



**LOCAL PLANNING AGENCY
LEE COUNTY COMMUNITY DEVELOPMENT
1500 MONROE STREET, FORT MYERS, FL 33901
CONFERENCE ROOM 1B (FIRST FLOOR)
MONDAY, JULY 25, 2016
8:30 AM**

AGENDA

1. Call to Order/Review of Affidavit of Publication/Pledge of Allegiance
2. Public Forum
3. Approval of Minutes – June 27, 2016
4. Lee Plan Amendments
 - A. CPA2015-00010 – Apaloosa and Palomino Lane
Request to redesignate the 137.44 +/- acre subject property from Outlying Suburban and Wetlands to Central urban and Wetlands and a text amendment to Table 1(b).
5. Land Development Code Amendments
 - A. LDC Regular Two-Year Cycle of Amendments: Ch. 2, Ch. 6, Ch. 10, Ch. 12, Ch. 14, Ch. 22, Ch. 30, Ch. 33, & Ch. 34
 - B. Draft Administrative Code AC 13-16 Transportation Proportionate Share Calculations for New Development Projects (to be discussed with Ch. 2 amendments above)
6. Other Business
7. Adjournment – Next Meeting Date: August 22, 2016

A verbatim record of the proceeding will be necessary to appeal a decision made at this hearing.

Persons with disabilities who need an accommodation to participate in the Local Planning Agency meeting should contact Janet Miller, 1500 Monroe Street, Fort Myers, FL 33901 (239-533-8583 or jmiller@leegov.com). To ensure availability of services, please request accommodation as soon as possible but preferably five or more business days prior to the event. Persons using a TDD may contact Janet Miller through the Florida Relay Service, 711.

The agenda can be accessed at the following link approximately 7 days prior to the meeting: <http://www.leegov.com/dcd/events>

Direct links to plan amendment documents: [CPA2015-00010](#)

**CPA2015-00010
APALOOSA AND
PALOMINO LANE**



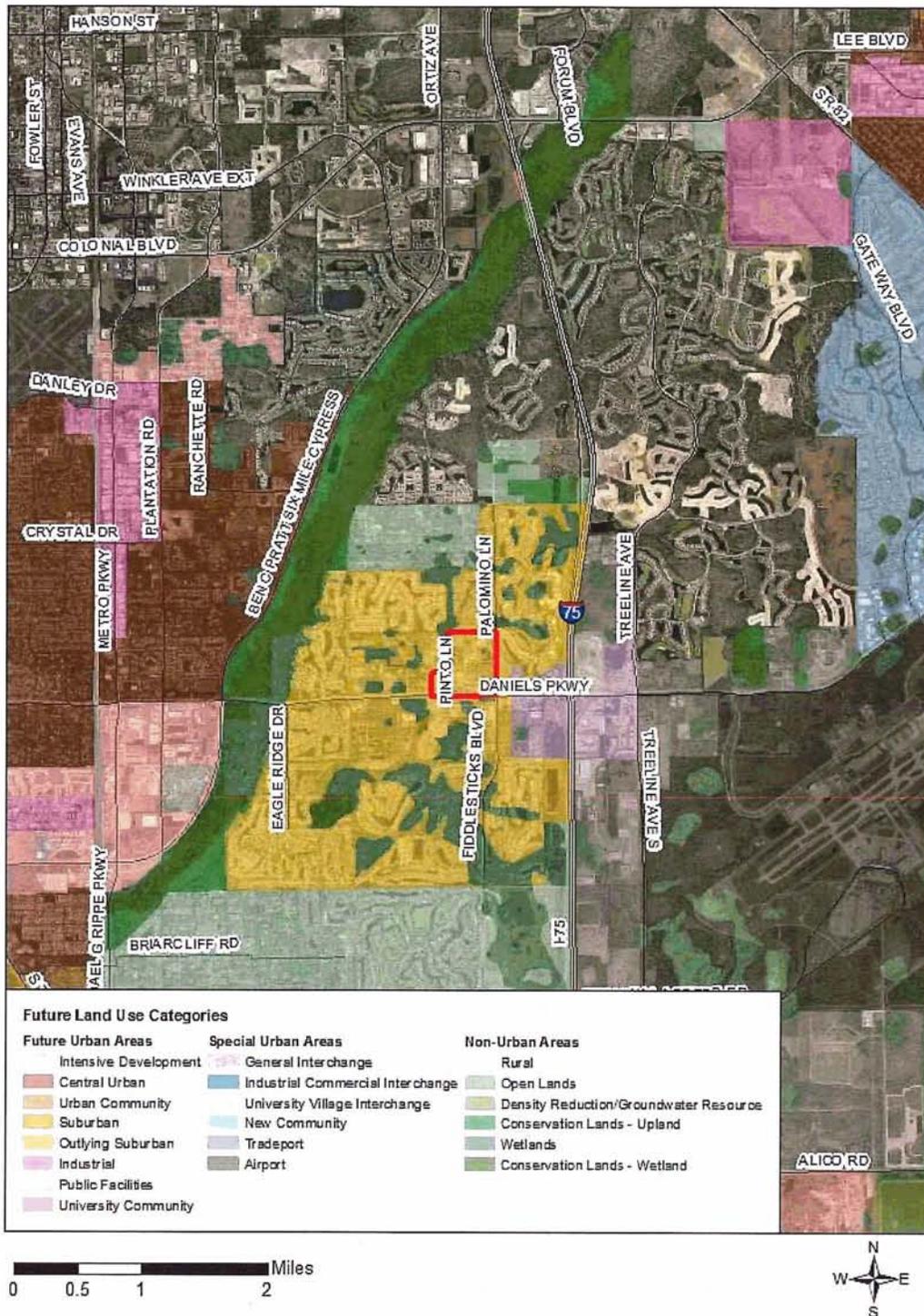
**COMPREHENSIVE PLAN
AMENDMENT**

CPA2015-10
Apaloosa Lane and Palomino Lane
County Initiated Amendment

**Local Planning Agency
Staff Report**

7/25/2016

CPA2015-10 Apaloosa and Palomino Lane Future Land Use Map (Current)



**LEE COUNTY
DEPARTMENT OF COMMUNITY DEVELOPMENT
PLANNING SECTION**

**STAFF REPORT FOR
COMPREHENSIVE PLAN AMENDMENT
CPA2015-10**

Text Amendment

Map Amendment

	This Document Contains the Following Reviews
<input checked="" type="checkbox"/>	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 published on: July 15, 2016

**PART I
APPLICATION SUMMARY**

A. PROJECT NAME:

Apaloosa Lane and Palomino Lane

B. PROPOSED AMENDMENTS:

Amend Lee Plan Future Land Use Map to designate 137.44 acres from the Outlying Suburban and Wetlands future land use categories to the Central Urban and Wetlands future land use categories.

Amend Table 1(b), Year 2030 Allocations, to accommodate additional residential development in the Central Urban future land use category within the Daniels Parkway Planning Community.

PART II RECOMMENDATION and FINDINGS OF FACT

RECOMMENDATION:

For the reasons discussed in this staff report and based on the below findings of fact, Staff recommends that the Board of County Commissioners *not transmit* the proposed amendments.

BASIS AND RECOMMENDED FINDINGS OF FACT:

- On September 1, 2015, the Board of County Commissioners directed Staff to evaluate a comprehensive plan amendment to increase the allowable density/intensity on the subject property.
- Designating the subject property as Central Urban could allow a maximum increase of 1,077 dwelling units (2,370 persons) and light industrial uses that are not permitted under the subject property's current Outlying Suburban Future Land Use Map classification.
- Light industrial land uses would not be compatible with residential land uses which would be inconsistent with Lee Plan Policy 5.1.5. Lee Plan Policy 5.1.5 protects residential uses from encroachment of uses that are potentially destructive to the character and integrity of the residential environment.
- To maintain the 2030 Lee County adopted population accommodation as provided in Lee Plan Table 1b, 35 residential acres are being added to the Central Urban future land use category and 108 residential acres are being deleted from the Outlying Suburban future land use category.
- Based on the 1987 Daniels Parkway Corridor Study, the county in 1988 increased the density/intensity for 8,000 acres in the area by changing the land use designation from Rural (1 units per acre) to Outlying Suburban (3 units per acre).
- All of the existing commercial and residential development within the area has been done consistent with the Outlying Suburban density/intensity parameters. A portion of the surrounding residential lands are in the form of 5 acre ranchettes.
- Although density/intensity was increased in 1988, the fairly low level of Outlying Suburban was deemed appropriate as a means to limit the potential negative impacts on the Six Mile Cypress Slough Watershed and to preserve the treatment of Daniels Parkway as a gateway corridor (in conjunction with significant landscaping, setbacks and buffering).
- The subject property and surrounding area is not fully developed under the existing Future Land Use Classification, so there is no clear need to increase the density/intensity within this limited 137 +/- acre area.
- The area also has infrastructure constraints. Daniels Parkway is a constrained arterial roadway with little connectivity west of I-75. The residents living on properties north of Daniels Parkway, west of I-75, do not have a means to access arterial or collector roads and must use Daniels Parkway to travel. Allowing more dense/intense development will further exacerbate the existing traffic conditions. Emergency Management Services (EMS) does not currently meet service standards.
- While the county is exploring the possibility of creating more urban nodes, with higher densities/intensities in certain strategic locations in unincorporated Lee County to promote transit and walkability, the character of this specific location does not make it appropriate for such treatment. The current Outlying Suburban Future Land Use Map category remains appropriate for the subject property.

PART III PROPERTY INFORMATION

A. PROPERTY CONDITIONS:

SIZE OF PROPERTY: 137.44±

PROPERTY LOCATION: Northwest corner of Daniels Parkway and Palomino Lane;
between Palomino Lane and Pinto Road

EXISTING USE OF LAND: The subject property consists of multiple parcels with uses that include: undeveloped lands, agricultural, single family, multi-family, hotel, restaurants, commercial retail, offices, medical office, federal government building, church, and the Lee County drainage/ stormwater mitigation area.

CURRENT ZONING: AG-2, CS-1, CS-2, CG, CPD, CFPD

CURRENT FUTURE LAND USE CATEGORY: Outlying Suburban (134.6 acres) and Wetlands (2.84 acres)*

* Staff notes that this acreage is based on the current Future Land Use Map and does not reflect jurisdictional wetlands.

B. FUTURE LAND USE MAP DESIGNATION & DANIELS PARKWAY COMMUNITY:

The subject property is located on the north side of Daniels Parkway between Pinto Road and Palomino Lane and is south of the Danforth Lakes residential community. Apaloosa Lane bisects the property. It is located in the Daniels Parkway Planning Community and is within the Outlying Suburban and Wetlands Future Land Use Map categories.

As provided in the Lee Plan Vision Statement, the Daniels Parkway planning community is one of the primary gateways into Lee County. The anticipated growth pattern is anticipated to remain at low densities through the year 2030.

Daniels Parkway: The Daniels Parkway Community is located between I-75 and the Six Mile Cypress Slough, south of the City of Fort Myers and north of the Alico Road industrial area. The community contains lands designated Rural, Outlying Suburban, and a small area of General Interchange. This community is considered one of the primary gateways to Lee County. This community has some rural characteristics which will remain in existence through the year 2030. Much of the existing vacant land will be developed into low density gated communities. While there is a potential to redevelop the large lot home sites north of Daniels Parkway into the smaller lots allowed by the Outlying Suburban category, this development pattern is not anticipated by 2030. This community will grow through 2030.

Outlying Suburban Future Land Use Map Category: The subject property was originally designated as Rural on the Future Land Use Map in 1984. The property was redesignated to Outlying Suburban as part of 8,000 acre county-initiated request stemming from the 1987 Daniels Parkway Corridor Study (Case No. PAM87-39). This amendment tripled the maximum standard density permitted on the property.

Outlying Suburban allows up to three dwelling units per acre and limits commercial to neighborhood commercial centers containing no more than 100,000 square feet of commercial retail development on each parcel. Industrial uses are not permitted.

Policy 1.1.6: The Outlying Suburban areas are characterized by their peripheral location in relation to established urban areas. In general, these areas are rural in nature or contain existing low-density development. Some, but not all, of the requisite infrastructure needed for higher density development is generally planned or in place. It is intended that these areas will develop at lower residential densities than other Future Urban Areas. As in the Suburban areas, higher densities, commercial development greater than neighborhood centers, and industrial land uses are not permitted. The standard density range is from one dwelling unit per acre (1 du/acre) to three dwelling units per acre (3 du/acre). Bonus densities are not allowed.

Wetlands Future Land Use Map Category: The Future Land Use Map indicates that there are 2.84 acres of Wetlands on the subject property. The number of actual Wetland acres is subject to field verification and state permitting. Lands located in the Wetlands Future Land Use Map Category are allowed a maximum of one dwelling unit per twenty acres.

Policy 1.5.1: Permitted land uses in Wetlands consist of very low density residential uses and recreational uses that will not adversely affect the ecological functions of wetlands. All development in Wetlands must be consistent with Goal 114 of this plan. The maximum density is one dwelling unit per twenty acres (1 du/20 acre) except as otherwise provided in Table 1(a) and Chapter XIII of this plan.

C. SIX MILE CYPRESS WATERSHED:

The subject property is within the Six Mile Cypress Watershed which was adopted by ordinance in 1983. A comprehensive watershed study was conducted in February 1990 and regulations were adopted into the Land Development Code with the goal "to protect, enhance and preserve the public and private resources of the watershed." It also established standards and objectives to be used in deciding whether to grant development.

Ordinance 83-5 was in place when the first Future Land Use Map was adopted in 1984. As discussed above, the subject property was originally within the Rural Future Land Use Map category and was designated as Outlying Suburban in 1988. The Six Mile Cypress Watershed basin was one of the factors used to determine an appropriate Future Land Use Category for the subject property.

Ordinance 83-5 provides:

"The water resource and biological functions performed by the Six Mile Cypress Strand include the improvement of water quality through natural filtration, natural water storage for storm runoff and floodwaters, freshwater retention and aquifer recharge, freshwater stabilization of the Estero Bay Estuary, marine food chain production, wildlife habitat, and scenic and recreational opportunities."

"The ability of the Six Mile Cypress Strand to perform these vital functions is dependent upon the quality, quantity and timing of water that the Cypress Strand receives from its watershed area which is referred to as the Six Mile Cypress Watershed Basin."

“The protection and maintenance of the natural water management system and water quality and quantity (both surface and subsurface) which exists in the Six Mile Cypress *Basin is vital to the* health, safety, welfare and economic vitality of the present and future residents of Lee County.”

“There is a potential for public harm caused by degradation and deterioration of water and other natural resources within the Six Mile Cypress Watershed Basin if development in this area is not adequately monitored and controlled.”

The need to provide protection to the Six Mile Cypress Watershed Basin is still important today. Land Development Code (LDC) Section 10-321(f) provides,

- (1) The outfall discharge rate for the three-day 25-year storm event for all large projects within the Six Mile Cypress Watershed must be 37 cms or less as specified in the Six Mile Cypress Watershed Plan.
- (2) All development in the Six Mile Cypress Watershed Basin must be consistent with the findings and conclusions in the Six Mile Cypress Watershed Plan. However, the County will consider alternate proposals offering design standard flexibility in the conservation, restoration and enhancement of tributaries and flow-ways within the basin. In any event, the plan will not be interpreted to require a developer to mitigate impacts not created by the proposed development.

The County relies on SFWMD requirements that regulate post development discharge rates to ensure post-development rates remain at or below pre-development discharge rates. Project specific information would be required during the local development order process to allow for a thorough analysis of the site's stormwater management. SFWMD issues water management permits for projects with 2 acres of impervious surface or for projects over 10 acres in size. The permit limits the post development surface water discharge rate to no more than the pre-development rate. Similarly, Lee County reviews stormwater management for projects containing less than 10 acres or 2 acres impervious for consistency with LDC Section 10-321(f).

It is important to consider the development of the subject property's location within the Six Mile Cypress Watershed basin and its proximity to the Six Mile slough system to assure that no adverse impact would be caused by an increase to residential density or by light industrial land uses.

D. EXISTING LAND USE:

The subject property contains a mix of developed and undeveloped parcels. Commercial retail, and office uses are located closest to Daniels Parkway. Residential and church uses are located toward the northerly portion of the subject property.

There are currently four single-family homes, an apartment building with 68 units, a 328 room hotel, 121,631 square feet of commercial retail and office, a 35,013 square foot church and a 37,738 square foot federal government building within the subject property boundary.

Table 1 provides more specific information about the parcels within the subject property.

**Table 1
SUBJECT PROPERTY PARCEL INFORMATION**

Address	Acres +/-	Zoning	Existing Use
13301 Apaloosa Ln	4.9	CS-2	Single Family Residential
13000 Apaloosa Ln	5.0	AG-2	Single Family Residential
13100 Apaloosa Ln	5.0	AG-2	Undeveloped
13250 Apaloosa Ln	5.0	AG-2	Single Family Residential
13200 Apaloosa Ln	5.0	AG-2	Single Family Residential
13300 Apaloosa Ln	5.0	AG-2	Undeveloped
8850 Salrose Ln	1.25	CPD	Undeveloped
8860 Salrose Ln	2.51	CPD	Commercial Office (Government)
8880 Salrose Ln	1.03	CPD	Commercial
8890 Salrose Ln	5.0	CPD	Commercial
8870/8891 Salrose Ln	5.26	CS-1	Vacant institutional
8961-8991 Daniels Center Drive	5.0	CPD	Commercial Office
13420 Palomino Ln	1.08	CG	Commercial (convenience/gas station)
9011 Daniels Pkwy	1.54	CPD	Commercial
8951 Daniels Pkwy	1.5	CPD	Commercial
13400 Palomino Ln	2.21	CG	Undeveloped
13290 Palomino Ln	9.89	AG-2	Undeveloped
13060 Palomino Ln	29.25	CFPD	Church
13251 Apaloosa Ln	3.25	CFPD	Multi-family Residential
8911 Daniels Pkwy	2.12	CPD	Commercial
8955 Daniels Pkwy	2.17	CPD	Commercial (Hotel)
9001 Daniels Pkwy	2.09	CPD	Commercial Office
13351/379 Pinto Ln	5.0	CPD	Undeveloped

Based on Lee County Property Appraiser's Records 3/28/2016

E. SURROUNDING PROPERTIES

The subject property is located on the north side of Daniels Parkway between Pinto Road and Palomino Lane and is south of the Danforth Lakes residential community. Apaloosa Lane bisects the property.

The surrounding properties are within the Outlying Suburban, Rural and Wetlands future land use categories and are zoned Residential Planned Development (RPD), Commercial Planned Development (CPD), General Commercial (CG), and Agricultural (AG-2). Please refer to Table 2 and the surrounding land use map for detailed information on the surrounding properties.

**Table 2
Surrounding Properties Information**

	Zoning	Zoning Approval	Future Land Use
North	RPD	Danforth Lakes RPD: (240 to 293 units on 121.62 ac; 1.97 – 2.4 u/ac)	Outlying Suburban, Rural & Wetlands
Northwest	RPD	Cross Creek Estates RPD (684 units on 249.7 acres; 2.73 u/ac)	Outlying Suburban & Wetlands
Northeast	RPD	Renaissance South RPD: (260 units; 1.6 u/ac)	Outlying Suburban & Wetlands
South And Southwest	CPD	Riverside Center RPD/CPD (89,000 SF commercial on 27.89 ac; 76 dwelling units on 18.21 net ac; net density 4.14 u/ac – 1.65 u/ac gross density)	Outlying Suburban (Church/CPD) Outlying Suburban & Wetlands (RPD)
South	CPD	Powers Court (F/K/A) Daniels Falls CPD: (100,000 SF & 150 room hotel on 30 ac); Shoppes at Fiddlesticks CPD (114,000 SF commercial on 17.4 ac)	Outlying Suburban & Wetlands
Southeast	CG	14,178 SF commercial on 1.6 ac	Outlying Suburban
East	CG	Commercial (Walgreens: 14,446 SF/1.8 ac); Undeveloped commercial (CPD, 175,000 SF commercial on 20 ac); Renaissance South RPD (260 units on 1.6 u/ac)	Outlying Suburban & Wetlands
West	AG-2	Single Family Residential and Agricultural Uses	Outlying Suburban

CPA2015-10 Apaloosa and Palomino Lane Surrounding Land Use



F. ENVIRONMENTAL CONSIDERATIONS:

This subject area is a mix of developed and undeveloped properties. The remaining undeveloped properties contain wetlands soils and some wetland vegetation. The application is not proposing to change the Wetlands Future Land Use.

Listed species known to inhabit this area include the big cypress fox squirrel. The site is also within the US Fish and Wildlife Service (USFWS) distribution area for the Florida bonneted bat. The wetlands are likely to contain big cypress fox squirrels and the bonneted bat is likely to be located on the uplands and wetlands. Management plans will be required as part of the local development order process.

G. HISTORIC RESOURCES

The Florida Master Site File list indicates that there are no previously recorded cultural resource sites on the subject property.

PART IV DISCUSSION AND ANALYSIS

Proposed Amendments:

The subject property is currently designated as Outlying Suburban and Wetlands on the Future Land Use Map. The amendments would designate the subject property to Central Urban and Wetlands. Lee Plan Table 1(b) would also be modified to accommodate the additional population anticipated from the amendment.

Central Urban Future Land Use Category: Designating the subject property to Central Urban and Wetlands on the Future Land Use Map will allow for 10 dwelling units per acre, as well as commercial and light industrial land uses. Up to 20 dwelling units per acre would be permitted if density is purchased from Pine Island TDR program.

Lee Plan Policy 1.1.3 provides:

POLICY 1.1.3: The Central Urban areas can best be characterized as the “urban core” of the county. These consist mainly of portions of the city of Fort Myers, the southerly portion of the city of Cape Coral, and other close-in areas near these cities; and also the central portions of the city of Bonita Springs, Iona/McGregor, Lehigh Acres, and North Fort Myers. This is the part of the county that is already most heavily settled and which has or will have the greatest range and highest levels of urban service--water, sewer, roads, schools, etc. **Residential, commercial, public and quasi-public, and limited light industrial land uses** (see Policy 7.1.6) will continue to predominate in the Central Urban area with future development in this category encouraged to be developed as a mixed-use, as described in Policy 2.12.3., where appropriate. This category has a standard density range from four dwelling units per acre (4 du/acre) to ten dwelling units per acre (10 du/acre) and a maximum total density of fifteen dwelling units per acre (15 du/acre). The maximum total density may be increased to twenty dwelling units per acre (20 du/acre) utilizing Greater Pine Island Transfer of Development Units.

Wetlands Future Land Use Category: The Future Land Use Map indicates that there are 2.84 acres of Wetlands on the subject property. Wetland lines are subject to field verification and the amount of Wetland acres are subject to state permitting.

POLICY 1.5.1: Permitted land uses in Wetlands consist of very low density residential uses and recreational uses that will not adversely affect the ecological functions of wetlands. All development in Wetlands must be consistent with Goal 114 of this plan. The maximum density is one dwelling unit per twenty acres (1 du/20 acre) except as otherwise provided in Table 1(a) and Chapter XIII of this plan. (Amended by Ordinance No. 94-30)

Background:

A similar amendment was presented at the July 28, 2014 Local Planning Agency (LPA) hearing by six of the property owners in an effort to promote multi-family development on their undeveloped parcels within the subject area. The request was made in response to a county-initiated amendment without a formal application, data or analysis to support the amendment. Staff did not support the request based on the compatibility with the existing and surrounding residential neighborhood and traffic impacts.

The LPA voted to recommend the subject parcels be designated to a proposed category that would allow a maximum of 10 dwelling units per acre and up to 16 dwelling units per acre with bonus density.

Since that time, the original county-initiated amendment was closed and no amendments were adopted.

At the September 1, 2015 BoCC meeting, the Board directed staff to proceed with a county-initiated comprehensive plan amendment for the subject area for their review and consideration. Staff prepared the application based on designating the area Central Urban.

Maximum Development Calculations:

The current Outlying Suburban Future Land Use Map category allows up to three dwelling units per acre and limits commercial development to neighborhood commercial centers.

As shown in Table 3, the subject area's existing development currently contains 72 residential units of the maximum 190 residential units that could be built pursuant to the Outlying Suburban Future Land Use Map category. Similarly, a 328 room hotel and 194,382 square feet of commercial retail and office have been built of the maximum 533,500 square feet that is allowed under the Outlying Suburban Future Land Use Map category. The maximum development potential as currently allowed under the Lee Plan has not been reached indicating that the need for Central Urban densities may be premature.

The Central Urban Future Land Use Map category allows up to ten dwelling units per acre and up to 20 units an acre using bonus density. The Central Urban category will also allow industrial development.

Under the Lee Plan Outlying Suburban category, each development parcel would be permitted to have a maximum of 100,000 square feet of commercial even though the parcel size may be too small to reasonably contain that amount of commercial square feet. In some cases, the resulting allowable commercial development would be more intense than neighborhood commercial. In this instance, 26 parcels could have 2,600,000 square feet of commercial development. Given the existing development in place and lands owned by Lee County for stormwater mitigation, using this standard would overestimate the maximum commercial

development potential on the subject property. Instead, the planner's standard rule of thumb of 10,000 square feet per acre was used.

Similarly, if the entire subject property was to redevelop with industrial uses, based on the LDC 40% lot coverage standard, the maximum square footage would equate to 3,517,906 SF. Again, giving the existing development in the area, a more prudent approach was used to more accurately measure the maximum impact.

Future Land Use Outcomes:

In order to calculate the maximum development potential on the subject property, the properties located close to Daniels were anticipated to develop or redevelop with commercial/industrial land uses, and the parcels on the northern portion of the subject parcel were anticipated to develop residentially. Please refer to Table 3 for the maximum development anticipated from the existing Outlying Suburban Future Land Use Map category and the proposed Central Urban Future Land Use Map category.

**Table 3
Maximum Development**

Future Land Use (FLUM)	Existing Development	Current Outlying Suburban FLUM	Proposed Central Urban FLUM
Maximum Residential Dwelling units	72	190 Units	1,267 Units
Maximum Commercial SF	328 room Hotel; 194,382 SF	533,500 SF	533,500 SF
Maximum Industrial SF	0	0	929,570 SF

Compatibility:

The Central Urban Future Land Use Map designation allows for light industrial land uses that are not currently permitted under the Outlying Suburban category.

The Lee Plan seeks to protect the character of residential communities from incompatible uses. Specifically, Policy 5.1.5, "Protects existing and future residential areas from any encroachment of uses that are potentially destructive to the character and integrity of the residential environment."

POLICY 5.1.5: Protect existing and future residential areas from any encroachment of uses that are potentially destructive to the character and integrity of the residential environment. Requests for conventional rezonings will be denied in the event that the buffers provided in Chapter 10 of the Land Development Code are not adequate to address potentially incompatible uses in a satisfactory manner. If such uses are proposed in the form of a planned development or special exception and generally applicable development regulations are deemed to be inadequate, conditions will be attached to minimize or eliminate the potential impacts or, where no adequate conditions can be devised, the application will be denied altogether. The Land Development Code will continue to require appropriate buffers for new developments. (Amended by Ordinance No.94-30, 99-15, 00-22)

As provided in Table 2, the mid to northern portion of the subject property is immediately adjacent to the Danforth Lakes and the Renaissance residential communities. Immediately to the west are large lot single family residences. Approved Residential Planned Developments in the surrounding area have approved density ranges between 1.6 to 2.73 dwelling units per acre.

Central Urban would allow consideration of light industrial uses next to residential uses which could have associated noise, odors, and large truck traffic. Light industrial uses that would be permitted by the Central Urban would encroach into the residential area, impacting the neighborhood character and would be inconsistent with Policy 5.1.5.

As typical throughout Lee County, residential neighborhoods are protected from encroaching uses that disrupt the area's character by placing the more intense commercial land uses closer to arterial roadways with offices serving as the transition into residential areas.

The Daniels Parkway area follows this land use pattern as developed under the Outlying Suburban Future Land Use category. Both sides of Daniels Parkway provide for commercial uses along the arterial roadway and transition into residential areas away from the Daniels Parkway corridor. This pattern protects residential uses from the encroachment of potentially destructive uses to the character and integrity of the residential environment. The Central Urban Future Land Use Map designation would allow light industrial uses to encroach into the existing residential area and could ultimately result in Lee County limiting or denying zoning requests.

2030 Lee Plan Planning Communities Map and Table 1(b):

The subject property is located within the "Daniels Parkway" planning community. This amendment would increase the buildout population accommodation from 190 units to 1,267 units which results in an increase of 1,077 dwelling units. At buildout, the estimated population based on 2.2 person per household (2010 US Census for the planning community) would increase from 418 persons to 2,788.

Table 1(b) is based on the year 2030 population projections and does not currently allocate any acres for residential use in the Central Urban future land use category within the Daniels Parkway planning community. To address this, an amendment to Table 1(b) to accommodate 35 acres of residential development in Central Urban is needed. {See attached amended Table 1(b)}. To maintain the 2030 Lee County adopted population accommodation, a corresponding reduction of 108 acres from the Outlying Suburban future land use category is being proposed as part of this request.

The Daniels Parkway planning community currently has a commercial allocation of 440 acres with 359 acres remaining for additional development and a 10 acre industrial allocation with 10 acres remaining for additional industrial development. No changes are being proposed for the commercial and industrial allocations.

Transportation:

A Traffic Circulation Analysis dated April 5, 2016 was prepared based on the development parameters in Table 4.

**Table 4
Estimated Potential Use Scenarios**

Scenario	Land Use Category	Dwelling units (multi-family)	Commercial Retail (Square feet)	Industrial (Square feet)
1	Outlying Suburban (existing)	190	533,500	0
2	Central Urban (Commercial)	1,267	533,500	0
3	Central Urban (Industrial)	1,267	0	929,570

The total net new trips for the AM and PM daily peak hours were calculated and are summarized in Table 5.

**Table 5
Total Net New Trip Generation**

Scenario	Land Use Category	AM Peak Hour	PM Peak Hour	Daily
-	Existing uses	415	823	9,614
1	Outlying Suburban	363	1,292	14,174
2	Central Urban (Commercial)	655	1,653	18,671
3	Central Urban (Industrial)	944	1,238	11,174

Table 6 provides the AM and PM daily peak hours comparisons between Future Land Use Map categories.

**Table 6
Summary Increase in Net New Trip Generation Compared To Existing Uses**

Scenario	Land Use Category	AM Peak Hour	PM Peak Hour	Daily
1	Outlying Suburban	-52	469	4,560
2	Central Urban (Commercial)	240	830	9,057
3	Central Urban (Industrial)	529	415	1,560

In Table 7, all scenario analyses of the year 2040 result in the same roadway segments with estimated traffic volumes in excess of the adopted LOS standard. These include Daniels Parkway from Six Mile Cypress Parkway to Gateway Boulevard, Fiddlesticks Boulevard south of Daniels Parkway, and Palomino Lane north of Daniels Parkway.

**Table 7
Summary of segments estimated to operate below adopted Level of Service (LOS)**

Scenario	Land Use Category	2014	2020	2040
1	Outlying Suburban	none	none	(2)
2	Central Urban 1	none	(1)	(2)
3	Central Urban 2	none	(1)	(2)

Notes:

- (1) Daniels Parkway east of Six Mile Cypress Parkway is projected to operate at a volume-to-capacity ratio greater than 1.0.
- (2) Daniels Parkway from Six Mile Cypress Parkway to I-75 is projected to operate at a volume-to-capacity ratio greater than 1.0. Daniels Parkway from I-75 to Gateway Boulevard is estimated to operate at LOS "F", Fiddlesticks Boulevard south of Daniels Parkway, and Palomino Lane north of Daniels Parkway are shown as overcapacity due to model anomalies.

The study area roadway network is constrained and has very little connectivity west of I-75. As noted, Daniels Parkway is designated as a constrained roadway and is limited to the existing six lanes. Six Mile Cypress Slough and established development in the study area act as environmental and man-made barriers to road network connectivity. Daniels Parkway is the only east-west roadway in the study area connecting to I-75 and Metro Parkway. The distance between Alico Road and Colonial Boulevard is 8 miles. In approximately 2.7 miles along Daniels Parkway between I-75 and Six Mile Cypress Parkway, there are no existing north-south roads connecting to Alico Road or to Colonial Boulevard. Three Oaks Parkway extension from Alico Road north to Daniels is in the MPO Long Range Transportation Plan (LRTP) and is currently programmed for construction in years 6-10 of the Lee County Capital Improvement Program (CIP). The draft CIP proposes the construction of the Three Oaks Parkway extension in the year 2019/2020.

The LCDOT memo dated April 2016 is attached to this staff report.

Mass Transit:

The subject property is located on Lee Tran Route 50. Route 50 travels along Daniels Parkway to the Southwest Florida International Airport. Transit stops are located west of Palomino Lane and east of Pinto Lane. There is an existing shared use path on the north side and bicycle lanes along Daniels Parkway. A shared use path is under construction on the south side of Daniels Parkway being constructed through a federal TIGER IV grant administered by the Lee County MPO.

Lee Tran provided an e-mail dated April 25, 2016 and is attached to this staff report.

Utilities:

Lee County Utilities (LCU) provided correspondence indicating that there is available potable water and wastewater services to the subject property.

Potable Water:

There are several water lines currently in place throughout the area. There is a 30" water line on Daniels Parkway and a 12" water line on Palomino Lane. There are also 10" water lines on Apaloosa Lane, Jobe Road, Salrose Lane, Daniels Center Drive and De Lasalle Academy Way.

The demand for potable water under the existing designation is as follows:

190 residential units X 250 gpd/eru = 47,500 gpd
533,500 sf Commercial X 0.15 gpd/sf = 80,025 gpd
Total Potable Water Demand= 127,525 gpd

The demand for potable water under the proposed designation is as follows:

1,267 residential units X 250 gpd/eru = 316,750 gpd

929,570 sf Industrial X 0.15 gpd/sf = 139,436 gpd

Total Potable Water Demand= 456,186 gpd

**Increase in Demand for Potable Water as a Result of the Proposed Amendment =
456,186 gpd (Proposed Demand) – 127,525 gpd (Existing Demand) = 328,661 gpd**

Sanitary Sewer:

There are several sanitary sewer lines throughout the subject area. There is a 16" sanitary sewer force main on Daniels Parkway and 4" sanitary sewer force mains on Apaloosa Lane, and Salrose Lane. There are also sanitary sewer gravity mains in some of the currently developed areas.

The sanitary sewer flow generated under the existing designation is as follows:

190 residential units X 200 gpd/eru = 38,000 gpd

533,500 sf Commercial X 0.15 gpd/sf = 80,025 gpd

Total Sanitary Sewer Flow = 118,025 gpd

The sanitary sewer flow generated under the proposed designation is as follows:

1,267 residential units X 200 gpd/eru = 253,400 gpd

929,570 sf Industrial X 0.15 gpd/sf = 139,436 gpd

Total Sanitary Sewer Flow = 392,836 gpd

**Increase in Sanitary Sewer Flow as a Result of the Proposed Amendment =
392,836 gpd (Proposed Flow) – 118,025 gpd (Existing Flow) = 274,811 gpd**

The subject properties are located within the Lee County Utilities Future Service Area as depicted on Maps 6 and 7 of the Lee County Comprehensive Land Use Plan. Potable water and sanitary sewer lines are in operation adjacent, or in the vicinity of, the properties mentioned above. However, in order to provide service to the subject parcels, **developer funded system enhancements such as line extensions may be required.**

Irrigation:

This area west of I-75 along the Daniels Road Corridor experiences extremely low water levels in the two commonly used aquifers being the Mid Hawthorn and the Sandstone Aquifers. It is a yearly event during the dry months of the year.

FEMA:

Although these parcels are not in the Special Flood Hazard Area established by FEMA in 2008, it is important to note that this area lies beyond the limits of FEMA's detailed study. Therefore, it is an unstudied X Zone. The Flood Insurance Rate Map panel that includes these parcels, which is 12071C0445F, is not printed and has no base flood elevations. Without this FEMA guidance, we would rely on South Florida Water Management analysis and our own county building standards to recommend the elevation of new construction. In the case of multi-family construction, particularly construction of housing for senior citizens, or in the case of critical facilities, the FEMA regulations would require an additional 1 foot to 2 feet of elevation in constructing the first livable floor.

Emergency Medical Services (EMS):

Lee County Emergency Medical Services is the primary EMS transport agency responsible for coverage of the subject property. Because we currently serve this area and have a sufficient response data sample, we evaluated response times in this vicinity to simulate the anticipated demand and response.

When conducting an analysis like this, we look to evaluate the ability to meet the service standards as required in County Ordinance 08-16. **We currently do not have response times in this area that meets this ordinance.** In addition, without knowing more specific information about the design of the development and areas of density, it is difficult to predict the type of EMS resources that would be necessary to serve this proposed change.

Community Development has been working with Public Safety on ways to remedy the concerns raised in the letter provided by EMS. Public Safety has plans to resolve these issues by January 1, 2017. While the issue exists today, the resolution will occur prior to construction within the subject property.

Solid Waste:

The Lee County Solid Waste Division is capable of providing solid waste collection service for the planned residential units and commercial and/or industrial establishments proposed for the parcels located on the north side of Daniels Parkway between Palomino Lane, Apaloosa Lane and Pinto Road through our franchised hauling contractors.

School Impacts:

The Lee County School District provided correspondence dated January 7, 2016, stating that the project's generation of middle and high school students would add to the projected deficit; however there are sufficient seats available within the contiguous Concurrency Service area. Specifically,

“For single-family homes, the generation rate is .295 and further broken down by grade level into the following, .147 for elementary, .071 for middle and .077 for high. A total of 377 school-aged children would be generated and utilized for the purpose of determining sufficient capacity to serve the development. The Concurrency Analysis attached, displays the impact of this development. Capacities for elementary seats is not an issue within the Concurrency Service Area (CSA). **For middle and high school, the development adds to the projected deficit for the CSA, however, there are sufficient seats available to serve the need within the contiguous CSA.**”

Police:

The Lee County Sheriff's Office provided a letter on January 7, 2016 stating that the request does not affect the ability of the Sheriff's Office to provide core services. Specifically,

“The proposed comprehensive plan amendment known as Case Number CPA2015-00010 located on the north side of Daniels Parkway between Palomino Lane, Apaloosa Lane, and Pinto Road does not affect the ability of the Lee County Sheriff's Office to provide core services at this time.

As such, this agency does not object to the request to change the designation for the 105 acre parcel from Outlying Suburban to Central Urban. We recognize that the changes would increase the allowable residential dwelling units to 1,053 and up to 1,580 residential dwelling unit with bonus density. We also acknowledge the change would allow up to 895,000 square feet of industrial.

We will provide law enforcement services primarily from our Echo District office in south Fort Myers...”

Fire:

The South Trail Protection and Rescue Service District provided a letter dated January 29, 2016, stating that they are capable of providing Fire protection services to the subject property. Specifically:

“Per your request, please accept this correspondence as documentation that our agency is capable of providing fire protection services to any future project which results from this amendment. If there is any impact from this amendment, the use of fire impact fees generated from the growth will help assure our continued capability.”

E. CONCLUSIONS:

- The Central Urban Future Land Use Map category would significantly increase the population accommodation from 190 units to 1,267 units. This is a total projected increase of 1,077 dwelling units. Based on 2.2 persons per household (2010 U.S Census planning community population), the build-out population projection would increase from 418 to 2,788 persons.
- Light Industrial land uses would be permitted under the Central Urban Future Land Use Map category not currently allowed under the Outlying Suburban Future Land Use Map category. This would allow for the encroachment of industrial uses into the existing residential community that could be destructive to the character and integrity of the residential environment which is inconsistent with Lee Plan Policy 5.1.5.
- Changing the Future Land Use Map category on the subject property to allow industrial uses could lead to situations where the county would have to limit or deny development on the subject property or adjacent properties based on incompatibilities between residential and industrial or commercial uses.
- The Outlying Suburban density/intensity levels establishes for this area in 1988 were deemed appropriate to minimize potential impacts to the Six Mile Cypress Slough Watershed and in consideration of the treatment of Daniels Parkway as a gateway corridor.
- The Outlying Suburban Future Land Use Map category continues to be the appropriate category for the subject property. The existing land use pattern protects the residential neighborhoods from encroaching uses that are potentially destructive to neighborhood character. The more intense uses are located closer to Daniels Parkway and become less intense as it transitions to residential. Central Urban would allow over 3 times the amount of density currently allowed and the industrial uses discussed above.

- Daniels Parkway is a constrained arterial roadway limited to the existing six traffic lanes. There is very little connectivity west of I-75. Traffic is an issue today regardless of the subject amendment and will continue to be a concern as previously entitled projects are constructed. The residents living on properties north of Daniels Parkway, west of I-75, do not have a means to access arterial or collector roads to the north and must use Daniels Parkway to travel to work and commercial services. Also, Emergency Management Services (EMS) does not currently meet service standards.
- Although it is understood that as provided in Florida Statutes Section 163.3180, transportation concurrency is not required; allowing more dense/intense development will further exacerbate the existing traffic conditions.

For the reasons discussed in this staff report and based on the findings of fact, Staff recommends that the Board of County Commissioners ***not transmit*** the proposed amendments.

Staff continues to recommend that the subject property be designated as Outlying Suburban on the Future Land Use Map consistent with the existing residential and surrounding neighborhoods.

