

LEE COUNTY ORDINANCE NO. 09-16
(Realmark Burnt Store Marina, LLC)
(CPA2007-54)

AN ORDINANCE AMENDING THE LEE COUNTY COMPREHENSIVE PLAN, COMMONLY KNOWN AS THE "LEE PLAN," ADOPTED BY ORDINANCE NO. 89-02, AS AMENDED, SO AS TO ADOPT AMENDMENT CPA2007-54 (PERTAINING TO REALMARK BURNT STORE MARINA, LLC) APPROVED DURING THE COUNTY'S 2007/2008 REGULAR COMPREHENSIVE PLAN AMENDMENT CYCLE; PROVIDING FOR AMENDMENTS TO ADOPTED TEXT, MAPS, AND TABLES; PURPOSE AND SHORT TITLE; 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 amendment in accordance with Florida Statutes and the Lee County Administrative Code on September 22, 2008, and September 29, 2008.

WHEREAS, the Board held a public hearing for the transmittal of the proposed amendment on October 23, 2008. At that hearing, the Board approved a motion to send, and did later send, proposed amendment CPA2007-54 pertaining to Realmark Burnt Store Marina, LLC, to the Department of Community Affairs ("DCA") for review and comment; and,

WHEREAS, at the October 23, 2008 meeting, the Board announced its intention to hold a public hearing after the receipt of DCA's written comments commonly referred to as the "ORC Report." DCA issued their ORC report on January 16, 2009; and,

WHEREAS, on February 25, 2009, the Board held a public hearing and adopted the proposed amendment to the Lee Plan set forth herein.

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

SECTION ONE: PURPOSE, INTENT AND SHORT TITLE

The Board of County Commissioners of Lee County, Florida, in compliance with Chapter 163, Part II, Florida Statutes, and with Lee County Administrative Code AC-13-6, conducted public hearings to review proposed amendments to the Lee Plan. The purpose of this ordinance is to adopt the 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 "2007/2008 Regular Comprehensive Plan Amendment Cycle CPA2007-54 Realmark Burnt Store Marina, LLC Ordinance."**

SECTION TWO: ADOPTION OF LEE COUNTY'S 2007/2008 REGULAR COMPREHENSIVE PLAN AMENDMENT CYCLE

The Lee County Board of County Commissioners amends the existing Lee Plan, adopted by Ordinance Number 89-02, as amended, by adopting an amendment, as revised by the Board on February 25, 2009, known as CPA2007-54. CPA2007-54 amends the Future Land Use Map Series, Map 1, for 18.25± acres from the "Rural" future land use category to the proposed "Burnt Store Marina Village" future land use category, amends Table 1(a) to add the "Burnt Store Marina Village" future land use category, amends Table 1(b) to reallocate seven acres of commercial, six acres of industrial, four acres of residential, and one acre of public land uses to accommodate redevelopment of the Burnt Store Marina. CPA2007-54 amends the Plan to incorporate Goals, Policies and Objectives to implement the Burnt Store Marina Village as set forth below.

The corresponding Staff Reports and Analysis, along with all attachments for this amendment are adopted as "Support Documentation" for the Lee Plan.

POLICY 1.7.12: The Burnt Store Marina Village area provides for the redevelopment that enhances the existing character of the Burnt Store Marina project, protects natural resources, and provides continuing public access to the water via boat ramps and docks while managing the location and intensity of future commercial, residential and commercial marina uses by establishing realistic aesthetic requirements designed to allow Burnt Store Marina Village the ability to develop as a community center. The following uses are permitted within the Burnt Store Marina Village category: a maximum of 55,000 square feet of retail uses; a maximum of 1,325 wet and dry spaces; a maximum of 15,000 square feet of office space; a maximum of 145 hotel units; and a maximum of 160 residential units.

GOAL 30: BURNT STORE MARINA VILLAGE. To promote redevelopment that enhances the existing character of the Burnt Store Marina project, protects natural resources, and provides continuing public access to the water via boat ramps and docks while managing

the location and intensity of future commercial, residential and commercial marina uses by establishing realistic aesthetic requirements designed to allow Burnt Store Marina Village the ability to develop as a community center.

