. The request stated that the Lee County Port Authority had recently completed a multi-year planning and design analysis and that during that analysis a modification to the proposed runway layout and associated facilities as depicted on the 2004 ALP had changed. The changes were determined by the analysis to provide the most flexibility for the future and the ultimate development of the airport. The changes were submitted to the FAA and approved by the FAA on August 27, 2013.

The airport's land use designations have changed over time as the airport has been expanded. The current land use designations for the airport property are Airport and Wetlands.

Recent changes to the ALP, which was adopted into the Lee Plan as Map 3F by Comprehensive Plan amendment CPA2003-02. It incorporated the results of the Airport Master Plan process that was ongoing at the time. Lee Plan amendments CPA2005-10 amended the Airport Noise Zones. CPA2007-57 and CPA2010-08 amended policies relating to future development within the airport boundaries. The Regional Planning Council has reviewed and approved these past amendments.

The revised ALP contains five changes from what is currently depicted on Map 3F of the Lee Plan. The first change is the shift of the new parallel runway (6R/24L) eighty feet to the south from its proposed location on the existing ALP. The second change is the addition of a third crossfield taxiway for commercial aircraft. This additional taxiway will allow the airport to maintain unrestricted commercial operations. The third and fourth changes include shifting the location of the fire department and control tower facilities as currently depicted on Map 3F. The changes will accommodate the additional crossfield taxiway. The proposed new location of the control tower is intended to provide proper visibility of the airport after completion of the second runway. The proposed new location of the fire department will allow for rapid access to both the existing and future parallel runway. The fifth change to the ALP now depicts existing facilities that have been constructed on site since the adoption of the 2004 ALP. This includes the midfield terminal and its apron and taxiway, long term and employee parking, stormwater detention areas and other airport related facilities.

Lee Plan Consistency for DRI Review Thresholds (CPA2013-05)

These text amendments will change Policy 18.1.5, Policy 18.1.16, Policy 18.1.16.6, and Policy 18.2.2 in order to make the Lee Plan consistent with the State requirements that prohibit local governments from requiring Development of Regional Impact (DRI) review of projects that do not meet or exceed the established State thresholds for large scale developments.

The proposed text changes are as follows:

- **Policy 18.1.5**

In order to create a cohesive community, site design within the University Community must utilize alternative modes of transportation such as pedestrian networks, mass transit opportunities, sidewalks, bike paths and similar facilities. Site design must link related land uses through the use of alternative modes of transportation thus reducing automobile traffic within the University Community. The county will work cooperatively with the University on these matters as the University proceeds through the Campus Master Plan process.

Prior to local Development Order approval on property within Area 9, the University Community, the developer must demonstrate that the proposed plan of development supports pedestrian, bicycle and transit opportunities. A multi-modal interconnection between the property and the FGCU campus must be provided at no cost to Lee

County. The owner/developer must dedicate the right-of-way for the 951 extension between Alico road and Corkscrew Road to Lee County prior to ~~Development of Regional Impact Development Order~~ rezoning approval. The value of the right-of-way on the date of dedication must not reflect the added value of the lands changed from DR/GR to University Community by virtue of CPA 2009-01. The county will issue road impact fee credits for the dedication. (Amended by Ordinance No. 94-30, 00-22, 10-40)

- **Policy 18.1.16**

For those lands in Area 9, all development must be designed to enhance and support the University. All rezoning in this area must include a specific finding that the proposed uses qualify as Associated Support Development, as that term is defined in the glossary. The final design and components will be determined as part of the ~~DRI~~ rezoning process and must be consistent with the following development standards: [No changes proposed to Policy 18.1.16 number paragraphs 1 through 5.]

- **Policy 18.1.16.6**

6. Development Acreage: The previous mining and crushing operations in Area 9 have rendered a large portion of the property unsuitable for development. Some areas that were previously mined have been filled with materials left over from the crushing operations know as fines. These and other activities have left an area of approx 350 acres that has never been mined that remains suitable for development of structures and other site improvements. Development is therefore limited to this area. The previously impacted areas may only be used for reclamations and development as unoccupied open space. Property may be designated for residential use, non-residential use, or a combination of uses classified as mixed use. Out of the 350 acres available for development, 40 acres of developable land, not including right-of-way which is intended to serve as the connection between Area 9 and FGCU, will be dedicated to FGCU concurrent with ~~DRI~~ rezoning approval. The 40 acres dedicated to FGCU will become part of the FGCU campus and development there will be calculated against the maximum residential unit count, nor maximum commercial square footage otherwise allowed. [No changes proposed to Policy 18.1.16 number paragraph 7 to Policy 18.2.1.]

- **Policy 18.2.2**

The University Village is an area which provides the associated support development and synergism to create a viable University Community. This sub-category allows a mix of land uses related to and justified by the University and its development. Predominant land uses within this area are expected to be residential, commercial, office, public and quasi-public, recreation, and research and development parks. ~~In addition to complying with the Conceptual Master Plan required by Policy 18.1.10, all property within the University Village must undergo a Development of Regional Impact review.~~

3. ADVERSE EFFECTS TO SIGNIFICANT REGIONAL RESOURCES AND FACILITIES IDENTIFIED IN THE STRATEGIC REGIONAL POLICY PLAN:

Southwest Florida International Airport – Airport Layout Plan (CPA 2013-03)

The proposed changes to the ALP will bring the airport plan up to date and provide for the future changes proposed for the continued development of this major regional facility. The proposed shift in the location of the new runway will provide the airport with an unconstrained commercial aircraft runway and parallel taxiway. The eighty foot shift also creates more area for the future Concourse A terminal at the airport. Although the new runway location moves it closer to the FPL power lines, an analysis performed during the design process showed no conflict was produced by making this change. The relocation of the control tower and fire department facilities will allow them to operate more effectively within the airport. None of the changes will increase any off site impacts.

Council staff has reviewed the proposed ALP amendments to the Lee County Comprehensive Plan and finds that the proposed changes are provided for an updated ALP in order to properly manage the airport. The proposed changes are important for the health, safety and welfare of population of the region. Based on the fact that the requested policy changes to the Lee Plan have been approved by the FAA and in order to bring the airport plan into consistency with the Lee Plan, Council staff finds the proposed amendments are procedural in nature, are regionally important, but do not adversely affect any significant regional resources or facilities that are identified in the Strategic Regional Policy Plan.

Lee Plan Consistency for DRI Review Thresholds (CPA2013-05)

The University Community future land use designation was initially adopted into the Lee Plan and Future Land Use Map (FLUM) on October 27, 1992 by Ordinance 92-47, which adopted PAM/T92-02, Florida's Tenth University. This plan amendment adopted the University Community land use category descriptor policy, Policy 1.1.9, and Goal 20 (later renumbered to Goal 18): University Community, which provided detailed descriptions of the development that was anticipated to surround what is not FGCU.

Since its initial adoption in 1992, all privately owned property with the University Community designation, have been required to undergo a DRI review. This requirement was put in place to help ensure that the University Community area developed as a cohesive community. The specific requirement for the DRI review was contained in Policy 20.2.4. (Later renumbered to Policy 18.2.2.)

The University Community area was expanded in 2010 to include a 9th area. This was accomplished through an amendment to the Lee Plan adopted on October 20, 2010 by Ordinance 10-40, which adopted CPA2009-00001, Alico West. The Alico West Lee Plan amendment included details about the development of Area 9 of the University Community. The property that was the subject of Area 9 was previously an aggregate mine and was not originally included in the University Community area because it was not consistent with the desired uses. Consistent with development requirements with the University Community

area as originally adopted, development within Area 9 would be required to undergo DRI review.

The 2011 legislative amendments adopted by HB7207 changed the DRI statute to prohibit local governments from imposing DRI review on developments that do not exceed the State thresholds for DRIs. The pertinent part of the DRI Statute, F.S. 380.06(24)(u), is as follows:

(u) Notwithstanding any provisions in an agreement with or among a local government, regional agency, or the state land planning agency or in a local government's comprehensive plan to the contrary, a project no longer subject to development-of-regional-impact review under revised thresholds is not required to undergo review.

In response to this change in the Florida Statutes, the Lee County Attorney's Office has advised the County planning staff that the requirement that all development within the University Community area undergo DRI review is no longer consistent with the Florida Statutes and that the requirement may not be enforced and should be removed from the Lee Plan.

Council staff has reviewed the proposed amendments to the Lee County Comprehensive Plan and finds that the proposed changes are provided for an updated DRI review requirements of the lands located in the University Community land use designation. The proposed changes are important in order to provide consistency between State law and the Lee Plan. Based on the fact that the requested policy changes to the Lee Plan provides consistency with the Lee Plan, Council staff finds the proposed amendments are procedural in nature, are regionally important because it addresses the region reviews of project, but does not adversely affect any significant regional resources or facilities that are identified in the Strategic Regional Policy Plan.

4. EXTRA-JURISDICTIONAL IMPACTS INCONSISTENT WITH THE COMPREHENSIVE PLANS OF LOCAL GOVERNMENTS WITHIN THE REGION

Council staff has reviewed the proposed amendments with respect to extra-jurisdictional impacts on surrounding local government Comprehensive Plans and finds that the proposed amendments do not negatively impact and are not inconsistent with adjacent local governmental Comprehensive Plans.