**PART V
LOCAL PLANNING AGENCY
REVIEW AND RECOMMENDATION**

DATE OF PUBLIC HEARING: July 25, 2016

A. LOCAL PLANNING AGENCY REVIEW:

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

1. RECOMMENDATION:

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

C. VOTE:

NOEL ANDRESS	_____
JOHN CASSANI	_____
DENNIS CHURCH	_____
JIM GREEN	_____
STAN STOUDE	_____
GARY TASMAN	_____
ROGER STRELOW	_____

TABLE 1(b)
Year 2030 Allocation

Future Land Use Category	Lee County Totals	Northeast Lee County	Boca Grande	Bonita Springs	Fort Myers Shores	Burnt Store	Cape Coral	Captiva	Fort Myers	Fort Myers Beach	Gateway / Airport	Daniels Parkway	Iona/ McGregor	San Carlos	Sanibel	South Fort Myers	Pine Island	Lehigh Acres	Southeast Lee County	North Fort Myers	Buckdigham	Estero	Bayshore
Intensive Development	1,376				20		27		250							660	3	42		365		9	
Central Urban	14,766 14,801				225				230			0 35	375	17		3,140		8,179		2,600			
Urban Community	18,285	520	485		637								850	1,000		960	500	12,873			110	450	
Suburban	16,623				1,810				85				2,488	1,975		1,200	675					1,700	
Outlying Suburban	2,957 3,844	30			40	20	2	500				4,552 1,444	377				600			6,690		454	
Sub-Outlying Suburban	1,548				367									25						382	140	66	950
Commercial																							
Industrial	79								39		20		5	5		10							
Public Facilities	1							1															
University Community	850													850									
Destination Resort Mixed Use Water Dependent	8												8										
Burnt Store Marina Village	4					4																	
Industrial Interchange																							
General Interchange	125									11	32								15	31		6	30
General Commercial Interchange																							
Industrial Commercial Interchange																							
University Village Interchange																							
Mixed Use Interchange																							
New Community	900										900												
Airport																							
Tradeport	9									9													
Rural	8,313	1,948			1,400	636						1,500		90			190	14		500	50	635	1,350
Rural Community Preserve	3,100																				3,100		
Coastal Rural	1,300																1,300						
Outer Island	202	5			1			150					1				45						
Open Lands	2,805	250				590						120								45			1,800
Density Reduction/ Groundwater Resource	6,905	711									94								4,000				2,100
Conservation Lands Upland																							
Wetlands																							
Conservation Lands Wetland																							
Unincorporated County Total Residential	81,156 81,083	3,464	485		4,500	1,250	29	651	604		1,034	2,304 3,131	4,104	3,962		5,870	3,313	21,108	4,015	10,753	3,326	3,254	6,230
Commercial	12,793	57	52		400	50	17	125	150		1,100	440	1,100	1,944		2,100	226	1,420	68	1,687	18	1,700	139
Industrial	13,801	26	3		400	5	26		300		3,100	10	320	450		900	64	300	7,246	554	5	87	5
Non Regulatory Allocations																							
Public	82,313	7,100	421		2,000	7,000	28	1,961	350		7,500	2,477	3,550	3,059		3,500	2,100	15,289	12,000	4,000	1,486	7,000	1,500
Active AG	17,027	5,100			550	150						20					2,400		7,171	200	411	125	900
Passive AG	45,835	13,549			2,500	109					1,491	20					815		18,000	1,532	3,619	200	4,000
Conservation	81,933	2,214	611		1,142	3,236	133	1,603	748		2,798	1,733	9,306	2,969		188	14,767	1,541	31,359	1,317	336	5,068	864
Vacant	22,247 22,330	1,953			226	931	34		45		300	64 136	975	594		309	3,781	8,246	470	2,060	1,000	800	530
Total	357,175	33,463	1,572		11,718	12,731	259	4,340	2,197		17,323	7,967	19,355	12,978		12,867	27,466	47,904	80,329	22,103	10,201	18,234	14,168
Population Distribution (unIncorporated Lee County)	495,000	5,090	1,531		30,861	3,270	225	530	5,744		11,977	16,375	34,538	36,963		58,363	13,265	163,543	1,270	71,001	6,117	25,577	8,760

(Amended by Ordinance No. 02-02, 03-19, 05-19, 07-13, 09-15, 09-16, 10-15, 10-16, 10-40, 10-43, 14-14, 16-02)

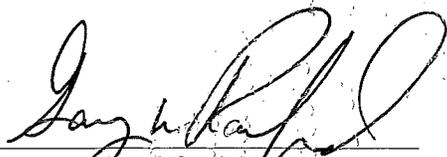
Legal Description
Portions of land lying in Sections 21 & 22,
Township 45 South, Range 25 East, Lee County,
Florida

All that portion of land lying in Sections 21 & 22, Township 45 South, Range 25 East, Lee County, Florida being more particularly described as follows:

Beginning at the northwest corner of Section 22, Township 45 South Range 25 East; thence N89°33'57"E along the north line of said Section 22 a distance of 645.06 feet to the northeast corner of the west one-half of the west one-half of the northwest one-quarter of said Section 22; thence S01°03'50"E along the east line of the west one-half of the west one-half of the northwest one quarter of said Section 22 a distance of 2646.29 feet to the southeast corner of the west one-half of the west one-half of the northwest one quarter of said Section 22; thence S89°34'17"W along the south line of the northwest one-quarter of said Section 22 a distance of 644.61 feet to the westerly one-quarter corner of said Section 22 and the easterly one quarter corner of said Section 21; thence S88°41'12"W along the south line of the northeast one-quarter of said Section 21 a distance of 2042.10 feet to the southwest corner of the east one-half of the west one-half of the northeast one-quarter of said Section 21; thence N01°07'47"W along the west line of the east one-half of the west one-half of the northeast one-quarter of said Section 21 a distance of 992.52 feet to the northwest corner of the south one-half of the northeast one-quarter of the southwest one-quarter of the northeast one quarter of said Section 21; thence N88°41'31"E along the north line of the south one-half of the northeast one-quarter of the southwest one-quarter of the northeast one quarter of said Section 21 a distance of 681.02 feet to the northeast corner of the south one-half of the northeast one-quarter of the southwest one-quarter of the northeast one quarter of said Section 21; thence N01°05'56"W along the west line of the east one-half of the northeast one-quarter of said Section 21 a distance of 1654.10 feet to a point on the north line of said Section 21; thence N88°42'02"E along the north line of the northeast one-quarter of said Section 21 a distance of 1362.77 feet to the northwest corner of said Section 22 and the point of beginning.

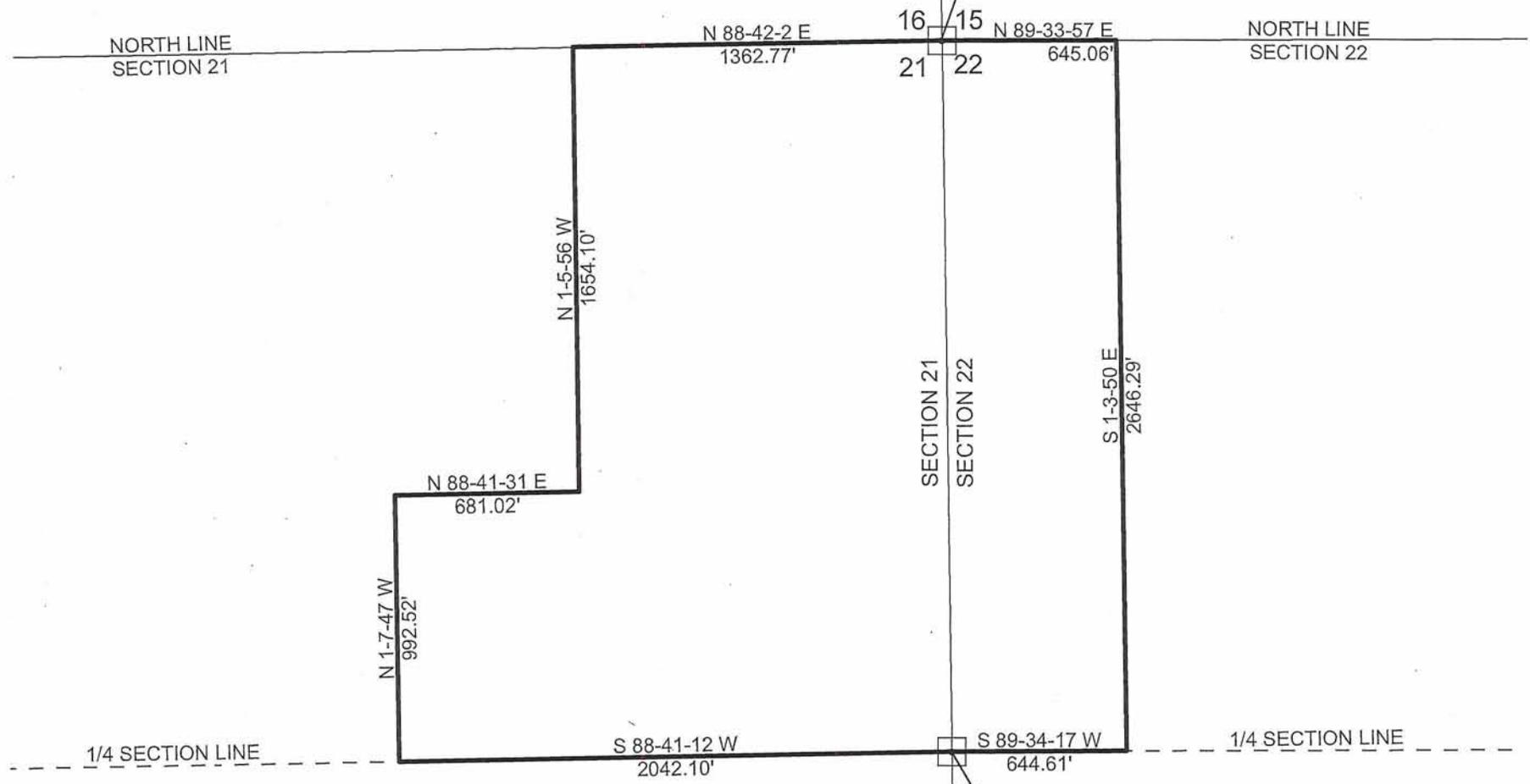
Containing 137.44 acres of land, more or less.

Bearings are based on the North line of Section 22, Township 45 South, Range 25 East as bearing N89°33'57"E.



Gary W. Rashford (For Lee County)
Professional Surveyor and Mapper
Florida Certification LS 6305

POINT OF BEGINNING
 NORTHWEST CORNER SECTION 22,
 TOWNSHIP 45 S, RANGE 25 E



SECTION 21
 SECTION 22

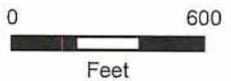
WEST 1/4 CORNER
 SECTION 22

THIS IS NOT A SURVEY

SKETCH TO ACCOMPANY DESCRIPTION
 SEE SHEET 1
 FOR LEGAL DESCRIPTION



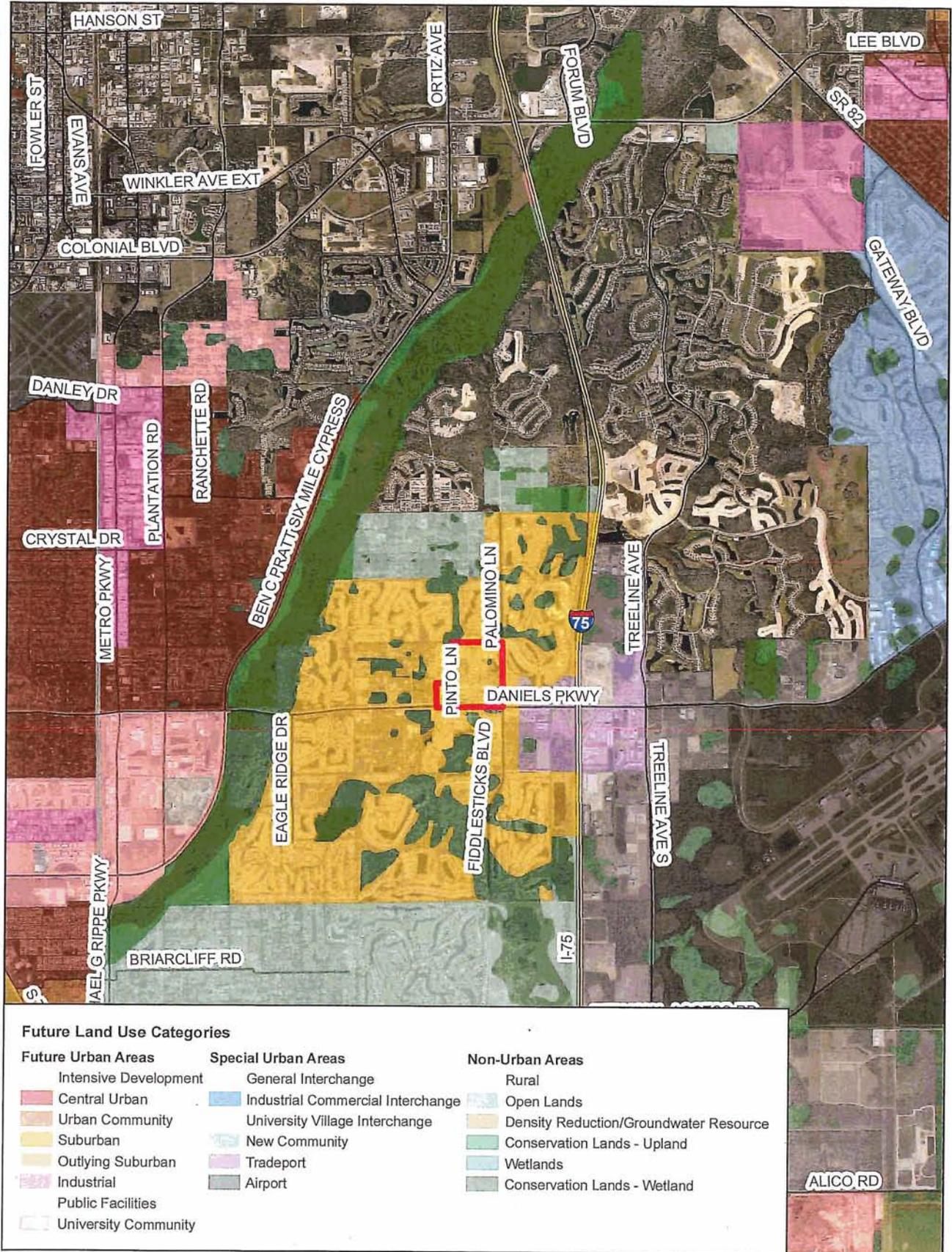
1500 MONROE STREET
 P.O. BOX 398
 FORT MYERS, FLORIDA 33902-0398
 PHONE (239) 533-8585
 FAX (239) 485-8386



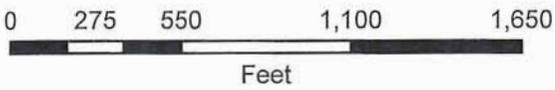
Portions of land lying in Sections 21 & 22,
 Township 45 South, Range 25 East,
 Lee County, Florida

DATE FEB, 2016	PROJECT NO	S,T,R 21 & 22-45-25	SCALE 1" = 600'	SHEET 2 of 2
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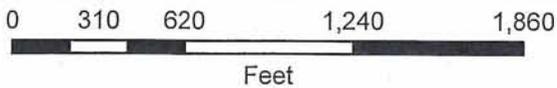
CPA2015-10 Apaloosa and Palomino Lane Future Land Use Map (Current)



CPA2015-10 Apaloosa and Palomino Lane Surrounding Zoning



CPA2015-10 Apaloosa and Palomino Lane Surrounding Land Use





LEE COUNTY
SOUTHWEST FLORIDA
BOARD OF COUNTY COMMISSIONERS

John E. Manning
District One

January 8, 2016

Cecil L. Pendergrass
District Two

Larry Kiker
District Three

Brian Hamman
District Four

Frank Mann
District Five

Roger Desjarlais
County Manager

Richard Wm. Wesch
County Attorney

Donna Marie Collins
Hearing Examiner

Sharon Jenkins-Owen
Principal Planner
Lee County Department of Community Development
1500 Monroe St.
Fort Myers, FL 33901

Re: Letter of Service Availability

Ms. Jenkins-Owen,

I am in receipt of your request for a Letter of Service Availability for CPA2015-00010. This is regarding a subject property on the north side of Daniels Parkway near Palomino Lane.

Lee County Emergency Medical Services is the primary EMS transport agency responsible for coverage of the parcels you detailed. Because we currently serve this area and have a sufficient response data sample, we evaluated response times in this vicinity to simulate the anticipated demand and response.

When conducting an analysis like this, we look to evaluate the ability to meet the service standards as required in County Ordinance 08-16. We current do not have response times in this area that meet this ordinance. In addition, without knowing more specific information about the design of the development and areas of density, it is difficult to predict the type of EMS resources that would be necessary to serve this proposed change.

Therefore, we are not able to issue a letter of service availability at this time. We would ask that you provide us with a site plan and more detail as the project moves forward so we can properly evaluate the impacts and our ability to meet the needs of your prospective amendment.

Sincerely,

Benjamin Abes
Deputy Chief, Operations
Division of Emergency Medical Services

Memo

To: Sharon Jenkins Owen, Principal Planner
Planning Division

Andrew J. Getch
April 15, 2016

From: Andrew Getch, Florida P.E. 47017
Planning Manager, Lee County Department of Transportation
1500 Monroe Street, Fort Myers, Florida 33901

Date: April 15, 2016

Subject: Apaloosa (CPA2015-00010)

LCDOT staff has prepared a traffic analysis comparing four Future Land Use Map (FLUM) category scenarios in the subject application. The application considers potential changes in the FLUM designation to increase residential density for 137 acres north of Daniels Parkway between Palomino Lane and Pinto Lane. In Lee County Administrative Code AC-11-1, Daniels Parkway is designated as a principal arterial and Palomino Lane is designated as a minor collector. Both are county maintained. Apaloosa Lane, Pinto Lane, Salrose Lane, and the western portion of Jobe Road are privately maintained local streets. Jobe Road is county maintained within 300 feet of Palomino Lane.

The four analyzed land use scenarios are listed in Table 1:

- 1) The current FLUM designation of Outlying Suburban.
- 2) A FLUM change to Suburban.
- 3) A FLUM change to Central Urban with Commercial Retail.
- 4) A FLUM change to Central Urban with Industrial.

Table 1: Estimated Potential Land Use Scenarios

Scenario	Land Use Category	Dwelling units (multi-family)	Commercial Retail (Square feet)	Industrial (Square feet)
1	Outlying Suburban	190	533,500	0
2	Suburban	507	533,500	0
3	Central Urban (Commercial)	1,267	533,500	0
4	Central Urban (Industrial)	1,267	0	929,570

LCDOT staff utilized the standard Comprehensive Plan Amendment traffic analysis methodology. The study evaluated future traffic volumes on road segments within a three mile radius of the subject property and estimated level of service (LOS) in a five year and 20 year analysis. The five year analysis applied growth rates to existing traffic volumes from Lee County traffic count data to estimate background traffic. Project traffic volumes on roadway segments were determined by assignment of trips to a roadway network. Then project traffic was added to background traffic to estimate total volume. The total volume was compared to generalized service volumes to determine the LOS of each roadway segment. In the study area, there are no roadway widening projects funded for construction in the first five years of the Lee County Capital Improvement Program (CIP).

The 20 year analysis used traffic volumes from the Lee County Metropolitan Planning Organization 2040 Long Range Transportation Plan (MPO LRTP) travel model. The travel model distributes trips based on estimated future population and employment. The travel model was developed by the Florida Department of Transportation (FDOT) to evaluate transportation needs on major roadways in the 12 counties of FDOT District One. The travel model is also used in development of individual MPO LRTP's and project analysis from Collier County to Polk County. The 20 year analysis project traffic assignment and LOS estimate are similar to the method used in the five year analysis.

In the study area, the travel model includes existing roads plus planned improvements. The three planned improvements in the study area are Three Oaks Parkway north 4-laning extension from north of Alico Road to Daniels Parkway, Daniels Parkway 6-laning from State Road 82 to Gateway Boulevard, and Metro Parkway 6-laning from Daniels Parkway to Colonial Boulevard.

Table 2 shows total trip generation for all uses in the 137 acres included in the application. Table 3 shows the difference between estimated total trip generation from the scenarios in Table 1, and trip generation from existing uses in the 137 acres. The Central Urban commercial scenario has the highest trip generation potential.

Table 2: Total Net New Trip Generation

Scenario	Land Use Category	AM Peak Hour	PM Peak Hour	Daily
-	Existing uses	415	823	9,614
1	Outlying Suburban	363	1,292	14,174
2	Suburban	461	1,411	15,615
3	Central Urban (Commercial)	655	1,653	18,671
4	Central Urban (Industrial)	944	1,238	11,174

Table 3: Comparison of Summary Increase in Net New Trip Generation

Scenario	Land Use Category	AM Peak Hour	PM Peak Hour	Daily
1	Outlying Suburban	-52	469	4,560
2	Suburban	46	588	6,001
3	Central Urban (Commercial)	240	830	9,057
4	Central Urban (Industrial)	529	415	1,560

Table 4 indicates an acceptable LOS on all roadway segments in the five year analysis. The analysis indicated a projected v/c ratio in excess of 1.0 on Daniels Parkway east of Six Mile Cypress Parkway with the estimated increase in residential units associated with a Outlying Suburban (v/c approximately = 1.01), Suburban (v/c = 1.02) or a Central Urban (v/c = 1.05) FLUM designation.

The Lee Plan Table 2(a) designates Daniels Parkway from Metro Parkway to I-75 as a constrained roadway. Lee Plan Policy 37.1.1 and 37.2.2 are applicable:

POLICY 37.1.1: *LOS "E" is the minimum acceptable LOS for principal and minor arterials, and major collectors on county-maintained transportation facilities. Level of service standards for the State Highway System during peak travel hours are "D" in urbanized areas and "C" outside urbanized areas.*

The minimum acceptable level of service for Pine Island Road between Burnt Store Road and Stringfellow Boulevard is subject to Objective 14.2.

For minimum acceptable levels of service determination the peak season, peak hour, peak direction condition will be defined as the 100th highest volume hour of the year in the predominant traffic flow direction. The 100th highest hour approximates the typical peak hour during the peak season. Peak season, peak hour, peak direction conditions will be calculated using K-100 factors and "D" factors from the nearest, most appropriate county permanent traffic count station.

POLICY 37.2.2: *A maximum volume-to-capacity (v/c) ratio of 1.85 is established for the constrained roads identified in Table 2(a) that lie in the unincorporated area. No permits will be issued by Lee County that cause the maximum volume-to-capacity ratio to be exceeded or that affect the maximum volume-to-capacity ratio once exceeded. Permits will only be issued when capacity enhancements and operational improvements are identified and committed for implementation that will maintain the volume-to-capacity ratio on the constrained segment at or below 1.85.*

A v/c ratio greater than 1.0 is typically a LOS "F", unless a roadway segment is designated as constrained. The Daniels Parkway estimated v/c ratio in the year 2020 is 1.01-1.05. Policy 37.2.2 established the v/c ratio for a constrained roadway as at or below 1.85. All other study area road segments are estimated to operate at an acceptable LOS in the year 2020.

Lee Plan Table 2(b) identifies several operational improvements to preserve capacity on Daniels Parkway. The table lists frontage road connections, closure of median openings at minor side streets, and access management. Jobe Road and Sal Rose Lane act as parallel reverse frontage roads north of Daniels Parkway between Renaissance Way east of Palomino Lane and Pinto Lane in the application area. There are no reverse frontage roads along Daniels Parkway from Pinto Lane to Six Mile Cypress Parkway. Existing full median openings on Daniels Parkway at intersections with Apaloosa Lane and Pinto Lane

may be subject to further evaluation. Daniels Parkway is also designated as a controlled access facility by Board of County Commissioners Resolution 89-10-11, as most recently amended in Resolution 08-08-57.

Table 4 summarizes the LOS comparison of the application FLUM scenarios. For the CPA analysis, the MPO LRTP cost feasible network model output was treated as background traffic. Any increase in trips estimated in Table 3 was added to the background traffic. This approach may be conservative for two reasons.

One reason is that projections by the Bureau of Economic and Business Research predict that Lee County population will increase to 1,073,866 by the year 2040. The 2010 U.S. Census data showed a population of 618,754. The population in 2014 was estimated at 679,513. The travel model year 2040 socioeconomic data distributed the estimated countywide population increase. Census data is defined in tracts and blocks. The Census tracts and blocks are assembled into an area much larger than the 137 acres in the subject application. That larger area is called a traffic analysis zone. A part of the population increase could occur within the current FLUM designation in the 137 acres of the application. 2040 travel model population and employment data is typically less than full build-out density and intensity. In this study, any increase in traffic analysis zone estimated population and employment is attributed to land within the traffic analysis zone, but outside the application area.

A second reason is that the travel model uses an iterative process to minimize system-wide travel time. The iterative process shifts traffic away from congested road segments. However, the v/c ratio on Daniels Parkway is approximately 1.3 in the cost feasible network, with the iterative process already shifting traffic away from Daniels Parkway.

In Table 4, all four scenario analyses of the year 2040 result in the same roadway segments with estimated traffic volumes in excess of the adopted LOS standard. These include Daniels Parkway from I-75 to Gateway Boulevard, Fiddlesticks Boulevard south of Daniels Parkway, and Palomino Lane north of Daniels Parkway. The constrained portion of Daniels Parkway is projected to have a v/c ratio of 1.32 – 1.39.

Table 4: Summary of segments estimated to operate below adopted (LOS)

Scenario	Land Use Category	2014	2020	2040
1	Outlying Suburban	none	(1)	(2)
2	Suburban	none	(1)	(2)
3	Central Urban 1	none	(1)	(2)
4	Central Urban 2	none	(1)	(2)

Notes:

(1) Daniels Parkway east of Six Mile Cypress Parkway is projected to operate at a v/c ratio 1.01 – 1.05.

(2) Daniels Parkway from Six Mile Cypress Parkway to I-75 is projected to operate at a v/c ratio from 1.32-1.39. Daniels Parkway from I-75 to Gateway Boulevard is estimated to operate at LOS "F", Fiddlesticks Boulevard south of Daniels Parkway, and Palomino Lane north of Daniels Parkway are shown with volumes exceeding capacity. However, this appears to be due to model anomalies.

The study area roadway network is constrained and has minimal connectivity west of I-75. As noted, Daniels Parkway is designated as a constrained roadway and limited to the existing six lanes. In the study area, Six Mile Cypress Slough acts as an environmental barrier to road network connectivity. Established development acts as a man-made barrier. Daniels Parkway is the only east-west roadway in the study area connecting to I-75 and Metro Parkway. The distance between Alico Road and Colonial Boulevard is 8 miles. In approximately 2.7 miles along Daniels Parkway between I-75 and Six Mile Cypress Parkway, there are no existing north-south roads connecting to Alico Road or to Colonial Boulevard. Three Oaks Parkway extension from Alico Road north to Daniels is in the MPO LRTP and is currently programmed for construction in years 6-10 of the Lee County Capital Improvement Program.

The travel model appears to be overestimating future traffic volumes on Palomino Lane and Fiddlesticks Boulevard. The model estimates average daily traffic of approximately 17,000 to 24,000 in the year 2040. The 2014 traffic count volumes are approximately 7,000. However, based on review of aerial photography, the areas connecting directly to Fiddlesticks Boulevard are substantially built out, and the majority of existing and approved subdivisions appear to be built along Palomino Lane. The model projected traffic volumes may be a result of anomalies in the connections to Palomino Lane and Fiddlesticks Boulevard and the representation of population and employment data. The anomalies do not affect the outcome of this analysis. The MPO LRTP does not include adding motor vehicle lanes to either Palomino Lane or Fiddlesticks Boulevard. Staff will coordinate travel model review with Lee County MPO and FDOT staff.

Along the application area frontage, Daniels Parkway is served by Lee Tran Route 50 with transit stops west of Palomino Lane and east of Pinto Lane. There is an existing shared use path on the north side of Daniels Parkway along with on-road bicycle lanes. The Lee County Metropolitan Planning Organization TIGER V Complete Streets Grant is constructing an additional shared use path on the south side of Daniels Parkway. The Lee County CIP identifies funding for shared use paths along Fiddlesticks Boulevard and along Palomino Lane. Fiddlesticks Boulevard shared use path is about to begin construction. The Palomino Lane shared use path project also includes intersection turn lane improvements. Design is funded and construction is programmed in FY 2016/17.

AG/ag

Traffic Circulation Analysis

Prepared for A

Comprehensive Plan Amendment

Scenario 1—Outlying Suburban

For

Apaloosa Lane and Palomino Lane

April 5, 2016

1. Introduction

This report is to conduct a traffic circulation analysis pursuant to the requirements of a Comprehensive Plan Amendment application. The analysis will examine the impact of the land use remains "Outlying Suburban" in worst case scenario. The approximately 137 acres property is located on the north side of Daniels Pkwy between Palomino Lane and Pinto Road (Figure 1).

2. The Land Use in Worst Case Scenario

- (1) 190 multi-family dwelling units and
- (2) 533,500 sf of commercial uses

3. The Existing Uses

The following uses have been constructed in the property:

- 4 single-family dwelling units;
- 68 multi-family dwelling units;
- 328 hotel rooms;
- 159,369 sf of commercial and office uses;
- 35,013 sf of church

4. The Trip Generation in Worst Case Developments

The Table 1 shows the trip generation in the worst case developments with the existing Outlying Suburban Land use.

Land Use	AM Peak Hour			PM Peak Hour			Daily (2-way)
	In	Out	Total	In	Out	Total	
190 DU (Multi-Family)	15	71	86	68	34	102	1,124
533,500 sf Of Commercial	268	165	433	883	956	1,839	20,163
Total:	283	236	519	951	990	1,941	21,287
Internal Cap.*	(14)	(12)	(26)	(48)	(50)	(97)	(1,046)
Pass-By	(80)	(50)	(130)	(265)	(287)	(552)	(6,049)
Net New Trips	189	174	363	638	653	1,292	14,174

*Assume 5% internal capture ** 30% commercial pass-by

5. The Study Area

In accordance with Lee County's Application for a Comprehensive Plan Amendment, the study area should include a review of projected roadway condition within a 3-mile radius of the site. The following roadways are included in the study area:

- (1) Daniels Pkwy from Plantation Road to Gateway Blvd
- (2) Treeline Ave north and south of Daniels Pkwy
- (3) I-75 north and south of Daniels Pkwy
- (4) Six Mile Cypress Pkwy north and south of Daniels Pkwy
- (5) Fiddlestick Blvd
- (6) Palomino Lane

6. Trip Generation (Existing Uses)

The Table 2 shows the trip generation from the existing uses and these trips are already on the roadway network.

Land Use	AM Peak Hour			PM Peak Hour			Daily (2-way)
	In	Out	Total	In	Out	Total	
4 DU (Single-Family)	3	9	12	4	2	6	54
68 DU (Multi-family)	7	30	37	36	19	55	531
328 Hotel Rooms	131	95	226	113	117	230	2,925
159,369 sf Of Commercial 35,013 sf	128	79	207	392	426	818	9,194
Of Church	12	8	20	8	9	17	319
Total	281	221	502	553	573	1,126	13,023
Internal Capture* (14)		(11)	(25)	(28)	(29)	(57)	(651)
Pass-by**	(38)	(24)	(62)	(118)	(128)	(246)	(2,758)
Net New Trips	229	186	415	407	416	823	9,614

*Assume 5% internal capture ** 30% commercial pass-by

Comparing with the trip generations, Table 3 indicates that the land use in worst case developments will increase 469 trips from the existing uses in the PM peak hour.

Table 3
Trip Generation Comparison

Land Use	AM Peak Hour			PM Peak Hour			Daily (2-way)
	In	Out	Total	In	Out	Total	
The worst Case Developments	189	174	363	638	653	1,292	14,174
The Existing Uses	229	186	415	407	416	823	9,614
Increase	(40)	(12)	(52)	231	237	469	4,560

The trip distribution is shown in the Figure 2.

7. 5 Year Analysis

Table 4 shows the level of service (LOS) analysis for 5 years. The LOS analysis indicates that all the study area roadway segments are anticipated at or better than the adopted LOS standard in year 2020.

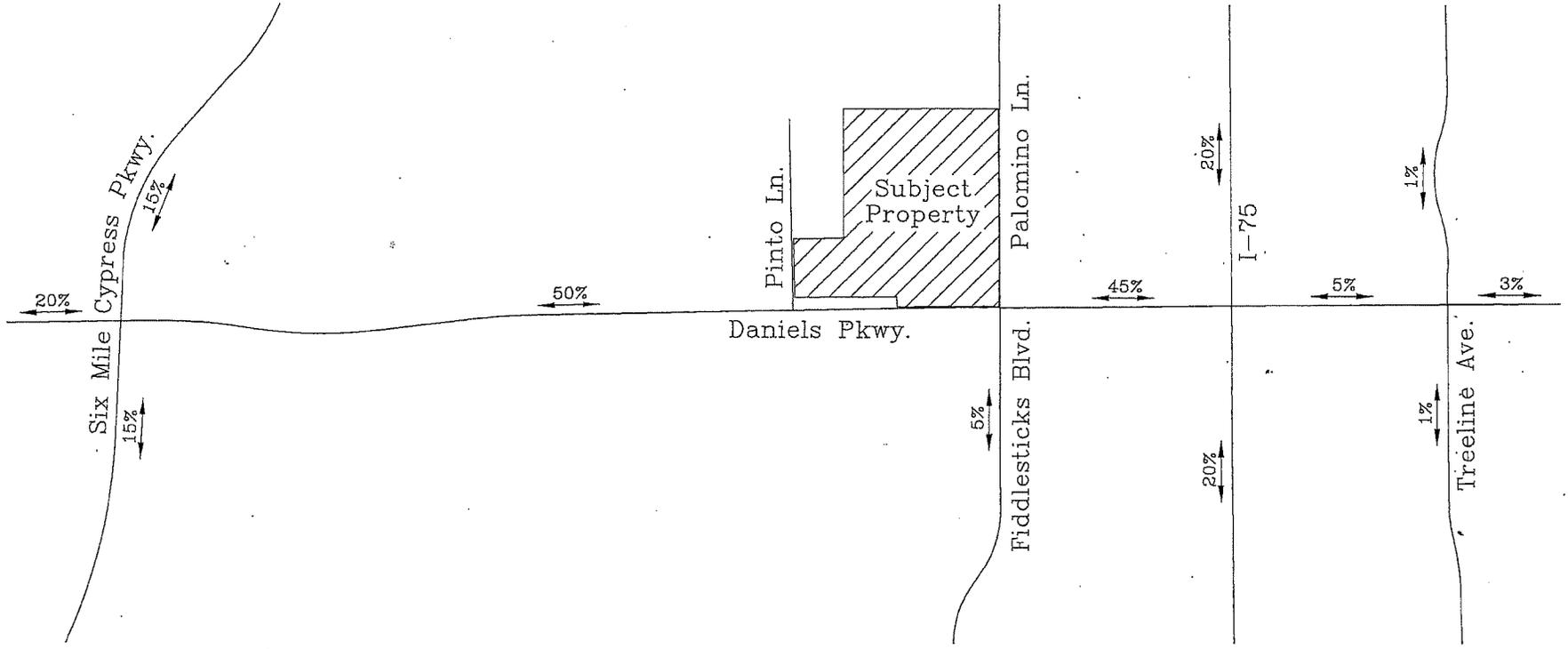
8. Long Range 25 Year Horizon (2040) Analysis

The recently adopted Lee County MPO travel (District Model) was used to project future 2040 background traffic volumes. The future road network used for the travel model assignments was the Lee County MPO 2040 Highway Cost Feasible Plan network.

The LOS analysis for future 2040 condition with and without the proposed developments is shown in the Table 5. It indicates Daniels Pkwy from Six Mile Cypress Pkwy to Gateway Blvd, Fiddlestick Blvd south of Daniels Pkwy, and Palomino Lane north of Daniels Pkwy will operate at LOS F with and without the proposed developments.

9. Conclusion

The land use remains in Outlying Suburban will not cause any roadway LOS problem in 5 years. For the future 2040 condition, Daniels Pkwy from Six Mile Cypress Pkwy to Gateway Blvd, Fiddlestick Blvd south of Daniels Pkwy and Palomino Lane north of Daniels Pkwy will operate at LOS F with and without the proposed developments.



Department
of Transportation
Lee County
Southwest Florida
160011401.DWG

Figure 2
Trip Distribution

Table 4
Lee County Traffic Counts and Calculations
5 Year Analysis

Total Project Traffic PM = 469

In = 232

Out = 237

Roadway	Segment	2014 AADT	Annual Rate	2014 PK HR PK Dir Vol	2020 BKGR Traffic Vol	Project %	Prtoject Traffic	2020 Total Traffic Vol	2020 w/o Project LOS	2020 with Project LOS
Daniels Pkwy	W of Six Mile Cypress Pkwy	48,000	1%	2,172	2,282	20%	47	2,329	D	D
	E of Six Mile Cypress Pkwy	51,800	1%	2,685	2,850	50%	119	2,969	D	D
	W of I-75	51,500	1%	2,494	2,647	45%	107	2,754	D	D
	E of I-75	47,100	1%	2,506	2,660	5%	12	2,672	B	B
	E of Chamberlin Pkwy	38,100	1%	2,293	2,434	3%	7	2,441	B	B
Treeline Ave	N of Daniels Pkwy	9,700	1%	625	663	1%	2	665	A	A
	S of Daniels Pkwy	25,500	1%	1,352	1,435	1%	2	1,437	B	B
I-75	N of Daniels Pkwy	77,200	1%	3,691	3,918	20%	47	3,965	C	C
	S of Daniels Pkwy	77,000	1%	3,419	3,629	20%	47	3,676	C	C
Six Mile Cypress Pkwy	N of Daniels Pkwy	17,000	1%	845	897	15%	36	933	B	B
	S of Daniels Pkwy	23,700	1%	1,103	1,171	15%	36	1,207	B	B
Fiddlestick Blvd	S of Daniels Pkwy	7,200	1%	349	370	5%	12	382	C	C
Palomino Lane	N of Daniels Pkwy	6,700	1%	324	344	60%	142	486	C	D

Table 5
Long Range 25 Year Horizon Analysis

Total Project Traffic PM = 469

In = 232

Out = 237

Roadway	Segment	# of Lane	2040 PSWADT Traffic	PK Season Factors	2040 AADT	K-100 Factors	D-Factors	2040 PK HR PK Dir Vol	Project Traffic	2040 Total Traffic Vol	2040 w/o Project LOS	2040 with Project LOS
Daniels Pkwy	W of Six Mile Cypress Pkwy	6	68,050	1.20	56,708	0.095	0.51	2,748	47	2,795	C	C
	E of Six Mile Cypress Pkwy	6	85,647	1.20	71,372	0.096	0.54	3,700	119	3,819	F	F
	W of I-75	6	89,988	1.20	74,990	0.096	0.54	3,887	107	3,994	F	F
	E of I-75	6	83,791	1.20	69,825	0.095	0.56	3,715	12	3,727	F	F
	E of Chamberlin Pkwy	6	72,387	1.20	60,322	0.102	0.59	3,630	7	3,637	F	F
Treeline Ave	N of Daniels Pkwy	4	27,759	1.19	23,326	0.093	0.57	1,237	2	1,239	C	C
	S of Daniels Pkwy	4	31,804	1.19	26,726	0.113	0.57	1,721	2	1,723	C	C
I-75	N of Daniels Pkwy	6	108,108	1.19	90,847	0.090	0.56	4,579	47	4,626	C	C
	S of Daniels Pkwy	6	122,860	1.19	103,243	0.090	0.56	5,203	47	5,250	D	D
Six Mile Cypress Pkwy	N of Daniels Pkwy	4	26,630	1.19	22,378	0.094	0.53	1,115	36	1,151	C	C
	S of Daniels Pkwy	4	30,041	1.19	25,244	0.095	0.56	1,343	36	1,379	C	C
Fiddlestick Blvd	S of Daniels Pkwy	2	24,469	1.20	20,390	0.096	0.54	1,057	12	1,069	F	F
Palomino Lane	N of Daniels Pkwy	2	20,217	1.20	16,847	0.096	0.54	873	142	1,015	F	F

Apaloosa and Palomino Lanes Comprehensive Plan Amendment

CPA2015-00010

22-45-25-00-00001.0100	13060 Palomino Ln	29.25	Outlying Suburban	CFPD	35,013 sf Church	Dewane, Frank J Blessed Pope John XXII <i>Agent: Veronica Martin, TDM</i>
22-45-25-00-00001.0110	13251 Apaloosa Ln	3.25	Outlying Suburban	CFPD	Church Home for the Aged 68 Apts	Blessed Pope John XXII <i>Agent: Veronica Martin, TDM</i>
21-45-25-09-00000.0050	8911 Daniels Pkwy	2.11	Outlying Suburban	CPD	16,878 SF Dry Cleaner, Bagels, Pool supplies, Origami restaurant, medical office	Salrose Dreams Inc.
21-45-25-09-00000.0030	8955 Daniels Pkwy	2.17	Outlying Suburban	CPD	328 Room Hotel	Jassas Capital LLC
22-45-25-09-00000.0040	9001 Daniels Pkwy	2.09	Outlying Suburban	CPD	25,090 SF Multi-story office	PDI LLC
21-45-25-01-00000.029A	13200 Apaloosa Ln	5.0	Outlying Suburban	AG-2	Single Family residence	Appaloosa 10 Properties Inc.
21-45-25-01-00000.030E	13351/379 Pinto Ln	5.0	Outlying Suburban	CPD	undeveloped	Parker Business Center LLC

*Lee County Property Appraiser's Records 12/17/2015

Existing Development Summary:

4 Single-family units

68 Home for aged apartments

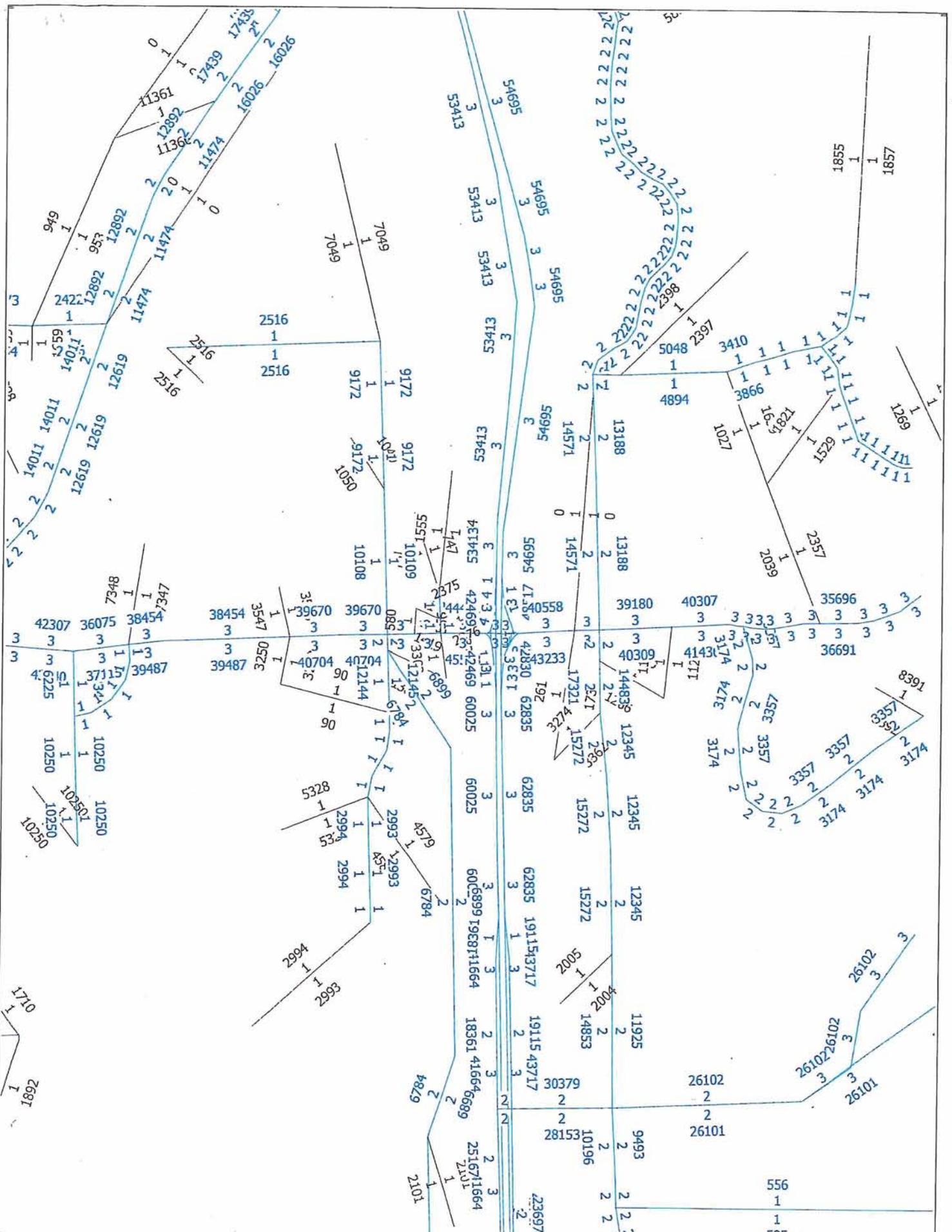
328 room hotel

Commercial retail and office: 121,631 SF (excluding Federal Office Building, Church)

- Restaurants: 5,088 SF Two Meatballs in the Kitchen; Fancy's in portion of 20,986 SF building); 5,796 SF former MacDaddys; Oragami & Bagels in portion of 16,878 SF building; Starbucks in portion of 5,613 SF building.