OBJECTIVE 30.1: The Burnt Store Marina Village is intended to encourage and facilitate redevelopment of the existing marina and commercial area located internal to the Burnt Store Marina project with an attractive mix of residential, marine, retail, hotel and office uses designed to enhance and protect the public use of, and access to, the waterfront and marina. Development of commercial retail, hotels, general office and marina related uses will predominate in the Burnt Store Marina Village. Limited residential and commercial marina uses are also permitted to facilitate the proper development mix to allow integration of the Burnt Store Marina Village into the overall Burnt Store Marina project.

POLICY 30.1.1: The following uses are permitted within the Burnt Store Marina Village category; a maximum of 55,000 square feet of retail uses; a maximum of 525 wet slips; a maximum of 800 dry storage spaces; a maximum of 15,000 square feet of office space; a maximum of 145 hotel units; and a maximum of 160 residential units. A maximum height of 220 feet is permitted if multiple layers of parking are incorporated into the structures.

POLICY 30.1.2: Redevelopment of any uses within the Burnt Store Marina Village must be accomplished through the Planned Development rezoning process in order to properly accommodate existing conditions, the proposed redevelopment plan, prevent adverse impacts to the surrounding areas and to ensure that appropriate site development regulations are incorporated into the development plans. Development in this future land use category is not required to comply with the site location criteria provided in Goal 6 if appropriate site development regulations are adopted into the planned development. New development in this category must connect to a potable water and sanitary sewer system.

POLICY 30.1.3: Lee County will cooperate with private developer efforts to create an identity for the Burnt Store Marina Village through unified architectural quality and creative site design that enhances the waterfront community and consists of scenic views, buildings with varying roof lines, open space, a pedestrian and neighborhood oriented activity center and enhanced buffering requirements.

POLICY 30.1.4: Lee County will work in conjunction with private developers to reserve existing marina facilities with on or off-site public parking spaces for vehicles and trailers and access for the benefit of the public.

POLICY 30.1.5: The residential and hotel development portions of this redevelopment project must be located outside of the designated Coastal High Hazard Area in accordance with Lee Plan Map 5.

SECTION THREE: ADOPTION OF AMENDMENT TO LEE PLAN TABLE 1

An amendment to Lee Plan Table 1 is hereby adopted as indicated below.

- (a) Table 1(a), Summary of Residential Densities as amended, as follows with underlining identifying new text.

FUTURE LAND USE CATEGORY	STANDARD OR BASE DENSITY RANGE		BONUS DENSITY
	MINIMUM (Dwelling Units per Gross Acre)	MAXIMUM (Dwelling Units per Gross Acre)	MAXIMUM TOTAL DENSITY (Dwelling Units per Gross Acre)
<u>Burnt Store Marina Village¹¹</u>	<u>No minimum</u>	<u>160 Dwelling Units</u> <u>145 Hotel Units</u>	<u>No Bonus</u>

¹¹The residential dwelling units and hotel development portions of this redevelopment project must be located outside of the designated Coastal High Hazard Area in accordance with Lee Plan, Map 5.

- (b) Table 1(b), Year 2030 Allocations, is amended to provide a reallocation from existing Rural Future Land Use Category to the newly created Burnt Store Marina Village Category consistent with attached Exhibit A.

SECTION FOUR: 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 FIVE: GEOGRAPHIC APPLICABILITY

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

SECTION SIX: SEVERABILITY

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

the Board that this ordinance would have been adopted had the unconstitutional provisions not been included therein.

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

It is the intention of the Board of County Commissioners that the provisions of this ordinance will become and be made a part of the Lee County Comprehensive Plan. 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 EIGHT: EFFECTIVE DATE

The plan amendments adopted herein are not effective until a final order is issued by the DCA or Administrative Commission finding the amendment in compliance with Section 163.3184(9), Florida Statutes, or until the Administrative Commission issues a final order determining the adopted amendment to be in compliance in accordance with 163.3184(10), Florida Statutes, whichever occurs earlier. 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. A copy of such resolution will be sent to the DCA, Bureau of Local Planning, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

Commissioner Hall made a motion to adopt the foregoing ordinance, seconded by Commissioners Janes. The vote was as follows:

Robert P. Janes	Aye
Brian Bigelow	Nay
Ray Judah	Aye
Tammara Hall	Aye
Frank Mann	Aye

DONE AND ADOPTED this 25th day of February, 2009

ATTEST:
CHARLIE GREEN, CLERK

LEE COUNTY
BOARD OF COUNTY COMMISSIONERS

BY: CR Valencia
Deputy Clerk

BY: Ray Judah
Ray Judah, Chairman

DATE: February 25, 2009



Approved as to form by:

Dawn E. Perry-Lehnert
Dawn E. Perry-Lehnert
County Attorney's Office

EXHIBIT

A - Table 1(b), Year 2030 Allocations

B - CPA2007-54 Existing Future Land Use Map

C - CPA2007-54 Proposed Future Land Use Map

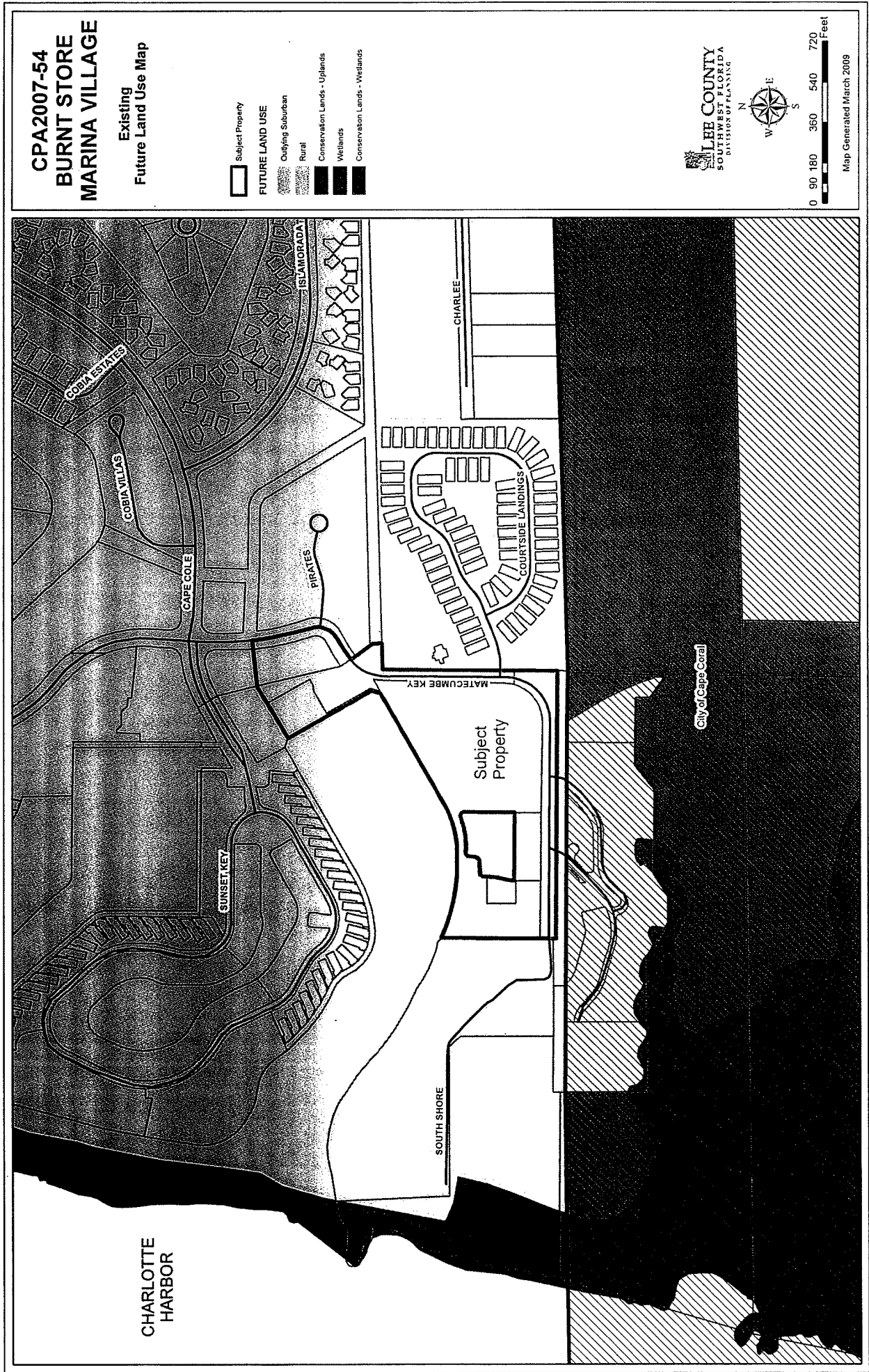
TABLE 1(b)
Year 2030 Allocations

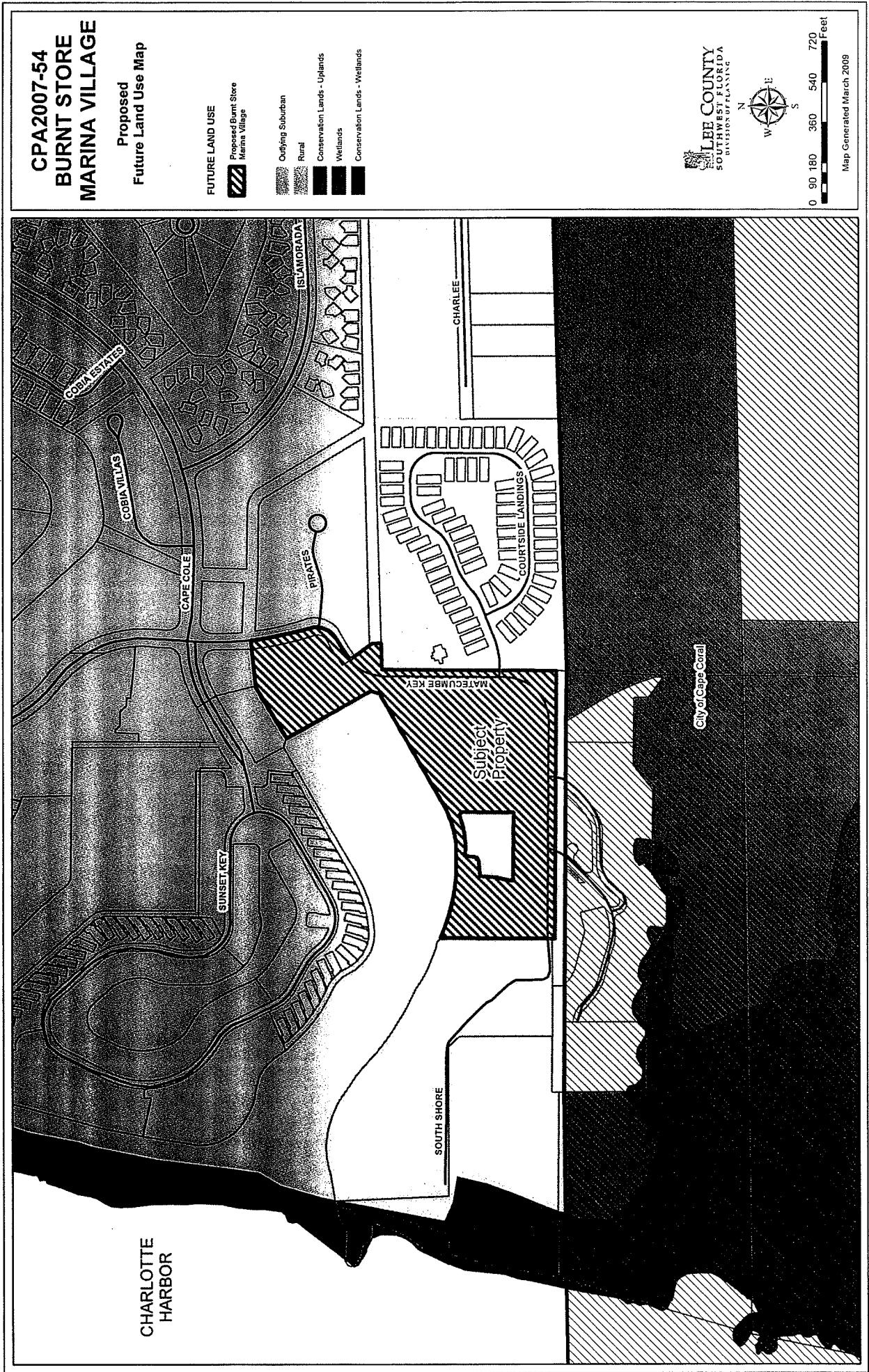
Future Land Use Classification	Lee County Totals	Alto	Boca Grande	Bonita Springs	Fort Myers Shores	Burnt Store		Cape Coral	Capri	Fort Myers	Fort Myers Beach	Gateway Airport
						Adopted	Proposed					
Residential By Future Land Use Category	Intensive Development	1,325	0	0	0	20	0	27	0	250	0	0