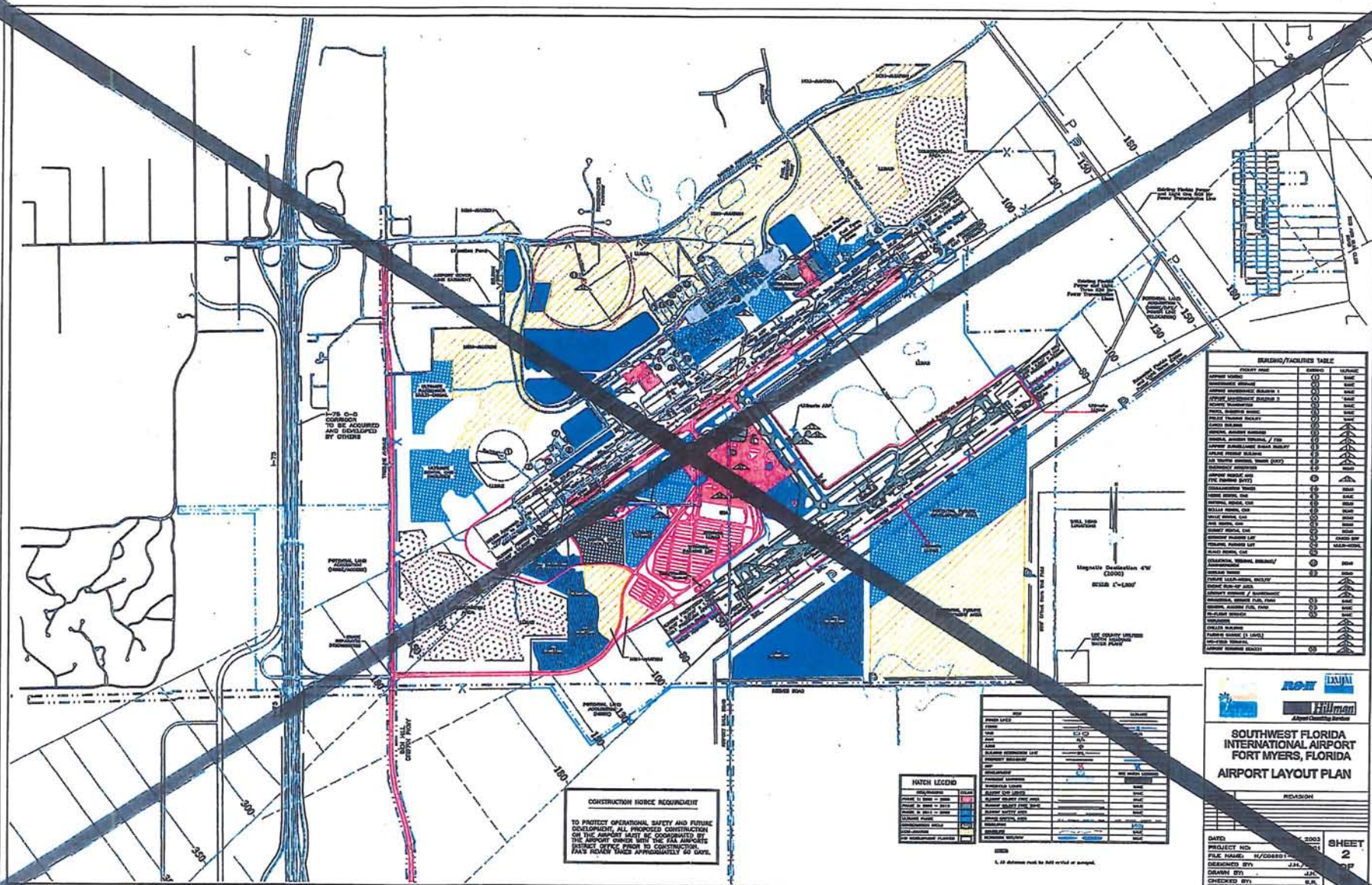
Request a copy of the adopted version of the amendment? Yes No

Attachment III

Maps

**Lee County
DEO 14-1ESR**

**Growth Management Plan
Comprehensive Plan Amendments**



FOR C-2 CONSTRUCTION TO BE ACCOMMODATED AND DEVELOPED BY OTHERS

PHASE 1 CONSTRUCTION

CONSTRUCTION FORCE REQUIREMENT

TO PROTECT OPERATIONAL SAFETY AND FUTURE DEVELOPMENT, ALL PROPOSED CONSTRUCTION ON THE AIRPORT SITE IS COORDINATED BY THE AIRPORT AUTHORITY AND THE AIRPORT DISTRICT OFFICE PRIOR TO CONSTRUCTION. THIS PLAN SHOWS THE APPROXIMATE CONSTRUCTION FORCE REQUIREMENT.

HATCH LEGEND

Hatch Pattern	Description
[Diagonal lines /]	Phase 1 Construction
[Diagonal lines \]	Phase 2 Construction
[Stippled]	Phase 3 Construction
[Cross-hatched]	Phase 4 Construction
[Horizontal lines]	Phase 5 Construction
[Vertical lines]	Phase 6 Construction
[Wavy lines]	Phase 7 Construction
[Dotted]	Phase 8 Construction
[Solid black]	Phase 9 Construction
[White]	Phase 10 Construction

BUILDING/FACILITY TABLE

Building/Facility	Phase	Area (Ac)	Notes
Airport Administration	1	100	
Control Tower	1	50	
Terminal Building	1	200	
Passenger Screening	1	100	
Baggage Claim	1	50	
Customs and Border Protection	1	100	
Post Office	1	20	
Airline Office	1	50	
Flight Operations	1	50	
General Aviation Terminal / FBO	1	50	
Airport Operations Support Building	1	50	
Airport Security Office	1	20	
Airport Police Station	1	20	
Airport Fire Station	1	20	
Airport Maintenance Hangar	1	100	
Airport Fuel Storage	1	50	
Airport Water Treatment Plant	1	50	
Airport Sewer Treatment Plant	1	50	
Airport Solid Waste Transfer Station	1	50	
Airport Stormwater Management	1	50	
Airport Landscaping	1	50	
Airport Parking	1	50	
Airport Road	1	50	
Airport Utility	1	50	
Airport Security	1	50	
Airport Safety	1	50	
Airport Health	1	50	
Airport Education	1	50	
Airport Recreation	1	50	
Airport Cultural	1	50	
Airport Historical	1	50	
Airport Religious	1	50	
Airport Artistic	1	50	
Airport Scientific	1	50	
Airport Technological	1	50	
Airport Medical	1	50	
Airport Veterinary	1	50	
Airport Agricultural	1	50	
Airport Industrial	1	50	
Airport Commercial	1	50	
Airport Residential	1	50	
Airport Institutional	1	50	
Airport Government	1	50	
Airport Non-Profit	1	50	
Airport Religious	1	50	
Airport Educational	1	50	
Airport Cultural	1	50	
Airport Historical	1	50	
Airport Religious	1	50	
Airport Artistic	1	50	
Airport Scientific	1	50	
Airport Technological	1	50	
Airport Medical	1	50	
Airport Veterinary	1	50	
Airport Agricultural	1	50	
Airport Industrial	1	50	
Airport Commercial	1	50	
Airport Residential	1	50	
Airport Institutional	1	50	
Airport Government	1	50	
Airport Non-Profit	1	50	
Airport Religious	1	50	
Airport Educational	1	50	
Airport Cultural	1	50	
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Airport Religious	1	50	
Airport Artistic	1	50	
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Airport Industrial	1	50	
Airport Commercial	1	50	
Airport Residential	1	50	
Airport Institutional	1	50	
Airport Government	1	50	
Airport Non-Profit	1	50	
Airport Religious	1	50	
Airport Educational	1	50	
Airport Cultural	1	50	
Airport Historical	1	50	
Airport Religious	1	50	
Airport Artistic	1	50	
Airport Scientific	1	50	
Airport Technological	1	50	
Airport Medical	1	50	
Airport Veterinary	1	50	
Airport Agricultural	1	50	
Airport Industrial	1	50	
Airport Commercial	1	50	
Airport Residential	1	50	
Airport Institutional	1	50	
Airport Government	1	50	
Airport Non-Profit	1	50	
Airport Religious	1	50	
Airport Educational	1	50	
Airport Cultural	1	50	
Airport Historical	1	50	
Airport Religious	1	50	
Airport Artistic	1	50	
Airport Scientific	1	50	
Airport Technological	1	50	
Airport Medical	1	50	
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Airport Residential	1	50	
Airport Institutional	1	50	
Airport Government	1	50	
Airport Non-Profit	1	50	
Airport Religious	1	50	
Airport Educational	1	50	
Airport Cultural	1	50	
Airport Historical	1	50	
Airport Religious	1	50	
Airport Artistic	1	50	
Airport Scientific	1	50	
Airport Technological	1	50	
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Airport Industrial	1	50	
Airport Commercial	1	50	
Airport Residential	1	50	
Airport Institutional	1	50	
Airport Government	1	50	
Airport Non-Profit	1	50	
Airport Religious	1	50	
Airport Educational	1	50	
Airport Cultural	1	50	
Airport Historical	1	50	



**SOUTHWEST FLORIDA INTERNATIONAL AIRPORT
FORT MYERS, FLORIDA
AIRPORT LAYOUT PLAN**

REVISION

DATE	PROJECT NO.	SHEET
05/03/2003	0303	2
05/03/2003	0303	2
05/03/2003	0303	2
05/03/2003	0303	2
05/03/2003	0303	2
05/03/2003	0303	2
05/03/2003	0303	2
05/03/2003	0303	2
05/03/2003	0303	2
05/03/2003	0303	2

OFFICE OF THE COMMISSIONER
(850) 617-7700



THE CAPITOL
400 SOUTH MONROE STREET
TALLAHASSEE, FLORIDA 32399-0800

FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
COMMISSIONER ADAM H. PUTNAM

December 17, 2013

VIA EMAIL (oconnops@leegov.com)

Lee County Planning Division
Attn: Paul O'Connor
P.O. Box 398
Fort Myers, Florida 33902-0398

Re: DACS Docket # -- 20131202-313
Lee County CPA 2013-03 & CPA 2013-05
Submission dated November 25, 2013

Dear Mr. O'Connor:

The Florida Department of Agriculture and Consumer Services (the "Department") received the above-referenced proposed comprehensive plan amendment on December 2, 2013 and has reviewed it pursuant to the provisions of Chapter 163, Florida Statutes to address any potential adverse impacts to important state resources or facilities related to agricultural, aquacultural, or forestry resources in Florida if the proposed amendment(s) are adopted. Based on our review of your county's submission, the Department has no comment on the proposal.

If we may be of further assistance, please do not hesitate to contact me at 850-410-2289.

Sincerely,

A handwritten signature in black ink that reads "Stormie Knight".

Stormie Knight
Sr. Management Analyst I
Office of Policy and Budget

cc: Florida Department of Economic Opportunity
(SLPA #: Lee County 14-1ESR)



SOUTH FLORIDA WATER MANAGEMENT DISTRICT

December 30, 2013

Mr. Paul O'Connor, AICP
Lee County Planning Division Director
P.O. Box 398
Fort Myers, FL 33902-0398

**Subject: Lee County, DEO #14-1ESR
Comments on Proposed Comprehensive Plan Amendment Package**

Dear Mr. O'Connor:

The South Florida Water Management District (District) has completed its review of the proposed amendment package submitted by Lee County (County). The package amends the Lee Plan Map 3F, Airport Layout Plan for Southwest Florida International Airport, and amends Future Land Use Element Policies by removing requirements for Development of Regional Impact review for projects not meeting state established thresholds. There appear to be no regionally significant water resource issues; therefore, the District forwards no comments on the proposed amendment package.