35,013 SF Church

37,738 SF Government building



Traffic Circulation Analysis

Prepared for A

Comprehensive Plan Amendment

Scenario 2—Central Urban (Commercial)

For

Apaloosa Lane and Palomino Lane

April 5, 2016

1. Introduction

This report is to conduct a traffic circulation analysis pursuant to the requirements of a Comprehensive Plan Amendment application. The analysis will examine the impact of the requested land use change from "Outlying Suburban" to "Central Urban". The approximately 137 acres property is located on the north side of Daniels Pkwy between Palomino Lane and Pinto Road (Figure 1).

2. The Proposed Land Use Scenarios

- (1) 1,267 multi-family dwelling units and
- (2) 533,500 sf of commercial uses

3. The Existing Uses

The following uses have been constructed in the property:

- 4 single-family dwelling units;
- 68 multi-family dwelling units;
- 328 hotel rooms;
- 159,369 sf of commercial and office uses;
- 35,013 sf of church

4. The Trip Generation (proposed Land Use Scenarios)

The Table 1 shows the trip generation for the proposed CPA.

Land Use	AM Peak Hour			PM Peak Hour			Daily (2-way)
	In	Out	Total	In	Out	Total	
1,267 DU (Multi-Family)	67	327	394	323	159	482	5,858
533,500 sf Of Commercial	268	165	433	883	956	1,839	20,163
Total:	335	492	827	1,206	1,115	2,321	26,021
Internal Cap.*	(17)	(25)	(42)	(60)	(56)	(116)	(1,301)
Pass-By	(80)	(50)	(130)	(265)	(287)	(552)	(6,049)
Net New Trips	238	417	655	881	772	1,653	18,671

*Assume 5% internal capture ** 30% commercial pass-by

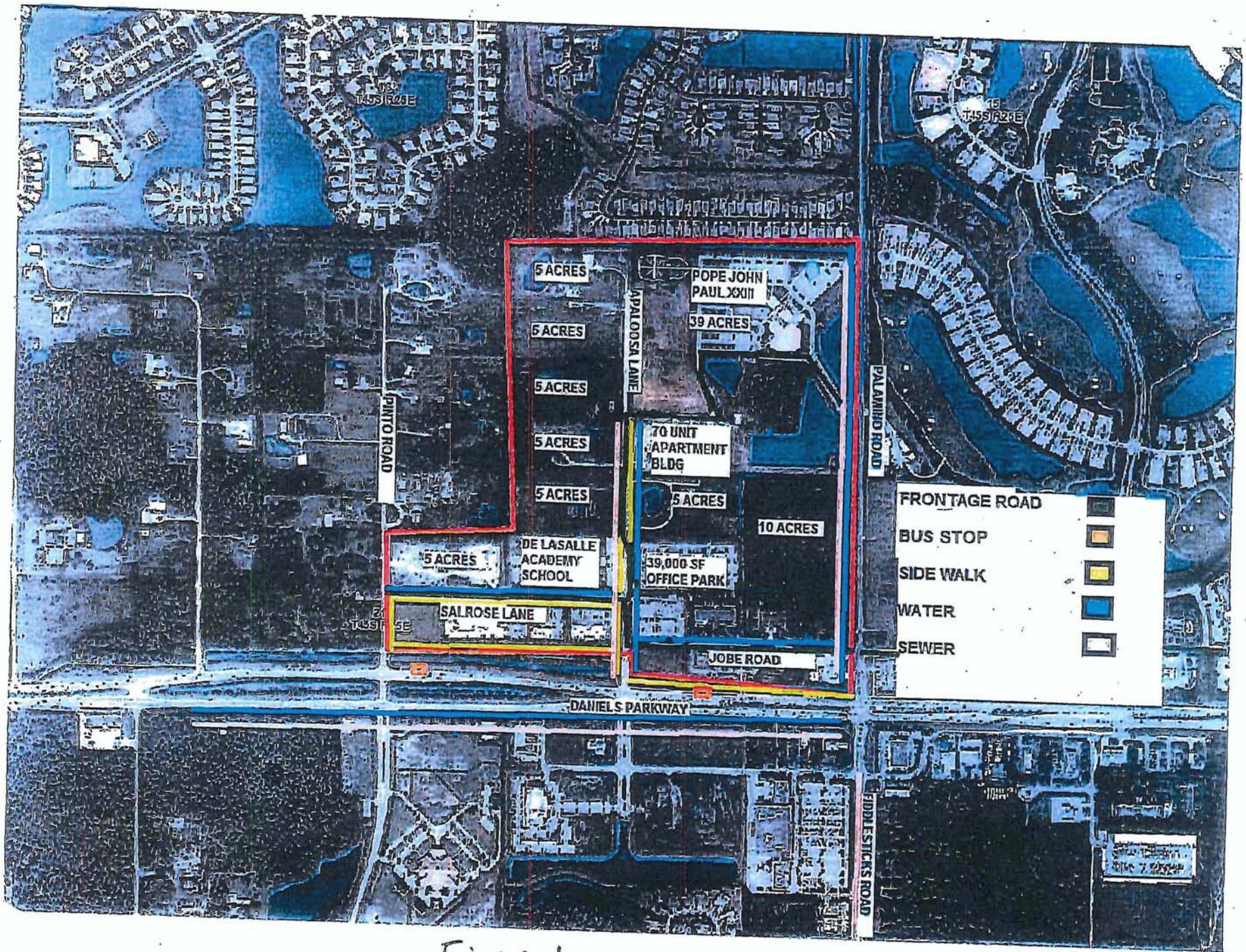


Figure 1

5. The Study Area

In accordance with Lee County's Application for a Comprehensive Plan Amendment, the study area should include a review of projected roadway condition within a 3-mile radius of the site. The following roadways are included in the study area:

- (1) Daniels Pkwy from Plantation Road to Gateway Blvd
- (2) Treeline Ave north and south of Daniels Pkwy
- (3) I-75 north and south of Daniels Pkwy
- (4) Six Mile Cypress Pkwy north and south of Daniels Pkwy
- (5) Fiddlestick Blvd
- (6) Palomino Lane

6. Trip Generation (Existing Uses)

The Table 2 shows the trip generation from the existing uses and these trips are already on the roadway network.

Land Use	AM Peak Hour			PM Peak Hour			Daily (2-way)
	In	Out	Total	In	Out	Total	
4 DU (Single-Family)	3	9	12	4	2	6	54
68 DU (Multi-family)	7	30	37	36	19	55	531
328 Hotel Rooms	131	95	226	113	117	230	2,925
159,369 sf Of Commercial 35,013 sf	128	79	207	392	426	818	9,194
Of Church	12	8	20	8	9	17	319
Total	281	221	502	553	573	1,126	13,023
Internal Capture* (14)		(11)	(25)	(28)	(29)	(57)	(651)
Pass-by**	(38)	(24)	(62)	(118)	(128)	(246)	(2,758)
Net New Trips	229	186	415	407	416	823	9,614

*Assume 5% internal capture ** 30% commercial pass-by

Comparing with the trip generations, Table 3 indicates that the proposed land use will increase 830 trips from the existing uses in the PM peak hour.

Table 3
Trip Generation Comparison

Land Use	AM Peak Hour			PM Peak Hour			Daily (2-way)
	In	Out	Total	In	Out	Total	
The Proposed Land Use	238	417	655	881	772	1,653	18,671
The Existing Uses	229	186	415	407	416	823	9,614
Increase	9	231	240	474	356	830	9,057

The trip distribution is shown in the Figure 2.

7. 5 Year Analysis

Table 4 shows the level of service (LOS) analysis for 5 years. The LOS analysis indicates that all the study area roadway segments are anticipated at or better than the adopted LOS standard in year 2020 except Daniels Pkwy east of Six Mile Cypress Pkwy which is LOS D without the proposed CPA and LOS F with the proposed CPA.

8. Long Range 25 Year Horizon (2040) Analysis

The recently adopted Lee County MPO travel (District Model) was used to project future 2040 background traffic volumes. The future road network used for the travel model assignments was the Lee County MPO 2040 Highway Cost Feasible Plan network.

The LOS analysis for future 2040 condition with and without the proposed land use change is shown in the Table 5. It indicates Daniels Pkwy from Six Mile Cypress Pkwy to Gateway Blvd, Fiddlestick Blvd south of Daniels Pkwy, and Palomino Lane north of Daniels Pkwy will operate at LOS F with and without the proposed CPA.

9. Conclusion

The proposed CPA will have a LOS issue on Daniels Pkwy east of Six Mile Cypress Pkwy which is LOS D without the proposed CPA and LOS F with the proposed CPA in year 2020. For the future 2040 condition, Daniels Pkwy from Six Mile Cypress Pkwy to Gateway Blvd, Fiddlestick Blvd south of Daniels Pkwy and Palomino Lane north of Daniels Pkwy will operate at LOS F with and without the proposed CPA.

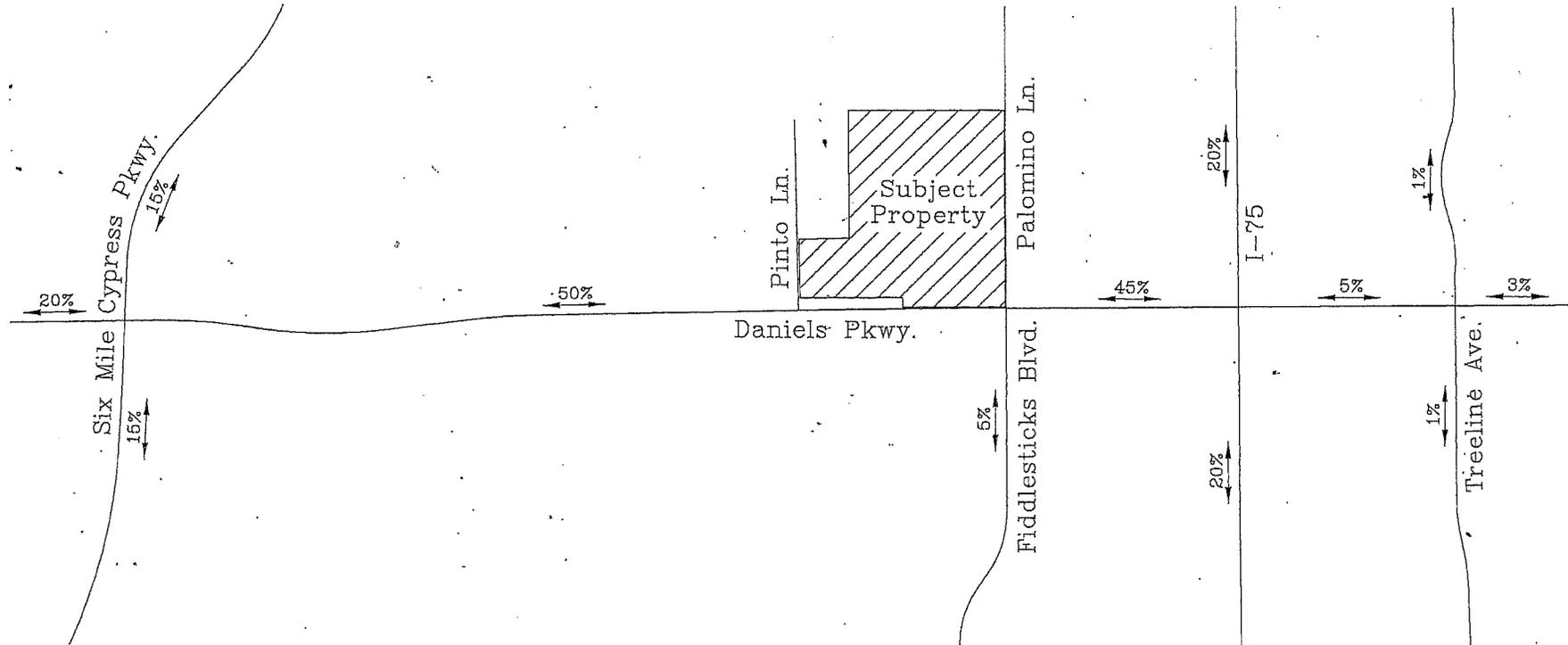


Figure 2
Trip Distribution

Table 4
Lee County Traffic Counts and Calculations
5 Year Analysis

Total Project Traffic PM = 830

In = 474

Out = 356

Roadway	Segment	2014 AADT	Annual Rate	2014 PK HR PK Dir Vol	2020 BKGR Traffic Vol	Project %	Prtoject Traffic	2020 Total Traffic Vol	2020 w/o Project LOS	2020 with Project LOS
Daniels Pkwy	W of Six Mile Cypress Pkwy	48,000	1%	2,172	2,282	20%	95	2,377	D	D
	E of Six Mile Cypress Pkwy	51,800	1%	2,685	2,850	50%	237	3,087	D	F
	W of I-75	51,500	1%	2,494	2,647	45%	213	2,860	D	D
	E of I-75	47,100	1%	2,506	2,660	5%	24	2,684	B	B
	E of Chamberlin Pkwy	38,100	1%	2,293	2,434	3%	14	2,448	B	B
Treeline Ave	N of Daniels Pkwy	9,700	1%	625	663	1%	5	668	A	A
	S of Daniels Pkwy	25,500	1%	1,352	1,435	1%	5	1,440	B	B
I-75	N of Daniels Pkwy	77,200	1%	3,691	3,918	20%	95	4,013	C	C
	S of Daniels Pkwy	77,000	1%	3,419	3,629	20%	95	3,724	C	C
Six Mile Cypress Pkwy	N of Daniels Pkwy	17,000	1%	845	897	15%	71	968	B	B
	S of Daniels Pkwy	23,700	1%	1,103	1,171	15%	71	1,242	B	B
Fiddlestick Blvd	S of Daniels Pkwy	7,200	1%	349	370	5%	24	394	C	C
Palomino Lane	N of Daniels Pkwy	6,700	1%	324	344	60%	284	628	C	D

Table 5
Long Range 25 Year Horizon Analysis

Total Project Traffic PM = 830

In = 474

Out = 356

Roadway	Segment	# of Lane	2040 PSWADT Traffic	PK Season Factors	2040 AADT	K-100 Factors	D-Factors	2040 PK HR PK Dir Vol	Project Traffic	2040 Total Traffic Vol	2040 w/o Project LOS	2040 with Project LOS
Daniels Pkwy	W of Six Mile Cypress Pkwy	6	68,050	1.20	56,708	0.095	0.51	2,748	95	2,843	C	D
	E of Six Mile Cypress Pkwy	6	85,647	1.20	71,372	0.096	0.54	3,700	237	3,937	F	F
	W of I-75	6	89,988	1.20	74,990	0.096	0.54	3,887	213	4,100	F	F
	E of I-75	6	83,791	1.20	69,825	0.095	0.56	3,715	24	3,739	F	F
Treeline Ave	E of Chamberlin Pkwy	6	72,387	1.20	60,322	0.102	0.59	3,630	14	3,644	F	F
	N of Daniels Pkwy	4	27,759	1.19	23,326	0.093	0.57	1,237	5	1,242	C	C
	S of Daniels Pkwy	4	31,804	1.19	26,726	0.113	0.57	1,721	5	1,726	C	C
I-75	N of Daniels Pkwy	6	108,108	1.19	90,847	0.090	0.56	4,579	95	4,674	C	D
	S of Daniels Pkwy	6	122,860	1.19	103,243	0.090	0.56	5,203	95	5,298	D	D
Six Mile Cypress Pkwy	N of Daniels Pkwy	4	26,630	1.19	22,378	0.094	0.53	1,115	71	1,186	C	C
	S of Daniels Pkwy	4	30,041	1.19	25,244	0.095	0.56	1,343	71	1,414	C	C
Fiddlestick Blvd	S of Daniels Pkwy	2	24,469	1.20	20,390	0.096	0.54	1,057	24	1,081	F	F
Palomino Lane	N of Daniels Pkwy	2	20,217	1.20	16,847	0.096	0.54	873	284	1,157	F	F

Apaloosa and Palomino Lanes Comprehensive Plan Amendment

CPA2015-00010

22-45-25-00-00001.0100	13060 Palomino Ln	29.25	Outlying Suburban	CFPD	35,013 sf Church	Dewane, Frank J Blessed Pope John XXII Agent: Veronica Martin, TDM
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21-45-25-09-00000.0050	8911 Daniels Pkwy	2.11	Outlying Suburban	CPD	16,878 SF Dry Cleaner, Bagels, Pool supplies, Origami restaurant, medical office	Salrose Dreams Inc.
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22-45-25-09-00000.0040	9001 Daniels Pkwy	2.09	Outlying Suburban	CPD	25,090 SF Multi-story office	PDI LLC
21-45-25-01-00000.029A	13200 Apaloosa Ln	5.0	Outlying Suburban	AG-2	Single Family residence	Appaloosa 10 Properties Inc.
21-45-25-01-00000.030E	13351/379 Pinto Ln	5.0	Outlying Suburban	CPD	undeveloped	Parker Business Center LLC

*Lee County Property Appraiser's Records 12/17/2015

Existing Development Summary:

4 Single-family units

68 Home for aged apartments

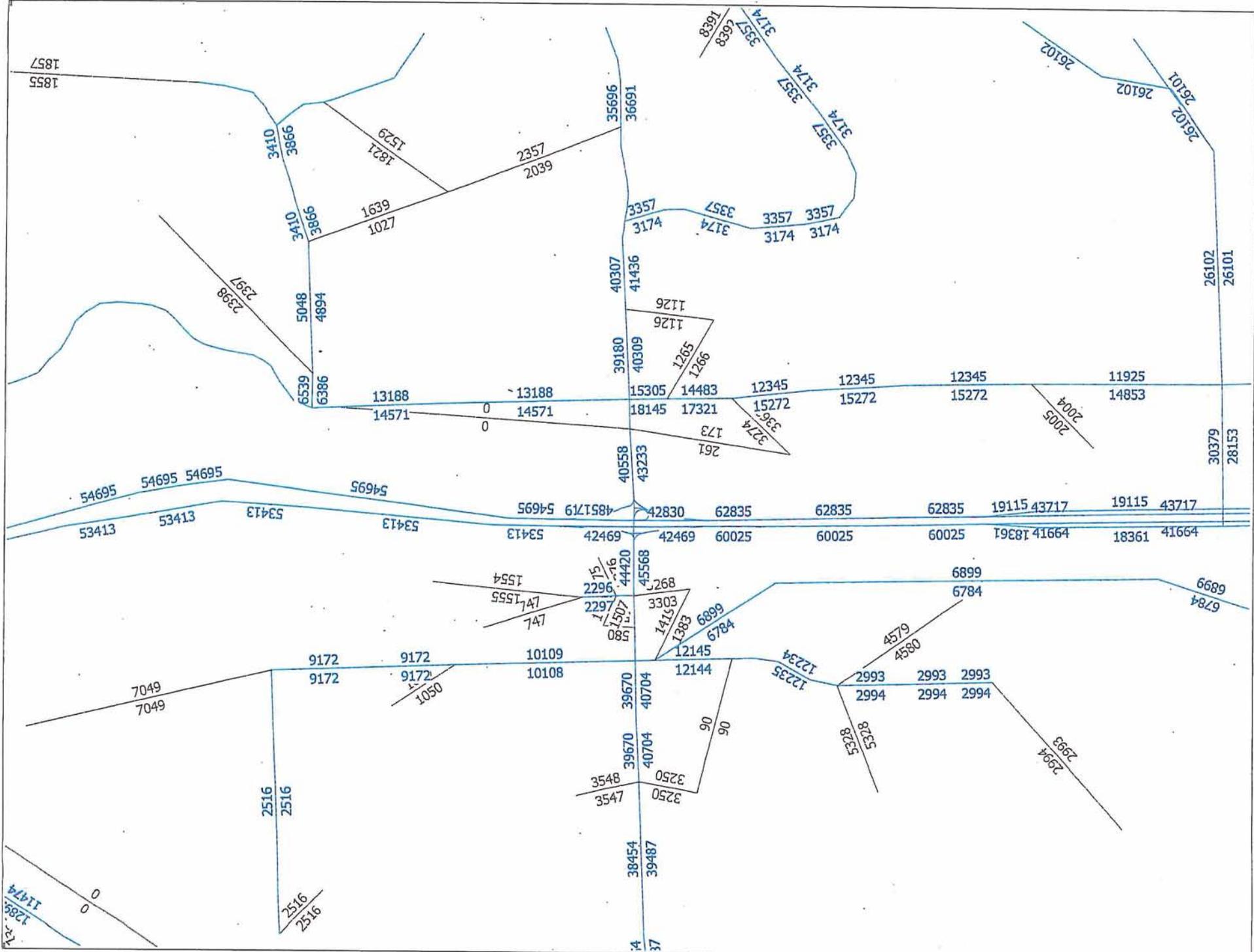
328 room hotel

Commercial retail and office: 121,631 SF (excluding Federal Office Building, Church)

- Restaurants: 5,088 SF Two Meatballs in the Kitchen; Fancy's in portion of 20,986 SF building); 5,796 SF former MacDaddys; Oragami & Bagels in portion of 16,878 SF building; Starbucks in portion of 5,613 SF building.

35,013 SF Church

37,738 SF Government building



Traffic Circulation Analysis

Prepared for A

Comprehensive Plan Amendment

Scenario 3—Central Urban (Industrial)

For

Apaloosa Lane and Palomino Lane

April 5, 2016

1. Introduction

This report is to conduct a traffic circulation analysis pursuant to the requirements of a Comprehensive Plan Amendment application. The analysis will examine the impact of the requested land use change from "Outlying Suburban" to "Central Urban". The approximately 137 acres property is located on the north side of Daniels Pkwy between Palomino Lane and Pinto Road (Figure 1).

2. The Proposed Land Use Scenarios

- (1) 1,267 multi-family dwelling units and
- (2) 929,570 sf of industrial uses

3. The Existing Uses

The following uses have been constructed in the property:

- 4 single-family dwelling units;
- 68 multi-family dwelling units;
- 328 hotel rooms;
- 159,369 sf of commercial and office uses;
- 35,013 sf of church

4. The Trip Generation (proposed Land Use Scenarios)

The Table 1 shows the trip generation for the proposed CPA.

Land Use	AM Peak Hour			PM Peak Hour			Daily (2-way)
	In	Out	Total	In	Out	Total	
1,267 DU (Multi-Family)	67	327	394	323	159	482	5,858
929,570 sf Of Industrial	451	99	550	159	597	756	5,316
Total (New Trips):	518	426	944	482	756	1,238	11,174



Figure 1

5. The Study Area

In accordance with Lee County's Application for a Comprehensive Plan Amendment, the study area should include a review of projected roadway condition within a 3-mile radius of the site. The following roadways are included in the study area:

- (1) Daniels Pkwy from Plantation Road to Gateway Blvd
- (2) Treeline Ave north and south of Daniels Pkwy
- (3) I-75 north and south of Daniels Pkwy
- (4) Six Mile Cypress Pkwy north and south of Daniels Pkwy
- (5) Fiddlestick Blvd
- (6) Palomino Lane

6. Trip Generation (Existing Uses)

The Table 2 shows the trip generation from the existing uses and these trips are already on the roadway network.

Land Use	AM Peak Hour			PM Peak Hour			Daily (2-way)
	In	Out	Total	In	Out	Total	
4 DU (Single-Family)	3	9	12	4	2	6	54
68 DU (Multi-family)	7	30	37	36	19	55	531
328 Hotel Rooms	131	95	226	113	117	230	2,925
159,369 sf Of Commercial 35,013 sf	128	79	207	392	426	818	9,194
Of Church	12	8	20	8	9	17	319
Total	281	221	502	553	573	1,126	13,023
Internal Capture* (14)		(11)	(25)	(28)	(29)	(57)	(651)
Pass-by**	(38)	(24)	(62)	(118)	(128)	(246)	(2,758)
Net New Trips	229	186	415	407	416	823	9,614

*Assume 5% internal capture ** 30% commercial pass-by

Comparing with the trip generations, Table 3 indicates that the proposed land use will increase 415 trips from the existing uses in the PM peak hour.

Table 3
Trip Generation Comparison

Land Use	AM Peak Hour			PM Peak Hour			Daily (2-way)
	In	Out	Total	In	Out	Total	
The Proposed Land Use	518	426	944	482	756	1,238	11,174
The Existing Uses	229	186	415	407	416	823	9,614
Increase	289	240	529	75	340	415	1,560

The trip distribution is shown in the Figure 2.

7. 5 Year Analysis

Table 4 shows the level of service (LOS) analysis for 5 years. The LOS analysis indicates that all the study area roadway segments are anticipated at or better than the adopted LOS standard in year 2020 except Daniels Pkwy east of Six Mile Cypress Pkwy which is LOS D without the proposed CPA and LOS F with the proposed CPA.

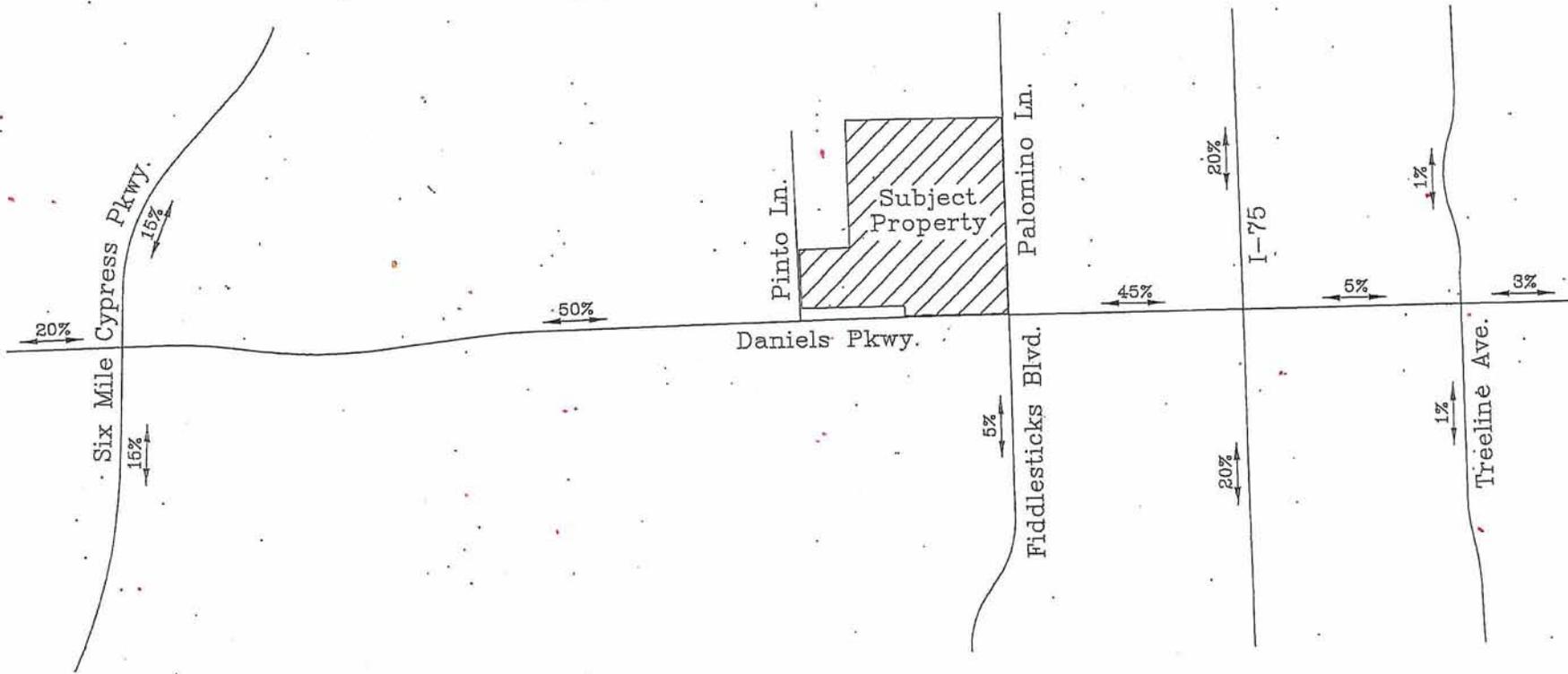
8. Long Range 25 Year Horizon (2040) Analysis

The recently adopted Lee County MPO travel (District Model) was used to project future 2040 background traffic volumes. The future road network used for the travel model assignments was the Lee County MPO 2040 Highway Cost Feasible Plan network.

The LOS analysis for future 2040 condition with and without the proposed land use change is shown in the Table 5. It indicates Daniels Pkwy from Six Mile Cypress Pkwy to Gateway Blvd, Fiddlestick Blvd south of Daniels Pkwy, and Palomino Lane north of Daniels Pkwy will operate at LOS F with and without the proposed CPA.

9. Conclusion

The proposed CPA will have a LOS issue on Daniels Pkwy east of Six Mile Cypress Pkwy which is LOS D without the proposed CPA and LOS F with the proposed CPA in year 2020. For the future 2040 condition, Daniels Pkwy from Six Mile Cypress Pkwy to Gateway Blvd, Fiddlestick Blvd south of Daniels Pkwy and Palomino Lane north of Daniels Pkwy will operate at LOS F with and without the proposed CPA.



Department
of Transportation
Lee County
Southwest Florida
180011401.DWG

Figure 2
Trip Distribution

Table 4
Lee County Traffic Counts and Calculations
5 Year Analysis

Total Project Traffic PM = 415

In = 75

Out = 340

Roadway	Segment	2014 AADT	Annual Rate	2014 PK HR PK Dir Vol	2020 BKGR Traffic Vol	Project %	Prtoject Traffic	2020 Total Traffic Vol	2020 w/o Project LOS	2020 with Project LOS
Daniels Pkwy	W of Six Mile Cypress Pkwy	48,000	1%	2,172	2,282	20%	68	2,350	D	D
	E of Six Mile Cypress Pkwy	51,800	1%	2,685	2,850	50%	170	3,020	D	F
	W of I-75	51,500	1%	2,494	2,647	45%	153	2,800	D	D
	E of I-75	47,100	1%	2,506	2,660	5%	17	2,677	B	B
Treeline Ave	E of Chamberlin Pkwy	38,100	1%	2,293	2,434	3%	10	2,444	B	B
	N of Daniels Pkwy	9,700	1%	625	663	1%	3	666	A	A
I-75	S of Daniels Pkwy	25,500	1%	1,352	1,435	1%	3	1,438	B	B
	N of Daniels Pkwy	77,200	1%	3,691	3,918	20%	68	3,986	C	C
Six Mile Cypress Pkwy	S of Daniels Pkwy	77,000	1%	3,419	3,629	20%	68	3,697	C	C
	N of Daniels Pkwy	17,000	1%	845	897	15%	51	948	B	B
Fiddlestick Blvd	S of Daniels Pkwy	23,700	1%	1,103	1,171	15%	51	1,222	B	B
	S of Daniels Pkwy	7,200	1%	349	370	5%	17	387	C	C
Palomino Lane	N of Daniels Pkwy	6,700	1%	324	344	60%	204	548	C	D

Table 5
Long Range 25 Year Horizon Analysis

Total Project Traffic PM = 415

In = 75

Out = 340

Roadway	Segment	# of Lane	2040 PSWADT Traffic	PK Season Factors	2040 AADT	K-100 Factors	D-Factors	2040 PK HR PK Dir Vol	Project Traffic	2040 Total Traffic Vol	2040 w/o Project LOS	2040 with Project LOS
Daniels Pkwy	W of Six Mile Cypress Pkwy	6	68,050	1.20	56,708	0.095	0.51	2,748	68	2,816	C	D
	E of Six Mile Cypress Pkwy	6	85,647	1.20	71,372	0.096	0.54	3,700	170	3,870	F	F
	W of I-75	6	89,988	1.20	74,990	0.096	0.54	3,887	153	4,040	F	F
	E of I-75	6	83,791	1.20	69,825	0.095	0.56	3,715	17	3,732	F	F
	E of Chamberlin Pkwy	6	72,387	1.20	60,322	0.102	0.59	3,630	10	3,640	F	F
Treeline Ave	N of Daniels Pkwy	4	27,759	1.19	23,326	0.093	0.57	1,237	3	1,240	C	C
	S of Daniels Pkwy	4	31,804	1.19	26,726	0.113	0.57	1,721	3	1,724	C	C
I-75	N of Daniels Pkwy	6	108,108	1.19	90,847	0.090	0.56	4,579	68	4,647	C	D
	S of Daniels Pkwy	6	122,850	1.19	103,243	0.090	0.56	5,203	68	5,271	D	D
Six Mile Cypress Pkwy	N of Daniels Pkwy	4	26,630	1.19	22,378	0.094	0.53	1,115	51	1,166	C	C
	S of Daniels Pkwy	4	30,041	1.19	25,244	0.095	0.56	1,343	51	1,394	C	C
Fiddlestick Blvd	S of Daniels Pkwy	2	24,469	1.20	20,390	0.096	0.54	1,057	17	1,074	F	F
Palomino Lane	N of Daniels Pkwy	2	20,217	1.20	16,847	0.096	0.54	873	204	1,077	F	F

Apaloosa and Palomino Lanes Comprehensive Plan Amendment

CPA2015-00010

22-45-25-00-00001.0100	13060 Palomino Ln	29.25	Outlying Suburban	CFPD	35,013 sf Church	Dewane, Frank J Blessed Pope John XXII <i>Agent: Veronica Martin, TDM</i>
22-45-25-00-00001.0110	13251 Apaloosa Ln	3.25	Outlying Suburban	CFPD	Church Home for the Aged 68 Apts	Blessed Pope John XXII <i>Agent: Veronica Martin, TDM</i>
21-45-25-09-00000.0050	8911 Daniels Pkwy	2.11	Outlying Suburban	CPD	16,878 SF Dry Cleaner, Bagels, Pool supplies, Origami restaurant, medical office	Salrose Dreams Inc.
21-45-25-09-00000.0030	8955 Daniels Pkwy	2.17	Outlying Suburban	CPD	328 Room Hotel	Jassas Capital LLC
22-45-25-09-00000.0040	9001 Daniels Pkwy	2.09	Outlying Suburban	CPD	25,090 SF Multi-story office	PDI LLC
21-45-25-01-00000.029A	13200 Apaloosa Ln	5.0	Outlying Suburban	AG-2	Single Family residence	Appaloosa 10 Properties Inc.
21-45-25-01-00000.030E	13351/379 Pinto Ln	5.0	Outlying Suburban	CPD	undeveloped	Parker Business Center LLC

*Lee County Property Appraiser's Records 12/17/2015

Existing Development Summary:

4 Single-family units

68 Home for aged apartments

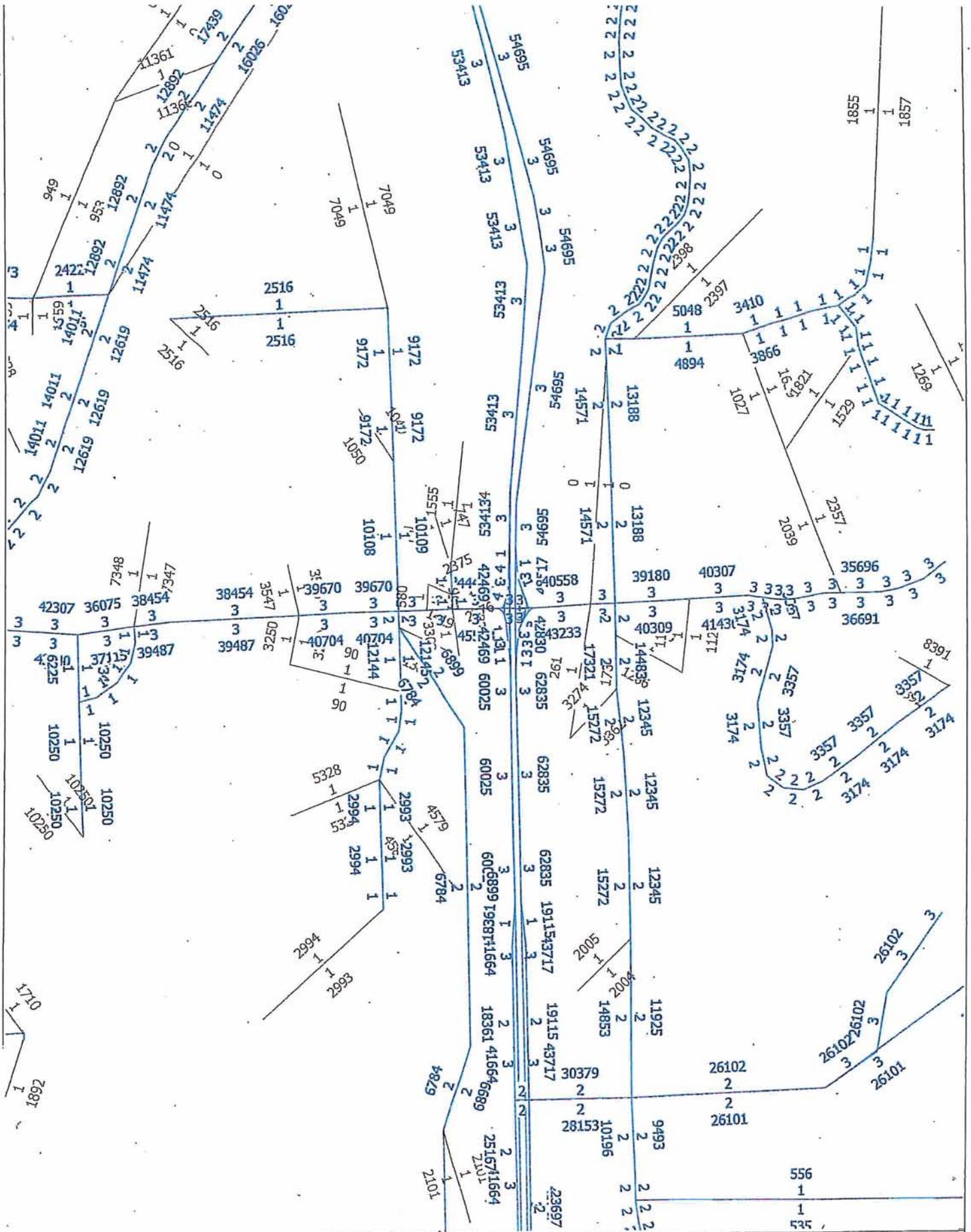
328 room hotel

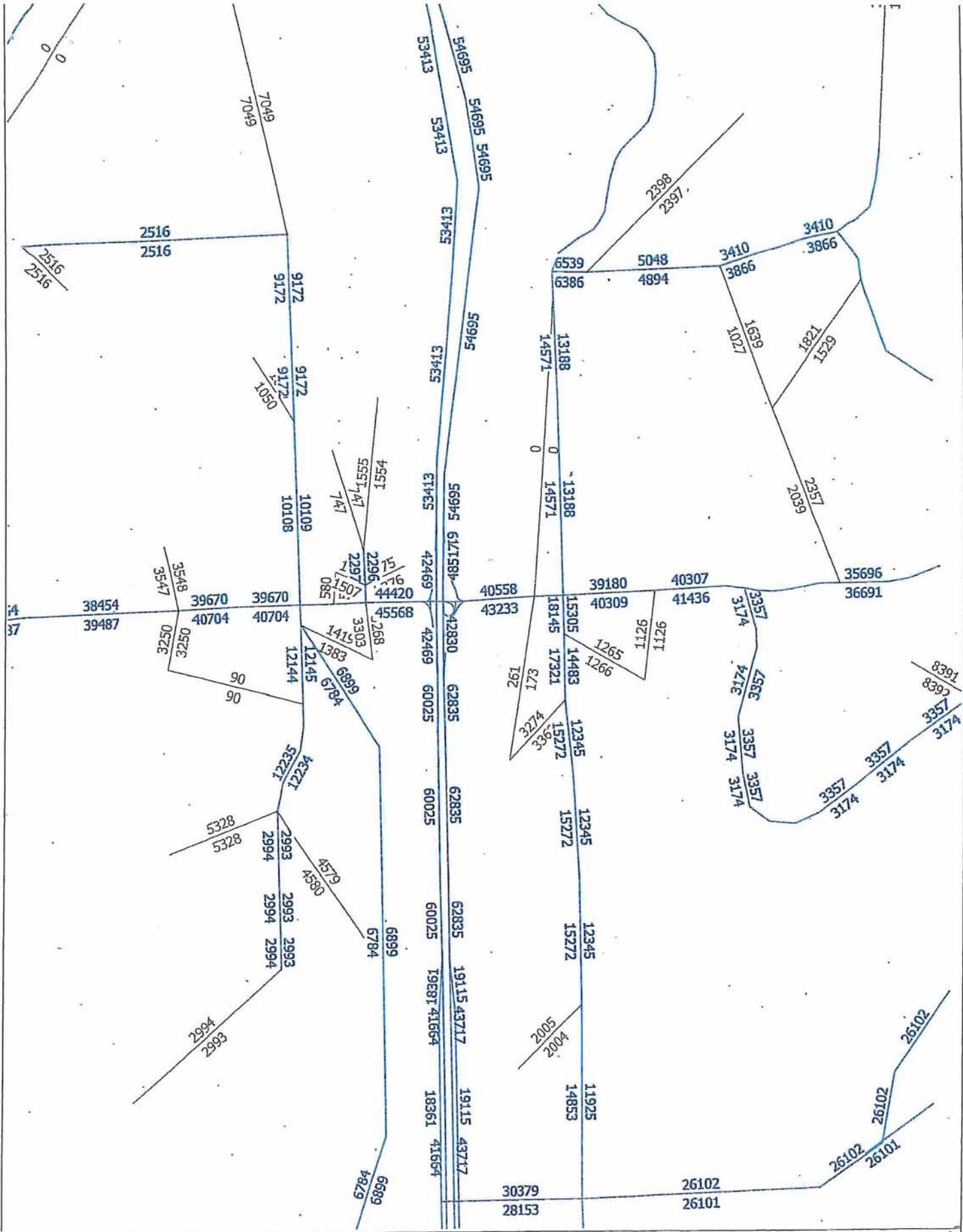
Commercial retail and office: 121,631 SF (excluding Federal Office Building, Church)

- Restaurants: 5,088 SF Two Meatballs in the Kitchen; Fancy's in portion of 20,986 SF building); 5,796 SF former MacDaddys; Oragami & Bagels in portion of 16,878 SF building; Starbucks in portion of 5,613 SF building.