	Central Urban	14,787	0	0	0	225	0	0	0	230	0	0
	Urban Community	18,622	520	485	0	637	0	0	0	0	0	0
	Suburban	16,635	0	0	0	1,810	0	0	0	85	0	0
	Outlying Suburban	4,105	30	0	0	40	20	2	500	0	0	0
	Sub-Outlying Suburban	1,531	0	0	0	367	0	0	0	0	0	0
	Industrial Development	79	0	0	0	0	0	0	0	39	0	20
	Public Facilities	1	0	0	0	0	0	0	1	0	0	0
	University Community	850	0	0	0	0	0	0	0	0	0	0
	Burnt Store Marina Village	4	0	0	0	0	4	0	0	0	0	0
	Industrial Interchange	0	0	0	0	0	0	0	0	0	0	0
	General Interchange	42	0	0	0	0	0	0	0	0	0	0
	General/Commercial Interchange	0	0	0	0	0	0	0	0	0	0	0
	Industrial/Commercial Interchange	0	0	0	0	0	0	0	0	0	0	0
	University Village Interchange	0	0	0	0	0	0	0	0	0	0	0
	New Community	900	0	0	0	0	0	0	0	0	0	900
	Airport	0	0	0	0	0	0	0	0	0	0	0
	Tradeport	9	0	0	0	0	0	0	0	0	0	9
	Rural	8,320	1,948	0	0	1,403	700	636	0	0	0	0
	Rural Community Preserve	3,046	0	0	0	0	0	0	0	0	0	0
	Coastal Rural	1,300	0	0	0	0	0	0	0	0	0	0
	Outer Islands	202	5	0	0	1	0	0	150	0	0	0