The District offers its technical assistance to the County and the Department of Economic Opportunity in developing sound, sustainable solutions to meet the County's future water supply needs and to protect the region's water resources. Please forward a copy of adopted amendments to the District. For assistance or additional information, please contact Deborah Oblaczynski, Policy and Planning Analyst, at (561) 682-2544 or doblaczy@sfwmd.gov.

Sincerely,

A handwritten signature in blue ink that reads "Dean Powell for".

Dean Powell
Water Supply Bureau Chief

DP/do

c: Ray Eubanks, DEO
Deborah Oblaczynski, SFWMD
Brenda Winningham, DEO
Margaret Wuerstle, SWFRPC

FLORIDA DEPARTMENT OF EDUCATION



STATE BOARD OF EDUCATION

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REBECCA FISHMAN LIPSEY

Pam Stewart
Commissioner of Education

January 6, 2014

Mr. Paul O'Connor, AICP
Lee County Planning Division Director
P.O. Box 398
Fort Myers, Florida 33902-0398
Via E-mail: oconnops@leegov.com

Dear Mr. O'Connor:

Re: Lee County 14-1 ESR

Thank you for the opportunity to review the Lee County 14-1 ESR amendment package, which the Florida Department of Education received on December 2, 2013. According to the department's responsibilities under section 163.3184(3), Florida Statutes, I reviewed the amendment considering provisions of chapter 163, part II, F.S., and to determine whether the proposal, if adopted, would have potential to create significant adverse effects on public school facilities.

The proposal would amend Lee Plan Map 3F to reflect a revised airport layout plan and policies 18.1.5, 18.1.6 and 18.2.2 (related to the University Village) to make the Lee Plan consistent with State requirements that prohibit local governments from requiring development of regional impact review for projects that don't meet or exceed state established thresholds. Because the amendments do not appear to create adverse effects on educational facilities or sites, I offer no comment.

Again, thank you for the opportunity to review the amendment package. If I may be of assistance, please contact me at (850) 245-9312 or Tracy.Suber@fldoe.org.

Sincerely,

Tracy D. Suber
Growth Management and Facilities Policy Liaison

TDS/

cc: Ms. Dawn Huff, Lee County School District
Mr. Scott Rogers and Ms. Brenda Winningham, DEO/State Land Planning Agency

THOMAS H. INSERRA
DIRECTOR, OFFICE OF EDUCATIONAL FACILITIES

325 W. GAINES STREET • SUITE 1014 • TALLAHASSEE, FLORIDA 32399-0400 • 850-245-0494 • FAX 850-245-9304

www.fldoe.org

CPA2013-05
UNIVERSITY
COMMUNITY DRI
REQUIREMENT

LEE COUNTY ORDINANCE NO. _____
UNIVERSITY COMMUNITY DRI REQUIREMENT
(CPA2013-00005)

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 AMENDMENTS PERTAINING TO THE UNIVERSITY COMMUNITY DRI REQUIREMENT (CPA2013-00005) APPROVED DURING A PUBLIC HEARING; PROVIDING FOR PURPOSE, INTENT, AND SHORT TITLE; AMENDMENTS TO ADOPTED TEXT; LEGAL EFFECT OF “THE LEE PLAN”; 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 amendments in accordance with Florida Statutes and the Lee County Administrative Code on October 28, 2013; and,

WHEREAS, the Board held a public hearing for the transmittal of the proposed amendments on November 18, 2013. At that hearing, the Board approved a motion to send, and did later send, proposed amendments pertaining to Policies 18.1.5, 18.1.16, 18.1.16.6, and 18.2.2 (CPA2013-00005) to the reviewing agencies set forth in Section 163.3184(1)(c), F.S. for review and comment; and,

WHEREAS, at the November 18, 2013 meeting, the Board announced its intention to hold a public hearing after the receipt of the reviewing agencies’ written comments; and,

WHEREAS, on January 22, 2014, the Board held a public hearing and adopted the proposed amendments to the Lee Plan set forth herein.

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

SECTION ONE: PURPOSE, INTENT AND SHORT TITLE

The Board of County Commissioners of Lee County, Florida, in compliance with Chapter 163, Part II, Florida Statutes, and with Lee County Administrative Code AC-13-6, conducted public hearings to review proposed amendments to the Lee Plan. The purpose of this ordinance is to adopt text 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 "University Community DRI Requirement Ordinance (CPA2013-00005)."**

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 Policies 18.1.5, 18.1.16, 18.1.16.6, and 18.2.2 to Goal 18: University Community known as University Community DRI Requirement (CPA2013-00005).

The corresponding Staff Reports and Analysis, along with all attachments 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: 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 FIVE: 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 SIX: 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 or her designee, without need of public hearing, by filing a corrected or recodified copy with the Clerk of the Circuit Court.

SECTION SEVEN: 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 January 2014.

ATTEST:
LINDA DOGGETT, CLERK

LEE COUNTY
BOARD OF COUNTY
COMMISSIONERS

BY: _____
Deputy Clerk

BY: _____
Larry Kiker, Chair

DATE: _____

Approved as to form by:

Michael D. Jacob
County Attorney's Office

Exhibit A: Adopted revisions to Policies 18.1.5, 18.1.16, 18.1.16.6, and 18.2.2
(Adopted by BOCC January 22, 2014)

EXHIBIT A

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

POLICY 18.1.5: In order to create a cohesive community, site design within the University Community must utilize alternative modes of transportation such as pedestrian networks, mass transit opportunities, sidewalks, bike paths and similar facilities. Site design must link related land uses through the use of alternative modes of transportation thus reducing automobile traffic within the University Community. The county will work cooperatively with the University on these matters as the University proceeds through the Campus Master Plan Process.

Prior to local Development Order approval on property within Area 9, the University Community, the developer must demonstrate that the proposed plan of development supports pedestrian, bicycle and transit opportunities. A multi-modal interconnection between the property and the FGCU campus must be provided at no cost to Lee County. The owner/developers must dedicate the right of way for the 951 extension between Alico Road and Corkscrew Road to Lee County prior to ~~Development of Regional Impact Development Order~~ rezoning approval. The value of the right of way on the date of dedication must not reflect the added value of the lands changed from DR/GR to University Community by virtue of CPA 2009-01. The county will issue road impact fee credits for the dedication.

No changes proposed to Policy 18.1.6 through 18.1.15

POLICY 18.1.16: For those lands in Area 9, all development must be designed to enhance and support the University. All rezonings in this area must include a specific finding that the proposed uses qualify as Associated Support Development, as that term is defined in the glossary. The final design and components will be determined as part of the ~~DR~~/rezoning process and must be consistent with the following development standards:

No changes proposed to Policy 18.1.16 numbered paragraphs 1 through 5.

6. Development Acreage: The previous mining and crushing operations in Area 9 have rendered a large portion of the property unsuitable for development. Some areas that were previously mined have been filled with materials left over from the crushing operations known as fines. These and other activities have left an area of approximately 350 acres that has never been mined that remains suitable for development of structures and other site improvements. Development is therefore limited to this area. The previously impacted areas may only be used for reclamations and development as unoccupied open space. Property may be designated for residential use,

non-residential use, or a combination of uses classified as mixed use. Out of the 350 acres available for development, 40 acres of developable land, not including right-of-way which is intended to serve as the connection between Area 9 and FGCU, will be dedicated to FGCU concurrent with ~~DRI~~rezoning approval. The 40 acres dedicated to FGCU will become part of the FGCU campus and development there will not be calculated against the maximum residential unit count, nor maximum commercial square footage otherwise allowed.

No changes proposed to Policy 18.1.16 numbered paragraph 7 to Policy 18.2.1

POLICY 18.2.2: The University Village is an area which provides the associated support development and synergism to create a viable University Community. This sub-category allows a mix of land uses related to and justified by the University and its development. Predominant land uses within this area are expected to be residential, commercial, office, public and quasi-public, recreation, and research and development parks. ~~In addition to complying with the Conceptual Master Plan required by Policy 18.1.10, all property within the University Village must undergo a Development of Regional Impact review.~~

**CPA2013-05
UNIVERSITY COMMUNITY
DRI REQUIREMENT
AMENDMENT
TO THE**

LEE COUNTY COMPREHENSIVE PLAN

THE LEE PLAN

Lee County Board of County Commissioners
Sponsored Amendment and Staff Analysis

**BoCC Public Hearing Document
For the
January 22nd, 2014 Adoption Hearing**

*Lee County Planning Division
1500 Monroe Street
P.O. Box 398
Fort Myers, FL 33902-0398
(239) 533-8585*

January 15, 2014

**LEE COUNTY
DIVISION OF PLANNING
STAFF REPORT FOR
COMPREHENSIVE PLAN AMENDMENT
CPA2013-05**

Text Amendment

Map Amendment

This Document Contains the Following Reviews	
<input checked="" type="checkbox"/>	Staff Review
<input checked="" type="checkbox"/>	Local Planning Agency Review and Recommendation
<input checked="" type="checkbox"/>	Board of County Commissioners Hearing for Transmittal
<input checked="" type="checkbox"/>	Staff Response to the Review Agencies' Comments
	Board of County Commissioners Hearing for Adoption

STAFF REPORT PREPARATION DATE: October 18, 2013

PART I - BACKGROUND AND STAFF RECOMMENDATION

A. SUMMARY OF APPLICATION

1. APPLICANT/REPRESENTATIVES:

LEE COUNTY BOARD OF COUNTY COMMISSIONERS / LEE COUNTY DIVISION OF PLANNING

2. REQUEST:

Amend Policy 18.1.5, Policy 18.1.16, and Policy 18.2.2 to make the Lee Plan consistent with State requirements that prohibit local governments from requiring Development of Regional Impact (DRI) review for projects that don't meet or exceed state established thresholds.

B. STAFF RECOMMENDATION AND FINDINGS OF FACT SUMMARY

1. RECOMMENDATION:

Staff recommends that the Board of County Commissioners *adopt* the proposed amendment to the Future Land Use Element of the Lee Plan as shown below. Proposed text has been depicted in strikethrough and underline format as it relates to the existing provisions of the Lee Plan.

TEXT AMENDMENTS:

POLICY 18.1.5: In order to create a cohesive community, site design within the University Community must utilize alternative modes of transportation such as pedestrian networks, mass transit opportunities, sidewalks, bike paths and similar facilities. Site design must link related land uses through the use of alternative modes of transportation thus reducing automobile traffic within the University Community. The county will work cooperatively with the University on these matters as the University proceeds through the Campus Master Plan Process.