35,013 SF Church

37,738 SF Government building





UTILITIES COMPREHENSIVE PLAN AMENDMENT

SUFFICENCY REVIEW CHECK LIST

4/5/16

Project Name: Apaloosa

CPA #: CPA2015-00010

POTABLE WATER

Franchise Area, Basin, or District in which the property is located:

The subject area is located in LCU's Future Water Service Area as depicted on Map 6 of the Lee County Comprehensive Plan.

Current LOS, and LOS standard of facilities serving the site:

Current Level of Service for potable water is 250 gpd/eru.

Projected 2030 LOS under existing designation:

The projected 2030 LOS for potable water under the existing designation is 250 gpd/eru.

Projected 2030 LOS under proposed designation:

The projected 2030 LOS for potable water under the proposed designation is 250 gpd/eru.

Existing infrastructure, if any, in the immediate area with the potential to serve the subject property:

There are several water lines currently in place throughout the area. There is a 30" water line on Daniels Parkway and a 12" water line on Palamino Lane. There are also 10" water lines on Apaloosa Lane, Jobe Road, Salrose Lane, Daniels Center Drive and De Lasalle Academy Way.

Improvements/expansions currently programmed in 5 year CIP, 6-10 year CIP, and long range improvements:

None

Anticipated revisions to the Community Facilities and Service Element and/or Capital Improvements Element (state if these revisions are included in this amendment):

None

Provide a letter of service availability from the appropriate utility:

A letter of availability from LCU has been provided.

Determine the availability of water supply within the franchise area using the current water use allocation (Consumptive Use Permit) based on the annual average daily withdrawal rate.

The water use allocation included in the consumptive use permit for the potable water treatment facilities serving this area (WUP#36-00003-W) is sufficient to provide service to the proposed increase in demand.

Include the current demand and the projected demand under existing designation, and the projected demand under the proposed designation:

The demand for potable water under the existing designation is as follows:

<i>190 residential units X 250 gpd/eru =</i>	<i>47,500 gpd</i>
<i>533,500 sf Commercial X 0.15gpd/sf =</i>	<i><u>80,025 gpd</u></i>
<i>Total Potable Water Demand=</i>	<i>127,525 gpd</i>

The demand for potable water under the proposed designation is as follows:

<i>1,267 residential units X 250 gpd/eru =</i>	<i>316,750 gpd</i>
<i>929,570 sf Industrial X 0.15gpd/sf =</i>	<i><u>139,436 gpd</u></i>
<i>Total Potable Water Demand=</i>	<i>456,186 gpd</i>

*Increase in Demand for Potable Water as a Result of the Proposed Amendment =
456,186 gpd (Proposed Demand) – 127,525 gpd (Existing Demand) = 328,661 gpd*

Include the availability of treatment facilities and transmission lines for reclaimed water for irrigation:

There are no reclaimed water facilities in this area of Lee County.

Include any other water conservation measures that will be applied to the site:

This may be offered by individual developers.

Sanitary Sewer

Franchise Area, Basin, or District in which the property is located:

The subject area is located in LCU's Future Sewer Service Area as depicted on Map 7 of the Lee County Comprehensive Plan.

Current LOS, and LOS standard of facilities serving the site:

Current Level of Service for sanitary sewer is 200 gpd/eru.

Projected 2030 LOS under existing designation:

The projected 2030 LOS for sanitary sewer under the existing designation is 200 gpd/eru.

Projected 2030 LOS under proposed designation:

The projected 2030 LOS for sanitary sewer under the proposed designation is 200 gpd/eru.

The following provides an analysis of the additional sanitary sewer flow that will be generated as a result of the proposed amendment.

The sanitary sewer flow generated under the existing designation is as follows:

<i>190 residential units X 200 gpd/eru =</i>	<i>38,000 gpd</i>
<i>533,500 sf Commercial X 0.15gpd/sf =</i>	<i>80,025 gpd</i>
<i>Total Sanitary Sewer Flow =</i>	<i>118,025 gpd</i>

The sanitary sewer flow generated under the proposed designation is as follows:

<i>1,267 residential units X 200 gpd/eru =</i>	<i>253,400 gpd</i>
<i>929,570 sf Industrial X 0.15gpd/sf =</i>	<i>139,436 gpd</i>
<i>Total Sanitary Sewer Flow =</i>	<i>392,836 gpd</i>

*Increase in Sanitary Sewer Flow as a Result of the Proposed Amendment =
392,836 gpd (Proposed Flow) – 118,025 gpd (Existing Flow) = 274,811 gpd*

Existing infrastructure, if any, in the immediate area with the potential to serve the subject property:

There are several sanitary sewer line throughout the subject area. There is a 16" sanitary sewer force main on Daniels Parkway and 4" sanitary sewer force mains on Apaloosa Lane, and Salrose Lane. There also sanitary sewer gravity mains in some of the currently developed areas.

Improvements/expansions currently programmed in 5 year CIP, 6-10 year CIP, and long range improvements:

None

Anticipated revisions to the Community Facilities and Service Element and/or Capital Improvements Element (state if these revisions are included in this amendment):

None

Provide a letter of service availability from the appropriate utility:

A letter of availability from LCU has been provided.

Additional Comments or Concerns



Writer's Direct Dial Number: (239) 533-8531

January 6, 2016

John E. Manning
District One

Cecil L. Pendergrass
District Two

Larry Kiker
District Three

Brian Hamman
District Four

Frank Mann
District Five

Roger Desjarlais
County Manager

Richard Wm. Wesch
County Attorney

Donna Marie Collins
Hearing Examiner

Sharon Jenkins-Owens
Lee County Community Development
1500 Monroe Street
Fort Myers, FL 33901

**RE: Potable Water and Wastewater Availability
Appaloosa and Palomino Lane, Case Number CPA2015-00010
STRAP #s 21-45-25-01-00000.0280, 028A, 029A, 029B, 030E, 030G, 0340
and 22-45-25-00-00001.0000**

Dear Ms Jenkins-Owens:

The subject properties are located within Lee County Utilities Future Service Area as depicted on Maps 6 and 7 of the Lee County Comprehensive Land Use Plan. Potable water and sanitary sewer lines are in operation adjacent, or in the vicinity of, the properties mentioned above. However, in order to provide service to the subject parcels, developer funded system enhancements such as line extensions may be required.

Your firm has indicated that this project will consist of 1,264 Dwelling Units and 895,730 SF of Industrial with an estimated flow demand of approximately 450,360 gallons per day. Lee County Utilities presently has sufficient capacity to provide potable water and sanitary sewer service as estimated above.

Availability of potable water and sanitary sewer service is contingent upon final acceptance of the infrastructure to be constructed by the developer.

Upon completion and final acceptance of this project, potable water service will be provided through our Corkscrew Water Treatment Plant. Sanitary sewer service will be provided by the City of Fort Myers Wastewater Treatment Plant.

The Lee County Utilities' Design Manual requires the project engineer to perform hydraulic computations to determine what impact this project will have on our existing system.

Prior to beginning design work on this project, please schedule a meeting with Thom Osterhout to determine the best point of connection and discuss requirements for construction.

This letter should not be construed as a commitment to serve, but only as to the availability of service. Lee County Utilities will commit to serve only upon receipt of all appropriate connection fees, a signed request for service and/or an executed service agreement, and the approval of all State and local regulatory agencies.

Further, this letter of availability of Water and Wastewater service to be utilized for comprehensive plan amendment purposes for this project Only. Individual letters of availability will be required to obtaining regulatory permits and/or building permits.

Sincerely,

LEE COUNTY UTILITIES

A handwritten signature in black ink that reads "Mary McCormic".

Mary McCormic
Technician Senior
UTILITIES ENGINEERING

VIA EMAIL

P.O. Box 398, Fort Myers, Florida 33902-0398 (239) 533-2111
Internet address <http://www.lee-county.com>
AN EQUAL OPPORTUNITY AFFIRMATIVE ACTION EMPLOYER

→ Howard W.



LEE COUNTY
SOUTHWEST FLORIDA
BOARD OF COUNTY COMMISSIONERS
December 29, 2015

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District One

Cecil L. Pendergrass
District Two

Larry Kiker
District Three

Brian Hamman
District Four

Frank Mann
District Five

Roger Desjarlais
County Manager

Richard Wm. Wesch
County Attorney

Donna Marie Collins
Hearing Examiner

Ms. Pam Keyes
Lee County Utilities
P.O. Box 398
Fort Myers, FL 33902

Re: Potable Water/Sewer Letter of Service Availability

Dear Ms. Keyes;

I am writing to request letter of water and sewer service availability for a county-initiated comprehensive plan amendment known as Case Number CPA2015-00010. The subject property contains approximately 105 acres and is generally located on the north side of Daniels Parkway between Palomino Lane, Apaloosa Lane and Pinto Road. Please refer to the attached location map.

If approved, the land would be redesignated from Outlying Suburban to Central Urban. Comprehensive Plan amendments are evaluated based on the maximum intensity that would be allowed under the Future Land Use Map (FLUM) category. In this case, the Central Urban Future Land Use Map category would permit the following maximum density/intensity on the subject 105 acres:

Future Land Use	Existing Outlying Suburban FLUM	Proposed Central Urban FLUM
Residential	316	1,053 DU / 1,580 DU with bonus density
Commercial	180,000 SF	180,000 SF
Industrial	0	895,730 SF ¹

¹ Industrial square feet based on a maximum of 8,500 SF an acre

Please let me know if you need additional information to process my request.

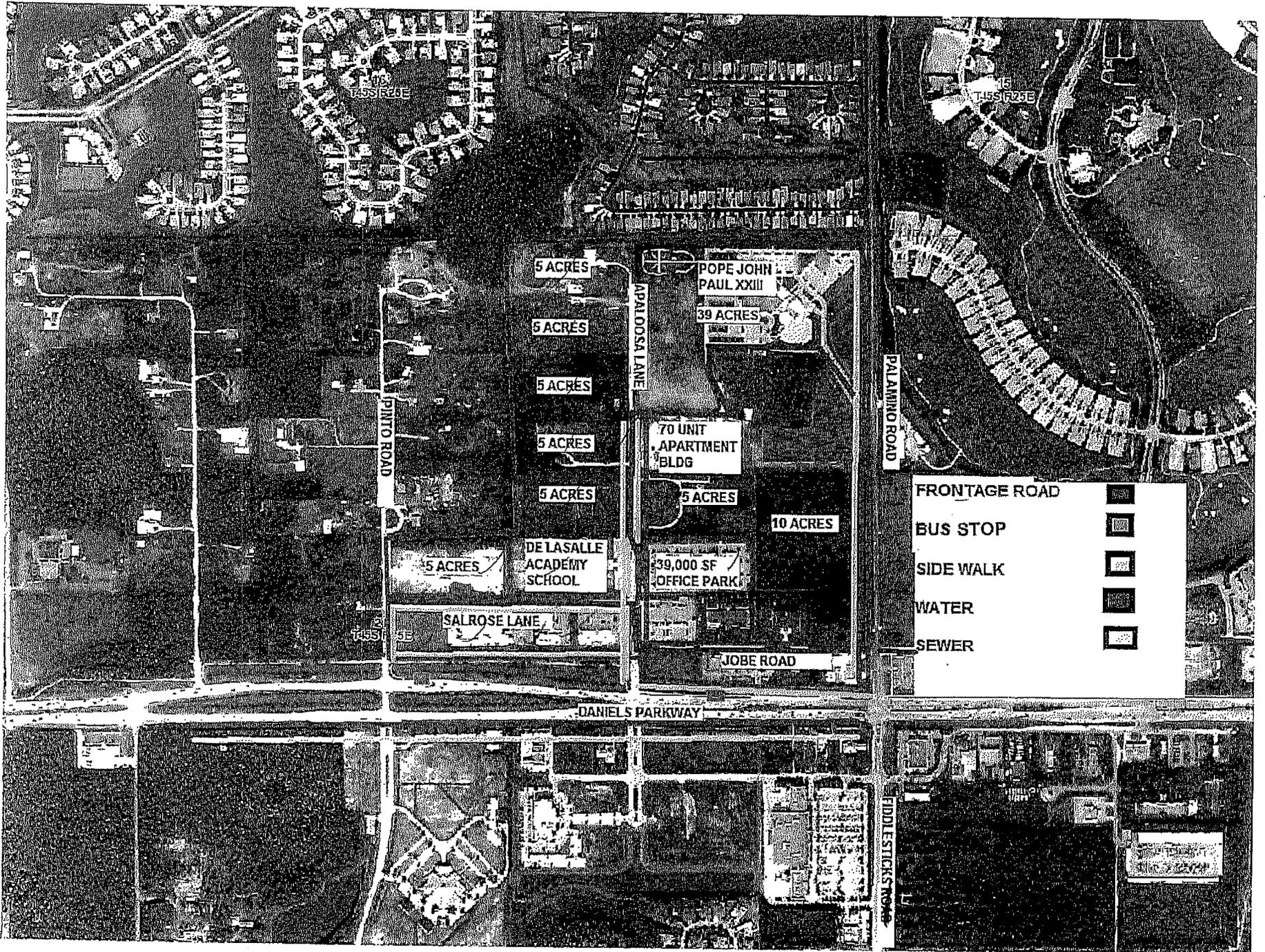
Thank you and all the best for a happy new year!

Sincerely,
Lee County Department of Community Development, Planning Section

Sharon Jenkins-Owen, AICP
Principal Planner

SJenkins-Owen@leegov.com
(239)533-8535

REC'D DEC 30 2015



BLYD



SOUTH TRAIL FIRE PROTECTION & RESCUE SERVICE DISTRICT

Established 1965

“Compassion, Commitment, Courage”

January 29, 2016

Sharon Jenkins-Owen, Principal Planner
Lee County Planning
PO Box 398
Fort Myers, FL 33902-0398

Subject: Letter of Service Availability

Dear Ms. Jenkins-Owen:

In your letter dated December 29, 2015 you indicated Lee County is seeking a letter of availability for fire protection services for a county initiated comprehensive plan amendment known as Case Number CPA2015-00010. The subject property contains a ±105 acre parcel located north of Daniels Parkway between Palomino Lane, Appaloosa Lane, and Pinto Road. You further indicated the plan amendment would re-designate the area from *Outlying Suburban* to *Central Urban*.

Per your request, please accept this correspondence as documentation that our agency is capable of providing fire protection services to any future project which results from this amendment. If there is any impact from this amendment, the use of fire impact fees generated from the growth will help assure our continued capability.

Please contact me should you have any questions or need anything further.

Yours in Service,

William B. Lombardo, Fire Chief

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Larry Hirshman
Vice-Chairman

John F. Anderson II
Secretary-Treasurer

Jean Flewelling
Commissioner

Jeff Haugh
Commissioner

Administration

William B. Lombardo
Chief

Benjamin A. Bengston
Assistant Chief

Administration

Phone: 239.433.0080
Fax: 239.433.1941

Prevention

Phone 239.482.8030
Fax: 239.433.2185

Safety House

Phone: 239.936.5281



THE SCHOOL DISTRICT OF LEE COUNTY

2855 COLONIAL BLVD. ♦ FORT MYERS, FLORIDA 33966 ♦ WWW.LEESCHOOLS.NET

DAWN M HUFF
LONG-RANGE PLANNER
Planning, Growth & School Capacity
Phone: 239-337-8142
FAX: 239-335-1460

STEVEN K. TEUBER
CHAIRMAN, DISTRICT 4
MARY FISCHER
VICE CHAIRMAN, DISTRICT 1
JEANNE S. DOZIER
DISTRICT 2
CATHLEEN O'DANIEL MORGAN
DISTRICT 3
PAMELA H. LARIVIERE
DISTRICT 5
GREGORY K. ADKINS, ED. D.
SUPERINTENDENT
KEITH B. MARTIN, ESQ.
BOARD ATTORNEY

June 20, 2016

Sharon Jenkins-Owens, AICP
Lee County Division of Planning
1500 Monroe Street
Fort Myers, Florida 33902-0398

RE: Comprehensive Plan Amendment
CPA2015-00010

Dear Ms. Jenkins-Owens:

This letter is in response to your request for comments dated June 20, 2016 for the Comprehensive Plan Amendment in regard to educational impact. This project is located in the South Choice Zone, Sub Zone 1.

The request is for a final plat submittal to include 1,267 dwelling units. With regard to the inter-local agreement for school concurrency, the generation rates are created from the type of dwelling unit and further broken down by grade level.

For single-family homes, the generation rate is .295 and further broken down by grade level into the following, .147 for elementary, .071 for middle and .077 for high. A total of 377 school-aged children would be generated and utilized for the purpose of determining sufficient capacity to serve the development. The Concurrency Analysis attached, displays the impact of this development. Capacities for elementary seats is not an issue within the Concurrency Service Area (CSA). For middle and high school, the development adds to the projected deficit for the CSA, however, there are sufficient seats available to serve the need within the contiguous CSA.

Thank you for your attention to this issue. If I may be of further assistance, please call.

Sincerely,

Dawn Huff

Dawn Huff,
Long Range Planner

LEE COUNTY SCHOOL DISTRICT'S SCHOOL CONCURRENCY ANALYSIS

REVIEWING AUTHORITY Lee School District
NAME/CASE NUMBER Comprehensive Plan Amendment/CPA2015-00010
OWNER/AGENT Mutiple Owners
ITEM DESCRIPTION various amendments; all impacts in South CSA, sub area S1

LOCATION Northwest corner of Daniels Pkwy and Palomino Ln
ACRES 105.00
CURRENT FLU Outlying Suburban (OS)
CURRENT ZONING Agricultural (AG2), General Commercial (CG), Commercial Planned Development (CPD) & Commercial Facilities Planned Development (CFPD)

PROPOSED DWELLING UNITS BY TYPE

Single Family	Multi Family	Mobile Home
1267	0	0

STUDENT GENERATION

Student Generation Rates			
SF	MF	MH	Projected Students
0.147			186.25
0.071			89.96
0.077			97.56

Source: Lee County School District, June 20, 2016 letter

CSA SCHOOL NAME 2019/20

	CSA Capacity (1)	CSA Projected Enrollment (2)	CSA Available Capacity	Projected Impact of Project	Available Capacity W/Impact	LOS is 100% Perm FISH Capacity	Adjacent CSA Available Capacity w/Impact
South CSA, Elementary	12,413	10,726	1,687	186	1501	88%	
South CSA, Middle	5,621	5,803	-182	90	-272	105%	
South CSA, High	7,070	7,947	-877	98	-975	114%	

(1) Permanent Capacity as defined in the Interlocal Agreement and adopted in the five (5) years of the School District's Five Year Plan
 (2) Projected Enrollment per the five (5) years of the School District's Five Year Plan plus any reserved capacity (development has a valid finding of capacity)
 (3) Available Adjacent CSA capacity is subject to adjacency criteria as outlined in the Interlocal Agreement and the School District's School Concurrency Manual

Prepared by: Dawn Huff, Long Range Planner

**LAND
DEVELOPMENT
CODE
AMENDMENTS**

MEMORANDUM
FROM
THE DEPARTMENT OF
COMMUNITY DEVELOPMENT

TO: The Local Planning Agency (LPA) **DATE:** June 30, 2016
FROM: Tony Palermo, AICP
Senior Planner, Zoning



RE: Summary of Proposed Land Development Code (LDC) Amendments

Per your direction at the June 27, 2016 LPA meeting, attached please find proposed amendments to the Land Development Code (LDC) from staff for the regular two-year cycle of LDC amendments. All The proposed changes have been vetted by Planning, Zoning, Development Services, Department of Transportation and other staff including the County Attorney's office. The LPA recommended approval of the public-sponsored amendments, as well as the portion of the LDCs regulating the Estero Community (now the incorporated Village of Estero). The proposed LDC amendments were reviewed and approved with comments by the Land Development Code Advisory Committee (LDCAC) April 8, 2016 and May 13, 2016 and by the Executive Regulatory Oversight Committee (EROOC) May 11, 2016.

Staff-Proposed Amendments

The proposed staff amendments include substantive changes, as well as minor clean-ups and corrections. Among the changes include moving the San Carlos Island Overlay District from Chapter 34 (Zoning) to Chapter 33 (Community Planning), streamlining Chapter 10 language regarding open space and landscaping, and other changes to make the LDC consistent with State Statutes and local ordinances.

Also included is a draft of amendments to Administrative Code AC-13-16 "Transportation Proportionate Share Calculations for New Development Projects" to be reviewed in conjunction with staff's proposed amendments to Chapter 2 relating to concurrency. The Administrative Code is for informational purposes only.

The attached LDC amendments are part of a routine clean up of the code staff initiates with the help of the community and development professionals every two years. The changes are typically minor in nature and do not include major changes in policy or implementation of new initiatives or plans.

Lee Plan Consistency

As proposed, the LDC amendments help further the goals objectives and policies of the Lee Plan generally and are consistent with the Lee Plan. The Land Development Code is one tool of

many to help implement the goals, objectives, and policies of the Lee Plan. Specifically, the proposed amendments help implement the following:

GOAL 1: FUTURE LAND USE MAP. *To maintain and enforce a Future Land Use Map showing the proposed distribution, location, and extent of future land uses by type, density, and intensity in order to protect natural and man-made resources, provide essential services in a cost-effective manner, and discourage urban sprawl. (Amended by Ordinance No. 94-30)*

GOAL 2: GROWTH MANAGEMENT. *To provide for an economically feasible plan which coordinates the location and timing of new development with the provision of infrastructure by government agencies, private utilities, and other sources.*

POLICY 5.1.5: *Protect existing and future residential areas from any encroachment of uses that are potentially destructive to the character and integrity of the residential environment. Requests for conventional rezonings will be denied in the event that the buffers provided in Chapter 10 of the Land Development Code are not adequate to address potentially incompatible uses in a satisfactory manner. If such uses are proposed in the form of a planned development or special exception and generally applicable development regulations are deemed to be inadequate, conditions will be attached to minimize or eliminate the potential impacts or, where no adequate conditions can be devised, the application will be denied altogether. The Land Development Code will continue to require appropriate buffers for new developments. (Amended by Ordinance No. 94-30, 99-15, 00-22)*

POLICY 6.1.1: *All applications for commercial development will be reviewed and evaluated as to: Traffic and access impacts (rezoning and development orders); Landscaping and detailed site planning (development orders); Screening and buffering (planned development rezoning and development orders); Availability and adequacy of services and facilities (rezoning and development orders); Impact on adjacent land uses and surrounding neighborhoods (rezoning); Proximity to other similar centers (rezoning); and Environmental considerations (rezoning and development orders). (Amended by Ordinance No. 00-22)*

Goal 39 of the Lee County Lee Plan mandates that the County maintain clear, concise, and enforceable development regulations that fully address on-site and off-site development impacts, yet function in a streamlined manner.

Lee Plan Policies 14.5.3, 24.1.9, 52.1.1 and 110.6.2 requires county staff and private citizen committees to review existing development regulations to determine whether the regulations can be further fine tuned and streamlined in order meet the Goals, Objectives, and Policies of the Lee Plan and public purposes including the protection of the public health, safety and welfare.

LDCAC and EROC recommended approval of the staff-proposed amendments and the committee comments have been incorporated into the draft. A full list of the proposed staff LDC changes and a summary of each Section of the LDC proposed to be amended is attached, and includes comments from LDCAC and EROC.

The staff LDC changes also include the regulation of Social Services both county-wide and as it pertains to the North Fort Myers Planning Community. These proposed changes and further analysis of Social Services are addressed in a separate memo also attached and as discussed at the June 27, 2016 meeting.

Thank you for your attention to this matter.

cc. Pam Houck, Zoning Manager
Ben Dickson, Development Services Manager
Mikki Rozdolski, Planning Manager
Neysa Borkert, County Attorney's Office

MEMORANDUM
FROM
THE DEPARTMENT OF
COMMUNITY DEVELOPMENT

TO: Dave Loveland, AICP
Director of Community Development

DATE: April 18, 2016

FROM: Tony Palermo, AICP
Senior Planner, Zoning



RE: Social Services - Land Development Code (LDC) Amendments

Per your direction, I'd like to provide you with additional analysis of the regulation of Social Services in Lee County both county-wide and as it pertains to the North Fort Myers Community.

Social Services Defined

Land Development Code (LDC) Sec. 34-622(46) defines Social Services as a commercial use as follows: "*Establishments providing social services and rehabilitation services to persons with social or personal problems requiring special services and to the disabled and the disadvantaged.*"

There are four groups of Social Services, Groups I-IV (also see pages 7-10):

Group I are the least intensive defined as, "*Establishments primarily engaged in providing counseling and guidance services to individuals or families, but which do not provide resident facilities.*" Examples include marriage counseling, disaster services, job counseling, and public welfare centers (offices).

Group II are similar to Group I but focus on "training" instead of "counseling" defined as "*primarily engaged in providing training or rehabilitation services.*" Both Group I and Group II take place typically in an office environment and involve no temporary or permanent housing for clients.

Group III are more intensive uses which include more services and temporary housing, defined as "*Establishments primarily engaged in providing temporary living facilities for individuals with personal or social problems.*" Examples of Group III are halfway homes for delinquents and offenders, homes for destitute men and women, and social service centers (such as the Salvation Army).

Group IV are long-term living with a health care component, "*Establishments primarily engaged in providing long-term living facilities for individuals and in which health care is incidental.*" Examples include homes for children, the aged, the emotionally disturbed, and the physically disabled.

Conventional Zoning

Social Services are not permitted in agricultural zoning, with the exception of already existing facilities. Social Services are not permitted in conventional single-family zoning such as RS-1. Social Services are not permitted in conventional multi-family zoning such as RM-2. Social Services are not permitted in either conventional mobile home or RV zoning districts. Social Services are not permitted in conventional marine-oriented districts such as the PORT district.

Social Services Groups III and IV (with living facilities) are permitted by right in the Community Facilities (CF) zoning district. A special exception is needed for 50 or more beds.

Social Services Group I (counseling) are permitted in some conventional commercial districts including Commercial C-1A, C-1, C-2, C-2A, CC, CG and CS-1. Group II (training) is permitted in the conventional industrial districts IL and IG.

Planned Developments

Social Services Group I-IV may be requested as part of a planned development. Social Services may be permitted per LDC Sec. 34-934 in Community Facilities Planned Development (CFPD), Mixed Use Planned Development (MPD), and Commercial Planned Development (CPD) zoning districts. Residential Planned Developments (RPDs) may not include Social Service uses. And Industrial Planned Developments (IPDs) are limited to Social Services, Group II (training).

Enhanced Setbacks

Per Division 34 "Specific Setback Regulations for Specific Uses" Social Services, Group II (training) are required to have a minimum 100-foot setback from residential zoning. LDC Sec. 34-2443(d) says, "*The following uses must be set back a minimum of 100 feet from any residentially zoned property under separate ownership. The setback applies to all buildings and structures, and all areas used for parking of trucks or equipment, shipping, receiving, or storage.*" The uses are: *Blacksmith shop, Freight and cargo handling establishments, Impound yard, Manufacturing of Boats; Chemicals and allied products, group II Limited to cosmetics, perfumes, etc.; Fabricated metal products, group II; Food and kindred products, group II Furniture and fixtures; Leather products; Lumber and wood products; Machinery, groups I and II; Paper and allied products, groups II and III; Stone, clay, glass and concrete products, groups I and III; Textile mill products, groups I and II ; Transportation equipment, group II, Motion picture studio, Photofinishing laboratory, Rental or leasing establishment, group IV, Repair shops, group V and Social services, group II.*

Residentially zoned property means any property zoned RSC, RS, TFC, TF, RM, RV, RVPD, MH, RPD or MHPD, and those portions of property zoned CPD indicating residential use.

LDC History and Research

Staff conducted research trying to find the reason why and when the LDC was amended requiring Social Services, Group II to have a 100-foot setback from properties zoned residential. In 1994, the LDC was amended by the Board of County Commissioners by Ordinance 94-24 adding the 100-foot setback requirement. Minutes from that Board of County Commissioners meeting made a reference that “the proposed language would take care of the problem on Pine Island” however, there was no mention of what the problem was.

Staff believes that the problem may be related to an alcohol and drug abuse center known as the Cloisters (a substance abuse facility) located on Pine Island.

In 1981, Medical Management Institute, Inc. filed to rezone property off Pineland Road on Pine Island from AG-2 (Agriculture) to CS (Specialized Commercial). The property was for a medical clinic for persons with stress-related problems. The rezone was needed because the AG-2 zoning district did not allow the use. There was no opposition to the request. The request was approved by the Board of County Commissioners with a stipulation there be no more than 30 patients.

In 1986, Zoning Ordinance 86-17 created the Community Facilities District to include CF-1, CF-2, CF-3 and CF-4. The primary purpose and intent of the CF districts were to provide for those community facilities existing prior to August 1, 1986 which were permitted by right or by special exception and were not part of an approved Planned Development. The CF districts were to accommodate and provide opportunities for the suitable location of community services and facilities developed subsequent to August 1, 1986 and were not part of an approved Planned Development. None of the CF districts included a 100-foot setback.

In 1988, The Cloisters of Pine Island filed to rezone the same property to CF-4 (Community Facilities) for the expansion of the existing social services facility from 30 to 50 beds. The Cloisters treated persons with stress related problems and substance abuse. The reason for the rezoning to CF-4 was the CS zoning did not allow this type of use. The Cloisters was categorized as Social Services, Group III. The Group III was for establishments that were primarily engaged in providing temporary living facilities for individuals with personal or social problems such as, Homes for destitute men and women, Juvenile correctional homes, Settlement houses, Social services center: e.g. Salvation Army, etc., Training schools for delinquents, Child/wife abuse centers, Halfway or self help group homes for persons with social or personal problems; and Halfway homes for delinquents and offenders. Because the Cloisters had been operating at this location for several years and wanted to expand, the rezoning was necessary because the zoning code was amended in 1986 and the CS zoning no longer allowed the use. During the public hearing, a surrounding property owner voiced a concern about the expansion with regard to the number of patients and wanted a stipulation that no buildings would be within 35 feet of his property. The request was approved by the Board of County Commissioners without a setback stipulation.

Sometime in the late 1990's, the Cloisters closed and the property was sold. In 2000, the property was rezoned to Commercial Planned Development (CPD) for a hotel/motel use with a dock and a restaurant known as Tarpon Lodge.

In 1994, Section 34-2443 of the LDC was amended to include Social Services, Group II to be required to have a 100-foot setback from properties zoned residential. This requirement has been in effect since then.

Staff researched the records and have not find a specific reason as to why the 100-foot setback was added to the LDC. Staff can only conclude that maybe the amendment for the 100- foot setback was intended to be for a Group III Social Services facility and not a Group II.

Setbacks for Intensive Uses

Division 34 requires enhanced setbacks from residential zoning and uses for the most intensive industrial uses. For example, asphalt batch plants must be set back 660 feet from residential zoned property. Hatcheries (poultry) are required to be set back 330 feet.

The LDC also requires 100-foot setbacks from residential uses and zoning for a variety of intensive uses such as open storage in planned developments (LDC Sec. 34-935), Boarding Stables (LDC Sec. 34-1292), Goats, Sheep and Swine (LDC Sec. 34-1293), Keeping, Raising and Breeding of Chickens (LDC Sec. 34-1294), Vehicle Display Areas (LDC Sec. 34-1352), Electrically Charged Fences (LDC Sec. 34-1742), and Fertilizer and Compost (LDC Sec. 34-2081).

Farm Labor Housing must be set back 500 feet from residential uses and zoning, but may be setback 100 feet where a 40-foot landscape buffer is used (LDC Sec. 34-1894).

Commercial outdoor sports parks and amusement devices such as water slides and miniature golf must be setback 100 feet from residential uses per LDC Sec. 34-2474.

Other Supportive Housing Uses

Social Services uses are different from other lower-intensity residential uses for people in need of supportive housing. For example LDC Sec. 34-2 defines community residential home and home care facility as follow:

Community residential home means a dwelling unit licensed to serve residents who are clients of the Department of Elderly Affairs, the Agency for Persons with Disabilities, the Department of Juvenile Justice, or the Department of Children and Family Services or licensed by the Agency for Health Care Administration which provides a living environment for seven to 14 unrelated residents who operate as the functional equivalent of a family, including such supervision and care by supportive staff as may be necessary to meet the physical, emotional, and social needs of the residents.

Home care facility means a conventional residence in which up to three unrelated individuals are cared for, but without provision for routine nursing or medical care.

Social services are also different from assisted living, which is also defined in LDC Sec. 34-2:

Assisted living facilities (ALF) means a residential land use, licensed under chapter 58A-5, Florida Administrative Code, that may be any building or buildings, section or distinct part of a building, private home, boarding home, home for the aged, or other residential facility, whether operated for profit or not, that undertakes through its ownership or management to provide housing, meals, and one or more personal services for a period exceeding 24 hours to one or more adults who are not relatives of the owner or administrator. For purposes of this definition only, the term "personal services" means direct physical assistance with or supervision of the activities of daily living and the self-administration of medication and other similar services that the department may define by rule. "Personal services" will not be construed to mean the provision of medical, nursing, dental, or mental health services.

Community Residential Homes and Home Care Facilities are permitted by right in agricultural and conventional residential zoning districts such as AG-2 and RS-1. No additional setbacks are required from neighboring residential uses or zoning.

Assisted Living is permitted in conventional multi-family zoning such as RM-2 and may be permitted by Special Exception in AG-2 or approved as part of an RPD, CFPD, CPD, and MPD.

There is no LDC requirement for additional setbacks from residential uses or zoning for assisted living. A Place of Worship/Religious facilities may include a residential component such as a convent or monastery. There is no LDC requirement for additional setbacks from residential uses or zoning for these uses. Enhanced setbacks may be required for special exception or planned development approvals for these issues to address compatibility issues with surrounding uses.

North Fort Myers Commercial Corridors

Ordinance 12-01 was approved by the Lee County Board of County Commissioner January 10, 2012. This ordinance created new LDC regulations for the North Fort Myers Planning Community including creation of the North Fort Myers Commercial Corridor Use Regulations. LDC Sec. 33-1537 defines the commercial corridors as commercially-zoned properties with frontage on US 41, Old 41, Pine Island Road, Bayshore Road, Hancock Bridge Parkway, and Pondella Road. These are all arterial roads in North Fort Myers. The intent of these and other regulations was to enhance the appearance and encourage the redevelopment of these major corridors in the community. LDC Sec. 33-1596 "Use Regulations" provides uses regulations applicable to the Commercial Corridors. LDC Sec. 33-1596 permits Social Services, Group I (Counseling) - where the zoning district permits on commercial corridors. It does not permit Social Services, Group II, III or IV.

Fair Housing Issue

Communities commonly regulate the placement of non-traditional housing and social services by imposing zoning regulations such as a setback or spacing requirement. When a community imposes regulations such as this on a use that is protected by the federal Fair Housing Act

(FHA), the requirement will typically be struck down unless a community can provide strong support and evidence to overcome the FHA's "reasonable accommodation" requirement. The FHA prohibits making a dwelling unavailable to a person because of race, color, national origin, religion, sex, familial status, or disability. The FHA also protects individuals who are recovering from substance abuse. If a community wishes to impose additional requirements on social services and non-traditional housing, they should do so with caution.

LDC Amendments

The attached LDC amendments include removal of the requirement for Social Services, Group II (training) to have 100-foot building setbacks from residential uses and zoning per LDC Sec. 34-2443. The regulation is inconsistent with other more intensive commercial uses (including Social Services, Group I, III and IV). Social Services, Group II (training) are less intensive uses than the commercial and industrial uses which must meet this requirement including blacksmiths and impound yards.

The attached LDC amendments also include the addition of Social Services, Group II (training) to permitted uses (P) in the North Fort Myers Commercial Corridor per LDC Sec. 33-1596. These uses are similar in impact to Social Services, Group I (counseling) currently permitted. The attached LDC amendments also adds Group III and Group IV Social Services to the list of uses within the Commercial Corridor per LDC Sec. 33-1596 as a Planned Development only. These are more intensive uses with residential components and can be evaluated and conditioned for consistency with the Lee Plan and compatibility with surrounding uses on a case by case basis.

Thank you for your attention to this matter.

cc. Pam Houck, Zoning Manager
Ben Dickson, Development Services Manager
Mikki Rozdolski, Planning Manager
Neysa Borkert, County Attorney's Office

(46) Social services. Establishments providing social services and rehabilitation services to persons with social or personal problems requiring special services and to the disabled and the disadvantaged.

GROUP I. Establishments primarily engaged in providing counseling and guidance services to individuals or families, but which do not provide resident facilities.