	Open Lands	2,805	250	0	0	0	600	592	0	0	0	0
	Density Reduction/Groundwater Resource	6,905	711	0	0	0	0	0	0	0	0	94
	Conservation Lands Uplands	0	0	0	0	0	0	0	0	0	0	0
	Wetlands	0	0	0	0	0	0	0	0	0	0	0
	Conservation Lands Wetlands	0	0	0	0	0	0	0	0	0	0	0
Non Regulatory Allocations	Total Residential	81,488	3,464	485	0	4,500	4,310	1,250	29	651	604	1,023
	Commercial	12,763	57	52	0	400	60	50	17	125	150	1,100
	Industrial	6,620	26	3	0	400	5	5	26	300	0	3,100
	Public	82,192	7,100	421	0	2,000	7,000	7,000	20	1,961	350	7,500
	Active Agriculture	24,957	5,100	0	0	550	450	150	0	0	0	0
	Passive Agriculture	45,859	13,649	0	0	2,500	400	109	0	0	0	1,491
	Conservation (Wetlands)	81,948	2,214	611	0	1,142	3,236	133	1,603	748	0	2,809
	Vacant	21,368	1,953	0	0	228	871	931	34	45	0	300
	Total	357,175	33,463	1,572	0	11,718	42,731	12,731	259	4,340	2,197	17,323
	Population Distribution*	495,000	5,090	1,531	0	30,861	3,270	3,270	225	530	5,744	11,582