Prior to local Development Order approval on property within Area 9, the University Community, the developer must demonstrate that the proposed plan of development supports pedestrian, bicycle and transit opportunities. A multi-modal interconnection between the property and the FGCU campus must be provided at no cost to Lee County. The owner/developers must dedicate the right of way for the 951 extension between Alico Road and Corkscrew Road to Lee County prior to ~~Development of Regional Impact Development Order~~ rezoning approval. The value of the right of way on the date of dedication must not reflect the added value of the lands changed from DR/GR to University Community by virtue of CPA 2009-01. The county will issue road impact fee credits for the dedication. (Amended by Ordinance No. 94-30, 00-22, 10-40)

No changes proposed to Policy 18.1.6 to Policy 18.1.15

POLICY 18.1.16: For those lands in Area 9, all development must be designed to enhance and support the University. All rezonings in this area must include a specific finding that the proposed uses qualify as Associated Support Development, as that term is defined in the glossary. The final design and components will be determined as part of the ~~DRI~~ rezoning process and must be consistent with the following development standards:

No changes proposed to Policy 18.1.16 numbered paragraph 1 through 5

6. Development Acreage: The previous mining and crushing operations in Area 9 have rendered a large portion of the property unsuitable for development. Some areas that were previously mined have been filled with materials left over from the crushing operations known as fines. These and other activities have left an area of approximately 350 acres that has never been mined that remains suitable for development of structures and other site improvements. Development is therefore limited to this area. The previously impacted areas may only be used for reclamations and development as unoccupied open space. Property may be designated for residential use, non-residential use, or a combination of uses classified as mixed use. Out of the 350 acres available for development, 40 acres of developable land, not including right-of-way which is intended to serve as the connection between Area 9 and FGCU, will be dedicated to FGCU concurrent with ~~DRI~~ rezoning approval. The

40 acres dedicated to FGCU will become part of the FGCU campus and development there will not be calculated against the maximum residential unit count, nor maximum commercial square footage otherwise allowed.

No changes proposed to Policy 18.1.16 numbered paragraph 7 to Policy 18.2.1

POLICY 18.2.2: The University Village is an area which provides the associated support development and synergism to create a viable University Community. This sub-category allows a mix of land uses related to and justified by the University and its development. Predominant land uses within this area are expected to be residential, commercial, office, public and quasi-public, recreation, and research and development parks. ~~In addition to complying with the Conceptual Master Plan required by Policy 18.1.10, all property within the University Village must undergo a Development of Regional Impact review.~~

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

- The Board of County Commissioners initiated this plan amendment on August 27, 2013.
- Changes to the Florida Statutes in 2011, HB7207, prohibit local governments from requiring projects to undergo Development of Regional Impact (DRI) review if they did not meet the established DRI thresholds.
- Lee Plan Policy 18.1.5, Policy18.1.16, and Policy 18.2.2 are inconsistent with Florida Statutes as amended. These policies are all specific to the University Community future land use category.
- Requiring DRI review for projects that are below the DRI threshold has proved to be problematic.
- Deleting a mandatory DRI review requirement will not negatively impact the original vision for the University Community area.

C. BACKGROUND INFORMATION

The University Community future land use category was initially adopted into the Lee Plan and Future Land Use Map on October 27, 1992 by Ordinance 92-47, which adopted PAM/T 92-02, Florida's Tenth University. This Plan amendment adopted the University Community future land use category descriptor policy, Policy 1.1.9, and Goal 20 (later renumbered to Goal 18): University Community, which provided detailed descriptions of the development that was anticipated to surround what is now Florida Gulf Coast.

Since its initial adoption in 1992, all privately owned property within the University Community designation, have been required to undergo a DRI review. This requirement was put in place to help ensure that the University Community area developed as a cohesive

community. The specific requirement for the DRI review was contained in Policy 20.2.4, which described the “University Village.”

POLICY 20.2.4: *The University Village is an area which provides the associated support development and synergism to create a viable University Community. This sub-category allows a-mix-of land uses related to and justified by the University and its development. Predominant land uses within this area are expected to be residential, commercial, office, public and quasi-public, recreation, and research and development parks. In addition to complying with the Conceptual Master Plan required by Policy 20.1.10, all property within the University Village shall undergo a Development of Regional Impact review. [As it was adopted by Ordinance 92-47]*

This policy has since been renumbered to Policy 18.2.2.

The University Community area was expanded in 2010 to include a 9th area. This was accomplished through an amendment to the Lee Plan adopted on October 20, 2010 by Ordinance 10-40, which adopted CPA2009-00001, Alico West. The Alico West Lee Plan amendment included details about the development of Area 9 of the University Community. The property that was the subject of Area 9 was previously an aggregate mine and was not originally included in the University Community area because it was not consistent with the desired uses. Consistent with development requirements within the University Community area as originally adopted, development within Area 9 would be required to undergo DRI review.

PART II - STAFF ANALYSIS

A. STAFF DISCUSSION

The 2011 legislative amendments adopted by HB7207 changed the Development of Regional Impacts Statute to prohibit local governments from imposing DRI review on developments that do not exceed the state thresholds for DRIs. The pertinent part of the DRI Statute, F.S. 380.06(24)(u), is reproduced below:

(u) Notwithstanding any provisions in an agreement with or among a local government, regional agency, or the state land planning agency or in a local government's comprehensive plan to the contrary, a project no longer subject to development-of-regional-impact review under revised thresholds is not required to undergo such review.

In response to these amendments to the Florida Statutes, the County Attorney's Office has advised staff that the requirement that all development within the University Community area undergo a DRI review is no longer consistent with Florida Statutes. Staff was also advised that this requirement may not be enforced and should be removed from the Lee Plan.

Lee County Planning staff has reviewed the Goals, Objectives and Policies of the Lee Plan and has identified two policies that either directly require development to undergo a DRI review or identify the DRI as a tool that can be used to implement additional requirements. These policies are Policy 18.1.16, Policy 18.1.16 numbered paragraph 6, and Policy 18.2.2.

Policy 18.1.16 is specific to Area 9 of the University Community. The policy utilizes the DRI process to assure that specific design requirements and development commitments will be addressed. Staff finds that assurance for the design requirements and development commitments can be addressed at another phase in the development process. Staff recommends the following changes to Policy 18.1.16 and paragraph 6 that recognize development within Area 9 may not undergo the DRI review process.

***POLICY 18.1.16:** For those lands in Area 9, all development must be designed to enhance and support the University. All rezonings in this area must include a specific finding that the proposed uses qualify as Associated Support Development, as that term is defined in the glossary. The final design and components will be determined as part of the ~~DRI~~ rezoning process and must be consistent with the following development standards:*

***6. Development Acreage:** The previous mining and crushing operations in Area 9 have rendered a large portion of the property unsuitable for development. Some areas that were previously mined have been filled with materials left over from the crushing operations known as fines. These and other activities have left an area of approximately 350 acres that has never been mined that remains suitable for development of structures and other site improvements. Development is therefore limited to this area. The previously impacted areas may only be used for reclamations and development as unoccupied open space. Property may be designated for residential use, non-residential use, or a combination of uses classified as mixed use. Out of the 350 acres available for development, 40 acres of developable land, not including right-of-way which is intended to serve as the connection between Area 9 and FGCU, will be dedicated to FGCU concurrent with ~~DRI~~ rezoning approval. The 40 acres dedicated to FGCU will become part of the FGCU campus and development there will not be calculated against the maximum residential unit count, nor maximum commercial square footage otherwise allowed.*

Policy 18.2.2 directly requires that development within the University Community area undergo a DRI review. Staff suggests that Policy 18.2.2 should be amended to delete the requirement to undergo a DRI review as follows:

***POLICY 18.2.2:** The University Village is an area which provides the associated support development and synergism to create a viable University Community. This sub-category allows a mix of land uses related to and justified by the University and its development. Predominant land uses within this area are expected to be residential, commercial, office, public and quasi-public, recreation, and research and development parks. ~~It~~*

~~addition to complying with the Conceptual Master Plan required by Policy 18.1.10, all property within the University Village must undergo a Development of Regional Impact review.~~

CONSISTENCY WITH THE LEE PLAN

Planning staff finds that allowing for the removal of the requirement that all development within the University Community area undergo DRI review by amending Policy 18.2.2, and recognizing in Policy 18.1.16 that development within Area 9 may not require DRI review is consistent with the remainder of the Lee Plan.

Goal 18: University Community and its subsequent objectives and policies provide guidance for development within the University Community. Goal 18 of the Lee Plan states that Lee County will:

“ensure that development within the University Community land use category protects and enhances the ability of Florida's tenth university to provide secondary education as described in the Mission Statement of that institution and to assure that land uses or development activities do not interfere with, disrupt, or impede the efficient operation of that institution...”

Objective 18.1 speaks more specifically to land use, and states that:

“In order to ensure that the location and timing of development within the University Community is coordinated with the development of the University and the provision of necessary infrastructure; and, that all associated support development within the University Community is designed to enhance the University; all development within the University Community will be subject to cooperative master planning...”

Policy 18.1.10 specifically requires that development within the University Community area is consistent with the Generalized Land Use Map and (9) area descriptions within the University Community Conceptual Master Plan.

Staff finds that deleting a mandatory DRI review requirement will not negatively impact the original vision for the University Community area. Lee Plan Goal 18 and its subsequent objectives and policies and the University Community Conceptual Master Plan will continue to assure that development within the University Community area will be developed as a cohesive community that provides the “associated support development and synergism” anticipated in Policy 18.2.2.

CONSISTENCY WITH FEDERAL AND STATE REQUIREMENTS

The amendment addresses changes to the Florida Statutes adopted by HB7207, which prohibit local governments from requiring projects to undergo Development of Regional Impact (DRI) review if they did not meet the DRI thresholds. The proposed amendment is consistent with federal and state requirements.

B. STAFF RECOMMENDATION

County staff recommends that the Board of County Commissioners transmit the proposed amendments to Policy 18.1.16, Policy 18.1.16.6 and Policy 18.2.2 of the Lee Plan.

**PART III - LOCAL PLANNING AGENCY
REVIEW AND RECOMMENDATION**

DATE OF PUBLIC HEARING: October 28, 2013

A. LOCAL PLANNING AGENCY REVIEW

Staff gave a brief presentation regarding the proposed amendment. No members of the public were present to address the LPA concerning the proposed amendment. One member of the LPA expressed concern that the state's prohibition was taking away a level of review, and that it would leave surrounding property owners vulnerable to changes to the developments in the University Community. This member made a recommendation that if Lee County was to remove the DRI requirement from the University Community that it should be replaced with a requirement for rezonings to hold a community input meeting.