Adoption services
Child guidance agencies
Disaster services
Family location services
Family (marriage) counseling services
Helping hand services, e.g., Big Brother, Big Sister, etc.
Job counseling
Public welfare centers (offices)
Referral services for personal and social problems
Traveler's aid centers
Other social services of a similar type, not specifically listed elsewhere

GROUP II. Establishments primarily engaged in providing training or rehabilitation services, such as:

Job training
Manpower training
Offender rehabilitation agencies
Offender self-help organizations
Self-help organizations, e.g., Alcoholics Anonymous and Gamblers Anonymous
Skill training centers
Vocational rehabilitation agencies and counseling
Vocational training agencies
Work experience centers, e.g., Goodwill, Job Corps, Lighthouse for the Blind, etc.

GROUP III. Establishments primarily engaged in providing temporary living facilities for individuals with personal or social problems.

Child or wife abuse centers
Halfway homes for delinquents and offenders
Halfway or self-help group homes for persons with social or personal problems
Homes for destitute men and women
Juvenile correctional homes
Settlement houses
Social service centers, e.g. Salvation Army, etc.
Training schools for delinquents

GROUP IV. Establishments primarily engaged in providing longterm living facilities for individuals and in which health care is incidental.

	Homes for children
	Homes for intellectually challenged persons
	Homes for the aged
	Homes for the deaf or blind
	Homes for the emotionally disturbed
	Homes for the physically disabled
	Orphanages
	Rehabilitation centers
	Rest homes

**LEE COUNTY STAFF
AMENDMENTS**

SUMMARY

STAFF-PROPOSED LDC AMENDMENTS (LPA 2nd MEETING)

Chapter 2

LDC Sec. 2-45 & 2-46; LDC Sec. 66 - 76; Concurrency Definitions, Certification, Proportionate Share, General Requirements, Agreement Process, etc. (Pages 1-13)

Change: Definitions edited; "Proportionate Fair-Share" renamed to "Proportionate Share"; Sections on concurrency edited and rewritten.

Reason: To make consistent with changes in Florida Statutes, Lee Plan amendments to transportation and parks concurrency, and internal practices.

LDC Sec. 2-268 Benefit Districts. (Pages 14-18)

Change: Replaced Road Impact Fee Benefit District Map with a new map and corrected language relating to the number of road impact fee benefit districts.

Reason: There was a reduction from 5 road impact fee districts to 4.

LDC Sec. 2-351 Refund of Paid Fees (Page 18)

Change: Corrected "community" parks impact fee to "regional" parks impact fee.

Reason: Correction of a wording error in the code identified by Parks Planning staff.

LDCAC and EROC identified a strike-through underline error in Sec. 2-351. Staff corrected the error.

LDCAC recommended staff continue to work with the private sector consultants and transportation experts in regard to applicability, methodology, allocation of funds collected, and how the proportionate share program will be impacted by impact fee policy decisions.

Chapter 6

LDC Sec. 6-117 Improvements or Repairs Not Requiring a Permit (Page 19)

Change: Allows the installation of wireless alarm systems without a permit.

Reason: Florida Statutes allow the installation of wireless alarm systems without a permit. This adds new language consistent with state law.

Chapter 10

LDC Sec. 10-1 Definitions (Page 19)

Change: Changed definition of subdivision from division of a lot into two or more parcels to three or more parcels.

Reason: To make consistent with the current definition of subdivision under Florida Statutes.

LDC Sec. 10-104 Deviation and variances (Page 19)

Change: Made reference to LDC Sec. 34-380 (Planned Development Deviations).

Reason: LDC Sec. 34-380 is the correct reference for deviations to a master concept plan.

LDC Sec. 10-154 Development Order Submittal Requirements. (Page 20)

Change: Ownership and encumbrance report requirement updated.

Reason: To make consistent with changes in Florida Statutes.

Change: No hazardous materials plan for development order applications.

Reason: Unnecessary for development orders.

LDC Sec. 10-383 Interpretation of Division; Conflicting Provisions (Pages 20-21)

Change: Clarify that Development Services Director has jurisdiction to grant deviations for water main installation.

Reason: To eliminate confusion as to the jurisdiction for these deviations.

LDCAC asked staff to correct language regarding administrative deviations for water mains. Staff edited and clarified the language.

LDC Sec. 10-384 Minimum Standards for All Developments (Page 21)

Change: Reference to LDC Sec. 10-104(a)(13) changed to 10-104(a)(15).

Reason: Water Mains reference (13) was incorrect. Sec. 10-104(a)(15) is the correct reference.

LDCAC asked staff to correct language regarding administrative deviations for water mains. Staff edited and clarified the language consistent with Sec. 10-384 above.

LDC Sec. 10-414 – 420 Landscape Plan Requirements. (Pages 21-27)

Change: Replace “project” with “development” overall.

Reason: “Development” is currently defined in the LDC.

LDC Sec. 10-415 Open Space. (Pages 21-24)

Change: Revise Salvaging Native Plants language;

Reason: To clarify temporary above ground irrigation or other means must be provided to ensure survivability;

Change: Revise language regarding indigenous preserve monitoring report submittals;

Reason: Clarifies timing of reports;

Change: Remove the Sabal palm relocation requirements;

Reason: Cost-prohibitive for developers to comply and for staff to enforce.

LDCAC asked for editorial changes and to remove references to Environmental Sciences Director. Staff edited appropriate sections of the code including naming the appropriate director or designee.

LDC Sec. 10-416 Landscape Standards. (Pages 24-25)

Change: Move the Heritage Tree and dry detention planting code under the general tree section;

Reason: Clarity;

Change: Consolidate the general tree requirements for residential developments;

Reason: Clarity;

Change: Revise tree installation specifications;

Reason: Clarity.

LDCAC asked staff to further review heritage tree requirements and recommended other editorial changes. Staff made revisions to this section.

For detention areas, LDCAC recommended “mulched with pine straw or an acceptable alternative.” Staff made this change.

LDC Sec. 10-418 Surface Water Management Systems. (Pages 25-26)

Change: Revise compensatory littoral area calculation.

Reason: To better clarify the requirement.

LDCAC asked how best to calculate littoral requirements. Staff reviewed and revised language.

LDC Sec. 10-419 Alternative landscape betterment plan (Page 26)

Change: Rewrite the Alternate Landscape Betterment Plan section.

Reason: To better define when the section is appropriate to use.

LDCAC asked staff to further review alternative landscape betterment plan section, and recommended other editorial changes. Staff made revisions to this section.

LDC Sec. 10-420 Plant Material Standards. (Pages 26-27)

Change: Modify standards for trees and palms;

Reason: Clarity;

Change: Add language regarding inappropriate mulch materials;

Reason: To make consistent with existing language per LDC Sec. 10-416(c)(2)(g).

LDCAC asked staff to further review plant material standards and recommended other editorial changes. EROC asked staff to further review how buffer plant height is measured. Staff reviewed and made revisions to this section.

LDC Sec. 10-716 Piping Materials For Use in Right of Way. (Pages 27-28)

Change: Changes to chart regulating utility piping materials in right of way.

Change: Technical corrections per Lee County Utilities and Transportation staff.

Chapter 12

LDC Sec. 12-118 Monitoring Requirements; Inspections (Page 29)

Change: Replace the word "quality" with the word "quantity" in regards to monitoring report bathymetric surveys covering new areas excavated.

Change: Scrivener's error identified by the Development Services Manager.

Chapter 14

LDC Sec. 14-1 Planning Community Regulations. (Page 30)

Change: Remove Estero and include San Carlos Island in list of Planning Community regulations.

Reason: Incorporation of the Village of Estero; Moved San Carlos Island to Community Planning, Chapter 33.

EROC recommended a format change to the list of planning communities. Staff made the change.

LDC Sec. 14-293 through 14-295 (Wetlands) Permits Required, Site Plan Review, Compliance Enforcement. (Page 30)

Change: Eliminated language stating the county may not issue permits prior to state authorization relating to wetlands.

Reason: State statutes prohibit withholding local development approvals pending issuance of state and federally-mandated permits. Reflects current practices by staff.

Chapter 22

LDC Sec. 22-102, 22-103, 22-106 and 22-203 Historic Preservation: Division 3 Certificate of Appropriateness. (Pages 31-32)

Change: Make changes to required mailings, availability of staff reports for regular certificate of appropriateness, special certificate of appropriateness, certificate to dig, and notice of historic preservation board actions.

Reason: Clarified language, allows more utilization of electronic mail, and other changes recommended by Planning/Historic Preservation staff.

Chapter 30

LDC Sec. 30-56 Planning Community Regulations. (Page 33)

Change: Remove Estero and include San Carlos Island in list of Planning Community regulations.

Reason: Incorporation of the Village of Estero; Moved San Carlos Island to Community Planning, Chapter 33.

EROC recommended a format change to the list of planning communities. Staff made the change.

LDC Sec. 30-151 Temporary Signs. (Page 33)

Change: Clarifies setbacks (15 feet) for real estate signs.

Reason: If the sign is at the sidewalk line it may block the view of oncoming traffic.

Chapter 32

LDC Sec. 32-241 Lot Types Allowable in Each Transect Zone. (Page 34)

Change: Clarifies language regarding uses in Compact Community Planned Developments.

Reason: Issue was identified by the County Attorney's Office.

LDC Sec. 32-243 Property Development Regulations (Compact Communities Table) (Pages 34-35)

Change: Corrects street setbacks and height regulations.

Reason: Corrects errors identified by the County Attorney's Office.

LDC Sec. 32-243 Property Development Regulations (Pages 35-36)

Change: Clarifies Compact Communities must provide their own property development regulations. Clarifies standards for deviation requests in Compact Communities.

Reason: Clarifies language identified by the County Attorney's Office.

LDC Sec. 32-502 Application Requirements. (Pages 36-37)

Change: Clarifies deviation section in regards to Compact Communities.

Reason: Clarifies language identified by the County Attorney's Office.

Chapter 33

LDC Chapter 33 Planning Community Regulations – Contents (Pages 37-38)

Change: Move San Carlos Island from Chapter 34 Redevelopment Overlay Districts to Chapter 33 Planning Communities.

Reason: Places Planning Community regulations in one location.

LDC Sec. 33-1431 Model Homes (Lehigh Acres) (Page 38)

Change: Adds “former” to model homes.

Reason: Clarifies regulations apply to former model homes being redeveloped for another use.

LDC Sec. 33-1596 North Fort Myers Commercial Corridor Use Regulations. (Page 38)

Change: Adds Social Services, Group II (Training and Rehabilitation Services – without living facilities) as a permitted use where zoning district permits in Commercial Corridors in the North Fort Myers Planning Community.

Adds Social Services, Group III (Temporary Living Facilities for Individuals with Personal or Social Problems) and Social Services, Group IV (Long Term Living Facilities including incidental Health Care Services) within a planned development only in Commercial Corridors in the North Fort Myers Planning Community.

Reason: Commercial Corridors in the North Fort Myers Planning Community currently permit Social Services, Group I (Counseling and Guidance Services – without living facilities) where zoning district permits. There is little difference between Group I (counseling) and Group II (training). Both are office uses.

Allows for consideration of social services with a housing component (Group III and IV) on Commercial Corridors in the North Fort Myers Planning Community in a planned development on a case by case basis consistent with the Lee Plan and compatible with the surrounding uses. See further discussion under Social Services memo.

LDC Sec. 33-1742 – 33-1744. San Carlos Island Redevelopment Overlay District (Pages 38-50)

Change: San Carlos Island Redevelopment Overlay District moved from Chapter 34 (Zoning) to Chapter 33 (Planning Communities).

Reason: Places Planning Community regulations in one location.

Chapter 34

LDC Sec. 34-2 Definitions. (Page 51)

Change: Agritourism activity definition updated to include livestock operation, civic, ceremonial, training, and exhibition.

Reason: This definition mirrors the most recent definition of Agritourism in Florida Statutes as recently amended.

Change: Storage definition corrected.

Reason: Clarification and removal of grammatical errors.

LDC Sec. 34-6 Planning Communities. (Pages 51)

Change: Remove Estero and include San Carlos Island in list of Planning Community regulations.

Reason: Incorporation of the Village of Estero; Moved San Carlos Island to Community Planning, Chapter 33.

EROC recommended a format change to the list of planning communities. Staff made the change.

LDC Sec. 34-145 Functions and Authority (Hearing Examiner) (Pages 51-52)

Change: Strike language on equitable jurisdiction.

Reason: Correction recommended by the County Attorney's Office to address a court decision relating to a code enforcement case.

LDC Sec. 34-202 General Submittal Requirements (Public Hearing) (Pages 52-53)

Change: Corrected language; Ownership and encumbrance report requirement updated; Hazardous material emergency plan requirement removed; bonus density application documents required updated.

Reason: Consistency with Florida Statutes; Hazardous material emergency plan requirement removed not necessary for zoning cases; Made consistent with new amendments related to Pine Island/TDR program.

LDC Sec. 34-204 Submittal requirements for Administrative Action applications. (Page 54)

Change: Administrative changes only require a parcel number, rather than a metes and bounds legal description.

Reason: Reduces burden on applicants; staff can identify property with a valid parcel number.

EROC recommended a grammatical change to clarify. Staff made the change.

LDC Sec. 34-210 Temporary Use Permits. (Page 53)

Change: Noise ordinance reference updated to Ord. 14-18.

Reason: Approval of Ord. 14-18 (Noise Ordinance).

LDC Sec. 34-622(c) (38) Use Activity Group – Recreation Facilities, Commercial. (Pages 53-54)

Change: Coin-operated games do not include gambling; Adds indoor gun range to list of Group IV Recreational Facilities, Commercial uses (indoor facilities).

Reason: Clarity; Updates with appropriate commercial indoor uses which currently include bingo and bowling.

LDC Sec. 34-625 Outdoor Lighting Standards. (Pages 54)

Change: Clarifies language to permit canopy backlighting (provided there is no off-site light spillage).

Reason: Canopy back-lighting commonly used by convenience stores - appropriate as long as there is not off-site light spillage.

LDCAC recommended staff proposed changes to LDC Sec. 34-625 be eliminated and that the LDC continue to prohibit canopy back-lighting.

LDC Sec. 34-619 Purpose and Intent (RSC-1 Residential Zoning Districts). (Pages 54-55)

Change: Adds reference to Sec. 33-1626 (Captiva) where the RSC-2 (Residential Single-Family Estate) district is described.

Reason: Makes it easier to locate RSC-2 regulations (in Chapter 33).

LDC Sec. 34-715 Multi-Family Property Development Regulations. (Pages 55-56)

Change: "Per Unit" regulations for lot area and dimensions in multi-family zoning removed.

Reason: Regulating "per unit" is unnecessary.

LDC Sec. 34-813 Use Regulations Table – Community Facilities District **(Pages 56-57)**

Change: Maintenance Facility (Government) added to permitted uses in Community Facility (CF) district.

Reason: Appropriate use in CF was left out of the list of permitted uses.

LDC Sec. 34-844 Use Regulations Table - Commercial Districts. (Page 57)

Change: Commercial Recreation Facilities, Group IV (Indoor facilities such as bingo and bowling) – added use to Commercial (C-1A) district.

Reason: Appropriate use currently not permitted in C-1A.

LDC Sec. 34-903 Use Regulations Table - Industrial Districts. (Pages 57-58)

Change: Adds Food and Kindred Products, Group II (manufacturing of prepared meat, dairy products, cereals, malt beverages, wine, liquor, etc.) to Light Industrial (IL) district.

Reason: Currently a special exception only. Permitted in General Industrial (IG). Appropriate in IL.

LDC Sec. 34-933 Permitted Uses. (Page 58)

Change: Corrects incorrect references to Compact PDs.

Reason: Corrects language identified by the County Attorney's Office.

LDC Sec. 34-934 Use Regulations Table - Planned Development Districts (Page 58-59)

Change: Note 21 Accessory Apartments – Clarifies that planned developments may require a special exception. Currently says a special exception is required.

Reason: Accessory apartments may be approved administratively or by special exception.

Division 11 Redevelopment Overlay Districts (Page 59)

Change: Struck reference to San Carlos Redevelopment Overlay District

Reason: Moved from Chapter 34 to Chapter 33.

LDC Sec. 34-1177 Accessory Apartments. (Page 59)

Change: Accessory apartments may be administratively approved. Currently a special exception is required.

Reason: Reflects current practice; Staff can determine if accessory apartment meets LDC regulations and Lee Plan requirements for density.

LDC Sec. 34-1261 Definitions/Consumption on Premises (Page 59)

Change: Noise ordinance reference updated to Ord. 14-18.

Reason: Approval of Ord. 14-18 (Noise Ordinance).

LDC Sec. 34-1264 On Premises Consumption. (Pages 59-60)

Change: Adds "Movie Theater" to potential uses with on premises consumption of alcohol (including bowling alleys) provided other LDC standards met.

Reason: Movie theater is a similar indoor-oriented use to a bowling alley.

LDC Sec. 34-1292 Horses and Other Equines. (Page 60)

Change: Noise ordinance reference updated to Ord. 14-18.

Reason: Approval of Ord. 14-18 (Noise Ordinance).

LDC Sec. 34-1352 Display, Sale, Rental or Storage for Motor Vehicles, Boats, Recreational Vehicles, Trailers, Mobile Homes or Equipment. (Page 61)

Change: Amended language regarding commercial storage, enclosed buildings and buffer. Added reference to LDC Sec. 10-416(d) – buffering adjacent properties.

Reason: Clarity for staff and applicants.

LDC Sec. 34-1353 Convenience Food and Beverages, Automobile Service Stations, Fast Food, Car Washes. (Page 61)

Change: Allows for flat roof canopies and accent banding unless prohibited in a planned development.

Reason: Commonly-requested and approved deviation request for convenience store uses.

LDCAC recommended staff proposed changes to LDC Sec. 34-1354 be eliminated and that the LDC continue to prohibit flat roof canopies and accent banding without a deviation or variance.

LDC Sec. 34-1354 Variances or Deviations from 34-1352 (Vehicle Sales) and 34-1353 (Convenience Store/Fast Food, etc.) (Page 61)

Change: Administrative relief may be permitted to allow for infill commercial redevelopment on properties less than 3 acres.

Reason: Adds flexibility to promote redevelopment on infill sites. Staff can condition appropriately.

LDC Sec. 34-1414 Continuing Care Facilities & LDC Sec. 34-1494 Density Equivalents. (Pages 62-63)

Change: Density equivalent section for assisted living relocated to LDC Sec. 34-1414.

Reason: Currently in two sections of the code.

LDC Sec. 34-2019 Other Use of Parking Lot (Page 63)

Change: Carnivals, Fairs and Amusement Attractions and Devices language deleted.

Reason: Relocated to 34-3042 "Carnivals, Fairs and Amusement Attractions and Devices."

LDC Sec. 34-2020 Required Parking Spaces. (Pages 63-70)

Change: Assisted Living, Corrected LDC references; Clubhouse (and ancillary uses) within a Residential Community Without Golf – Provided required parking space regulations; Corrected other references and notes for Non-Residential Uses.

Reason: Clarification and consistence with other code changes; It was unclear what the parking requirements were for residential clubhouses in communities without golf.

LDCAC identified an error in Table 34-2020. Corrected by staff.

LDC Sec. 34-2443 Minimum Required Setbacks. (Pages 71-72)

Change: Removed Social Services Group II (Training and Rehabilitation Services – without living facilities) from list of intensive uses (blacksmiths, impound yards, manufacturing, repair shops, etc.) requiring minimum 100-foot building setbacks from residential zoning.

Reason: Social Services, Group II are office-type uses of similar intensity to Social Services, Group I (Counseling) which have no additional setback requirements from residential zoning. See further discussion under Social Services memo.

LDC Sec. 34-2479 Sound Systems (Page 72)

Change: Noise ordinance reference updated to Ord. 14-18.

Reason: Approval of Ord. 14-18 (Noise Ordinance).

LDC Sec. 34-3042 Carnivals, Fairs, Circuses and Amusement Devices. (Page 72)

Change: Off-street parking regulations for carnivals, fairs and amusement attractions and devices added.

Reason: Relocated from LDC Sec. 34-2019 "Other Use of Parking Lot."

LDC Sec. 34-3050 Temporary Storage Facilities & Sec. 34-3105 Use of Vehicles, Truck Trailers, or Shipping Containers for Storage. (Pages 72-73)

Change: Permits vehicles, truck trailers, or shipping containers for storage where open storage in commercial or industrial zoning is a permitted use.

Reason: Storage containers are an appropriate use in intensive zoning districts where open storage is permitted by right.

Sec. 34-3272. Lot of record defined; general development standards. (Page 73)

Change: Removes references to single-family residences for setback and separation regulations for mobile home and RV lots of record.

Reason: Single-family is addressed in Sec. 34-3273 and does not need to be included in Sec. 34-3272 also.

Appendixes (Pages 74-75)

Appendix "I" – Planning Community and Redevelopment Overlay District Boundaries and Legal Descriptions.

Change: Remove Estero maps.

Reason: Incorporation of the Village of Estero.

CHAPTER 2

Sec. 2-45. - Definitions.

~~*De minimus transportation impact* means an impact created by a use that would not affect more than one percent of the maximum volume at the adopted level of service of the affected transportation facility as determined by the County. No impact will be considered de minimus if the impact would exceed the adopted level of service standard of an affected designated hurricane evacuation route.~~

~~*Long term transportation concurrency management system* means a financially feasible system to ensure that existing deficiencies are corrected within a specified time frame and to establish priorities for addressing backlogged facilities in special concurrency district or areas.~~

~~*Multimodal Transportation District* means areas designated under the Lee Plan where community design features reduce the use of private vehicles and support an integrated multimodal transportation system. Multimodal transportation districts are designated in accordance with F.S. § 163.3180(15).~~

~~*Permanent traffic* means the traffic that a development can reasonably be expected to generate on a continuing basis upon completion of the development. It does not mean the temporary construction traffic.~~

~~*Transportation concurrency* means transportation facilities needed to serve new development must be in place or under actual construction within three years after the local government approves a development permit, or its functional equivalent, that results in traffic generation.~~

~~*Transportation concurrency exception areas* means areas designated under the Lee Plan that allow exceptions to the transportation concurrency management requirement to promote urban infill development, urban redevelopment, or downtown revitalization.~~

~~*Transportation concurrency management areas* means compact geographic areas designated under the Lee Plan with existing or proposed multiple, viable alternative travel paths or modes for common trips, which employ the use of an area-wide level of service standard and an accommodation and management of traffic congestion for the purpose of promoting infill development or redevelopment in a manner that supports more efficient mobility alternatives.~~

Cost - All improvements and associated costs of capital improvement implementation, such as design, right-of-way acquisition, planning and design studies, engineering, inspection, and physical development costs directly associated with construction of motor vehicle, transit, pedestrian and bicycle facilities, as may be adjusted to the anticipated year it will be incurred.

Development Trips - Estimated vehicular traffic volume assigned to a roadway segment(s) from the stage or phase of development under review.

Phase - A discrete, five-year or lesser construction timeframe of development, including the local government issuance of certificates of occupancy for that construction or its functional occupancy.

Proportionate Share – A contribution calculated based upon the number of trips from the proposed project expected to reach roadways during the peak hour from the stage or phase being approved, divided by the change in the peak hour maximum service volume of roadways resulting from construction of an improvement necessary to maintain or achieve the adopted level of service, multiplied by the construction cost, at the time of development payment, of the improvement necessary to maintain or achieve the adopted level of service.

Roads Impact Fee District – The geographic area in which road impact fees may be collected and spent as depicted in the Lee County Land Development Code Appendix K, Map 1.

Service Volume – The highest number of vehicles for a given level of service.

Service Volume Increase - The additional number of vehicles for a given level of service resulting from an improvement to a roadway segment.

Significant Impact - The traffic projected to be generated at the end of any stage or phase of the proposed project, cumulatively with previous stages or phases, will utilize five percent or more of the adopted peak hour level of service maximum service volume of the roadway, and the roadway is projected to be operating below the adopted level of service standard at buildout of that stage or phase.

Stage - One in a series of approximately equal increments in the development of a proposed project upon which are placed quantified limits for construction that are reasonably calculated to ensure that the state and regional roadway network affected by the proposed project will not be overburdened by development traffic. A stage is to be a subset of a particular project phase of project planned for a project by a developer. A stage of development includes both a specific type and amount of development and the associated, approved buildout timeframe for that project.

State Highway System – All existing roads maintained by the Florida Department of Transportation.

Transportation Deficiency - A facility or facilities on which the adopted level-of-service standard is exceeded by the existing, committed, and vested trips, plus additional projected background trips from any source other than the development project under review, and trips that are forecast by established traffic standards, including traffic modeling, consistent with the University of Florida's Bureau of Economic and Business Research medium population projections. Additional projected background trips are to be coincident with the particular stage or phase of development under review.

Sec. 2-46. - Concurrency certification.

No change (a) and (b).

(c) *Consideration of impacts.* If the director determines that a development permit is not exempt from the minimum concurrency requirements of the Lee Plan, the director will consider the impact the development will have on potable water, sanitary sewer, surface water management, solid waste disposal, parks and recreation, roadway facilities and public schools. The director will consider the type and intensity of use of the proposed development in relation to the demands the use can reasonably be expected to make on those facilities and the times when the demand can reasonably be expected to occur during the course of the development. When measuring the expected impacts of a development, the director will include only the impacts of permanent traffic (see definitions) and other similar continuing infrastructure demands of the development. The director will disregard temporary impacts such as fire flow tests. The director may rely upon studies, measurements or calculations prepared by qualified professionals, or upon generally accepted guidelines, rules, formulas, studies or other theories developed by professional experts working or publishing in this field of inquiry, or upon relevant historical trends or experiences, or upon related rules and standards adopted by other governmental agencies, or upon any combination of these sources. The burden of disproving the accuracy of the director's determination lies with the person who disputes it.

To promote uniformity in the application of this subsection, the director may prepare administrative rules prescribing the methodology by which the impacts of a proposed development will be determined. Those rules will be set forth in an Administrative Code adopted by the Board of County Commissioners.

(d) *Determination of sufficient capacity.* Once the director has considered the impacts of a proposed development in accordance with subsection (c) of this section, he will then determine whether there will be sufficient capacity for these facilities to serve the development at the time the impacts of the development will occur without causing these facilities and services to function at a level of service below the minimum regulatory levels established for these facilities and services in the Lee Plan. ~~Except for traffic impacts, which will be determined in accordance with the policies under objectives~~

~~37.3 and 37.4 of the Lee Plan, the~~ The director will add the expected impacts of the development to the levels of use of the facility at the time of the determination. Anticipated additional use will be derived from other reasonably foreseeable factors. If this sum is less than the capacity of the facility in question to operate during the effective period of a certificate of concurrency compliance at the minimum regulatory levels of services prescribed in the Lee Plan ~~and the development's projected traffic is in compliance with objectives 37.3 and 37.4 of the Lee Plan,~~ the director will certify the conclusion by a written statement. The written statement will identify the development in question and the development permit for which the certification has been made. The director's statement will be known as a certificate of concurrency compliance and is limited to the exact development permit application for which he has issued his certificate. Applications for an amendment to a development order granting a development permit for which a certificate of concurrency compliance has been issued will require another, separate concurrency review by the director.

(e) *Means of measuring level of service in relation to location of development.* When measuring the availability of a public facility to serve a development, the level of service at which the facility is operating or is expected to operate will be measured in relation to its location to the development as follows:

No change 1-4.

~~(5) Parks and recreation.~~ The quantity of regional parks will be measured in acres and applied to the total permanent and seasonal resident population in the County. The quantity of community parks will be measured in acres within the unincorporated area of the county and applied within each community park impact fee district to the permanent resident population within the unincorporated portion of that district.

~~(6) Roads.~~ Concurrency on all roads will be determined on a roadway segment by segment basis consistent with the level of service standards set forth in Lee Plan Policy 37.1.1, except where the Board has:

- ~~a. Designated constrained roads,~~
- ~~b. Created transportation concurrency management areas,~~
- ~~c. Created transportation concurrency exception areas,~~
- ~~d. Created long-term transportation management systems pursuant to Florida Administrative Code 9J-5.0055, or~~
- ~~e. Designated multimodal transportation districts pursuant to F.S. § 163.3180(15) or similar allowable modifications to standard road concurrency.~~

No change 7.

No change (f) and (g).

~~(h) For parks and recreation facilities, the development must meet one of the following two standards:~~

~~(1) At the time of development order or permit is issued, the necessary facilities and services must be in place or under actual construction; or~~

~~(2) A development order or permit is issued with a stipulation that, at the time of the issuance of a certificate of occupancy or its functional equivalent, the acreage for the necessary facilities and services to serve the new development is dedicated to or acquired by the local government; and~~

~~a. The necessary facilities and services needed to serve the new development are scheduled to be in place or under actual construction not more than one year after issuance of a certificate of occupancy or its functional equivalent as provided in the adopted Lee County five-year schedule of capital improvements; or~~

~~b. At the time the development order or permit is issued, the necessary facilities and services are the subject of a binding executed agreement that requires the necessary facilities and services to serve the new development to be in place or under actual construction not more than one year after issuance of a certificate of occupancy or its functional equivalent; or~~

~~c. At the time the development order or permit is issued, the necessary facilities and services are guaranteed in an enforceable development agreement, pursuant to F.S. § 163.3220, or an agreement or a development order issued pursuant to F.S. ch. 380, to be in place or under actual construction not more than one year after issuance of a certificate of occupancy or its functional equivalent.~~

~~(i) *Determination of road facility capacity.* In determining the capacity of a road facility, the director will include existing roadways and committed improvements, as provided in Policy 37.3.2 of the Lee Plan.~~

No change (j) – (n).

~~(o) *Requirements for activity affecting constrained roads.* Concurrency compliance for land development activity affecting constrained roads will be determined in accordance with Lee Plan objective 22.2 to the extent these policies provide additional restrictions that supplement other provisions of this article. The requirements of these policies are as follows:~~

~~(1) A maximum volume to capacity (v/c) ratio of 1.85 for all constrained roads.~~

~~(2) The director may not issue permits that cause the maximum volume to capacity ratio to be exceeded or that affect the maximum volume to capacity ratio once exceeded.~~

~~(3) Once the maximum volume to capacity ratio is achieved, permits may only be issued where capacity enhancements and operational improvements have been identified and commitments to implement those improvements are made that will maintain the volume to capacity ratio on the constrained segment at or below 1.85.~~

~~(p) *De minimus impact.* The Florida Legislature has found that a de minimus impact is consistent with Part II of Chapter 163. Therefore, the impact of a single-family home on an existing lot will constitute a de minimus impact on all roadways regardless of the level of deficiency of the roadway.~~

~~Other than single-family homes on existing lots, no impact will be de minimus if the sum of existing roadway volumes and the projected volumes from approved projects on a transportation facility would exceed 110 percent of the maximum volume at the adopted level of service of the affected transportation facility. Further, except for single-family homes on existing lots, no impact will be de minimus if it would exceed the adopted level of service standard of any affected designated hurricane evacuation route.~~

~~Lee County will maintain records to ensure that the 110 percent criteria is not exceeded. Annually, Lee County will submit to the State Land Planning Agency a summary of the de minimus records along with its updated Capital Improvements Element. In the event the State Land Planning Agency determines that~~

~~the 110 percent criteria has been exceeded, the County will be notified of the exceedence and no further de minimus exceptions for the applicable roadway will be granted until the volume is reduced below the 110 percent. The County will provide proof of the reduction to the State Land Planning Agency prior to issuing further de minimus exceptions.~~

DIVISION 2. - PROPORTIONATE FAIR-SHARE PROGRAM

Sec. 2-66. - Purpose and intent.

The purpose of this Division is to establish a method whereby the impacts of development on transportation facilities can be mitigated by the cooperative efforts of the public and private sectors, to be known as the Proportionate Fair-Share, as required by and in a manner consistent with §163.3180(16), F.S., as amended.

Sec. 2-67. - Findings.

- (a) Transportation capacity is a commodity that has a value to both the public and private sectors.
- (b) ~~The Lee County Proportionate Fair-Share Program:~~
 - (1) Provides a method by which the impacts of development on transportation facilities can be mitigated by the cooperative efforts of the public and private sector;
 - (2) Provides a means by which developers may proceed ~~under certain conditions, notwithstanding the failure of transportation concurrency,~~ by contributing their proportionate fair-share of the cost to improve/construct a transportation facility;
 - (3) Maximizes the use of public funds for adequate transportation facilities to serve future growth, and may, in certain circumstances, allow the county to expedite transportation improvements by supplementing funds currently allocated or planned for transportation improvements in the Capital Improvement Element (CIE), Lee Plan Map 3A, or the Lee County MPO Long Range Transportation Plan (LRTP); and.
 - (4) Is consistent with §163.3180(16h(4)(i), F.S., as amended, and supports the policies ~~under Goals 37 and 38 in the Lee Plan, and,~~
 - (5) ~~Works within the county's existing concurrency management system.~~

Sec. 2-68. - Applicability.

~~The Proportionate Fair Share applies to all developments in unincorporated Lee County that have been notified of a lack of capacity to satisfy transportation concurrency on a transportation facility, identified one or more significant impacts, and the total proportionate share calculation exceeds road impact fees, in the County Concurrency Management System, including transportation facilities maintained by FDOT or another jurisdiction that are relied upon for concurrency determination. This provides a funding mechanism to implement County transportation needs through the Capital Improvement Element (CIE.) The Proportionate Fair Share is not available to developments of regional impact (DRIs) using proportionate fair share under shall not be applied in a manner that imposes upon new development any responsibility for funding an existing transportation deficiency, § 163.3180(12), F.S., or to developments exempted from concurrency as provided in 2-46(p).~~

Sec. 2-69. - General requirements.

(a) ~~A developer may choose to satisfy the transportation concurrency requirements of the county by making~~ make a proportionate fair-share contribution, pursuant to the following requirements:

(1) The proposed development project is consistent with the Lee Plan and applicable land development regulations; and

(2) ~~The five-year schedule of capital improvements in the County Capital Improvement Element (CIE) or the long-term schedule of capital improvements for an adopted long-term concurrency management system, Map 3A, or the Lee County MPO Long Range Transportation Plan (LRTP), includes, or may be amended to include, a transportation improvement(s) that, upon completion, will mitigate additional traffic generated by the proposed development, and the improvement does not represent an existing or projected transportation deficiency. If the County transportation concurrency management system indicates that the capacity of the improvement has been consumed by the vested trips of previously approved development, then the provisions of 2-69(b) apply.~~

Commentary: Pursuant to §163.3180(16)(b)1, F.S., ~~the transportation improvement in section (a)(2) above may be a programmed capital improvement that enhances the capacity of the transportation system to accommodate the impacts of development. For example, this may involve widening and/or reconstructing a roadway or where the primary roadway is constrained or widening is no longer desired, this could involve creating new reliever roadways, new network additions, new transit capital facilities (e.g., bus rapid transit corridor), or other major mobility improvements, such as expansion of bus fleets to increase service frequency. Local governments may, at their discretion, wish to make short-term operational improvements in advance of the capacity project. If the capacity of the planned improvement is fully committed, or there is no eligible project in an adopted work program, a developer could potentially still participate at the discretion of the local government pursuant to (b) below.~~

~~(b) The county may choose to allow a developer to satisfy transportation concurrency for a deficient road segment through the Proportionate Fair Share Program by contributing to an improvement that is not contained in the five-year schedule of capital improvements in the Capital Improvement Element or a long-term schedule of capital improvements for an adopted long-term concurrency management system but which, upon completion, will satisfy the requirements of the County Transportation Concurrency Management System, where the following apply:~~

~~(1) The county conducts an advertised public hearing to consider the proportionate fair share agreement and corresponding future changes to the five-year CIP; and,~~

~~(2) The county adopts, by resolution or ordinance, a commitment to add the improvement to the 5-year schedule of capital improvements in the Capital Improvement Element (CIE) no later than the next regularly scheduled update. To qualify for consideration under this section, the proposed improvement must be reviewed by the Board and determined to be financially feasible pursuant to §163.3180(16) (b) 1, F.S., consistent with the Lee Plan, and in compliance with the provisions of this Article. Financial feasibility means that additional contributions, payments or funding sources are reasonably anticipated during a period not to exceed 10 years to fully mitigate impacts on the transportation facilities.~~

~~(c) If the funds allocated for the 5-year schedule of capital improvements in the County CIE are insufficient to fully fund construction of a transportation improvement required by the concurrency management system, the County may still enter into a binding proportionate fair share agreement with a developer authorizing construction of that amount of development on which the proportionate fair share is calculated, if in the opinion of Lee County DOT, the proposed proportionate fair share amount is sufficient to pay for one or more improvements that will, by itself or in combination with other committed contributions, significantly benefit the transportation system. To qualify for consideration under this section, the proposed improvement must be contained in an adopted short or long range county plan or program, MPO, FDOT or local or regional transit agency. Proposed improvements not reflected in an adopted plan or improvement program but that would significantly reduce access problems and congestion or trips on a major corridor, such as new roads, service roads, or improved network development and connectivity, may be considered at the discretion of the Board. The improvements funded by the proportionate fair share component must be adopted into the 5-year capital improvements schedule for the Lee Plan CIE in the next annual capital improvement element update.~~

~~(d) Any improvement project proposed to meet the developer's fair share obligation must meet the county design standards for locally maintained roadways and those of the FDOT for the state highway system.~~

Sec. 2-70. -- Intergovernmental coordination.

~~Pursuant to policies in the Intergovernmental Coordination Element of the Lee Plan and applicable policies in the Southwest Florida Regional Planning Council's Strategic Regional Policy Plan, the county will coordinate with affected jurisdictions, including FDOT, regarding mitigation to impacted facilities not under the jurisdiction of the county receiving the application for proportionate fair share mitigation. An interlocal agreement may be established with other affected jurisdictions for this purpose.~~

Sec. 2-710. Application Agreement process.

~~(a) Upon Notification of a lack of capacity to satisfy transportation concurrency, the county must also notify the applicant/developer in writing of the opportunity to satisfy transportation concurrency in accordance with the requirements for the proportionate share program set forth in Section 2-69. **Applicability.** This section applies if there are additional developer mitigation responsibilities resulting from one or more significant impacts.~~

The determination of significant impact(s) will be based on a Lee County approved traffic analysis contained in an Application for Public Hearing for a Development of Regional Impact (DRI), or an Application For Development Order for development outside of a DRI as outlined in AC-13-16.

This section outlines the agreement process for mitigation responsibilities and payments.

~~(b) **Meeting Required.** Prior to submitting an application for a proportionate fair share agreement t~~
The applicant must attend schedule a pre-application meeting with the County Attorney, Directors or designees of Lee County Department of Community Development Planning and Lee County Department of Transportation (DOT) to discuss eligibility, application submittal requirements additional transportation analysis at the option of the Directors or applicant, potential mitigation options, and related issues prior to initiating a proportionate share agreement with the County. If the an impacted facility is on the Strategic Intermodal System (SIS) state highway system, or a roadway maintained by or within another municipality, then the applicant must notify and invite the Florida Department of Transportation (FDOT) and/or the chief municipal transportation agency representative to participate in the pre-application meeting.

~~(c) Eligible applicants must submit an application to the county that includes an application fee set forth in the fee manual and the following:~~

- ~~(1) Name, address and phone number of owner(s), developer and agent;~~
- ~~(2) Property location, including parcel identification numbers;~~
- ~~(3) Legal description and survey of property;~~
- ~~(4) Project description, including type, intensity and amount of development;~~
- ~~(5) Proposed phasing schedule, if applicable;~~
- ~~(6) Description of requested proportionate fair share mitigation method;~~
- ~~(7) Copy of concurrency application;~~
- ~~(8) Copy of the project's Traffic Impact Statement (TIS); and,~~
- ~~(9) Location map depicting the site and affected road network.~~

(c) **Agreement.** Application procedures, requirements and review criteria for proportionate share agreements are contained in Lee County Administrative Code AC13-16. All AC13-16 requirements must be complied with in order for the County and applicant to enter into a proportionate share agreement. The agreement must be approved by the Lee County Board of County Commissioners.

~~(d) The director or the designee will review the application and certify that the application is sufficient and complete within 20 business days. If an application is determined to be insufficient, incomplete or inconsistent with the general requirements of the Proportionate Fair Share Program as indicated in Section 2-69, then the county will notify the applicant in writing of the reasons for such deficiencies~~

~~within 20 business days of submittal of the application. If the deficiencies are not remedied by the applicant within 20 business days of receipt of the written notification, then the application will be deemed abandoned. The director may, in his discretion, grant a one-time extension not to exceed 60 calendar days.~~

~~(e) Pursuant to §163.3180(16) (e), F.S., proposed proportionate fair-share mitigation for development impacts to facilities on the SIS requires the agreement of the Florida Department of Transportation (FDOT). If an SIS facility is proposed for proportionate share mitigation, the applicant must submit a copy of the executed agreement between the applicant and the FDOT for inclusion in the proportionate fair-share agreement.~~

(d) **Shared Transportation Facilities.** Proposed proportionate share mitigation for development impacts to facilities on the state highway system or facilities maintained by another municipality requires the agreement of the Florida Department of Transportation (FDOT) or the municipality. The applicant must submit a copy of the executed agreement(s) for inclusion in the proportionate share agreement. The county may enter into proportionate share agreements for selected corridor improvements to facilitate collaboration among multiple applicants on improvements to a shared transportation facility.