TABLE 1(b)
Year 2030 Allocations

Future Land Use Classification	Residential By Future Land Use Category										Bayshore
	Daniel's Parkway	Jonah McGregor	San Carlos	Sanibel	South Fort Myers	Pine Island	Lehigh Acres	Southwest Lee County	North Fort Myers	Buckingham	Estero
Intensive Development	0	0	0	0	660	3	0	0	365	0	0
Central Urban	0	375	17	0	3,140	0	8,200	0	2,600	0	0
Urban Community	0	850	1,000	0	860	500	13,269	0	0	51	450
Suburban	0	2,500	1,975	0	1,200	675	0	0	6,690	0	1,700
Outlying Suburban	1,700	377	0	0	0	600	0	0	382	0	454
Sub-Outlying Suburban	0	0	25	0	0	0	0	0	140	49	0
Industrial Development	0	5	5	0	10	0	0	0	0	0	0
Public Facilities	0	0	0	0	0	0	0	0	0	0	0
University Community	0	0	850	0	0	0	0	0	0	0	0
Burnt Store Marina Village	0	0	0	0	0	0	0	0	0	0	0
Industrial Interchange	0	0	0	0	0	0	0	0	0	0	0
General Interchange	2	0	0	0	0	0	0	15	7	0	6
General/Commercial Interchange	0	0	0	0	0	0	0	0	0	0	0
Industrial/Commercial Interchange	0	0	0	0	0	0	0	0	0	0	0
University Village Interchange	0	0	0	0	0	0	0	0	0	0	0
New Community	0	0	0	0	0	0	0	0	0	0	0
Airport	0	0	0	0	0	0	0	0	0	0	0
Tradeport	0	0	0	0	0	0	0	0	0	0	0
Rural	1,500	0	90	0	0	190	14	0	500	57	835
Rural Community Preserve	0	0	0	0	0	0	0	0	0	3,046	0
Coastal Rural	0	0	0	0	0	1,300	0	0	0	0	0
Outer Islands	0	1	0	0	0	45	0	0	0	0	0
Open Lands	120	0	0	0	0	0	0	0	45	0	0
Density Reduction/Groundwater Resource	0	0	0	0	0	0	0	4,000	0	0	0
Conservation Lands Uplands	0	0	0	0	0	0	0	0	0	0	0
Wetlands	0	0	0	0	0	0	0	0	0	0	0
Conservation Lands Wetlands	0	0	0	0	0	0	0	0	0	0	0
Total Residential	3,322	4,108	3,962	0	5,870	3,313	21,483	4,015	10,729	3,203	3,245
Commercial	440	1,100	1,946	0	2,100	226	1,420	38	1,637	18	1,700
Industrial	10	320	450	0	900	64	300	65	554	5	97
Non-Regulatory Allocations											
Public	2,416	3,550	2,660	0	3,500	2,100	15,000	12,000	4,000	2,114	7,000
Active Agriculture	20	0	0	0	0	2,400	0	15,101	200	411	125
Passive Agriculture	20	0	0	0	0	815	0	18,000	1,556	3,619	200
Conservation (wetlands)	1,719	9,306	2,738	0	188	14,767	1,496	31,530	1,317	361	5,063
Vacant	20	971	244	0	309	3,781	7,377	500	2,060	1,278	809
Total	7,967	19,955	12,058	0	12,867	27,466	47,076	81,249	22,403	11,929	18,234
Population Distribution*	18,488	34,538	36,963	0	58,363	13,265	164,702	1,270	70,659	6,114	25,395

Exhibit B







FLORIDA DEPARTMENT of STATE

CHARLIE CRIST
Governor

STATE LIBRARY AND ARCHIVES OF FLORIDA

KURT S. BROWNING
Secretary of State

March 12, 2009

Honorable Charlie Green
Clerk of Court
Lee County
Post Office Box 2469
Fort Myers, Florida 33902-2469

Attention: Ms. Marcia Wilson, Deputy Clerk

Dear Mr. Green:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letter dated March 2, 2009 and certified copies of Lee County Ordinance Nos. 09-06 through 09-17, which were filed in this office on March 9, 2009.

Sincerely,

Liz Cloud
Program Administrator

LC/srd

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2009 MAR 16 PM 1:08

DIRECTOR'S OFFICE

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