Another member of the LPA expressed concern that the proposed change was simply to remove a requirement for DRI review in the University Community that is inconsistent with the Florida Statutes, and that the recommendation by the other LPA member could potentially have impacts on the vesting of other DRIs. This member also thought that the regular rezoning process allowed for adequate public input. **A motion was made to transmit the amendment as recommended by staff. This motion did not receive a second.**

Two other members of the LPA also questioned language in the policies that is unrelated to the proposed amendment to remove the mandatory DRI review. Staff explained that this was not part of the current amendment and that those changes should be vetted with a separate amendment, or through the EAR process.

A motion was made to transmit the amendment with the condition that rezonings within the University Community future land use category would require a public information meeting prior to being found sufficient for public hearing.

Concern was expressed that the condition was a new requirement for rezonings within a planning community that has not itself expressed the need for additional public input.

The motion passed with 5 being in favor and 2 being opposed.

B. LOCAL PLANNING AGENCY RECOMMENDATION AND FINDINGS OF FACT SUMMARY

1. RECOMMENDATION:

The LPA recommends that the Lee County Board of County Commissioners *transmit* the proposed Lee Plan amendment as recommended by staff as well as requiring an informational meeting for rezonings within the University Community future land use category.

Staff has reviewed the University Community future land use category, and finds that the following modification to Policy 18.2.2 could accommodate the LPA’s recommendation:

POLICY 18.2.2: The University Village is an area which provides the associated support development and synergism to create a viable University Community. This sub-category allows a mix of land uses related to and justified by the University and its development. Predominant land uses within this area are expected to be residential, commercial, office, public and quasi-public, recreation, and research and development parks. In addition to complying with the Conceptual Master Plan required by Policy 18.1.10, the owner or agent for any zoning request all property within the University Village must undergo a Development of Regional Impact review conduct one public informational session, within the University Village, where the agent will provide a general overview of the project for any interested citizens.

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

The LPA accepted the basis and recommended findings of fact as advanced by staff.

C. VOTE:

NOEL ANDRESS	<u>AYE</u>
STEVE BRODKIN	<u>AYE</u>
WAYNE DALTRY	<u>AYE</u>
JIM GREEN	<u>AYE</u>
MITCH HUTCHCRAFT	<u>NAY</u>
ANN PIERCE	<u>NAY</u>
ROGER STRELOW	<u>AYE</u>

D. STAFF RESPONSE TO LPA RECOMMENDATION:

Staff recommends limiting the amendment to only modifying the language that is inconsistent with state statutes, and not including the condition requiring a public informational meeting as recommended by the Local Planning agency for the following reasons:

- The Lee County Board of County Commissioners initiated the proposed amendment on August 27, 2013 through Blue Sheet No. 20130718. The conditions proposed by the LPA appear to be outside of the scope of the amendment initiated by the Board of County Commissioners.
- The conditions proposed by the LPA may be beyond the scope of the amendment that was advertised in the News-Press on October 18, 2013. Staff is concerned that property owners within the University Community future land use category were not properly notified that additional requirements for their properties might be recommended by the LPA.

**PART IV - BOARD OF COUNTY COMMISSIONERS
HEARING FOR TRANSMITTAL OF PROPOSED AMENDMENT**

DATE OF TRANSMITTAL HEARING: November 18, 2013

A. BOARD REVIEW:

Planning staff provided a brief summary of the proposed amendment. One Board member asked a question about the Local Planning Agency motion. The Chairman next called for public input. One member of the public came forward to address the proposed amendment, and stated support for the staff recommended language to the amendment.

A motion was made to transmit the proposed amendment. The motion passed 5-0.

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

1. BOARD ACTION:

The Board of County Commissioners transmitted the proposed amendment as recommended by staff.

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

The Board of County Commissioners accepted the findings of fact as advanced by staff.

C. VOTE:

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>

**PART V – STATE REVIEWING AGENCIES OBJECTIONS,
RECOMMENDATIONS AND COMMENTS**

DATE OF REVIEWING AGENCY COMMENTS: Comments from the State Reviewing Agencies were due to Lee County by January 1, 2014.

A. OBJECTIONS, RECOMMENDATIONS AND COMMENTS:

Lee County received responses from the following review agencies addressing the transmitted amendment: Florida Departments of Agriculture and Consumer Services, Economic Opportunity, Education; and the South Florida Water Management District.

These agencies stated that they had no further comments or concerns about the proposed amendment.

B. STAFF RECOMMENDATION

Staff recommends that the Board of County Commissioners *adopt* the amendments to the Lee Plan as transmitted.

**PART VI – BOARD OF COUNTY COMMISSIONERS
HEARING FOR ADOPTION OF PROPOSED AMENDMENT**

DATE OF PUBLIC HEARING: January 22, 2014

A. BOARD REVIEW

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY

1. BOARD ACTION:

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

C. VOTE:

BRIAN HAMMAN	_____
LARRY KIKER	_____
FRANK MANN	_____
JOHN MANNING	_____
CECIL L PENDERGRASS	_____

**AGENCY COMMENTS
FOR CPA2013-05
UNIVERSITY
COMMUNITY DRI
REQUIREMENT**

Rick Scott
GOVERNOR



Jesse Panuccio
EXECUTIVE DIRECTOR

December 16, 2013

RECEIVED
DEC 19 2013
COMMUNITY DEVELOPMENT

The Honorable Cecil L. Pendergrass, Chairman
Lee County Board of County Commissioners
Post Office Box 398
Fort Myers, Florida 33902-0398

Dear Chairman Pendergrass:

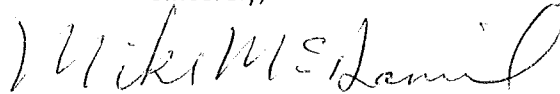
The Department of Economic Opportunity has completed its review of the proposed comprehensive plan amendment for Lee County (Amendment 14-1ESR) which was received on December 2, 2013. We have reviewed the proposed amendment pursuant to Sections 163.3184(2) and (3), Florida Statutes (F.S.), and identified no comments related to important state resources and facilities within the Department of Economic Opportunity's authorized scope of review that will be adversely impacted by the amendment if adopted.

The County is reminded that pursuant to Section 163.3184(3)(b), F.S., other reviewing agencies have the authority to provide comments directly to the County. If other reviewing agencies provide comments, we recommend the County consider appropriate changes to the amendment based on those comments. If unresolved, such comments could form the basis for a challenge to the amendment after adoption.

The County should act by choosing to adopt, adopt with changes, or not adopt the proposed amendment. Also, please note that Section 163.3184(3)(c)1, F.S., provides that if the second public hearing is not held and the amendment adopted within 180 days of your receipt of agency comments, the amendment shall be deemed withdrawn unless extended by agreement with notice to the Department of Economic Opportunity and any affected party that provided comment on the amendment. For your assistance, we have attached procedures for adoption and transmittal of the comprehensive plan amendment.

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

Sincerely,

A handwritten signature in black ink that reads "Mike McDaniel". The signature is written in a cursive style with a large initial "M".

Mike McDaniel
Comprehensive Planning Manager

MM/sr

Enclosure: Procedures for Adoption

cc: Paul O'Connor, Director, Lee County Division of Planning
Margaret Wuerstle, Executive Director, Southwest Florida Regional Planning Council

SUBMITTAL OF ADOPTED COMPREHENSIVE PLAN AMENDMENTS

FOR EXPEDITED STATE REVIEW

Section 163.3184(3), Florida Statutes

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

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

_____ Department of Economic Opportunity identification number for adopted amendment package;

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

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

_____ Ordinance number and adoption date;

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

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

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

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

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

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

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

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

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

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

The effective date of this plan amendment, if the amendment is not timely challenged, shall be 31 days after the Department of Economic Opportunity notifies the local government that the plan amendment package is complete. If timely challenged, this amendment shall become effective on the date the Department of Economic Opportunity or the Administration Commission enters a final order determining this adopted amendment to be in compliance. No development orders, development permits, or land uses dependent on this amendment may be issued or commence before it 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, a copy of which resolution shall be sent to the Department of Economic Opportunity.

_____ List of additional changes made in the adopted amendment that the Department of Economic Opportunity did not previously review;

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

_____ Statement indicating the relationship of the additional changes not previously reviewed by the Department of Economic Opportunity in response to the comment letter from the Department of Economic Opportunity.



Southwest Florida Regional Planning Council

Serving Charlotte, Collier, Glades, Hendry, Lee and Sarasota Counties

1926 Victoria Ave, Fort Myers, Florida 33901-3414 (239) 338-2550 FAX (239) 338-2560 www.swfrpc.org

January 7, 2013

Mr. D. Ray Eubanks
Administrator
Plan Review and Processing
Department of Economic Development
Caldwell Building
107 East Madison – MSC 160
Tallahassee, Florida 32399-0800

Re: Lee County / DEO 14-1ESR

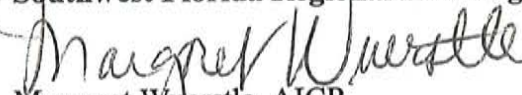
Dear Mr. Eubanks:

The staff of the Southwest Florida Regional Planning Council has reviewed the proposed amendments (DEO 14-1ESR) to the Lee Plan. The review was performed according to the requirements of the Local Government Comprehensive Planning and Land Development Regulation Act.

The Council will review the proposed amendments to the Lee Plan and the staff recommendations at its January 16, 2014 meeting. Council staff has recommended that Council find the requested changes to the Airport Layout Plan procedural, regionally significant, and consistent with the Strategic Regional Policy Plan. Also, Council staff has recommended that the changes to the DRI review process for the University Community land use designation be found to be procedural, regionally significant, and consistent with the Strategic Regional Policy Plan. Council staff is also recommending that the proposed changes be found as not producing extra-jurisdictional impacts that are inconsistent with the comprehensive plans of other local governments.

A copy of the official staff report explaining the Council staff's recommendation is attached. If Council action differs from the staff recommendation, we will notify you.

Sincerely,
Southwest Florida Regional Planning Council


Margaret Wuerstle, AICP
Executive Director

MW/DEC
Attachment

Cc: Mr. Paul O'Connor, AICP, Director, Planning Division, Lee County

RECEIVED
JAN 09 2014

COMMUNITY DEVELOPMENT

**LOCAL GOVERNMENT COMPREHENSIVE PLAN AMENDMENTS
LEE COUNTY**

The Council staff has reviewed proposed changes to the Lee County Growth Management Plan (DEO 14-1ESR). A synopsis of the requirements of the Act and Council responsibilities is provided as Attachment I. Comments are provided in Attachment II. Site location maps can be reviewed in Attachment III.