~~(f) When an application is deemed sufficient, complete, and eligible, the county will advise the applicant in writing. The county attorney will prepare a proportionate fair-share obligation and binding agreement. A draft agreement will be delivered to the appropriate parties for review, including a copy to the FDOT for proposed proportionate fair-share mitigation on SIS facilities, no later than 60 calendar days from the date the applicant received the notification of a sufficient application and no fewer than 14 calendar days prior to the meeting when the agreement will be considered.~~

~~(g) The county will notify the applicant regarding the date the agreement will be considered for final approval by the Board. No proportionate fair-share agreement will be effective until approved by the commission, or pursuant to staff approval for agreements below a certain dollar amount.~~

(e) **Payment of Proportionate Share.** Payment of the proportionate share mitigation is due in accordance with the terms of the finalized and executed proportionate share agreement. All payments are non-refundable.

(f) **Dedications.** Dedication of necessary right-of-way for facility improvements pursuant to a proportionate share agreement must be completed prior to, or as part of final plat approval or issuance of the development order for infrastructure improvements for the project.

Sec. 2-721. - Determining proportionate fair-share obligation.

(a) **Timing.** Unless an application for Development Order is part of a Development of Regional Impact, significant impacts will be determined based on projected traffic at the end of an approved stage or phase. Proportionate fair-share mitigation for ~~concurrency~~ transportation impacts may include, without limitation, separately or collectively, private funds, contributions of land, and construction and contribution of facilities. The fair market value of the proportionate share mitigation for the impacted facilities will not differ regardless of the form of the mitigation.

~~(b) A development is not required to pay more than its proportionate fair share unless the road impact fee obligation under the adopted fee schedule exceeds the proportionate fair share mitigation of the project. The fair market value of the proportionate fair share mitigation for the impacted facilities will not differ regardless of the form of the mitigation.~~

(e ~~b~~) **Calculation.** The methodology formula that will be used to calculate an applicant's proportionate fair share obligation on each significantly impacted roadway is stated in § 163.3180 (12), F.S., as follows:

~~"The cumulative number of trips from the proposed development expected to reach roadways during peak hours from the complete build-out of a stage or phase divided by the change in the peak hour maximum service volume (MSV) of roadways resulting from construction of an improvement necessary to maintain the adopted LOS, multiplied by the construction cost, at the time of developer payment, of the improvement necessary to maintain the adopted LOS."~~

OR

$$\text{Proportionate Fair-Share} = \frac{\text{Development Trips}_{\text{sub } i}}{\text{ServiceVolume Increase}_{\text{sub } i}} \times \text{Cost}_{\text{sub } i}$$

~~(Note: In the context of the formula, the term "cumulative" does not include a previously approved stage or phase of a development.)~~

Where:

~~Development Trips_{sub i} = Those trips from the stage or phase of development under review that are assigned to roadway segment "i" and have triggered a deficiency per the concurrency management system;~~

~~SV Increase_{sub i} = Service volume increase provided by the eligible improvement to roadway segment "i" per section 2-69;~~

~~Cost_{sub i} = Adjusted cost of the improvement to segment "i". Cost includes all improvements and associated costs, such as design, right-of-way acquisition, planning, engineering, inspection, and physical development costs directly associated with construction at the anticipated cost in the year it will be incurred.~~

~~Commentary: Under the definition of "development trips," only those trips that trigger a concurrency deficiency would be included in the proportionate fair-share calculation.~~

(d ~~c~~) **Cost Determination.** For the purposes of determining proportionate fair-share obligations, the county will determine improvement costs based upon the actual maximum estimated cost of the improvement as reflected in the Capital Improvement Element CIE, the MPO/Transportation Improvement program Long Range Transportation Plan LRTP, or the FDOT Work Program. Where this information is not available, improvement the cost of full capital improvement implementation identified in Section 2-71(b) will be determined at the discretion of ~~by~~ the Lee County Department of Transportation Director using one of the following methods:

- ~~(1) An analysis of by the county or appropriate entity of costs by cross section type that incorporates data from recent projects and is updated annually and approved by the commission. In order to accommodate increases in construction material costs, project costs which will be adjusted by an inflation factor, if warranted; or~~

(2) FDOT Cost Per Mile Models for construction, as adjusted to include all costs of capital improvement implementation; or

~~The most recent issue of FDOT Transportation Costs, as adjusted based upon the type of cross-section (urban or rural); locally available data from recent projects on acquisition, drainage and utility costs; and significant changes in the cost of materials due to unforeseeable events. Cost estimates for state road improvements not included in the adopted FDOT Work Program will be determined using this method in coordination with the FDOT District; or~~

(3) An engineer's certified cost estimate provided by the applicant and accepted by the Director of Lee County DOT.

(d) Impact fee obligation. A development is not required to pay more than its proportionate share unless the road impact fee obligation under the adopted fee schedule exceeds the proportionate share mitigation of the project.

Sec. 2-732. - Impact fee credit for proportionate fair-share mitigation.

(a) **Credit.** Proportionate fair-share mitigation will be applied as a credit against road impact fees assessed to the project to the extent that all or a portion of the proportionate fair-share mitigation is used to address the same capital infrastructure improvements contemplated by the county's impact fee ordinance.

(b) **Road Impact Fee Credits.** Road impact fee credits for the proportionate fair-share contribution will be determined when the transportation road impact fee obligation is calculated for the proposed development project. If the developer's proportionate fair-share obligation is less than the development's anticipated road impact fee for the specific stage or phase of development under review, then the developer or its successor must pay the remaining impact fee amount to the county in accordance with the governing fee schedule at the time of permitting. If the developer's proportionate share obligation is greater than the development's anticipated road impact fee, the developer will enter into an agreement as outlined in Section 2-70, as amended. Developer initiated roadway capital improvements or right-of-way dedication consistent with LDC Article VI, Division 2 (Roads Impact Fee), may be included in proportionate share mitigation.

~~(c) The proportionate fair-share obligation is intended to mitigate the transportation impacts of a proposed development at a specific location. Road impact fee credit based upon proportionate fair-share contributions for a proposed development cannot be transferred to another district unless the road improvement will provide relief in an adjacent district.~~

~~(d) Major projects, not included within the local government's impact fee ordinance that can demonstrate a significant benefit to the impacted transportation system, may be eligible for impact fee credit at the county's discretion consistent with the standards for Class 3 roadways set forth in section 2-275(a)(3).~~

Sec. 2-74. Proportionate fair-share agreements.

~~(a) Upon execution of a proportionate fair-share agreement (agreement) the applicant will receive a county certificate of concurrency approval. If the applicant fails to apply for a development permit within three years of the execution of the agreement, then the agreement will be considered null and~~

~~void, and the applicant must reapply for a concurrency certificate. Once paid, proportionate share payments and impact fees are not refundable.~~

- ~~(b) Payment of the proportionate fair-share contribution is non-refundable and due in full within 60 days of execution of the Agreement, or prior to the issuance of the first development order, whichever occurs first. If the payment is not made in the time frame stated above, then the proportionate share cost will be recalculated and a new agreement must be executed.~~
- ~~(c) Dedication of necessary right-of-way for facility improvements pursuant to a proportionate fair-share agreement must be completed prior to issuance of the development order.~~
- ~~(d) Requested changes to a development project subsequent to a development order may be subject to additional proportionate fair-share contributions to the extent the change would generate additional traffic that would require mitigation.~~
- ~~(e) Applicants may submit a letter to withdraw from the proportionate fair-share agreement prior to the execution of the agreement. The application fee and any associated advertising costs to the county will be non-refundable.~~
- ~~(f) The county may enter into proportionate fair-share agreements for selected corridor improvements to facilitate collaboration among multiple applicants on improvements to a shared transportation facility.~~

Sec. 2-753. Appropriation of fair-share revenues.

~~(a) The county has the authority to will deposit appropriate proportionate fair-share revenues for transportation improvements at its discretion in the appropriate project account for funding of scheduled improvements in the County Capital Improvement Element CIE, or as otherwise established agreed upon in the terms of the proportionate fair-share agreement. At the discretion of the county, proportionate fair-share revenues may be used for operational improvements prior to construction of the capacity project from which the proportionate fair-share revenues were derived. Proportionate fair-share revenues may also be used as the 50-percent local match for funding under the FDOT TRIP.~~

~~(b) If a scheduled facility improvement is removed from the Capital Improvement Element CIE, then the revenues collected for its construction may be applied toward the construction of another improvement within that same corridor or sector that would mitigate the impacts of development pursuant to the requirements of section 2-69.~~

~~(c) Where an impacted regional facility has been designated as a regionally significant transportation facility in an adopted regional transportation plan as provided in Section 339.155, F.S., the county may coordinate with other impacted jurisdictions and agencies to apply proportionate fair-share contributions and public contributions to seek funding for improving the impacted regional facility under the FDOT TRIP. The coordination must be ratified by the county through an interlocal agreement establishing a procedure for earmarking the developer contributions for the purpose of improving the impacted regional facility.~~

Sec. 2-764. - Cross jurisdictional impacts.

Commentary: This section provides a concept to advance intergovernmental coordination objectives in local government comprehensive plans and applicable policies in adopted regional plans. It provides an opportunity for a local government to address the impacts of a proposed development in an adjacent local government that is at or near its border. It is intended as a means of managing development on a regional thoroughfare, and not for application to minor roadways. A regional transportation facility in this context would most likely be an arterial roadway, but could be a major collector roadway that is planned for expansion and reclassification as an arterial. To apply this method, each participating local government must first enter an interlocal agreement to incorporate the provision into their respective land

development regulations. The permitting local government would use the methodology in this section to determine whether a significant impact may occur across its border and offer its neighbor an opportunity to evaluate the proposed development to determine if it would exceed their adopted LOS standards for concurrency. Where the proposed development would trigger a concurrency failure on the neighboring local government's roadway, that local government would use the proportionate fair share methodology to determine the applicant's obligation. In this situation, the applicant would need to provide a proportionate fair share contribution to the adjacent local government that experiences a concurrency deficiency, as well as to the permitting local government.

~~(a) In the interest of intergovernmental coordination and to reflect the shared responsibilities for managing development and concurrency, the county may enter an agreement with one or more adjacent local governments to address cross jurisdictional impacts of development on regional transportation facilities. The agreement must provide for application of the methodology in this section to address the cross jurisdictional transportation impacts of development. Application procedures, requirements and review criteria agreements for intergovernmental coordination agreements to address cross jurisdictional impacts are contained in Lee County Administrative Code AC13-16, as amended. All AC13-16 requirements must be complied with in order for an intergovernmental coordination agreement to be approved and executed by the Board of County Commissioners.~~

~~(b) A development application submitted to the county subject to a transportation concurrency determination meeting all of the following criteria will be subject to this section:~~

- ~~(1) All or part of the proposed development is located within five mile(s) of the area which is under the jurisdiction, for transportation concurrency, of an adjacent local government; and~~
- ~~(2) Using its own concurrency analysis procedures, the county concludes that the additional traffic from the proposed development would use [five percent or more of the adopted peak hour LOS maximum service volume] of a regional transportation facility within the concurrency jurisdiction of the adjacent local government ("impacted regional facility"); and~~
- ~~(3) The impacted regional facility is projected to be operating below the level of service standard, adopted by the adjacent local government, when the traffic from the proposed development is included.~~

~~(c) Upon identification of an impacted regional facility pursuant to subsection (b)(1)–(3), the county will notify the applicant and the affected adjacent local government in writing of the opportunity to derive an additional proportionate fair share contribution, based on the projected impacts of the proposed development on the impacted adjacent facility.~~

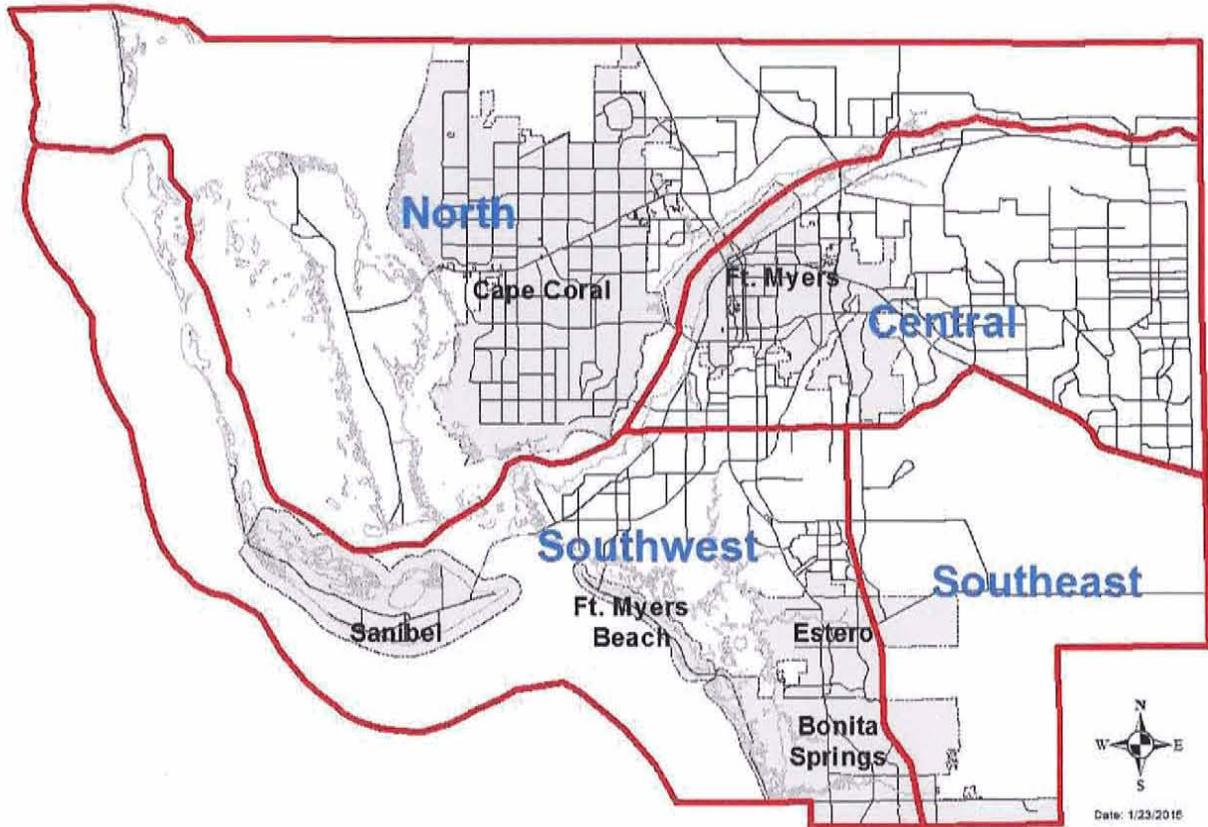
- ~~(1) The adjacent local government has up to 90 days in which to notify the county of a proposed specific proportionate fair share obligation, and the intended use of the funds when received. The adjacent local government must provide reasonable justification that both the amount of the payment and its intended use comply with the requirements of Section 163.3180(16), F.S. If the adjacent local government declines proportionate fair share mitigation under this section, then the provisions of this section would not apply and the applicant would be subject only to the proportionate fair share requirements of the county.~~
- ~~(2) If the subject Application is subsequently approved by the county, the approval will may include a condition that the applicant provides, prior to the issuance of building permits covered by that application, evidence that the proportionate fair share obligation to FDOT or the adjacent local government has been satisfied. The county may require the adjacent local government to declare, in a resolution, ordinance, or equivalent document, its intent for the use of the concurrency funds to be paid by the applicant.~~

Sec. 2-268. Benefit districts established.

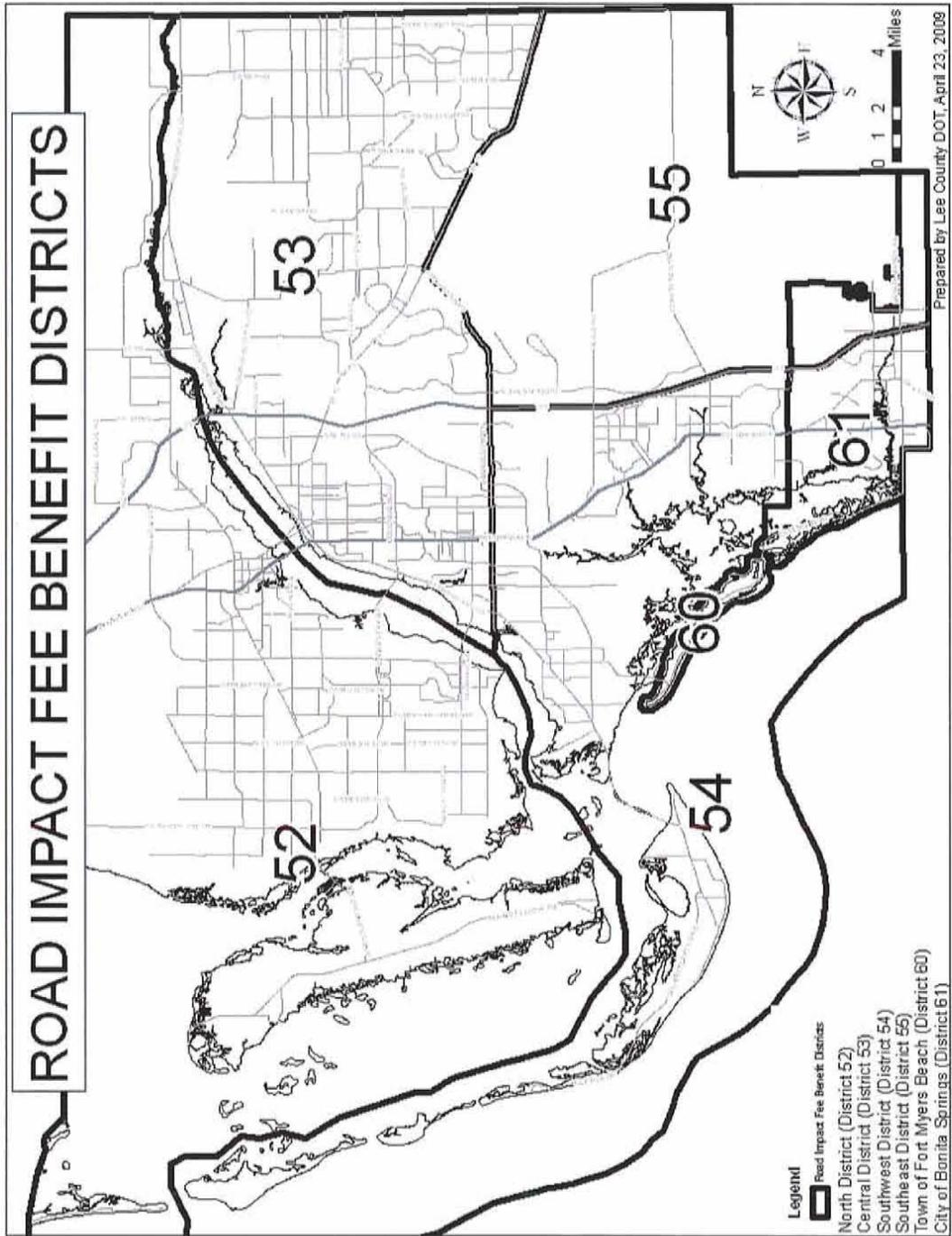
- (a) Benefit districts. There are hereby established ~~five~~ four roads impact fee benefit districts as shown in Appendix K - Map 1. Impact fees collected and impact fee credits issued prior to November 3, 2003 will be retained in the accounts for the previous eight districts shown in Appendix K - Map 2 and spent within the benefit district from which they were originally collected or issued to benefit.
- (b) Subdistricts may be created by interlocal agreement. Incorporated municipalities constitute sub districts for the purpose of this division. All or a portion of a municipality may be within the established districts set forth in Appendix K-4. Municipal district boundaries will expand and contract as the municipality boundaries are amended in accordance with Florida law.

APPENDIX K ROAD IMPACT FEE BENEFIT DISTRICT DESCRIPTIONS ⁽¹⁾

Map 1



ADD THIS MAP



DELETE THIS MAP

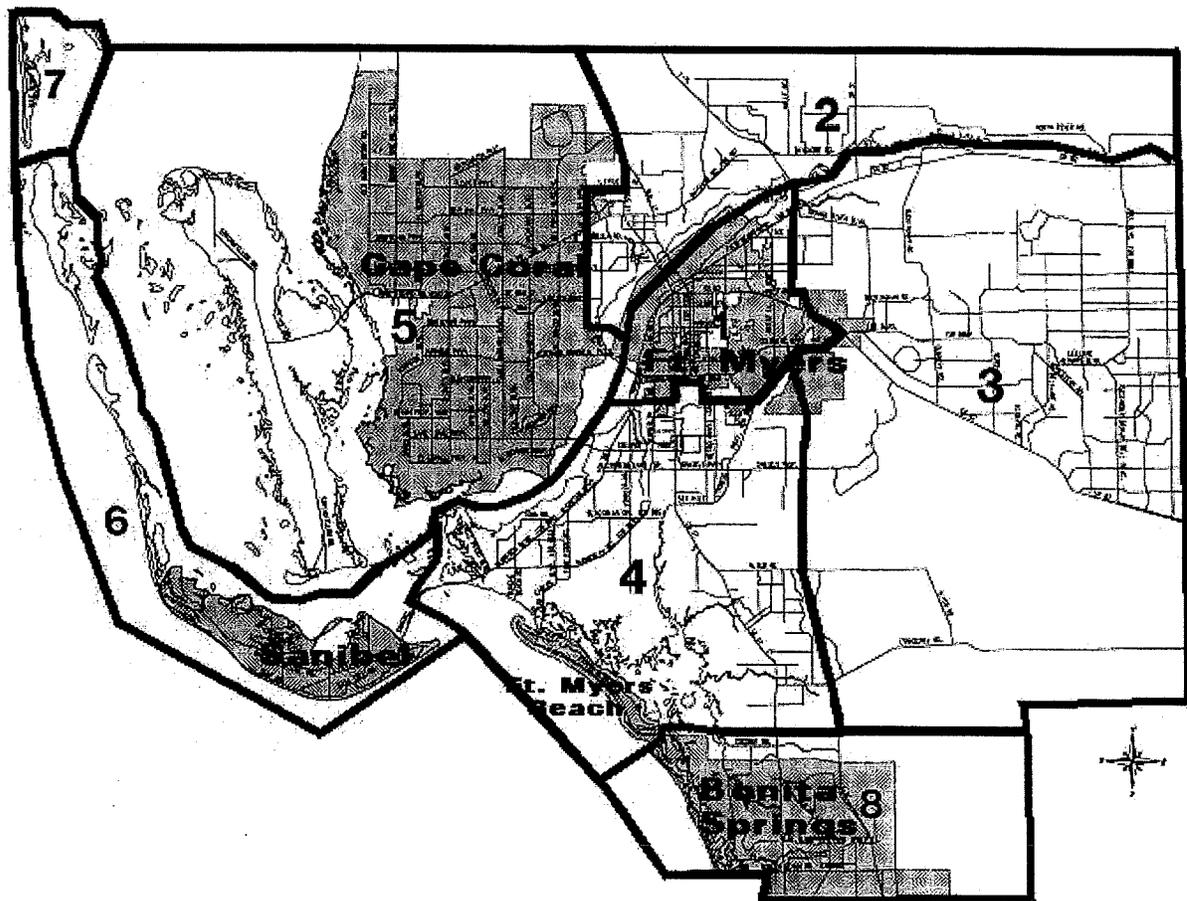
Central District. (District 53) Bounded on the north and west by the Okeechobee Waterway; on the south by Cypress Lake Drive, Daniels Parkway and SR 82; and on the east by the Hendry County line.

Southeast District. (District 55) Bounded on the west by Interstate 75 (I-75); on the north by the Central District; on the east by the Hendry County line and the Collier County line; and on the south by the Collier County line.

Southwest District. (District 54) Bounded on the east by I-75; on the south by Collier County line; on the west by the Gulf of Mexico; and on the north by the navigational channel into Boca Grande Pass, the Intracoastal Waterway within Pine Island Sound and San Carlos Bay, the Okeechobee Waterway, and the southern boundary of the Central District.

North District. Bounded on the north by the (District 52) Charlotte County line; on the east by the Hendry County line; on the south by the Intracoastal Waterway within San Carlos Bay, the Okeechobee Waterway and the main navigational channel into Boca Grande Pass; and on the west by the Gulf Mexico from the Boca Grande Pass to the Charlotte County line.

Map 2



District 1. Bounded on the north and west by the Okeechobee Waterway (located within the bounds of the Caloosahatchee River); including Lofton's Island. The eastern and southern borders follow I-75 from the Okeechobee Waterway south to the northern section line of Section 22, Township 44, Range 25, then east along said section line to the northeast corner of Section 23, Township 44, Range 25, then south along said section line to the Buckingham Road ROW (SR 82A), then west along said ROW to its intersection with the State Road 82 ROW, then southeast along said ROW to the intersection of the

proposed State Road 884 ROW extension, follow the SR 884 ROW extension to its intersection with the western boundary of the Six Mile Cypress Slough and the City of Fort Myers city limits, then following the city limits line southwesterly to its intersection with Six Mile Cypress Parkway, continue southwesterly along the Six Mile Cypress Parkway to the southern section lines of Section 4, Township 45, Range 25, then west along the southern sections 4, 5, and 6, Township 45, Range 25 to the southwest corner of Section 6, Township 45, Range 25, then north along the western section line of Section 6, Township 45, Range 25 to the City of Fort Myers city limits, then follow the Fort Myers city limits to the southern section line of Section 2, Township 45, Range 24, then west along the southern section lines of Sections 2 and 3, Township 45, Range 24 to the Okeechobee Waterway.

District 2. Bounded on the north by the Charlotte County line, and on the east by the Hendry County line. The southern boundary is the Okeechobee Waterway beginning in the west at the Cape Coral/North Fort Myers line, then following the waterway east to the Hendry County line. The western border of District 2 follows U.S. 41 south from the Charlotte county line to Littleton Road, runs west on Littleton Road to 24th Street and south along 24th Street to the Cape Coral/North Fort Myers city boundary to the Okeechobee Waterway.

District 3. Bounded on the north by the Okeechobee Water east of the Hendry County line, and on the east by the Hendry County Line, on the south by the northern boundary of District 8, and on the west by I-75 from the northern boundary of District 8 to the intersection of the District 1 border and I-75, then follow the eastern border of District 1 to the Okeechobee Waterway.

District 4. Bounded on the north, between the Okeechobee Waterway and I-75, by the southern boundary of District 1, on the east by I-75 from the intersection of the southern District 1 boundary and I-75 to the north boundary of District 8. Bounded on the south by the District 8 boundary, and on the west by the Gulf of Mexico from I-75, west to the main navigational channel entering San Carlos Bay, then following that channel to channel marker 101, then turning northeast following the Okeechobee Waterway to meet the southern boundary of District 1.

District 5. Represents the city of Cape Coral, Pine Island, Matlacha and is bounded on the north by Charlotte Harbor and the Charlotte County line, on the East by the western boundary of District 2 and the Okeechobee Waterway, on the south by the Intracoastal Waterway within San Carlos Bay, and on the west by the Intracoastal Waterway within Pine Island Sound and Charlotte Harbor.

District 6. Represents Sanibel, North Captiva and Cayo Costa and is bounded on the north by the navigational channel into Boca Grande Pass, on the east by the Intracoastal Waterway within Pine Sound and San Carlos Bay and western boundary of District 4, and on the south by the Gulf of Mexico, from the western boundary of District 4 to the main navigational channel into Boca Grande Pass.

District 7. Represents Gasparilla Island bounded by the Charlotte County line on the north, on the east by the Intracoastal Waterway within Charlotte Harbor from the Charlotte County Line to Boca Grande Pass including Cayo Pelau, on the south by the main navigational channel into Boca Grande Pass, and on the west by the Gulf of Mexico from Boca Grande Pass to the Charlotte County Line.

District 8. Bounded on the north by a line defined by the northern section lines of sections 7, 8, 9, 10, 11, and 12 of township 47 south, range 26 east, sections 7, 8, 9, 10, 11, and 12 of township 47 south, range 25 east, then proceeding westerly into Estero Bay, running north of Monkey Joe Key and then southwest through Big Carlos Pass. Bounded on the west by the Gulf of Mexico, and on the south and east by the Collier County Line.

FOOTNOTE(S):

--- (1) ---

Editor's note—Appendix K was added by Ord. No. 95-22, § 2, adopted Nov. 1, 1995. Subsequently, Ord. No. 03-22, § 2, adopted Oct. 28, 2003, amended App. K, in its entirety, to read as herein set out. See also the Code Comparative Table.[\(Back\)](#)

Sec. 2-351. - Refund of fees paid.

- (a) If a building permit, mobile home move-on permit or recreational vehicle development order expires, is revoked or voluntarily surrendered, and therefore voided, and no construction or improvement of land (including moving a mobile home onto land) has commenced, then the feepayer is entitled to a refund of the community parks impact fee paid in cash as a condition for its issuance, except up to three percent of the impact fee paid, which will be retained as an administrative fee to offset the costs of processing the refund. This administrative fee is in addition to the administrative charge collected at the time of fee payment. No interest will be paid to the feepayer on refunds due to noncommencement.
- (b) Funds not expended or encumbered by the end of the calendar quarter immediately following 20 years from the date the community regional- parks impact fee was paid will, upon application of the feepayer within 180 days of that date, be returned to the feepayer with interest at the rate of three percent per annum.

CHAPTER 6

Sec. 6-117. Improvements or repairs not requiring a permit.

FBC Section 105.2 pertaining to work exempt from permit is amended to include the following:

The following individual improvements or repairs performed within a 12-month period to a single individual dwelling unit do not require a permit. This exemption does not apply to any combination of items that exceed \$500.00 or improvements undertaken as part of a larger project or work being performed on multiple dwelling units:

No change (a) through (g)

(h) A wireless alarm system as defined in Section 553.793, Florida Statutes, as in effect, including any ancillary components or equipment attached to the system.

CHAPTER 10

Sec. 10-1. Definitions.

(b) *Definitions.* Except where specific definitions are used within a specific section of this chapter for the purpose of such sections, the following terms, phrases, words and their derivations will have the meaning given in this subsection when not inconsistent with the context:

Subdivision.

(1) A subdivision is a type of development. The term "subdivision" means the following:

- a. The division of a lot into ~~two~~ three or more parcels; or
- b. The division of a lot that results from the extension of an existing street or the establishment of a new street; or
- c. Creation of a condominium as defined in F.S. chs. 718 and 721, except that condominium developments are exempt from the provisions of this Code that require platting under F.S. ch. 177.

Sec. 10-104. Deviation and variances.

No change (a) through (h).

(i) Variances or deviations in planned developments. For developments that have received zoning as a planned development, specific variances or deviations from the terms of these regulations are not required if the variances or deviations were approved as part of the schedule of deviations attendant to the master concept plan. Any requests for variances or deviations that were not included on the approved master concept plan must be processed in accordance with this section 34-380.

No change (j).

Sec. 10-154. Additional required submittals.

The following must be submitted with an application for development order approval:

(2) *Title certification.* Certification of title for property subject to development order approval must meet the following criteria:

a. *Form.* The certification of title must be in one of the following forms:

i. Title certificate or title opinion, no greater than 90 days old at the time of the initial development order submittal. The title certification submittal must be either an opinion of title meeting the Florida Bar Standards prepared by a licensed Florida attorney or a certification of title/title certification prepared by a title abstractor or company.

~~ii. Ownership and encumbrance report, no greater than 30 days old at the time of the initial development order submittal.~~

~~iii-ii.~~ Title insurance policy with appropriate schedules, no greater than five years old at the time of the initial development order submittal and an affidavit of no change covering the period of time between issuance of the Policy and the application date. If submission of a complete affidavit of no change is not possible, a title certificate, or title opinion ~~or ownership and encumbrance report~~ must be submitted in the alternative.

The following must be submitted with an application for development order approval:

(12) Reserved.

~~Hazardous materials emergency plan. Any applicant for a private port facility which did not receive approval of a hazardous materials emergency plan at the time of rezoning shall be required to submit a hazardous materials emergency plan, which shall be subject to the approval of the County Divisions of Emergency Management, Water Resources and Planning, and of the appropriate fire district. The plan shall also provide for annual monitoring for capacity and effectiveness of implementation. At the minimum, the plan shall comply with the spill prevention control and countermeasure plan (SPCC) as called for in the federal oil pollution prevention regulations, 40 CFR 112, as amended.~~

Sec. 10-383. Interpretation of division; conflicting provisions.

- (a) This division shall be construed to be the minimum regulations necessary for the purpose of meeting the general and specific requirements named in this division.
- (b) Where any provision of this division imposes a restriction different from that imposed by any other provision of this chapter or any other ordinance, regulation or law, the provision which is more restrictive shall apply.
- (c) Formal interpretations on water supplies and fire department access shall be made by the County Fire Official.

- (d) The Board of Adjustments and Appeals holds the jurisdiction to grant variances from the provisions of this division, except as otherwise provided herein. The procedure and criteria applicable to the variance proceedings is set forth in section 6-71 et. seq. The Development Services Director holds the jurisdiction to grant administrative deviations from water main installation per LDC Sec. 10-104(15) and 10-384(c)(6).

Sec. 10-384. Minimum standards for all developments.

No change (a) and (b).

- (c) Water main installation. Water main installation will be provided in accordance with the following standards.

No change 1-5.

- (6) The applicant may submit a request for an administrative deviation in accordance with section 10-104(a)(~~13~~)(15) for alternatives to line sizing, dead-end and intersecting water main criteria if they embody sound engineering practices and are demonstrated by the applicant's professional engineer.

Sec. 10-414. Submittal requirements.

- (a) Landscape plan required. Prior to the approval of a development order, an applicant whose development is covered by the requirements of this section must submit a landscape plan. The landscape plan must be prepared by and bear the seal of a landscape architect registered in the State of Florida. The plan must include the narrative and calculations to ensure that the proposed landscaping will be in compliance with requirements of this code. However, small projects developments may qualify for a hardship waiver if the cost of compliance with the landscape architect requirement is disproportionate to the cost of the entire project development. This waiver is subject to the sole discretion of the Director.

Sec. 10-415. Open space.

- (a) Open space calculations. All development must contain the minimum percentage of open space as outlined in the following table below:

OPEN SPACE REQUIREMENT		
Type of Development	Open Space as % of Development Area	
	Small Projects <u>Development</u>	Large Projects <u>Development</u>
Residential: Type of dwelling units as defined in chapter 34-2 located in conventional zoning districts with conventional zoning district lot		

coverage.		
Single-family residence or Mobile Home on a single lot with a minimum lot size of 6,500 sq. ft.	None	None
Duplex on a single lot with a minimum lot size of 7,500 sq. ft.	None	None
Two-family attached each on an individual lot with a minimum lot size of 3,750 sq. ft. per unit	None	None
All other residential	35%	40%
Industrial	10%	20%
Other: All other uses including, but not limited to commercial, places of worship, recreational vehicle parks, community facilities, schools (excluding Lee County School District), etc.	20%	30%
Note: multiple use sites with conventional zoning must comply with each corresponding use percentage in this table.		
Planned Development Zoning: Planned developments must provide open space as required in chapter 34 and per the approved master concept plan and resolution. Consistency with the master concept plan is in addition to the requirements of this provision, unless deviations have been granted.		
Compact Communities: Development constructed in accordance with chapter 32 of this Code will provide open spaces in accordance with the provisions of that chapter.		

(b) Indigenous native vegetation and trees.

(1) Preservation.

- a. Large developments, with existing indigenous native vegetation communities must provide 50 percent of their open space percentage requirement through the onsite preservation of existing native vegetation communities. Refer to section 10-701 for major indigenous plant communities of the County and section 10-1 for the definition of indigenous open space.
- b. If the development area does not contain existing indigenous native vegetation communities, but does contain existing indigenous native trees, then 50 percent of their open space percentage requirement must be met through the onsite preservation of existing native trees consistent with subsection 1 through 4 below. Refer to Appendix E and section 34-373(6)(g).

No change 1-3.

~~4. Effort must be made to preserve heritage trees with at least a 20-inch caliper dbh, including but not limited to live oak, South Florida slash pine, or longleaf pine. If a heritage tree must be removed from a site then a replacement tree with a minimum 20-foot height must be planted within an appropriate open space area.~~

5 ~~4~~. Projects Developments greater than five acres in size that abut an arterial or collector road and have existing native trees within 50-feet of the right-of-way must be designed to provide a 50-foot right-of-way buffer for tree preservation. Drainage or utility easements located within or adjacent to the 50-foot right-of-way buffer area must be established in the location with the least amount of trees as determined by onsite inspection by Lee County. The preservation of the existing trees will not require a double hedge row to be installed as part of the right-of-way buffer. The preserve area may not be utilized for drainage or other similar uses that may adversely affect the existing native trees. To increase long-term survival of the existing trees to be retained, appropriate arboricultural techniques to reduce impacts to the existing trees must be used. Those techniques must include ways to reduce impacts to the trees' root systems and crowns during construction and must be clearly provided on the landscape plans of the development order. The native tree preservation right-of-way buffer may be used toward meeting the indigenous preservation requirement.

Applications submitted pursuant to this section encompassing difficult sites, such as irregularly shaped parcels or indigenous areas, may demonstrate that the intent of this section can be more effectively accomplished through an alternative right-of-way buffer design. Approval of an alternative design is at the discretion of the Director or designee.

No change c.

(2) Salvaging existing native plants. Open space areas must be designed to incorporate as many of the existing large native trees and sabal palms as possible. ~~Irrigation water must be available on the development site and provisions for adequate irrigation provided.~~ Salvaged native plants relocated to an indigenous preserve must be provided with a temporary above ground irrigation system or other means of irrigation to ensure survivability.

~~a. Sabal palms. For projects greater than ten acres, healthy sabal palms with a minimum eight foot clear trunk and maximum of 25-foot clear trunk must be salvaged if conditions (e.g., no rock) and sequence of construction allows. If sequence of construction does not allow the on-site relocation of sabal palms, then the sabal palms must be salvaged for an off-site recipient site or sale. The salvage efforts must be coordinated with the division of environmental sciences staff whether used on-site or otherwise. The number of sabal palms to be relocated or salvaged must be shown on the landscape plan approved as part of the development order. Any sabal palms being relocated must be moved in a horticulturally correct manner per Lee County Extension Services brochure Lee 8/2000A. A 90 percent survival for relocated sabal palms is required. Death of over ten percent of the relocated sabal palms will require a 1:1 replanting.~~

~~b. Other trees. Healthy native trees with a minimum caliper of four inches at four and one-half feet above the ground (dbh) may be relocated onsite for five tree credits toward code required landscaping general tree requirements. The trees must be properly prepared for relocation through root pruning or other horticulturally correct methods, approved by the Environmental Sciences Director.~~

No change (3)

(4) Maintenance. A plan must be submitted for the long term maintenance of vegetation in indigenous open space areas. This indigenous vegetation management plan must include the following criteria:

No change a-e.

- f. ~~Written m~~Monitoring reports, including photos, that ~~narratively~~ document preserve area conditions must be submitted ~~prior to obtain~~ development order approval; and, again ~~after~~ project ~~following construction completion in order to obtain~~ but prior to issuance of a certificate of compliance (CC). The ~~CC~~ monitoring report ~~submitted following construction completion~~ must describe and document ecological restoration activity that has occurred in the preserve areas. If review of the monitoring reports reveals death or significant decline to preserve vegetation, then revision of the management plan and restoration in accord with section 10-423 will be required.

No change (5)

(c) Minimum dimensions.

- (1) The minimum average width of open space areas must be ten feet.
- (2) The minimum area of open space must be 180 square feet.
- (3) For ~~projects developments~~ under ~~less than~~ ten acres in size, indigenous open space areas must have a minimum average width of 20 feet and minimum area of 400 square feet.

For ~~projects developments~~ ~~ever greater than~~ ten acres in size, indigenous open space areas must have a minimum average width of 40 feet and minimum area of 1,500 square feet.

No change 4-6.

No change (d).

Sec. 10-416. Landscape standards.

- (a) General Trees. Landscaping for all new developments, except community and regional parks as defined in the Lee Plan, must include, at a minimum, the following number of trees, in addition to the landscaping required for parking and vehicle use areas and buffers. General tree requirements may be reduced through the utilization of larger trees as specified in section 10-420(c)(2) ~~or through use~~ ~~**of an alternative landscape betterment plan (see section 10-419)~~ ~~or through the use of planted detention areas as specified in section 10-416(a)(5)~~. Existing waterbodies within the development area will not be included in the calculation for general tree requirements.
- (1) ~~Single-family r~~ Residential developments ~~including recreational vehicle developments that are constructed on individual (single) lots~~. One tree must be provided per 3,000 square feet of development area. The preferred location to install these trees is on common property (clubhouse, lakes, dry detention or other similar property) prior to the issuance of a certificate of completion. Tree credits should be utilized per section 10-420(j) for indigenous preserves, where applicable ~~following the guidelines set forth in LDC Sec. 10-414(c)~~.
 - (2) Single-family developments with a conventional zoning district lot and lot coverage with minimum lot sizes of 6,500 square feet or greater. Single-family developments with a conventional zoning district lot and lot coverage with minimum lot sizes of 6,500 square feet or greater will be required to provide a minimum of two trees per lot.
 - (3) ~~All other residential developments. All other residential developments must provide one tree per 3,000 square feet of development area.~~
 - (4) ~~Recreational vehicle developments. One tree must be provided per 3,000 square feet of development area.~~
 - (5) All other developments. One tree must be provided per each 3,500 square feet of development area.

- ~~(6) Compact communities. Development constructed in accordance with chapter 32 must provide street trees on both sides of all streets. Street trees located between a lot and a street may be counted towards the tree planting requirements of this section.~~
- (4) Heritage Trees. For large developments effort must be made to preserve native heritage trees with at least a 20 inch caliper dbh, Preserved Heritage Trees may be counted at a 5:1 credit ratio towards the general tree requirement. If a heritage tree must be removed from a site then a replacement native canopy tree with a minimum 20 foot height must be planted within an appropriate open space area. The replacement tree can only be counted at a 1:1 ratio towards meeting the general tree requirement.
- (5) For each 400 square feet of dry detention or drainage area planted with appropriate native herbaceous vegetation (minimum one-gallon container size planted three-foot on center) and mulched with pine straw or an acceptable alternative, the general tree requirement may be reduced by one ten-foot tree.

No change (b)

- (c) Landscaping of parking and vehicle use areas. The provisions of this section apply to all new off-street parking or other vehicular use areas. Existing landscaping that does not comply with the provisions of this code must be brought into conformity, to the maximum extent possible, when: the vehicular use area is altered or expanded except for restriping of lots/drives, the building square footage is changed, or the structure has been vacant for a period of one year or more and a request for an occupational license to resume business is made. Consistent with the provisions of section 10-104, the Director may permit administrative deviations where a conflict exists between the application of this division and the requirements for the number of off-street parking spaces or area of off-street loading facilities.

No change (1)

- (2) Internal landscaping. All parking areas must be internally landscaped to provide visual relief and cooling effects and to channelize and define logical areas for pedestrian and vehicular circulation, as follows:
 - a. Trees must be planted or retained in landscaped areas in parking areas, including landscaped areas reserved for future parking spaces, to provide for canopy coverage when the trees mature. At least one canopy tree or a cluster of three sabal palms must be planted or retained for every 250 square feet of required internal planting area, and no parking space may be more than 200 feet from a tree planted in a permeable island, peninsula or median of ~~18-foot minimum width~~. Canopy requirements ~~may~~ must be met with existing indigenous native trees whenever such trees are located within the parking area.

No change b-g.

Sec. 10-418. Surface water management systems.

Design standards. Techniques to mimic the function of natural systems in surface water management systems are as follows:

No change (1) and (2).

- (3) Bulkheads, geo-textile tubes, riprap revetments or other similar hardened shoreline structures. Bulkheads, Geo-textile tubes, riprap revetments or other similar hardened shoreline structures may comprise up to 20 percent of an individual lake shoreline. These structures cannot be used adjacent to single-family residential uses. A compensatory littoral zone equal to the linear footage of the shoreline structure must be provided within the same lake meeting the following criteria:

- a. A five-foot wide littoral shelf planted with herbaceous wetland plants ~~to provide 50 percent coverage at time of planting~~. To calculate the littorals for this shelf design indicate the number of linear feet of shoreline structure multiplied by five feet for the littoral shelf width divided by 4 (two-foot on center spacing) to obtain the required plant quantity multiplied by 50 percent for the plant coverage at time of planting; or
 - b. ~~An 8:1 slope littoral shelf with herbaceous wetland plants to provide 50 percent coverage at time of planting; or~~
 - e b. An equivalent littoral shelf design as approved by the Director.
- (4) ~~For each 400 square feet of dry detention area or drainage swale planted with appropriate native herbaceous vegetation (minimum one-gallon container size planted three-foot on-center) the general tree requirement may be reduced by one ten-foot tree.~~
- (~~5~~ 4) Restoration of existing bank slopes that have eroded over time and no longer meet the minimum littoral design criteria applicable at the time the lakes were excavated will be in accordance with section 10-329(f).

Sec. 10-419. Alternate landscape betterment plan.

Projects that can not comply with the criteria of this division may demonstrate how the requirements can be more effectively accomplished through an alternate landscape betterment plan. Alternative, creative designs are encouraged for difficult sites for landscape design, including but not limited to "in-fill" developments, existing developments, and irregularly shaped parcels. The approval of the alternate landscape betterment plan is at the Development Services Director's discretion and may include conditions to ensure that the overall landscape design complies with the intent of this division.

The following conditions must be met:

- (1) The plan ~~may not deviate from~~ must provide the minimum open space requirements of section 10-415.

No change (2) – (6).

Sec. 10-420. Plant material standards.

No change (a) and (b)

(c) Trees and palms.

- (1) Code-required trees must be a minimum of ten feet in height, have a two-inch caliper (at 42 6 inches above the ground) and a four-foot spread at the time of installation. Palms must have a minimum of ten feet of clear trunk at planting. Trees having an average mature spread or crown less than 20 feet may be substituted by grouping the same so as to create the equivalent of a 20-foot crown spread. Trees adjacent to walkways, bike paths and rights-of-way must be maintained with eight feet of clear trunk.
- (2) Larger trees substituted to reduce the minimum number of general trees (palms excluded) must be no less than four inches in diameter at 426 inches above the ground and no less than 16 feet in height at the time of planting. The general tree requirement cannot be reduced in number by more than 50 percent.

No change (d) and (e)

- (f) The height of all trees, palms, and shrubs located within any buffer area must be measured from the final average parking lot grade of the project site. All other plants are measured from the final grade in which they reside. Tree and shrub heights may not be less than the minimum requirements set forth in LDC10-420(c) and LDC10-420(d).

- (g) Mulch requirements. A two-inch minimum layer, after watering-in, of mulch or other recycled materials must be placed and maintained around all newly installed trees, shrubs, and groundcover plantings. Each tree must have a ring of mulch no less than 24 inches beyond its trunk in all directions. The use of cypress mulch is strongly discouraged. Sand, gravel, rock, or shell are not appropriate mulch materials.

No change (h) and (i)

- (j) Credits.

No change (1)

- (2) Each existing indigenous native tree preserved in place, which has a trunk diameter of four inches or greater measured at four and one-half feet above the ground (dbh) will receive a credit of five trees against the general landscape tree requirements. Native palms preserved in place that are eight feet or greater from ground level to base of fronds, will receive a credit of three trees. Existing sabal palms, identified on the development order plans that are relocated onsite will be given a two tree credit. Credits for existing trees may not be used to reduce the required parking canopy trees in parking or vehicle use areas. Existing native trees in buffers may be used for credit provided they occur within the required 100-foot buffer segment.

Credits will apply only when the trees are labeled as protected-credit trees. If the protected-credit trees die within three years from the development order certificate of compliance, they must be replaced by the number of credit trees taken.

No change (3) and (4)

Sec. 10-716. Piping materials for use in right-of-way.

Approved utility piping materials for use in rights-of-way are as follows:

	Concrete	Plastic Type	DI	Steel	Aluminum	HDPE
Lines in traveled way:						
Water	No	Yes (2)	Yes(2)	No	No	Yes (2)
Sewer force main	No	Yes (2)(4)	Yes(2) No	No	No	Yes (2)
Sewer gravity main	No	Yes (2)	No	No	No	No
Reuse main	No	Yes (2)	Yes (2)	No	No	Yes (2)
Stormwater drain	Yes	Yes (3)(5)	No	No	No	Yes (3)(5)
Utility conduit	Yes	Yes (2 <u>1</u>)	Yes	Yes	Yes	Yes (1)

Lines in right-of-way:						
Water	No	Yes ⁽³⁾⁽⁹⁾ (2)	Yes (2)	No	No	Yes (2)
Sewer force main	No	Yes (2)(4)	Yes (2) No	No	No	Yes (2)
Sewer gravity main	No	Yes (2)	No	No	No	No
Reuse main	No	Yes (2)	Yes (2)	No	No	Yes (2)
Stormwater drain	Yes	Yes (3)	No	Yes (1)(8) (4)	Yes (4)	Yes (3)
Utility conduit	Yes	Yes (1)	Yes	Yes	Yes	Yes (1)
Stormwater lines in drainage easement	Yes	No	No	Yes (4)	Yes (4)	No

- (1) Encased in concrete, if in banks more than one layer; otherwise, SDR 26, ASTM 2241 or DR 25 AWWA C 900, DR17 HDPE, or thicker.
- (2) In accordance with the LCU Design Manual requirements or all requirements, specifications, and design manual of the utility service area provider (including all casing pipe requirements), whichever is more stringent.
- (3) In compliance with the latest edition of the FDOT Standards for Road and Bridge Construction and related indexes, including, but not limited to, supplemental specifications, Standard Modifications and approved materials list.
- (4) Not on County-maintained roads.
- (5) Not on County-maintained Arterial or Collector roads.

No change 1-3.

CHAPTER 12

Sec. 12-118. Monitoring requirements; inspections.

- (a) *Purpose.* Given the overall life of mining operations, adjustments to the design, maintenance, operation and monitoring of the mine excavation may be appropriate over time. By requiring monitoring reports at consistent intervals over time the County and applicant/mine operator will have a realistic opportunity to discover and address adverse impacts precipitated by the mine activity.
- (b) *Comprehensive/cumulative monitoring report.* A five year cumulative monitoring report, including all elements required to be monitored under this section and the MEPD resolution, is required every five years, beginning with this initial MOP approval under this article, and at the time of MOP renewal. The purpose of the report is to identify trends with respect to the elements monitored in order to determine whether certain actions or changes are appropriate to increase compatibility of ongoing mine activity with its surroundings.
- (c) *Monitoring reports.* Monitoring reports must be submitted in accord with this section unless the MEPD resolution conditions provide otherwise.
 - (1) *Water quality.* In addition to the requirements set forth in section 12-117, the operator of the mining operation together with the property owner must submit an annual report that provides:
 - a. Copies of periodic surface, and groundwater levels and quality monitoring requirements, at intervals determined by Natural Resources or as conditioned in the MEPD approval, pertaining to the baseline levels identified in the approved pre-development analysis and those anticipated for use in conjunction with the proposed mining project. All data must be submitted in an electronic format as set forth in section 12-117(d).
 - b. Water quality parameters to be tested for both the surface and groundwater are listed on Table 1: Water Quality Monitoring Check List set forth in appendix O.
 - c. Signed and sealed bathymetric surveys covering the new areas excavated and providing the depth of the existing excavation as well as the quality quantity and type of materials excavated.
 - d. Details of noncompliance events, data trends, and methods of resolving such events.
 - e. Water level measurements must be conducted under the guidance of a Florida registered professional engineer with an established quality assurance plan. The report must be signed and sealed certifying accuracy and supervision of data collection.

This report must be submitted to the Department of Community Development every year beginning on the anniversary of the date that the mining operation received the first MOP to commence the mining operation. A report must be submitted annually until the reclamation of the mining operation is complete.
 - f. The monitoring report must use the data collected during the previous year and state any cumulative trends or noteworthy changes in discharge concentration or volumes related to background, as well as any modification necessary in the operating procedures to better manage/reduce negative impacts or trends. If management measure modifications were proposed in a previous report, the subsequent monitoring report must include an evaluation of the effectiveness of the proposed modification in controlling negative trends or impacts.
 - g. Additional monitoring issues as set forth in the MEPD resolution and MOP approval.

CHAPTER 14

Sec. 14-1. Planning community regulations.

Activities in the following communities must also comply with the regulations set forth in Chapter 33 pertaining to the specific community.

- (a) ~~Estero Planning Community.~~ San Carlos Island Redevelopment Overlay District.
- (b) Greater Pine Island.
- (c) Page Park.
- (d) Caloosahatchee Shores.
- (e) Lehigh Acres.
- (f) North Fort Myers.
- (g) Matlacha.
- (h) Upper Captiva.
- (i) North Olga.

Sec. 14-293. Permits required.

- (a) An Environmental Resource Permit (ERP) is required prior to any development that will impact wetlands. The ERP will be issued by either the Florida Department of Environmental Protection (FDEP) or South Florida Water Management District (SFWMD) in accordance with F.S. ch. 373 and F.A.C. Ch. 62.
- (b) The County will not independently review impacts to wetlands resulting from development.
- (c) ~~Prior to receipt of a copy of the appropriate state authorization relating to wetlands, the County may not issue building permits or development orders where development will cause impacts to existing wetlands on the subject property.~~

Sec. 14-294. Site plan review.

~~Lee County will incorporate the terms and conditions of all state authorizations relating to wetlands, including ERP's into any development order, building or other local development permit.~~

Sec. 14-295. Compliance enforcement.

- (a) ~~Lee County will enforce the provisions of any state authorization relating to wetlands, including ERP's, issued and incorporated into a local development order or building permit.~~
- (b) ~~The County will prosecute violations of state wetland regulations and ERP applicable conditions or requirements incorporated into local permits through the code enforcement process set forth in Chapter 2.~~

Secs. 14-293 6—14-370. Reserved.

CHAPTER 22

Chapter 22 HISTORIC PRESERVATION

ARTICLE II. ADMINISTRATION AND ENFORCEMENT

DIVISION 3. CERTIFICATE OF APPROPRIATENESS

Sec. 22-102. - Regular certificate of appropriateness.

(a) Remains unchanged.

- (b) The historic preservation board staff will, within five working days from the date a complete application has been filed, approve, deny or approve with conditions an application for a regular certificate of appropriateness presented by the owner of a designated historic resource or a property within a designated historic district. The findings of the staff will be mailed to the applicant by regular mail, or when available, via electronic means, within two working days of the staff decision, accompanied by a statement explaining the decision. The applicant will have an opportunity to appeal the staff decision by applying for a special certificate of appropriateness within 30 calendar days of the date the decision is issued.

Sec. 22-103. Special certificate of appropriateness.

(a) Through (b) remain unchanged.

- (c) Public hearing. The historic preservation board shall hold a public hearing upon an application for a special certificate of appropriateness affecting designated historic resources or districts. Notice of the public hearing shall be given to the property owner(s) by certified-regular mail, or when available, via electronic means, -return receipt requested, and to other interested parties by an advertisement in a newspaper of general circulation at least five calendar days but no sooner than 20 calendar days prior to the date of hearing. The written staff report will be available to the public and distributed to the applicant and the historic preservation board at least 7 days prior to the public hearing. The staff report is final once distributed to the historic preservation board. The applicant may request a meeting with staff to discuss the recommendation made in the staff report prior to the public hearing.

- (d) through (e) remain unchanged.

Sec. 22-106. Archaeological sites and districts.

(a) through (b) remain unchanged.

- (c) Certificate to dig. The survey entitled "An Archaeological Site Inventory and Zone Management Plan for Lee County, Florida" will be used to identify areas of archaeological sensitivity levels 1 and 2.

- (1) through (2) remain unchanged.

- (3) The staff of the historic preservation board must, within 15 calendar days of receipt of a complete application for a certificate to dig, approve the application for a certificate to dig, or approve the certificate to dig subject to specified conditions, including but not limited to a delay not to exceed 60 days to allow any necessary site excavation or additional archaeological assessment prior to commencement of the proposed construction activity. Staff's decision must be based on the application and any other guidelines the historic preservation board may establish. If the approved certificate to dig requires archaeological excavation, the certificate must specify a period of time during which excavation may occur, not to exceed 60 days unless the owner agrees to an extension. The owner must have an archaeologist conduct excavations

as necessary during this period. The certificate to dig and any staff findings must be mailed by regular mail, or when available, via electronic means, to the applicant ~~by certified mail, return receipt requested~~, within seven calendar days of its review and approval.

(4) through (5) remain unchanged.

Sec. 22-203. Required notices; action by historic preservation board.

The historic preservation board will hold timely public hearings on every petition for designation made pursuant to this chapter. References in this chapter to calendar days will include Saturdays, Sundays and legal holidays. References in this chapter to working days exclude Saturdays, Sundays and legal holidays.

- (1) Notice to owner. The historic preservation board shall notify the property owner(s) of its intent to consider a proposed designation at least 20 calendar days prior to the date of the public hearing. When designation is proposed by the owner pursuant to Section 22-201(1), notice will be sent to the applicant by regular mail, or when available, via electronic means. When designation is proposed by the preservation board or Board of County Commissioners pursuant to Section 22-201(2), ~~n~~Notice shall ~~will~~ be sent by certified mail, return receipt requested, to the record owners of the property as reflected by the current ad valorem tax roll. The designation report will be available to the public and distributed to the applicant and the historic preservation board at least 7 days prior to the public hearing. The designation report is final once distributed to the historic preservation board. The applicant may request a meeting with staff to discuss the designation report prior to the public hearing. Prior to the hearing, the county staff shall furnish the owners with copies of the designation report and this chapter. County staff shall make a reasonable effort to contact the owners after mailing the notice of intent to designate, answer the owner's questions and address areas of concern prior to the public hearing.

(2) through (5) remain unchanged.

CHAPTER 30

Sec. 30-56. Planning community regulations.

Applications and permit approvals for signs and sign structures associated with projects located in the following planning communities must also comply with the regulations set forth in Chapter 33 pertaining to the specific planning community.

- (a) ~~Estero Planning Community.~~ San Carlos Island Redevelopment Overlay District.
- (b) Greater Pine Island.
- (c) Page Park.
- (d) Caloosahatchee Shores.
- (e) Lehigh Acres.
- (f) North Fort Myers.
- (g) Matlacha.
- (h) Upper Captiva.
- (i) North Olga.

Sec. 30-151. Temporary signs.

- (6) Real estate signs.
 - a. Temporary "for sale," "for rent" or "for lease" signs.

No change 1. (i, ii, iii).

- 2. Signs are to be located a minimum of 15 feet from the right-of-way line and a minimum of 15 feet from the side lines, ~~except where the building is in a commercial area the sign may extend to the sidewalk line.~~ No signs may be fastened to trees.

No change 3.

CHAPTER 32

Sec. 32-241. - Lot types allowable in each transect zone.

Subsections (a) through (e) remain unchanged.

- (f) Additional lot types, unique to a particular Compact Community Planned Development may be requested and assigned to any transect under the following circumstances:

Subsections (1) through (3) remain unchanged.

- (4) Open space, integration of the separate portions of the development, and architectural features are consistent in the proposed lot types with the other lot types throughout the proposed Compact Community Planned Development, consistent with a Traditional Neighborhood Development design if development is to be located within the proposed lot types; and.
- (5) A schedule of uses specific to the proposed lot type ~~will be~~ is established from either section 32-244 and/or the list of uses identified for all planned developments under section 34-934.

Sec. 32-243. - Property development regulations.

TABLE 32-243 — PROPERTY DEVELOPMENT REGULATIONS FOR EACH LOT TYPE

Setbacks						
Street (min/max)				Side Yard (min)	Rear Yard ^{1,2} (min)	Water Body ³ (min)
Core	Center	General	Edge			
0/ 10	0/ 10	not permitted <u>0/ 10</u>	not permitted	0	0	25

Height ⁴ (min/max in stories; max in feet)					Accessory Apartments ⁵ (max bldg footprint in sf)
Core	Center ⁹	General	Civic	Edge	
2/6; 65'	2/4; 65'	not permitted <u>55'</u>	not permitted	not permitted	not permitted

All other portions of Table 32-243 remain unchanged.

Sec. 32-243. - Property development regulations.

- (a) **Property development regulations.** Each Compact Community Development must provide for and comply with its approved property development regulations.
- (1) The Property development regulations provided under Table 32-243 do not apply to development approved under the Compact Community planned development rezoning process. The specific property development regulations for a development approved under the Compact Community planned development rezoning process must be approved by the Board during the rezoning public hearing process. The approved property development regulations must provide for the following:
- i. Lot area (minimum and maximum in square feet).
 - ii. lot width (minimum and maximum).
 - iii. frontage percentage (minimum and maximum).
 - iv. lot coverage by all buildings (maximum).
 - v. setbacks (minimum), including street, side yard, rear yard, and water body.
 - vi. height (maximum subject to the maximum height permitted under the Lee Plan or Land Development Code).
 - vii. maximum building footprint of accessory apartments (in square feet); and,
 - viii. comply with the requirements of the Lee Plan, achieve the objectives of the planned development, and will not cause a detriment to the public health, safety and welfare.
- (2) Property development regulations for all other Compact Communities must meet the requirements set forth in Table 32-243 or request a deviation meeting the requirements for approval of deviations under Chapter 34.
- (3) The property development regulations approved during the planned development rezoning process or provide under Table 32-243 supersede contradictory requirements in this Code including the property development regulations for individual zoning districts in chapter 34.

(4) Unless approved through rezoning process or a deviation is approved, each Compact Community planned development must meet, in addition to the approved property development regulations, the requirements of subsections (c) through (o) below.

~~**Dimensions for each lot type.** Table 32-243 provides property development regulations that apply to each designated lot type. These requirements supersede contradictory requirements in this Code including the property development regulations for individual zoning districts in chapter 34.~~

Subsection (b) remains unchanged.

(b) **Frontage percentages.** Frontage percentage is the percentage of the width of a lot that is required to be occupied by the building's primary façade. ~~Table 32-243 provides minimum and maximum frontage percentages for each lot type.~~

(1) Up to 50 percent of the width of the primary façade may be counted as meeting the frontage percentage requirement even though it may be set back up to ten feet further from the street than the primary façade's principal plane. See example in figure 32-243(a).

(2) The location of the primary façade's principal plane is not changed by façade extensions such as bay windows, awnings, porches, balconies, stoops, colonnades, or arcades, or by upper stories that are closer to or further from the street.

(3) The width of a porte cochere may be counted as part of the primary façade.

Subsections (d) through (o) remain unchanged.

~~(p) Property Development Regulations unique to a particular Compact Community Planned Development may be requested and approved as part of the Compact Community Planned Development Application without the need for deviations.~~

Sec. 32-502. - Application requirements.

Subsections (a) through (c) remain unchanged.

(c) **Deviations.** Deviations may be requested from the Land Development Code. An applicant must clearly identify deviations requested from the specific standards of the Land Development Code. The Board of County Commissioners will decide whether to accept, modify, or reject each proposed deviation during the planned development rezoning process based on a determination as to the consistency of each deviation with this chapter, good planning practice for compact communities, and the deviation criteria in chapters 10 and 34. Potential deviations specific to compact communities include the following:

(1) Modified block standards (section 32-225).

(2) For street types shown in article II, modified cross-sections (section 32-226) and/or modified streetscape standards (section 32-227).

- (3) Additional street types, accompanied by proposed cross-sections (section 32-226) and streetscape standards (section 32-227).
- (4) For lots types shown in article II, modified transect zone assignments (table 32-241), ~~modified property development regulations (table 32-243), and/or modified use regulations (table 32-244).~~ Additional uses within a lot type may be proposed for a Compact Community Planned Development under the following circumstances:
 - a. The uses included in section 32-244 do not adequately allow for the types of development proposed to be contained within the proposed Compact Community Planned Development;
 - b. A schedule of uses specific to each lot type is proposed with uses being from section 34-934; and,
 - c. A justification of how the additional uses promote a mix of uses, enhance the planned development and are consistent with a Traditional Neighborhood Design.
- (5) Additional or changes to lot types, accompanied by allowable transect zone assignments (table 32-241), proposed property development regulations (table 32-243), and proposed use regulations (table 32-244) will be approved in accordance with section 32-241(f).
- (6) Unless otherwise approved through the planned development process, the property development regulations for each lot type must meet the requirements of table 32-243.

CHAPTER 33

Chapter 33 PLANNING COMMUNITY REGULATIONS ¹³

ARTICLE I. - IN GENERAL

ARTICLE II. - ~~ESTERO PLANNING COMMUNITY~~ RESERVED

ARTICLE III. - GREATER PINE ISLAND

ARTICLE IV. - PAGE PARK PLANNING COMMUNITY

ARTICLE V. - LEHIGH ACRES PLANNING COMMUNITY

ARTICLE VI. - MATLACHA RESIDENTIAL OVERLAY

ARTICLE VII. - CALOOSAHATCHEE SHORES PLANNING COMMUNITY

ARTICLE VIII. - NORTH FORT MYERS PLANNING COMMUNITY

ARTICLE IX. - CAPTIVA

ARTICLE X. - NORTH OLGA

ARTICLE XI. - UPPER CAPTIVA

ARTICLE XII. SAN CARLOS ISLAND REDEVELOPMENT OVERLAY DISTRICT

Sec. 33-1431. Model homes.

No change (a) and (b)

(c) The following regulations will apply to redevelopment of former model homes:

Sec. 33-1596. Use regulations.

The following use regulations apply to property located within the commercial corridor as defined in 33-1537:***

USE DESCRIPTION	SPECIAL NOTES OR REGULATIONS	COMMERCIAL CORRIDOR
Social services (34-622(c)(46)):	-	-
Group I	-	P
Group II	-	<u>P</u>
Group III	-	<u>Planned Development</u>
Group IV	-	<u>Planned Development</u>

* Uses allowed by special exception may also be requested through PD zoning.

*** All planned developments approved prior to adoption of this provision will retain the uses approved.

MOVED FROM CHAPTER 34

Article XII. The San Carlos Island Redevelopment Overlay District

Sec. 34-1141. 33-1742 Purpose and intent.

Sec. 34-1142. 33-1743 Elements of the redevelopment overlay district.

Sec. 34-1143. 33-1744 Modified land development regulations, the master plan.

Secs. 34-1144—34-1168. Reserved.

Sec. ~~34-1141.~~ 33-1742. Purpose and intent.

- (a) Purpose and affected area. The San Carlos Island Redevelopment Overlay District (District) is designed to stimulate the revitalization of San Carlos Island. A legal description of the District's boundary is set forth in Appendix I. The District is comprised of the following four sub-districts:
 - (1) San Carlos Island Commercial Corridor (SCC) Sub-district,
 - (2) San Carlos Island Commercial Corridor Expansion (SCCE) Sub-district,
 - (3) San Carlos Island Fisherman's Wharf (SCF) Sub-district, and
 - (4) San Carlos Island Waterfront (SCW) Sub-district.
- (b) Optional nature of these regulations. Individual landowners may choose to follow all existing Lee County regulations when they build or rebuild, or at solely their option, they may elect to develop or redevelop under the applicable provisions of this district. However, once a landowner elects to use any of the modified development regulations of the district on a particular parcel, then the landowner must comply with all of the applicable requirements of the district for that property. A landowner's election to redevelop or develop under the applicable district provisions must follow the procedure set forth in section 34-1082(a) to become effective.
- (c) Planned development zoning.
 - (1) Property previously zoned to a planned development district will not be eligible to participate in the district through the administrative approval process for redevelopment overlay districts. Instead, amendments to their existing approvals must follow the existing planned development amendment process specified in section 34-371.
 - (2) Notwithstanding the above, new planned developments electing to participate in the redevelopment overlay district may be approved as part of the district, so long as the uses requested as part of the planned development are included in Table 1, below, and requisite approvals are obtained.
- (d) Authority. This district is consistent with and helps to implement the adopted component redevelopment plan for San Carlos Island. This redevelopment overlay district complies with all requirements for such districts found in sections 34-1080 through 34-1090.

Sec. ~~34-1142.~~ 33-1743. Elements of the redevelopment overlay district.

This district includes two distinct elements. The first is the master site plan that modifies specified land development regulations, and authorizes changes in the uses or type of approval required for a use in the four sub-districts, as set forth in section ~~34-1143~~ 33-1744. The second element is a set of design guidelines adopted by administrative code that includes recommendations regarding landscape materials, commercial storefronts, signage and preferred colors. The design guidelines enable private landowners to construct new buildings, or to rehabilitate existing buildings and other facilities, consistent with the specified guidelines, and also encourage proper maintenance. Combined, the two elements help to facilitate the redevelopment of the district in a manner consistent with the San Carlos Island component plan.

Sec. ~~34-1143.~~ 33-1744. Modified land development regulations, the master plan.

The District Master Site Plan (Plan or MSP) contains graphic and textual aspects which modify the following specified land development regulations. All other Lee County Land Development Regulations remain in full effect. A reduced copy of the San Carlos Island MSP is adopted by reference and included

in reduced form in Appendix I. In general, the SCC and SCF Sub-districts retain the uses allowed in the underlying zoning districts. The SCW and SCCE Sub-districts alter the uses from those of the underlying zoning district to allow those uses set forth in Table 1, below. In addition, the type of approval required for certain uses has been modified, as also set forth in Table 1.

- (a) Planning criteria and conditions for the SCCE Sub-district. No use set forth in Table 1 for the SCCE Sub-district can be approved unless the following planning criteria and conditions are found to exist by the Director or the Hearing Examiner, as applicable:
 - (1) The property to be developed is under unified control, and is abutting land within either the SCC Sub-district or abutting lands previously approved for development in the SCCE Sub-district under these provisions;
 - (2) There must be a unified plan of development shown on a master development plan submitted with the development request;
 - (3) Vehicular access to the proposed development request area:
 - a. Is not allowed through a less intense or residential area; and
 - b. Must be either from San Carlos Boulevard or through joint access with adjacent properties;
 - (4) Landscaping and buffering is provided consistent with existing regulations in section 10-416, except that:
 - a. Any reduced landscaping or buffering provisions of the district may not be utilized; and
 - b. If the property to be developed abuts South Street, a buffer that conforms to section 10-416(d) must be provided along South Street; and
 - (5) The property to be developed or redeveloped must comply with all of the requirements of Chapter 10, without variances thereto.
- (b) Land development regulations - land uses. Development requests electing to apply the land development regulations of the district are processed as administrative approvals pursuant to section 34-1082(d), subject to the following:
 - (1) The uses permitted within the SCC and SCF Sub-districts are those in effect for the underlying zoning district(s) at the time a legally sufficient development request is submitted.
 - (2) Regardless of the uses allowed in an existing underlying zoning district(s), the only uses allowed in the SCW and SCCE Sub-districts are those set forth in Table 1 at the time a development request is deemed legally sufficient. Land uses that are not expressly included in Table 1 may be permitted by the Director only if they are no more intense than the most similar listed use, considering impacts such as noise, hours of operation, traffic generation, compatibility with the purposes of this overlay district and similar factors, and any required approvals are obtained.
- (c) Use of Table 1. The following abbreviated terms have the meaning stated and apply to Table 1 and its explanatory notes: the letter "SE" means a use only permitted by a special exception approved pursuant to section 34-145(c), approval under section 34-1082(d)(1)a is required as well; "-" means that the use is not allowed, and the letter "P" means a use is permitted subject to approval by the Director pursuant to section 34-1082.

TABLE 1
LAND USES IN THE SCCE AND SCW SUB-DISTRICTS

Land Uses	Special Notes or Regulations	SCCE	SCW
Accessory Apartment	34-1177 Note A	P	P
Administrative Offices		P	P
ATM (automatic teller machine)		SE Note I	P Note B
Bait and tackle shop		SE Note I	P Note B
Banks and financial establishment, Group I (34-622(c)(3))		SE Note I	
Bar or cocktail lounge	34-1261 et seq.	SE Note I	SE Note B
Bed and breakfast establishments		SE Note I	-
Boats: Boat parts store Boat rental Boat repair and service Boat sales Boat storage (all heights)	34-1352	SE* SE* SE* SE* - *Note I	- P P - P

Boatyard	Note H	-	P
Clubs, Private	Note A	SE	P
Commercial fishery including land support		SE Note I	P
Commercial use of beachfront sea-ward of the water body setback line		-	P
Consumption on premises	34-1261 et seq.	SE Note I	SE Note B
Cultural facilities, excluding animal or reptile exhibits and zoos		SE Note I	-
Docking or mooring facilities		-	P
Drive-through facility for any permitted use		SE Note I	-
Dwelling unit, Multiple-family units	Note A	SE Note I	-
Entrance gates and gatehouses		SE Note I	P
Essential services	34-1611 et seq.	P	P
Essential service facilities (34- 622(c)(13)): • Group I • Group II	34-1611 et seq.	P SE	P SE
Excavation, Water Retention	34-1651(b)	P	P
Fish house, wholesale, retail		SE Note I	P

Food and beverage service, limited		SE	P Note B
Freight and cargo handling establishments (34-622(c)(17))	Note A	-	P
Gift and souvenir shop		SE Note I	-
Home Occupation		P	-
Hobby, toy, game shops (34-622(c)(21))		SE Note I	-
Hotel/motel		SE Note	-
Laundromat, Laundry or dry cleaning, Group I (34-622(c)(24))	Note B	SE Note I	
Marina	34-1862 Note G Note H	-	P
Offices, marine-oriented government	Note C	SE Note I	P
Package store	34-1261 et seq.	SE Note I	-
Parks (34-622(c)(32)), public or private, Group I Groups II (limited to boat ramps & nature trails)		P SE	P P
Parking lot: Accessory Commercial Temporary		P SE SE	P - P

Personal services (34-622(c)(33)), Groups I and II		SE Note I	-
Recreation, personal (34-622(c)(38))		P	P
Rental or leasing establishments, Group I (34-622(c)(39))	34-1352, 34-3001 et seq.	SE Note I	-
Residential accessory uses (34-622(c)(42))		P	-
Restaurants (34-622(c)(43)): <ul style="list-style-type: none"> • Group(s) I, II • With Outdoor Seating 		SE* SE* *Note I	P P
Schools, commercial (34-622(c)(45))	34-2381 Note D	SE Note I	P
Signs in accordance with chapter 30	Note F	P	P
Specialty retail shop, Group(s) I, II, III (34-622(c)(47))		SE Note J	-
Temporary uses	34-3041 et seq.	SE	P
Transportation Services, Group I (34-622(c)(53))		-	P Note J
Vehicle and equipment dealers, Group III (34-622(c)(55)):	34-1352	SE Note I	-

NOTES:
A. Limited to marine-oriented operations.
B. Limited to establishments which are clearly accessory and subordinate to a marina or commercial

fishing land support facility.
C. Mainly the U.S. Coast Guard, Army Corps of Engineers, State Department of Environmental Protection, Marine Patrol and other marine-oriented County facilities.
D. Limited to marine-oriented schools such as sailing schools.
E. Limited to seafood markets.
F. As modified by section 34-1142(e)(7) . <u>33-1743(e)(6) "Signs"</u>
G. In addition to the Marina Accessory uses listed in section 34-2, the following uses are included if clearly accessory and subordinate to a marina: food stores, laundry facilities, rental or leasing facilities Group I, and specialty retail shop, Group I.
H. Boat sales and boat part sales which are clearly accessory and subordinate to this use are allowed.
I. This use is only allowed east of San Carlos Boulevard.
J. This use is allowed only where the underlying zoning is CM or IM, and the Land Use Category is Urban Community.

(d) Property development regulations - all sub-districts.

- (1) Required off-street parking. Off-street parking is generally required in accordance with section 34-2011 et seq. Those requirements assume that patrons of each land use will arrive in a private automobile that will be parked in a private lot on the same premises. With the existing public parking lots in the district that may be used by the local merchants for customer parking, the number of off-street parking spaces required for any given land use must conform to section 34-2020, except that marinas and other water related uses will provide at least the following minimum number of parking spaces:

Boat slips: Two spaces per five slips.

Dry storage: One space per six slips.

Charter or party fishing boats, including passenger carrying vessels such as sunset trips, eco-trips etc., but excluding local or international cruise ships: One space per four passengers, based on the maximum capacity of the boats using the docks or loading facilities.

- (2) Alternative parking surfaces for parking lots may be permitted within the District, except for parking lots abutting San Carlos Boulevard, provided that
- The areas are adequately drained and continuously maintained in a dust free manner. Acceptable alternative surfaces include: gravel, crushed shell, or other similar

materials. Parking on grass or other unimproved surfaces such as sand or dirt is prohibited; and

- b. Parking spaces for disabled persons must be paved with asphalt or concrete to provide a smooth surface without gaps or holes that would create a danger to the user.
- (e) Property development regulations - SCC and SCF sub-districts only. The Director may administratively approve modifications to the property development regulations, ground-mounted sign regulations, off-street parking requirements, open space and buffering requirements set forth for the underlying zoning district for those properties in the SCC and SCF Sub-districts that physically abut or front upon San Carlos Boulevard, so long as the requirements below are met. All other properties within the SCC and SCF Sub-districts are subject to the land development regulations applicable to the underlying zoning in effect at the time a legally sufficient development request is submitted.

(1) Property development regulations:

- a. Lot requirements. Minimum lot dimension or area requirements set forth for the zoning district(s) in which an eligible property is located may be administratively reduced by the Director as follows:
 - 1. For an existing lot where the need for the reduction resulted from a government road right-of-way acquisition program and was not otherwise self-created, or
 - 2. To create a new lot with a reduced lot depth, if the lot would comply with all lot width and area requirements and the lot is otherwise created in accordance with all other applicable regulations.
- b. Setbacks. The minimum street, side or rear setback requirements set forth in the property development regulations for the underlying zoning district(s) in which the property is located may be reduced by the Director as follows:
 - 1. Existing buildings and structures. Buildings and structures within the overlay district that are not in compliance with the street setback requirements of section 34-2192 will be considered legally nonconforming, subject to the provisions of section 34-3203(a) and (b), so long as the non-compliance resulted from a governmental road right-of-way acquisition program.
 - 2. New buildings and structures. Any building or structure erected after January 1, 1999 must comply with all applicable setback development regulations for the underlying zoning district(s) then in effect, except that:
 - i. Where existing buildings on the abutting properties on both sides of the property in question are located closer to the street right-of-way than allowed by section 34-2192, the Director may approve a minimum street setback equal to the average setback of the existing buildings on the abutting property, or
 - ii. Where only one of the abutting lots has an existing building, the Director may approve a setback equal to one-half of the sum of the minimum setback for the existing building on the abutting lot and the required setback.
 - 3. Street setbacks for flag poles may be reduced by the Director so long as no part of the structure encroaches into the public right-of-way.
- c. Maximum lot coverage. If a portion of a site's parking or other development was reduced by a governmental road right-of-way acquisition program, then the site area lost thereby may be calculated as part of the overall lot area when determining maximum permitted lot coverage.

- (2) Open space, landscaping, and buffering. The minimum open space, landscaping, and buffering required for developments may be modified as follows:
 - a. Lots that meet or exceed required standards. Lots that meet or exceed the minimum area requirements for the underlying zoning district(s) in which the property is located must comply with all open space, landscaping, and buffering requirements in effect at the time the development request is deemed legally sufficient.
 - b. Lots that cannot meet standards. The Director may administratively approve modifications to the buffering, open space, and landscaping requirements for lots that cannot meet the area or dimensional requirements of the underlying zoning district(s) in which the property is located where the non-compliance resulted from a governmental right-of-way acquisition program and was not otherwise self-created, as follows:
 1. Buffering. Buffer areas between parking lots and the street right-of-way line may be waived provided that a fence, wall or other acceptable method (e.g. bollards) is used to prevent vehicles from entering the parking lot or parking spaces at other than the site's designated access point. If waiving the buffering requirements would still not allow the property to be developed in compliance with all other applicable regulations, then the Director may administratively approve modifications to the open space requirements, as set forth below.
 2. Open space. The percentage of open space required by the underlying zoning district(s) may be reduced by up to 50 percent. If reducing the open space requirements by 50 percent would still not allow the property to be developed in compliance with all other applicable regulations, then the Director may administratively approve modifications to the landscaping requirements, as set forth below.
 3. Landscaping. Landscaping requirements may be reduced in proportion to approved modifications to the open space requirements.
- (3) Access. The Director, subject to approval of the Florida Department of Transportation, where required, may reduce the access point distance separation requirements to accommodate driveway or parking lot accesses, but only if they provide the sole vehicle access to two or more abutting properties.
- (4) Off-street parking. Alternative parking patterns such as off-site or shared parking lots are encouraged in the SCC and SCF subdistricts. To allow flexibility in meeting a site's parking requirements, the Director may make modifications as follows:
 - a. Properties meeting certain minimum lot requirements. No parking modifications may be administratively approved for any use located on a lot or parcel that meets the minimum lot depth, width, and area requirements for the underlying zoning district(s) in which located notwithstanding the effect of a governmental right-of-way acquisition program.
 - b. Properties reduced below minimum depth requirements.
 1. The Director may administratively reduce the number of required parking spaces otherwise required in proportion to any reduction in a parcel's area resulting from a governmental right-of-way acquisition program. For example, if a lot lost 1,000 square feet of area for road right-of-way (ROW) purposes (100 foot frontage by ten-foot depth for new ROW) and the resulting lot depth was reduced below the minimum for the underlying zoning district(s), then the parking requirements may be reduced by the Director up to six spaces (1,000 square feet divided by 162 square feet, the area of the standard parking space, i.e. nine feet by 18 feet, which equals 6.17, reduced to the next lower whole number, six) in order to meet

the parking requirement. If the parking requirements still can not be met, the Director may administratively approve the minimum number of off-site parking spaces necessary to meet the site's parking requirements, so long as:

- i. The site's property owner has entered into a written agreement with the property owner of the off-site parking lot that has been approved by the County Attorney's office and recorded in the County's public records;
 - ii. The furthest parking space in the off-site parking lot is located no more than 300 feet from the property in question; and
 - iii. No road or other restrictive barrier exists between the use and the parking lot that would prohibit safe pedestrian travel.
2. To allow flexibility in meeting a site's parking requirements, the Director may administratively approve a request to allow up to 50 percent of the required number of parking spaces for land uses in the SCC and SCF Sub-districts to be located off-site, so long as the requirements of sections 34-1089 and 34-2020(e) are met.
- (5) Off-street loading. Businesses within these Sub-districts are exempt from providing designated off-street loading zones as required by division 25, section 34-1981, et seq.
- (6) Signs.
- a. All signs within the SCC and SCF Sub-districts must comply with chapter 30 except that where an existing building on the property is closer to the right-of-way than the minimum setback required by section 34-2192 as a result of a governmental right-of-way acquisition program such that a ground-mounted sign could not be located between the existing building and the right-of-way and still comply with chapter 30, then the Director may administratively approve either of the following alternatives:
 1. Reduce the required sign setback to accommodate a permitted ground-mounted sign, provided that no part of the sign may encroach into or over the public right-of-way or otherwise create an unsafe condition for passing motorists (see section 30-1(b)); or
 2. Approve a ground-mounted sign to be located in the side yard next to the building but at a higher height than normally permitted, provided that the sign is the minimum height necessary to sufficiently convey a message about the owner or occupants of the property, the commodities, products or services available on the property, or the business activities conducted on such property (see section 30-1(e)(4)); and does not exceed 30 feet in height.
 - b. New billboards are not permitted within the SCC or SCF Sub-districts. Existing billboards destroyed by fire or other natural forces beyond 50 percent may be rebuilt in their current locations, at their current size.
- (f) Property development regulations - SCW and SCCE Sub-districts and certain properties in the SCC and SCF Sub-Districts. Modified land development regulations for the SCW and SCCE Sub-districts and those properties in the SCC and SCF Sub-districts which do not abut or front upon San Carlos Boulevard are set forth in Table 2, below. Off-street parking for these areas is addressed in sub-section (g) below. Except where specifically noted, the terminology and special regulations found in Table 2 have the same meaning and effect as they do throughout this chapter. All other land development regulations applicable to the underlying zoning district(s) and development request will continue to have their same force and effect.