Staff review of the proposed amendments was based on whether they were likely to be of regional concern. This was determined through assessment of the following factors:

1. Location--in or near a regional resource or regional activity center, such that it impacts the regional resource or facility; on or within one mile of a county boundary; generally applied to sites of five acres or more; size alone is not necessarily a determinant of regional significance;
2. Magnitude--equal to or greater than the threshold for a Development of Regional Impact of the same type (a DRI-related amendment is considered regionally significant); and
3. Character--of a unique type or use, a use of regional significance, or a change in the local comprehensive plan that could be applied throughout the local jurisdiction; updates, editorial revisions, etc. are not regionally significant.

A summary of the results of the review follows:

<u>Proposed Amendment</u>	<u>Location</u>	<u>Factors of Regional Significance</u>		
		<u>Magnitude</u>	<u>Character</u>	<u>Consistent</u>
SW Florida International Airport Layout Plan (CPA 2013-03)	no	no	yes	(1) procedural (2) regionally significant; and (3) consistent with SRPP
Lee Plan Consistency for DRI Review Thresholds (CPA 2013-05)	no	no	yes	(1) procedural (2) regionally significant; and (3) consistent with SRPP

RECOMMENDED ACTION: Approve staff comments. Authorize staff to forward comments to the Department of Economic Opportunity and Lee County.

01/14

COMMUNITY PLANNING ACT

Local Government Comprehensive Plans

The Act requires each municipal and county government to prepare a comprehensive plan that must include at least the following nine elements:

1. Future Land Use Element;
2. Traffic Circulation Element;
A local government with all or part of its jurisdiction within the urbanized area of a Metropolitan Planning Organization shall prepare and adopt a transportation element to replace the traffic circulation; mass transit; and ports, aviation, and related facilities elements. [9J-5.019(1), FAC]
3. General Sanitary Sewer, Solid Waste, Drainage, and Potable Water and Natural Groundwater Aquifer Recharge Element;
4. Conservation Element;
5. Recreation and Open Space Element;
6. Housing Element;
7. Coastal Management Element for coastal jurisdictions;
8. Intergovernmental Coordination Element; and
9. Capital Improvements Element.

The local government may add optional elements (e. g., community design, redevelopment, safety, historical and scenic preservation, and economic).

All local governments in Southwest Florida have adopted revised plans:

Charlotte County, Punta Gorda
Collier County, Everglades City, Marco Island, Naples
Glades County, Moore Haven
Hendry County, Clewiston, LaBelle
Lee County, Bonita Springs, Cape Coral, Fort Myers, Fort Myers Beach, Sanibel
Sarasota County, Longboat Key, North Port, Sarasota, Venice

Comprehensive Plan Amendments

A local government may amend its plan at any time during the calendar year. Six copies of the amendment are sent to the Department of Economic Opportunity (DEO) for review. A copy is also sent to the Regional Planning Council, the Water Management District, the Florida Department of Transportation, and the Florida Department of Environmental Protection.

The proposed amendments will be reviewed by DEO in two situations. In the first, there must be a written request to DEO. The request for review must be received within forty-five days after transmittal of the proposed amendment. Reviews can be requested by one of the following:

- the local government that transmits the amendment,
- the regional planning council, or
- an affected person.

In the second situation, DEO can decide to review the proposed amendment without a request. In that case, DEO must give notice within thirty days of transmittal.

Within five working days after deciding to conduct a review, DEO may forward copies to various reviewing agencies, including the Regional Planning Council.

Regional Planning Council Review

The Regional Planning Council must submit its comments in writing within thirty days of receipt of the proposed amendment from DEO. It must specify any objections and may make recommendations for changes. The review of the proposed amendment by the Regional Planning Council must be limited to "effects on regional resources or facilities identified in the Strategic Regional Policy plan and extra-jurisdictional impacts which would be inconsistent with the comprehensive plan of the affected local government.

After receipt of comments from the Regional Planning Council and other reviewing agencies, DEO has thirty days to conduct its own review and determine compliance with state law. Within that thirty-day period, DEO transmits its written comments to the local government.

NOTE: THE ABOVE IS A SIMPLIFIED VERSION OF THE LAW. REFER TO THE STATUTE (CH. 163, FS) FOR DETAILS.

SOUTHWEST FLORIDA REGIONAL PLANNING COUNCIL
LOCAL GOVERNMENT COMPREHENSIVE PLAN REVIEW
FORM 01

Pursuant to Section 163.3184, Florida Statutes, Council review of proposed amendments to local government Comprehensive Plans is limited to adverse effects on regional resources and facilities identified in the Strategic Regional Policy Plan and extra-jurisdictional impacts that would be inconsistent with the Comprehensive Plan of any affected local government within the region. A written report containing the evaluation of these impacts, pursuant to Section 163.3184, Florida Statutes, is to be provided to the local government and the State land planning agency within 30 calendar days of receipt of the amendment.

LOCAL GOVERNMENT:

Lee County

DATE AMENDMENT RECEIVED:

December 2, 2013

DATE AMENDMENT MAILED TO LOCAL GOVERNMENT AND STATE:

January 6, 2014

1. AMENDMENT NAME

Southwest Florida International Airport – Airport Layout Plan
Lee Plan Consistency for DRI Review Thresholds

2. DESCRIPTION OF AMENDMENT(S):

Southwest Florida International Airport – Airport Layout Plan (CPA 2013-03)

The Lee County Port Authority staff, on May 7, 2013, submitted to the Lee County Division of Planning a request to change the Lee Plan to reflect changes that the Airport Authority desired to make to the Airport Layout Plan (ALP), Map 3F. The request stated that the Lee County Port Authority had recently completed a multi-year planning and design analysis and that during that analysis a modification to the proposed runway layout and associated facilities as depicted on the 2004 ALP had changed. The changes were determined by the analysis to provide the most flexibility for the future and the ultimate development of the airport. The changes were submitted to the FAA and approved by the FAA on August 27, 2013.

The airport's land use designations have changed over time as the airport has been expanded. The current land use designations for the airport property are Airport and Wetlands.

Recent changes to the ALP, which was adopted into the Lee Plan as Map 3F by Comprehensive Plan amendment CPA2003-02. It incorporated the results of the Airport Master Plan process that was ongoing at the time. Lee Plan amendments CPA2005-10 amended the Airport Noise Zones. CPA2007-57 and CPA2010-08 amended policies relating to future development within the airport boundaries. The Regional Planning Council has reviewed and approved these past amendments.

The revised ALP contains five changes from what is currently depicted on Map 3F of the Lee Plan. The first change is the shift of the new parallel runway (6R/24L) eighty feet to the south from its proposed location on the existing ALP. The second change is the addition of a third crossfield taxiway for commercial aircraft. This additional taxiway will allow the airport to maintain unrestricted commercial operations. The third and fourth changes include shifting the location of the fire department and control tower facilities as currently depicted on Map 3F. The changes will accommodate the additional crossfield taxiway. The proposed new location of the control tower is intended to provide proper visibility of the airport after completion of the second runway. The proposed new location of the fire department will allow for rapid access to both the existing and future parallel runway. The fifth change to the ALP now depicts existing facilities that have been constructed on site since the adoption of the 2004 ALP. This includes the midfield terminal and its apron and taxiway, long term and employee parking, stormwater detention areas and other airport related facilities.

Lee Plan Consistency for DRI Review Thresholds (CPA2013-05)

These text amendments will change Policy 18.1.5, Policy 18.1.16, Policy 18.1.16.6, and Policy 18.2.2 in order to make the Lee Plan consistent with the State requirements that prohibit local governments from requiring Development of Regional Impact (DRI) review of projects that do not meet or exceed the established State thresholds for large scale developments.

The proposed text changes are as follows:

- **Policy 18.1.5**

In order to create a cohesive community, site design within the University Community must utilize alternative modes of transportation such as pedestrian networks, mass transit opportunities, sidewalks, bike paths and similar facilities. Site design must link related land uses through the use of alternative modes of transportation thus reducing automobile traffic within the University Community. The county will work cooperatively with the University on these matters as the University proceeds through the Campus Master Plan process.

Prior to local Development Order approval on property within Area 9, the University Community, the developer must demonstrate that the proposed plan of development supports pedestrian, bicycle and transit opportunities. A multi-modal interconnection between the property and the FGCU campus must be provided at no cost to Lee

County. The owner/developer must dedicate the right-of-way for the 951 extension between Alico road and Corkscrew Road to Lee County prior to ~~Development of Regional Impact Development Order~~ rezoning approval. The value of the right-of-way on the date of dedication must not reflect the added value of the lands changed from DR/GR to University Community by virtue of CPA 2009-01. The county will issue road impact fee credits for the dedication. (Amended by Ordinance No. 94-30, 00-22, 10-40)

- **Policy 18.1.16**

For those lands in Area 9, all development must be designed to enhance and support the University. All rezoning in this area must include a specific finding that the proposed uses qualify as Associated Support Development, as that term is defined in the glossary. The final design and components will be determined as part of the ~~DRI~~ rezoning process and must be consistent with the following development standards: [No changes proposed to Policy 18.1.16 number paragraphs 1 through 5.]

- **Policy 18.1.16.6**

6. Development Acreage: The previous mining and crushing operations in Area 9 have rendered a large portion of the property unsuitable for development. Some areas that were previously mined have been filled with materials left over from the crushing operations know as fines. These and other activities have left an area of approx 350 acres that has never been mined that remains suitable for development of structures and other site improvements. Development is therefore limited to this area. The previously impacted areas may only be used for reclamations and development as unoccupied open space. Property may be designated for residential use, non-residential use, or a combination of uses classified as mixed use. Out of the 350 acres available for development, 40 acres of developable land, not including right-of-way which is intended to serve as the connection between Area 9 and FGCU, will be dedicated to FGCU concurrent with ~~DRI~~ rezoning approval. The 40 acres dedicated to FGCU will become part of the FGCU campus and development there will be calculated against the maximum residential unit count, nor maximum commercial square footage otherwise allowed. [No changes proposed to Policy 18.1.16 number paragraph 7 to Policy 18.2.1.]

- **Policy 18.2.2**

The University Village is an area which provides the associated support development and synergism to create a viable University Community. This sub-category allows a mix of land uses related to and justified by the University and its development. Predominant land uses within this area are expected to be residential, commercial, office, public and quasi-public, recreation, and research and development parks. ~~In addition to complying with the Conceptual Master Plan required by Policy 18.1.10, all property within the University Village must undergo a Development of Regional Impact review.~~

3. ADVERSE EFFECTS TO SIGNIFICANT REGIONAL RESOURCES AND FACILITIES IDENTIFIED IN THE STRATEGIC REGIONAL POLICY PLAN:

Southwest Florida International Airport – Airport Layout Plan (CPA 2013-03)

The proposed changes to the ALP will bring the airport plan up to date and provide for the future changes proposed for the continued development of this major regional facility. The proposed shift in the location of the new runway will provide the airport with an unconstrained commercial aircraft runway and parallel taxiway. The eighty foot shift also creates more area for the future Concourse A terminal at the airport. Although the new runway location moves it closer to the FPL power lines, an analysis performed during the design process showed no conflict was produced by making this change. The relocation of the control tower and fire department facilities will allow them to operate more effectively within the airport. None of the changes will increase any off site impacts.

Council staff has reviewed the proposed ALP amendments to the Lee County Comprehensive Plan and finds that the proposed changes are provided for an updated ALP in order to properly manage the airport. The proposed changes are important for the health, safety and welfare of population of the region. Based on the fact that the requested policy changes to the Lee Plan have been approved by the FAA and in order to bring the airport plan into consistency with the Lee Plan, Council staff finds the proposed amendments are procedural in nature, are regionally important, but do not adversely affect any significant regional resources or facilities that are identified in the Strategic Regional Policy Plan.

Lee Plan Consistency for DRI Review Thresholds (CPA2013-05)

The University Community future land use designation was initially adopted into the Lee Plan and Future Land Use Map (FLUM) on October 27, 1992 by Ordinance 92-47, which adopted PAM/T92-02, Florida's Tenth University. This plan amendment adopted the University Community land use category descriptor policy, Policy 1.1.9, and Goal 20 (later renumbered to Goal 18): University Community, which provided detailed descriptions of the development that was anticipated to surround what is not FGCU.

Since its initial adoption in 1992, all privately owned property with the University Community designation, have been required to undergo a DRI review. This requirement was put in place to help ensure that the University Community area developed as a cohesive community. The specific requirement for the DRI review was contained in Policy 20.2.4. (Later renumbered to Policy 18.2.2.)

The University Community area was expanded in 2010 to include a 9th area. This was accomplished through an amendment to the Lee Plan adopted on October 20, 2010 by Ordinance 10-40, which adopted CPA2009-00001, Alico West. The Alico West Lee Plan amendment included details about the development of Area 9 of the University Community. The property that was the subject of Area 9 was previously an aggregate mine and was not originally included in the University Community area because it was not consistent with the desired uses. Consistent with development requirements with the University Community

area as originally adopted, development within Area 9 would be required to undergo DRI review.

The 2011 legislative amendments adopted by HB7207 changed the DRI statute to prohibit local governments from imposing DRI review on developments that do not exceed the State thresholds for DRIs. The pertinent part of the DRI Statute, F.S. 380.06(24)(u), is as follows:

(u) Notwithstanding any provisions in an agreement with or among a local government, regional agency, or the state land planning agency or in a local government's comprehensive plan to the contrary, a project no longer subject to development-of-regional-impact review under revised thresholds is not required to undergo review.

In response to this change in the Florida Statutes, the Lee County Attorney's Office has advised the County planning staff that the requirement that all development within the University Community area undergo DRI review is no longer consistent with the Florida Statutes and that the requirement may not be enforced and should be removed from the Lee Plan.

Council staff has reviewed the proposed amendments to the Lee County Comprehensive Plan and finds that the proposed changes are provided for an updated DRI review requirements of the lands located in the University Community land use designation. The proposed changes are important in order to provide consistency between State law and the Lee Plan. Based on the fact that the requested policy changes to the Lee Plan provides consistency with the Lee Plan, Council staff finds the proposed amendments are procedural in nature, are regionally important because it addresses the region reviews of project, but does not adversely affect any significant regional resources or facilities that are identified in the Strategic Regional Policy Plan.

4. EXTRA-JURISDICTIONAL IMPACTS INCONSISTENT WITH THE COMPREHENSIVE PLANS OF LOCAL GOVERNMENTS WITHIN THE REGION

Council staff has reviewed the proposed amendments with respect to extra-jurisdictional impacts on surrounding local government Comprehensive Plans and finds that the proposed amendments do not negatively impact and are not inconsistent with adjacent local governmental Comprehensive Plans.

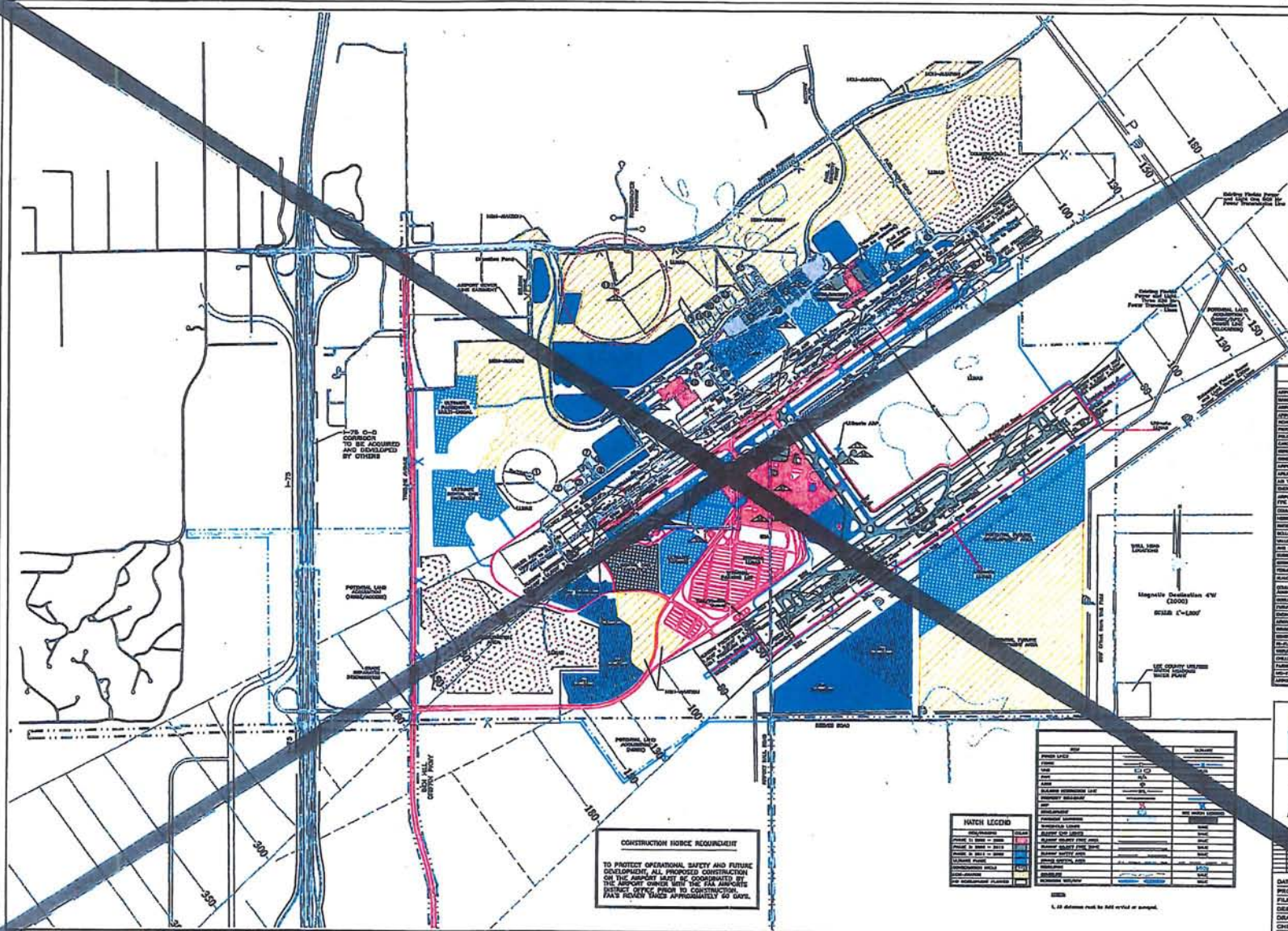
Request a copy of the adopted version of the amendment? Yes No

Attachment III

Maps

**Lee County
DEO 14-1ESR**

**Growth Management Plan
Comprehensive Plan Amendments**



FOR C-52 CONSTRUCTION TO BE ACCOMMODATED AND DEVELOPED BY OTHERS

PHYSICAL LIFT CONSTRAINTS

CONSTRUCTION FORCE REQUIREMENT
 TO PROTECT OPERATIONAL SAFETY AND FUTURE DEVELOPMENT, ALL PROPOSED CONSTRUCTION ON THE AIRPORT SITE IS COORDINATED BY THE AIRPORT AUTHORITY AND THE AIRPORT DISTRICT OFFICE PRIOR TO CONSTRUCTION. PAV'S REVIEW TIMES APPROXIMATELY 60 DAYS.

HATCH LEGEND

Asphalt	Blue
Concrete	Yellow
Gravel	Green
Grass	White
Water	Blue
Other	Other

NO.	DESCRIPTION	DATE
1	ISSUED FOR CONSTRUCTION	1/15/03
2	ISSUED FOR CONSTRUCTION	1/15/03
3	ISSUED FOR CONSTRUCTION	1/15/03
4	ISSUED FOR CONSTRUCTION	1/15/03
5	ISSUED FOR CONSTRUCTION	1/15/03
6	ISSUED FOR CONSTRUCTION	1/15/03
7	ISSUED FOR CONSTRUCTION	1/15/03
8	ISSUED FOR CONSTRUCTION	1/15/03
9	ISSUED FOR CONSTRUCTION	1/15/03
10	ISSUED FOR CONSTRUCTION	1/15/03

BUILDING/FACILITY TABLE

PROJECT NAME	STATUS	DATE
Terminal Building	COMPLETED	2002
Control Tower	COMPLETED	2002
Passenger Screening Building 1	COMPLETED	2002
Passenger Screening Building 2	COMPLETED	2002
Passenger Screening Building 3	COMPLETED	2002
Passenger Screening Building 4	COMPLETED	2002
Passenger Screening Building 5	COMPLETED	2002
Passenger Screening Building 6	COMPLETED	2002
Passenger Screening Building 7	COMPLETED	2002
Passenger Screening Building 8	COMPLETED	2002
Passenger Screening Building 9	COMPLETED	2002
Passenger Screening Building 10	COMPLETED	2002
Passenger Screening Building 11	COMPLETED	2002
Passenger Screening Building 12	COMPLETED	2002
Passenger Screening Building 13	COMPLETED	2002
Passenger Screening Building 14	COMPLETED	2002
Passenger Screening Building 15	COMPLETED	2002
Passenger Screening Building 16	COMPLETED	2002
Passenger Screening Building 17	COMPLETED	2002
Passenger Screening Building 18	COMPLETED	2002
Passenger Screening Building 19	COMPLETED	2002
Passenger Screening Building 20	COMPLETED	2002
Passenger Screening Building 21	COMPLETED	2002
Passenger Screening Building 22	COMPLETED	2002
Passenger Screening Building 23	COMPLETED	2002
Passenger Screening Building 24	COMPLETED	2002
Passenger Screening Building 25	COMPLETED	2002
Passenger Screening Building 26	COMPLETED	2002
Passenger Screening Building 27	COMPLETED	2002
Passenger Screening Building 28	COMPLETED	2002
Passenger Screening Building 29	COMPLETED	2002
Passenger Screening Building 30	COMPLETED	2002
Passenger Screening Building 31	COMPLETED	2002
Passenger Screening Building 32	COMPLETED	2002
Passenger Screening Building 33	COMPLETED	2002
Passenger Screening Building 34	COMPLETED	2002
Passenger Screening Building 35	COMPLETED	2002
Passenger Screening Building 36	COMPLETED	2002
Passenger Screening Building 37	COMPLETED	2002
Passenger Screening Building 38	COMPLETED	2002
Passenger Screening Building 39	COMPLETED	2002
Passenger Screening Building 40	COMPLETED	2002
Passenger Screening Building 41	COMPLETED	2002
Passenger Screening Building 42	COMPLETED	2002
Passenger Screening Building 43	COMPLETED	2002
Passenger Screening Building 44	COMPLETED	2002
Passenger Screening Building 45	COMPLETED	2002
Passenger Screening Building 46	COMPLETED	2002
Passenger Screening Building 47	COMPLETED	2002
Passenger Screening Building 48	COMPLETED	2002
Passenger Screening Building 49	COMPLETED	2002
Passenger Screening Building 50	COMPLETED	2002
Passenger Screening Building 51	COMPLETED	2002
Passenger Screening Building 52	COMPLETED	2002
Passenger Screening Building 53	COMPLETED	2002
Passenger Screening Building 54	COMPLETED	2002
Passenger Screening Building 55	COMPLETED	2002
Passenger Screening Building 56	COMPLETED	2002
Passenger Screening Building 57	COMPLETED	2002
Passenger Screening Building 58	COMPLETED	2002
Passenger Screening Building 59	COMPLETED	2002
Passenger Screening Building 60	COMPLETED	2002
Passenger Screening Building 61	COMPLETED	2002
Passenger Screening Building 62	COMPLETED	2002
Passenger Screening Building 63	COMPLETED	2002
Passenger Screening Building 64	COMPLETED	2002
Passenger Screening Building 65	COMPLETED	2002
Passenger Screening Building 66	COMPLETED	2002
Passenger Screening Building 67	COMPLETED	2002
Passenger Screening Building 68	COMPLETED	2002
Passenger Screening Building 69	COMPLETED	2002
Passenger Screening Building 70	COMPLETED	2002
Passenger Screening Building 71	COMPLETED	2002
Passenger Screening Building 72	COMPLETED	2002
Passenger Screening Building 73	COMPLETED	2002
Passenger Screening Building 74	COMPLETED	2002
Passenger Screening Building 75	COMPLETED	2002
Passenger Screening Building 76	COMPLETED	2002
Passenger Screening Building 77	COMPLETED	2002
Passenger Screening Building 78	COMPLETED	2002
Passenger Screening Building 79	COMPLETED	2002
Passenger Screening Building 80	COMPLETED	2002
Passenger Screening Building 81	COMPLETED	2002
Passenger Screening Building 82	COMPLETED	2002
Passenger Screening Building 83	COMPLETED	2002
Passenger Screening Building 84	COMPLETED	2002
Passenger Screening Building 85	COMPLETED	2002
Passenger Screening Building 86	COMPLETED	2002
Passenger Screening Building 87	COMPLETED	2002
Passenger Screening Building 88	COMPLETED	2002
Passenger Screening Building 89	COMPLETED	2002
Passenger Screening Building 90	COMPLETED	2002
Passenger Screening Building 91	COMPLETED	2002
Passenger Screening Building 92	COMPLETED	2002
Passenger Screening Building 93	COMPLETED	2002
Passenger Screening Building 94	COMPLETED	2002
Passenger Screening Building 95	COMPLETED	2002
Passenger Screening Building 96	COMPLETED	2002
Passenger Screening Building 97	COMPLETED	2002
Passenger Screening Building 98	COMPLETED	2002
Passenger Screening Building 99	COMPLETED	2002
Passenger Screening Building 100	COMPLETED	2002

SWFLA **DAWA**
Hillman
 Airport Planning Services

**SOUTHWEST FLORIDA INTERNATIONAL AIRPORT
 FORT MYERS, FLORIDA
 AIRPORT LAYOUT PLAN**

REVISION

DATE	NO.	DESCRIPTION
1/15/03	1	ISSUED FOR CONSTRUCTION
1/15/03	2	ISSUED FOR CONSTRUCTION
1/15/03	3	ISSUED FOR CONSTRUCTION
1/15/03	4	ISSUED FOR CONSTRUCTION
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1/15/03	6	ISSUED FOR CONSTRUCTION
1/15/03	7	ISSUED FOR CONSTRUCTION
1/15/03	8	ISSUED FOR CONSTRUCTION
1/15/03	9	ISSUED FOR CONSTRUCTION
1/15/03	10	ISSUED FOR CONSTRUCTION

SHEET 2

DESIGNED BY: JAC
 DRAWN BY: JAC
 CHECKED BY: JAC

OFFICE OF THE COMMISSIONER
(850) 617-7700



THE CAPITOL
400 SOUTH MONROE STREET
TALLAHASSEE, FLORIDA 32399-0800

FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
COMMISSIONER ADAM H. PUTNAM

December 17, 2013

VIA EMAIL (oconnops@leegov.com)

Lee County Planning Division
Attn: Paul O'Connor
P.O. Box 398
Fort Myers, Florida 33902-0398

Re: DACS Docket # -- 20131202-313
Lee County CPA 2013-03 & CPA 2013-05
Submission dated November 25, 2013

Dear Mr. O'Connor:

The Florida Department of Agriculture and Consumer Services (the "Department") received the above-referenced proposed comprehensive plan amendment on December 2, 2013 and has reviewed it pursuant to the provisions of Chapter 163, Florida Statutes to address any potential adverse impacts to important state resources or facilities related to agricultural, aquacultural, or forestry resources in Florida if the proposed amendment(s) are adopted. Based on our review of your county's submission, the Department has no comment on the proposal.

If we may be of further assistance, please do not hesitate to contact me at 850-410-2289.

Sincerely,

A handwritten signature in black ink that reads "Stormie Knight".

Stormie Knight
Sr. Management Analyst I
Office of Policy and Budget

cc: Florida Department of Economic Opportunity
(SLPA #: Lee County 14-1ESR)



SOUTH FLORIDA WATER MANAGEMENT DISTRICT

December 30, 2013

Mr. Paul O'Connor, AICP
Lee County Planning Division Director
P.O. Box 398
Fort Myers, FL 33902-0398

**Subject: Lee County, DEO #14-1ESR
Comments on Proposed Comprehensive Plan Amendment Package**

Dear Mr. O'Connor:

The South Florida Water Management District (District) has completed its review of the proposed amendment package submitted by Lee County (County). The package amends the Lee Plan Map 3F, Airport Layout Plan for Southwest Florida International Airport, and amends Future Land Use Element Policies by removing requirements for Development of Regional Impact review for projects not meeting state established thresholds. There appear to be no regionally significant water resource issues; therefore, the District forwards no comments on the proposed amendment package.

The District offers its technical assistance to the County and the Department of Economic Opportunity in developing sound, sustainable solutions to meet the County's future water supply needs and to protect the region's water resources. Please forward a copy of adopted amendments to the District. For assistance or additional information, please contact Deborah Oblaczynski, Policy and Planning Analyst, at (561) 682-2544 or doblaczy@sfwmd.gov.

Sincerely,

A handwritten signature in blue ink that reads "Dean Powell for".

Dean Powell
Water Supply Bureau Chief

DP/do

c: Ray Eubanks, DEO
Deborah Oblaczynski, SFWMD
Brenda Winningham, DEO
Margaret Wuerstle, SWFRPC

FLORIDA DEPARTMENT OF EDUCATION



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Pam Stewart
Commissioner of Education

January 6, 2014

Mr. Paul O'Connor, AICP
Lee County Planning Division Director
P.O. Box 398
Fort Myers, Florida 33902-0398
Via E-mail: oconnops@leegov.com

Dear Mr. O'Connor:

Re: Lee County 14-1 ESR

Thank you for the opportunity to review the Lee County 14-1 ESR amendment package, which the Florida Department of Education received on December 2, 2013. According to the department's responsibilities under section 163.3184(3), Florida Statutes, I reviewed the amendment considering provisions of chapter 163, part II, F.S., and to determine whether the proposal, if adopted, would have potential to create significant adverse effects on public school facilities.

The proposal would amend Lee Plan Map 3F to reflect a revised airport layout plan and policies 18.1.5, 18.1.6 and 18.2.2 (related to the University Village) to make the Lee Plan consistent with State requirements that prohibit local governments from requiring development of regional impact review for projects that don't meet or exceed state established thresholds. Because the amendments do not appear to create adverse effects on educational facilities or sites, I offer no comment.

Again, thank you for the opportunity to review the amendment package. If I may be of assistance, please contact me at (850) 245-9312 or Tracy.Suber@fldoe.org.

Sincerely,

Tracy D. Suber
Growth Management and Facilities Policy Liaison

TDS/

cc: Ms. Dawn Huff, Lee County School District
Mr. Scott Rogers and Ms. Brenda Winningham, DEO/State Land Planning Agency

THOMAS H. INSERRA
DIRECTOR, OFFICE OF EDUCATIONAL FACILITIES

325 W. GAINES STREET • SUITE 1014 • TALLAHASSEE, FLORIDA 32399-0400 • 850-245-0494 • FAX 850-245-9304

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