TABLE 2
 PROPERTY DEVELOPMENT REGULATIONS
 FOR SCW, SC CE, AND PORTIONS OF SCC AND SCCF SUB-DISTRICTS*

	Special Notes or Regulations	*As limited in 34-1143 <u>33-1744</u> (f), above
Minimum Lot Area and Dimensions		
Minimum Lot Size:	34-2221,	10,000 sq. ft.
Lot Width	34-2222,	50 ft.
Lot Depth	34-2142	100 ft.
Minimum Building Setbacks:		
Street (from edge of Rt-of-way)	34-2191	25 ft.
Side Yard	34-2192	20 ft.
Rear Yard	34-1174	20 ft.
Water Body	Notes B & C	25 ft.
Minimum Building Separation		20 ft.
Minimum Accessory Use Setbacks		25 ft.
• Street		25 ft.
• Side and Rear Lot Lines	Note A	0 ft. or 20 ft.
• Water Body	Notes B & C	25 ft.
Maximum Height	34-2171 et seq. Note D	35 ft. or 3 habitable stories, whichever is less
Maximum Lot Coverage		60%

Notes: All notes referencing LDC sections must be complied with and met, plus the following as applicable:
A. The 0 feet setback applies only to attached commercial buildings
B. Limited to docks, non-roofed boardwalks, and decks with public access.
C. Boat service buildings or boat service structures, whether principal or accessory structures, may be built up to the mean high-water line, as applicable.
D. For boat storage facilities-dry located within an existing IM, IL and CM zoning district(s) located in the SCW Sub-district, the set back requirements of section 34-2174 are modified to only require the setbacks for heights greater than 55 feet above mean sea level.

- (g) Off-street parking for the SCW and SCCE Sub-districts and certain properties in the SCC and SCF Sub-Districts. It is an important element of this District is to allow alternative parking patterns such as shared parking lots for the SCW and SCCE Sub-districts and those properties in the SCC and SCF Sub-districts that do not abut or front upon San Carlos Boulevard. To allow flexibility in meeting a site's parking requirements in these areas, the Director may administratively approve a development request to allow up to 50 percent of the required number of parking spaces for any land use in the SCW and SCCE Sub-districts and those properties in the SCC and SCF Sub-districts that do not abut or front upon San Carlos Boulevard to be located off-site, so long as:
- (1) The site's property owner has entered into a written agreement with the property owner of the off-site parking lot which has been approved by the County Attorney's Office and recorded in the County's public records;
 - (2) No road or other restrictive barrier would exist between the site and the proposed off-site parking that would prohibit safe pedestrian travel; and
 - (3) The furthest parking space in the off-site parking lot is located no more than 300 feet from the property in question, except that:
 - a. The Director may approve the use of parking spaces greater than 300 feet off-site up to 1,000 feet off-site, so long as the applicant demonstrates that no other spaces for parking are available closer than those being proposed; or
 - b. If there are still not a sufficient number of spaces available within 1,000 feet, then so long as a shuttle service acceptable to the Director is provided and maintained between the parking spaces and the use(s) they serve, such parking may be used to meet up to 50 percent of the overall parking requirement.

CHAPTER 34

Sec. 34-2. Definitions.

Agritourism activity means any agricultural related activity on land classified as agricultural under F.S. § 193.461 that is consistent with and accessory to a bona fide farm, livestock operation, or ranch or in a working forest which allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy activities, including farming, ranching, historical, cultural, civic, ceremonial, training and exhibition, or harvest-your-own activities and attractions. An agritourism activity does not include the construction of new or additional structures or facilities intended primarily to house, shelter, transport, or otherwise accommodate members of the general public. An activity is an agritourism activity whether or not the participant paid to participate in the activity.

Storage means the safekeeping of goods, wares, products or other commodities in an area for more than 48 hours for later use or disposal. The term "storage" includes the keeping of boats, cars, recreational vehicles, etc., for others, whether or not compensation is made to the property owner. The term does not include animals, nor does it apply to the outdoor display of products for sale by such as boats, mobile homes, construction equipment or vehicles dealers, or landscaping materials, or customary and usual activities accessory to agricultural or residential uses dwellings.

Sec. 34-6. Compliance with specific planning community requirements.

If the subject property is located in one of the following communities, the owner/applicant will be required to demonstrate compliance with the requirements applicable to the specific community as outlined in Chapter 33.

- (1) ~~Estero Planning Community.~~ San Carlos Island Overlay District
- (2) Greater Pine Island.
- (3) Page Park.
- (3) Caloosahatchee Shores.
- (4) Lehigh Acres.
- (5) North Fort Myers.
- (6) Matlacha.
- (7) Upper Captiva.
- (8) North Olga.

Sec. 34-145 Functions and Authority (Hearing Examiner)

No change (a) through (e)

~~(f) Equitable jurisdiction. The Hearing Examiner does not have the authority to render decisions based on the law of equity in proceedings under this section.~~

~~(g)~~ (f) The Hearing Examiner is limited to the authority granted within County regulations. The Hearing Examiner may consider state, federal, or common law in the application of the County regulations.

Sec. 34-202. General submittal requirements for applications requiring public hearing.

- (a) All applications. Every request for actions requiring a public hearing under this chapter must include the following. However, upon written request, on a form prepared by the County, the Director may modify the submittal requirements contained in this section where it can be clearly demonstrated that the submission will have no bearing on the review and processing of the application. The request for a waiver or modification must be submitted to the Director prior to submitting the application. A copy of the request and the Director's written response must accompany the application and will become a part of the permanent file.

No change (1) and (2).

- (3) Certification of title and encumbrances. Certification of title and encumbrances submitted for property subject to zoning approval must meet the following criteria:
- a. Form. The certification of title must be in one of the following forms:
 - i. Title certificate or title opinion, no greater than 90 days old at the time of the initial development order submittal. The title certification submittal must be either an opinion of title meeting the Florida Bar Standards prepared by a licensed Florida attorney or a certification of title/title certification prepared by a title abstractor or company.
 - ii. ~~Ownership and encumbrance report, no greater than 30 days old at the time of the initial development order submittal.~~
 - iii-ii. Title Insurance Policy with appropriate schedules, no greater than five years old at the time of the initial development order zoning case submittal and an affidavit of no change covering the period of time between issuance of the policy and the application date. If submission of a complete affidavit of no change is not possible, a title certificate, or title opinion ~~or ownership and encumbrance report~~ must be submitted in the alternative.
 - b. Content. The certification of title must include, at a minimum, the following:
 - i. The name of the owner or owners of the fee title;
 - ii. All mortgages secured by the property;
 - iii. All easements encumbering the property;
 - iv. The legal description of the property; and
 - v. The certification of title documentation must be unequivocal.

- (b) Additional submittal requirements for owner-initiated applications. In addition to the submittal requirements set forth in (a), every application initiated by a property owner involving a change in the zoning district boundaries, or a request for special exception, deviation or variance, applicable to the property owner's land must include the following:

No change (1), (2) and (3).

- (4) Reserved.

~~Hazardous materials emergency plan for port facilities. Any applicant seeking a rezoning for a private port facility must submit a hazardous materials emergency plan, which will be subject to the approval of the County Divisions of Emergency Management, Water Resources and Planning, and of the appropriate fire district. The plan must provide for annual monitoring for capacity and effectiveness of implementation. At the minimum, the plan must comply with the spill prevention control and countermeasure plan (SPCC) called for in the Federal Oil Pollution Prevention Regulations, 40 CFR 112, as amended.~~

- (5) ~~Bonus density. When applicable, the number of bonus density units requested, the source of the bonus density units (TDR's, housing density bonus, etc.), and the resulting gross residential density of the proposal, and documentation substantiating compliance with each of the review criteria set forth in section 2-146. A copy of the bonus density application must also be included as an attachment to the zoning application.~~

No change (6), (7) and (8).

Sec. 34-204. Submittal requirements for Administrative Action applications.

- (a) All applications. Every request for Administrative actions not requiring a public hearing under this chapter must include the following. Upon written request, on a form prepared by the County, the Director may modify the submittal requirements as set forth in section 34-203(h).

- (1) The STRAP (Section, Township, Range, Area, Parcel) number for the subject property. This number is used by the Property Appraiser to identify the subject property; or

If the subject property includes a portion of property within one STRAP, then in addition to the STRAP number, a metes and bounds legal description must also be submitted as follows:

Legal description and sketch to accompany legal description. A metes and bounds legal description along with a sketch of the legal description, prepared by a Florida Licensed Surveyor and Mapper, must be submitted, unless the property consists of one or more undivided lots within a subdivision platted in accordance with F.S. Ch. 177. If the subject property is one contiguous parcel, the legal description must specifically describe the entire continuous perimeter boundary of the property subject to the zoning action with accurate bearings and distances for every line. If the application seeks to rezone undivided, platted lots, then a complete legal description (i.e. lot, block, subdivision name, public records recording information) of the platted subject property is required. The Director has the right to reject any legal description that is not sufficiently detailed so as to locate the property on County maps.

- (2) ~~Reserved. The STRAP (Section, Township, Range, Area, Parcel) number for the subject property. This number is used by the Property Appraiser to identify the subject property.~~

Sec. 34-210. Temporary use permits.

No change (a), (b) and (c).

- (d) Additional required information. In addition to the application information, the applicant shall submit satisfactory evidence of the following:

No change (1) – (5).

- (6) Evidence shall be submitted that, where applicable, the applicant for a proposed use has complied with Ordinance No. ~~94-26-~~ 14-18 of the County, pertaining to special events.

Sec. 34-622. Use activity groups.

No change (a) and (b)

No change (1) through (37)

(c) Use activity groups are as follows:

(38) Recreation facilities, commercial. Recreational facilities, not specifically regulated elsewhere in this Code, operated as a business and open to the public for a fee. This does not include facilities owned or operated by a government unit.

GROUP I
Coin-operated amusement establishments that primarily provide coin-operated amusement devices; coin-operated includes coins, tokens or other similar devices
<u>This neither authorizes nor permits any use or activity in violation of the provisions found in Florida Statutes Chapter 849, Gambling.</u>
GROUP IV. Indoor facilities.
<u>Indoor Gun Range</u>

Sec. 34-625. Outdoor lighting standards.

(d) Standards and criteria. In addition to the standards and criteria for outdoor lighting established in this subsection, there are standards for sea turtle lighting in chapter 14, article I, division 2 of this Code and further technical standards are specified in a related County Administrative Code. When specific standards are not addressed in these sources, the standards contained in the Illuminating Engineering Society of North America (IESNA) Handbook, (latest edition) will apply.

(4) Luminaire mount standards. the following standards apply to luminaire mountings.

c. *Canopy lighting.* Light fixtures mounted on the underside of a canopy must be recessed or shielded full cutoff type so that the light is restrained to 85 degrees or less from the vertical. As an alternative (or supplement) to the canopy ceiling lights, indirect lighting may be used where the light is beamed upward and then reflected down from the underside of the canopy. When this method is used, light fixtures must be shielded so that direct illumination is focused exclusively on the underside of the canopy. ~~No part of the canopy may be back-lighted.~~ Exposed-Lights may not be mounted on the top or sides (fascias) of the canopy. The sides (fascias) of the canopy may ~~not~~ be illuminated ~~in any manner~~ as long as the illumination is consistent with the county restrictions on off-site light spillage which must be analyzed in the photometry plan.

Sec. 34-691. Purpose and intent.

(a) RSC-1 residential single-family conservation district. The purpose and intent of the RSC-1 residential single-family conservation district is to recognize and protect existing single-family residential developments, lots, structures and uses, previously permitted but not conformable to the regulation for other single-family residential districts set forth in this chapter, and to accommodate residential use of lawfully existing lots nonconforming under previous zoning regulations. This district may be applied to any land use category allowing residential uses set

forth under the Lee Plan. This district is not available for new developments, but may be used only by property owners in existing developments that comply with the property development regulations or by the Board of County Commissioners upon its own initiative to achieve the purpose mentioned in this section. For the RSC-2 zoning district see Sec. 33-1626.

Sec. 34-715. Property development regulations table.

Property development regulations for multiple-family districts are as follows:

TABLE 34-715. PROPERTY DEVELOPMENT REGULATIONS FOR MULTIPLE-FAMILY RESIDENTIAL DISTRICTS

	Special Notes or Regulations	RM-2	RM-3	RM-6	RM-8	RM-10
Minimum lot area and dimensions:	34-1493, 34-1494, 34-2221, 34-2222, 34-2142					
Single-family detached:	Note (7)					
Minimum lot size (square feet)		6,500 (1)	14,500	7,500	6,500	6,500
Lot area per unit (square feet)		6,500 (1)	14,500	7,500	6,500	6,500
Lot width (feet)		65	75	75	65	65
Lot depth (feet)		100	100	100	75	75
Duplex, two-family, townhouse:	Note (7)					
Minimum lot size (square feet)	34-713	7,500 (2)	29,000	14,000	10,000	10,000
Lot area per unit (square feet)		3,750	14,500	7,000	5,000	5,000
Lot width per unit (feet)		37.5	50	50	40	40
Lot depth (feet)		100	100	100	100	100

	Multiple-family:	Note (7)					
	Minimum lot size (square feet)		10,000	43,500	20,500 (3)	15,000	12,000
	Lot area per unit (square feet)		3,000	14,500	6,500 (3)	5,000	4,000
	Lot width (feet)		100	100	100	100	100
	Lot depth (feet)		100	120	120	120	120
	Nonresidential uses:						
	Lot area (square feet)		10,000	20,000	10,000	10,000	10,000
	Lot width (feet)		75	100	75	100	100
	Lot depth (feet)		100	100	100	100	100

Notes:

No change Note (1) and (2).

~~(3) 14,000 square feet for the first two dwelling units plus 6,500 square feet for each additional dwelling unit in the same building. Reserved.~~

No change Note (4) through (7).

Sec. 34-813. Use regulations table.

Use regulations for the community facilities districts are as follows:

TABLE 34-813. USE REGULATIONS FOR COMMUNITY FACILITIES DISTRICTS

	Special Notes or Regulations	CF
<u>Maintenance facility</u>		<u>P</u>

(government)		
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Sec. 34-844. Use regulations table.

Use regulations for conventional commercial districts are as follows:

TABLE 34-844. USE REGULATIONS FOR CONVENTIONAL COMMERCIAL DISTRICTS

	Special Notes or Regulations	C-1A	C-1	C-2	C-2A	CN-1	CN-2	CN-3 (21, 23)	CC	CG	CS-1	CS-2	CH	CT	CR	CI	CP
Recreation, facilities:																	
Commercial (34-622(c)(38))																	
Group I		P	P	P	P	—	—	P	P	P	—	—	—	P	—	—	—
Group III	Note(20)	—	P/SE	P/SE	P/SE	—	—	—	—	—	—	—	—	P/SE	—	—	—
Group IV	Note(20)	<u>P</u>	—	—	—	—	—	—	P/SE	P/SE	—	—	—	P/SE	—	—	—

Sec. 34-903. Use regulations table.

Use regulations for industrial districts are as follows:

TABLE 34-903. USE REGULATIONS FOR INDUSTRIAL DISTRICTS

	Special Notes or Regulations	IL Note (14)	IG Note (14)	IR Note (14)
Food and kindred products (34-622(c)(15)):				

	Group I	Note (9)	—	P	P
	Group II	Note (9)	SE P	P	P
	Group III	Note (9)	P	P	—

Sec. 34-933. - Permitted uses.

Except in the MEPCD and PRFPD, and Compact PD districts, or where otherwise specifically indicated to the contrary, the uses listed in section 34-934, pertaining to use regulations for planned development districts, may be permitted in the indicated districts when consistent with the goals, objectives and policies of the Lee Plan for the land use category in which the property is located, and when approved on the enumerated documentation of the master concept plan. Uses that are not specifically listed in section 34-934 may also be permitted if, in the opinion of the Director, they are substantially similar to a listed permitted use.

In the MEPCD and PRFPD districts, only those uses specifically listed in section 34-941 may be approved on the master concept plan. In the Compact PD district, allowable uses of individual lots are set forth in chapter 32, article II.

Sec. 34-934. Use regulations table.

Use regulations for planned development districts are as follows:

TABLE 34-934. USE REGULATIONS FOR PLANNED DEVELOPMENT DISTRICTS

	Special Notes or Regulations	RPD	MHPD	RVPD	Compact PD	CFPD	CPD	IPD Note (37)	AOPD	MPD	MEPD
Accessory uses and structures	Note (1), 34-1171 et seq., 34-2441 et seq., 34-1863, 34-2141 et seq., 34-3106	P	P	P	—	P	P	P	P	P	—

Accessory apartment	Note (2), (21), & (28), 34-1177	P	—	—	—	—	—	—	—	P	—
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Notes:

No change Note (1) through (20).

(21) In RPDs, MHPDs, and residential areas of MPDs, a special exception is may be required.

No change Note (22) through (49).

DIVISION 11. REDEVELOPMENT OVERLAY DISTRICTS

Subdivision I. - General Requirements

Subdivisions II—V. - Reserved

~~Subdivision VI. —The San Carlos Island Redevelopment Overlay District~~

Sec. 34-1177. Accessory apartments.

No change (a)

(b) Applicability. This section sets forth the requirements for accessory apartments, when subordinate to a single-family detached dwelling unit. The requirements of this section apply to accessory apartments whether they are listed as a permitted use or a use by ~~special exception~~ administrative approval.

Sec. 34-1261. Definitions.

For purposes of this division and when referred to elsewhere in this chapter, certain terms or phrases shall have the following meaning:

Noise means sound or vibrations which are defined as either noise or noise disturbance in the Lee County Noise Control Ordinance, Ordinance No. 82-32, as amended by Ordinance No. 83-22-14-18 and as subsequently amended.

Sec. 34-1264. Sale or service for on-premises consumption.

(a) Approval required. The sale or service of alcoholic beverages for consumption on the premises is not permitted until the location has been approved by the County as follows:

(1) Administrative approval. The Director of the Department of Community Development may administratively approve the sale or service of alcoholic beverages for consumption on the premises when in conjunction with the following uses, if the proposed use satisfies the requirements set forth in this division. When circumstances so warrant the Director may determine administrative approval is not the appropriate action and that the applicant must instead apply for approval as a special exception. Such circumstances may include the previous

denial by the Director or by a hearing board of a similar use at that location, the record of public opposition to a similar use at that location, and similar circumstances. When the Director has approved a request for consumption on the premises at a location where the actual building has not been constructed, the Director may not approve another request for consumption on the premises within one year's time, which could potentially violate the distance requirements. If the first building is completed within less than one year, and it can be shown the second use would not violate the prescribed distance requirements, the Director may approve the second location subject to all other requirements contained in this division.

- a. County-owned airports, arenas and stadiums, including liquor, beer, malt liquor and wine in restaurants, bars, lounges, concessions, concession stands and package stores at County-owned airports;
- b. Bars, cocktail lounges, or night clubs located in commercial and industrial zoning districts that permit bars, cocktail lounges or night clubs, provided the standards set forth in subsections (b)(1) and (3) of this section are met;
- c. Bowling alleys and movie theaters provided the standards set forth in subsections (b)(2)a and (b)(3) of this section are met;

No change (d) through (j).

Sec. 34-1292. Horses and other equines.

The keeping, raising or breeding of horses or other equines is a permitted use or special exception in the AG, RS-4, RS-5 and MH-4 districts and in the RPD, MHPD, and MPD districts when approved as part of the master concept plan, as follows:

No change (1) and (2).

- (3) Commercial stables. Commercial stables are permitted by special exception, as specified in zoning district regulations, provided that there is compliance with this division. Commercial stables may allow horse shows and exhibitions, which may include riding exhibitions, riding lessons, dressage, roping and cutting, as ancillary uses subject to the following:

No change a. through d.

- e. Music and noise audible at the property line must be measured and restricted as provided in the Lee County Noise Control Ordinance, Ordinance No. 82-32, 14-18 as subsequently amended.

No change f. and g.

Sec. 34-1352. Display, sale, rental or storage facilities for motor vehicles, boats, recreational vehicles, trailers, mobile homes or equipment.

No changes (a) though (d)

(e) ~~Storage areas~~ facilities. Areas used only for the commercial storage of motor vehicles, boats, trailers, recreational vehicles, mobile homes and construction or farm equipment which is not being displayed for sale or rent must be enclosed and buffered (see section 34-3005(b) and 10-416(d)).

Sec. 34-1353. Convenience food and beverage stores, ~~automotive~~ automobile service stations, fast food restaurants, and car washes.

(g) *Canopies.*

(1) Flat-roof canopies are ~~prohibited~~ allowed unless prohibited by conditions in a Planned Development. Canopies must be consistent with the architectural design, predominant color and features of the principal structure.

(2) Canopy lighting must comply with section 34-625(d)(4)c.

(3) Canopies must be ~~of one color~~, consistent with the predominant color of the principal structure.

(h) *Accent banding:* ~~Color accent banding on all structures, including canopies, is prohibited and~~ raised architectural features are permitted unless prohibited by conditions in a Planned Development.

Sec. 34-1354. Variances or deviations.

The provisions of this section apply to all new development, including redevelopment.

(1) A deviation or variance from the requirements stated in sections 34-1352 and 34-1353 must be obtained through the public hearing process unless the project qualifies for administrative relief under section 34-1354(3).

(2) The applicant must demonstrate that the granting of the deviation or variance will not have an adverse impact on adjacent land uses in addition to the requirements set forth in section 34-145.

(3) ~~Project rendered nonconforming by the adoption of section 34-1352 and 34-1353~~ Commercial or Industrial-zoned properties less than 3 acres in size may obtain administrative relief from section 34-1352 and/or 34-1353 to facilitate new development or redevelopment of the site. Development of these nonconforming projects sites will be limited to development that will bring the site more into greater compliance with sections 34-1352 and 34-1353 given the existing site constraints such as location and configuration of existing buildings, parking areas, drainage, easements and/or other conditions. Commercial or industrial zoned properties 3 acres or greater in size may utilize the public hearing process for deviations or variances from section 34-1352 and/or 34-1353.

Sec. 34-1414. Continuing care facilities.

No change (a) and (b).

- (c) Density. Density equivalents for a continuing care facility will be calculated for any assisted living facility units and nursing beds pursuant to division 12, subdivision II, of this article, and for independent living units on the basis of two independent living units equal to one residential dwelling unit.

(1) Where health care, social service, adult living facilities (ALF), continuing care facilities, or other "group quarters" (df) are provided in dwelling units, wherein each unit has its own cooking facilities, density equivalents will be calculated on a 1:1 ratio.

(2) Except as may be specifically set forth elsewhere in this chapter, where health care, social service, adult living facilities (ALF), continuing care facilities (CCF), or other "group quarters" (df) are provided in dwelling units or other facilities wherein each unit does not have individual cooking facilities and where meals are served at a central dining facility or are brought to the occupants from a central kitchen, density equivalents will be calculated at the ratio of four people equals one dwelling unit.

A planned development, for which the master concept plan states the number of persons that may occupy an approved adult living facility (ALF) or Continuing Care Facility (CCF), may request an amendment to the approved master concept plan to reflect the increased number of occupants based upon the equivalency factor set forth in this section (if applicable). Such amendment will be considered a minor administrative amendment that will be deemed to not increase density and may be approved pursuant to section 34-380(b) as long as existing floor space is not increased to accommodate the increased number of occupants. If increased floor space is required, then a public hearing will be required.

Also see Sec. 34-1394 Density equivalents.

No change (d), (e) and (f).

Sec. 34-1494. Density equivalents.

No change (a).

- (b) Equivalency factors:

(See Sec. 34-1414(c) for assisted living facility units and nursing beds, independent living units, health care, social service, adult living facilities (ALF), continuing care facilities (CCF), or other "group quarters")

~~(1) Where health care, social service, adult living facilities (ALF), continuing care facilities, or other "group quarters" (df) are provided in dwelling units, wherein each unit has its own cooking facilities, density equivalents will be calculated on a 1:1 ratio.~~

~~(2) Except as may be specifically set forth elsewhere in this chapter, where health care, social service, adult living facilities (ALF), continuing care facilities (CCF), or other "group quarters" (df) are provided in dwelling units or other facilities wherein each unit does not have individual cooking facilities and where meals are served at a central dining facility or are brought to the occupants from a central kitchen, density equivalents will be calculated at the ratio of four people equals one dwelling unit.~~

~~A planned development, for which the master concept plan states the number of persons that may occupy an approved adult living facility (ALF) or Continuing Care Facility (CCF), may request an amendment to the approved master concept plan to reflect the increased number of~~

~~occupants based upon the equivalency factor set forth in this section (if applicable). Such amendment will be considered a minor administrative amendment that will be deemed to not increase density and may be approved pursuant to section 34-380(b) as long as existing floor space is not increased to accommodate the increased number of occupants. If increased floor space is required, then a public hearing will be required.~~

- (3 1) Notwithstanding subsection (b)(2) above Sec. 34-1414(c)(2), no density equivalency calculation is required for a bed and breakfast (df) in an owner-occupied conventional single-family residence (df) accommodating four or less lodgers. If the bed and breakfast will accommodate more than four lodgers, then the equivalency will be calculated as four lodgers equals one dwelling unit.
- (4 2) Notwithstanding subsection (b)(2) above Sec. 34-1414(c)(2), no density calculation is required for hospital, prison, jail, boot camp, detention center, or other similar type facility owned or operated by a County, state or federal agency.
- (5 3) Where dwelling or living units have "lock-off accommodations," density will be calculated as follows:
- a. Hotels/motels: "Lock-off units" will be counted as separate rental units regardless of size.
 - b. Timeshare units: Lockoff units will be counted as separate dwelling units whether or not they contain cooking facilities, as follows:
 - i. Studio units will be counted as 0.1 dwelling units;
 - ii. One bedroom units will be counted as 0.25 dwelling units;
 - iii. Two bedroom units will be counted as 0.5 dwelling units;
 - iv. Three or more bedrooms will be counted as a full dwelling unit.

No change (c).

Sec. 34-2019. Other use of parking lots.

Except as provided in this section, required off-street parking areas may not be utilized for the sale, display or storage of merchandise, or for repair, dismantling or servicing of vehicles or equipment.

No change (1) and (2).

- ~~(3) Carnivals, fairs and amusement attractions and devices.~~
- a. ~~If the uses are located in an existing parking lot, the parking lot must have enough spaces to comply with the minimum requirements for the principal use and the carnival, fair or amusement attraction or device (see section 34-2020(b)). Prior to obtaining a temporary use permit (see division 37 of this article) for the temporary use of a parking lot, the applicant must submit a site plan showing there will be no net loss or reduction in the number of parking spaces required for any existing principal use that relies on the parking lot.~~
 - b. ~~The temporary uses may not be located in a parking lot that is nonconforming as to the number of spaces needed for the existing uses.~~

Sec. 34-2020. Required parking spaces.

All uses are required to provide off-street parking based on the single-use development requirement unless the use is located in a development that qualifies as a multiple-use development, in which case,

the minimum required spaces for multiple-use developments may be used. Use of the multiple-use development minimum parking regulations is optional.

Parking for uses not specifically mentioned in this section must meet the minimum parking requirement for the use most similar to that being requested.

- (a) Residential uses. Residential uses permitted under this chapter are subject to the following minimum requirements:

TABLE 34-2020(a). REQUIRED PARKING SPACES FOR RESIDENTIAL USES

	Use	Special Notes or Regulations	Minimum Required Spaces for Single-Use Development	Minimum Required Spaces for Multiple-Use Development
1.	Single-family, duplex, two-family attached and mobile home units.		2 spaces per unit	—
2.	Townhouses.	Note (1)	2 spaces per unit	—
3.	Multiple-family and timeshare units.	Note (1) & (3)	2 spaces per unit	—
4.	Assisted living facilities.	Note (2), <u>34-1414(c) et seq. & 34-1494 et seq.</u>	0.54 spaces per unit	0.41 spaces per unit
5.	Continuing care facilities.	Note (2), <u>34-1414(c) et seq. & 34-1494 et seq.</u>	1.12 spaces per unit	1 space per unit
6.	Independent (self-care) living facilities, including group quarters, health care (grps I & II), social services (grps III & IV) and other similar uses.	Note (2), <u>34-1414(c) et seq. & 34-1494 et seq.</u>	1 space per unit	0.59 spaces per unit
7.	<u>Clubhouse and Ancillary Uses within a Residential Community without a Golf Course</u>	<u>Note 4.</u>	<u>4 spaces per 1000 square feet of total floor area</u>	<u>3.5 spaces per 1000 square feet of total floor area</u>

Notes:

No change Note (1), (2) and (3).

(4). May include administrative office or other ancillary uses to the clubhouse such as a gyms and/or meeting rooms.

(b) Non-residential uses. Non-residential uses permitted under this chapter are subject to the following minimum requirements:

TABLE 34-2020(b). REQUIRED PARKING SPACES FOR NON-RESIDENTIAL USES

Use	Special Notes or Regulations	Minimum Required Spaces for Single-Use Development	Minimum Required Spaces for Multiple-Use Development
Airports, landing strips and heliports.		Determined by the Director	—
Animal clinics.		5 spaces per veterinarian plus 1 space per employee	—
Animal kennels.		5 spaces	—
Automotive drive-in oil change establishments.	34-2021(c)	1.5 spaces per service bay	—
Automotive repair and service (excluding drive-in oil change establishments); automotive service stations.		4 spaces per service bay plus 1 space per employee	—
Banks and financial establishments.	34-2021(a)	3 spaces per 1,000 square feet of total floor area	2.5 spaces per 1000 square feet of total floor area
Bars and cocktail lounges, nightclubs.	Note (1)	21 spaces per 1,000 square feet of total floor area	14 spaces per 1,000 square feet of total floor area
Barbershops, beauty shops, massage parlors, etc. (personal services group II)		3 spaces per operator (chair) or 1 space per 100 square feet, whichever is greater, with a minimum of 5 spaces	—
Bed and breakfast.	34-1494(b)(3) 1)	1.2 spaces per rental unit	—
Bowling alleys.	Note (1)	4 spaces for each lane	—

Carnivals, fairs and amusement attractions and devices.	34-2019(3) <u>34-3042(b)</u>	10 spaces per amusement device	—
Car washes.	34-2021(b)	1.5 spaces per car stall	—
Convenience food and beverage stores.	Notes (1) & (15)	1 space per 200 square feet of total floor area (one parking space per four fuel pumps will be credited against the required parking), with a minimum of 5 spaces	—
Day care centers.	Note (2)	2 spaces per employee	—
Educational institutions:			
a. Public schools.		Parking must be provided in compliance with state law	—
b. Private or parochial schools:		—	—
1. Elementary or middle schools.		1 space per employee plus 1 space per 40 students	—
2. High schools.		1 space per employee plus 1 space per 10 students	—
3. Colleges, universities and trade and vocational institutions.	Note (3)	1 space per employee plus student parking as the Director deems necessary	—
Essential service facilities.		1 space per employee on the largest shift	—
Flea market, Indoor.		1 space per 100 square feet of total floor area	—
Flea market, Open.		5 spaces per rental space or booth	—
Funeral homes.	Note (14)	1 space per 4 seats or 4	—

		spaces per 250 square feet of chapel area, whichever is greater	
Golf courses.	Note (4)	6 spaces per hole	—
Health and Fitness Clubs.	34-2020(b)	7 spaces per 1,000 square feet of total floor area	5 spaces per 1,000 square feet of total floor area
Hospitals (health care facilities, group IV).		1 space per bed, excluding bassinets and gurneys, plus 1 space per employee on the largest shift	—
Hotels and motels.	Note (1), 34-1801 et seq.	1.2 spaces per rental unit	—
Marinas and other water-oriented uses.	Note (1)	—	—
a. Boat slips.		1 space for every 2 slips	—
b. Boat ramps.	Note (5)	10 spaces per boat ramp	—
c. Multi-slip docking facility.		Determined by Director	—
d. Dry storage.		1 space per 5 unit stalls	—
e. Charter or party fishing boat.	Note (6)	1 space per 3 people	—
f. Local cruise ships.	Note (6)	1 space per 2 people	—
g. International cruise ships.	Note (6)	1 space per 3 people	—
h. Live-aboards.		2 spaces per 3 live-aboards	—
Manufacturing and light industrial.	Note (1)	1.75 spaces per 1,500 square feet of total floor area	1.5 spaces per 1,500 square feet of total floor area
Meeting halls, clubs (fraternal and membership) and other places for group	Notes (7) &	1 space per 100 square feet	—

assembly not otherwise listed.	(14)	of total floor area	
Miniature golf.	Note (1)	1.5 spaces per hole	—
Multiple-occupancy complex with total floor area of 350,000 square feet or more.	Note (16)	—	4.5 spaces per 1,000 square feet of total floor area
Museums, art galleries, libraries, studios and other similar uses not covered elsewhere.		3 spaces per 1,000 square feet of total floor area	—
Offices, excluding medical. (Including but not limited to: business services group I, contractors and builders, insurance companies, nonstore retailers, personal services group IV, social services group I, and other similar offices.)		1 space per 300 square feet of total floor area	1 space per 350 square feet of total floor area
Offices, medical and health care facilities group III.		4.5 spaces per 1000 square feet of total floor area	4 spaces per 1000 square feet of total floor area
Places of worship.	Note (14); 34-2051 et seq.	1 space per 3 seats	1 space per 5 seats
Recreation facilities, indoor.	Note (1)	4 spaces per 1000 square feet of total floor area	3.5 spaces per 1000 square feet of total floor area
Recreation facilities, outdoor, commercial.		Determined by the Director.	—
Religious facility.	Notes (1) & (14); 34-2051 et seq.	1 space per 3 seats	—
Restaurants.	Notes (8), (9) & (10)	14 spaces per 1,000 square feet of total floor area; outdoor seating area is calculated at same rate	12.5 spaces per 1,000 square feet of total floor area; outdoor seating area is calculated at same rate

Restaurants, fast food.	Note (9)	13 spaces per 1000 square feet of total floor area; outdoor seating area is calculated at same rate	—
Retail or business establishments.			
a. Small products or commodities: Auto and boat parts; clothing stores; department stores; drugstores; food stores; hardware stores; hobby, toy and game shops; package stores; household/office furnishings, group, II; personal services group I (excluding barbershops, beauty shops & massage establishments); specialty retail shops groups I, II and III; used merchandise stores group I; variety stores; and other similar type establishments.	34-2021 et seq.	1 space per 250 square feet of total floor area, with a minimum of 5 spaces; dead storage is calculated at same rate	1 space per 350 square feet of total floor area; dead storage is calculated at same rate
b. Large products or commodities: Used merchandise stores groups II and III; vehicle and equipment dealers group II; and other similar type establishments.	Note (1); 34-2021 et seq.	2.5 spaces per 1,000 square feet of total floor area, with a minimum of 5 spaces; dead storage is calculated at 1 space per 1,000 square feet	2.5 spaces per 1,000 square feet of total floor area; no parking is required for areas of the building used only as dead storage and not available to the public
c. Very large products or commodities: Household/office furnishings groups I & III; mobile home dealers; specialty retail stores group IV; used merchandise stores group IV; vehicle and equipment dealers groups I, III, IV and V; and other similar type establishments.	<u>Note (1); 34-2021 et seq.</u>	1 space per 700 square feet, with a minimum of 5 spaces; dead storage is calculated at 1 space per 1,500 square feet	1 space per 700 square feet of total floor area; no parking is required for areas of the building used only as dead storage and not available to the public
Schools, commercial.		2 spaces per 100 square feet of total classroom floor area	1 space per 100 square feet of total classroom floor area
Tennis courts, commercial.	Note (14)	3 spaces per court plus one	—

		space per 3 spectator seats	
Theaters, auditoriums, stadiums, arenas and other similar places of public assembly.	Notes (1) & (14)	1 space per 4 seats	1 space per 4 seats
Warehouse, high-cube.	Note (1)		
a. Passenger car parking		1 space per 1,000 square feet of total floor area for the first 20,000 square feet, plus 1 space per 2,000 square feet for the second 20,000 square feet to 99,999 square feet, plus 1 space per 5,000 square feet for that portion over 100,000 square feet	—
b. Truck and trailer parking	Notes (12) & (13)	1 space for every 5,000 square feet of total floor area	—
Warehouse, mini-warehouse.		1 space per 25 storage units, with a minimum of 5 spaces	—
Wholesale, processing and warehousing establishments.	Note (1)	1.25 spaces per 1,500 square feet of total floor area	0.75 spaces per 1,500 square feet of total floor area

Notes:

- (1) Accessory or ancillary uses must be calculated separately and in compliance with this division.

Sec. 34-2443. Minimum required setbacks.

No changes (a) through (c).

(d) The following uses must be set back a minimum of 100 feet from any residentially zoned property under separate ownership. The setback applies to all buildings and structures, and all areas used for parking of trucks or equipment, shipping, receiving, or storage.

- (1) Blacksmith shop.
- (2) Freight and cargo handling establishments (section 34-622(c)(17)).
- (3) Impound yard.
- (4) Manufacturing of:
 - a. Boats.
 - b. Chemicals and allied products, group II (section 34-622(c)(6))—Limited to cosmetics, perfumes, etc.
 - c. Fabricated metal products, group II (section 34-622(c)(14)).
 - d. Food and kindred products, group II (section 34-622(c)(15)).
 - e. Furniture and fixtures (section 34-622(c)(18)).
 - f. Leather products, group II (section 34-622(c)(25)).
 - g. Lumber and wood products, group IV (section 34-622(c)(26)).
 - h. Machinery, groups I and II (section 34-622(c)(27)).
 - i. Paper and allied products, groups II and III (section 34-622(c)(31)).
 - j. Stone, clay, glass and concrete products, groups I and III (section 34-622(c)(48)).
 - k. Textile mill products, groups I and II (section 34-622(c)(50)).
 - l. Transportation equipment, group II (section 34-622(c)(52)).

- (5) Motion picture studio.
- (6) Photofinishing laboratory (df).
- (7) Rental or leasing establishment, group IV (section 34-622(c)(39)).
- (8) Repair shops, group V (section 34-622(c)(40)).
- ~~(9) Social services, group II (section 34-622(c)(46)).~~

Sec. 34-2479. Sound systems.

Sound systems for sports/amusement parks and recreational facilities shall meet the requirements of the Lee County Noise Control Ordinance, Ordinance Nos. 82-32 and 83-22, 14-18 as subsequently amended.

Sec. 34-3042. Carnivals, fairs, circuses and amusement devices.

No changes (a)

- (b) Off-street parking. If the uses are located in an existing parking lot, the parking lot must have enough spaces to comply with the minimum requirements for the principal use and the carnival, fair or amusement attraction or device (see section 34-2020(b)). Prior to obtaining a temporary use permit for the temporary use of a parking lot, the applicant must submit a site plan showing there will be no net loss or reduction in the number of parking spaces required for any existing principal use that relies on the parking lot.

The temporary uses may not be located in a parking lot that is nonconforming as to the number of spaces needed for the existing uses.

~~Refer to sections 34-2019(3) and 34-2020(b).~~

No changes (c) (d) and (e)

Sec. 34-3050. Temporary storage facilities.

The following regulations do not apply in commercial, industrial or mixed-use zoning districts where open storage is a permitted use, on property with a bona fide agricultural use located in an AG zoning district, or to contractor's office and equipment storage sheds (see section 34-3044).

- (a) The use of vehicles, truck trailers, or shipping containers for storage of merchandise, produce, or commodities for periods of 48 hours or more is prohibited in all districts except as a temporary use.
- (b) The use of vehicles, truck trailers, or shipping containers for storage of merchandise, produce, or commodities for periods of 48 hours or more may be permitted as a temporary use in a non residential district upon application and issuance of a temporary use permit (see section 34-210) so long as:
 - (1) The vehicles, truck trailers, or shipping containers used for storage comply with all setback requirements for accessory structures.

- (2) No more than two vehicles, truck trailers, or shipping containers are permitted at one time, and they cannot be stacked on top of one another.
- (3) The maximum length of time for use of a vehicle, truck trailer or shipping container for storage of merchandise, produce, or commodities is 60 days. One extension, not to exceed 60 days, maybe approved at the Director's discretion.

Sec. 34-3105. Use of vehicles, truck trailers, or shipping containers for storage ~~for non-~~ agricultural purposes.

Except for a bonafide agricultural use located in an AG zoning district, or where open storage is a permitted use in a commercial, industrial or mixed use zoning district, vehicles, truck trailers, shipping containers, and other similar structures may not be stored or used to store goods, produce or other commodities in any zoning district unless approved on a temporary basis in accordance with sections 34-3044 and 34-3050.

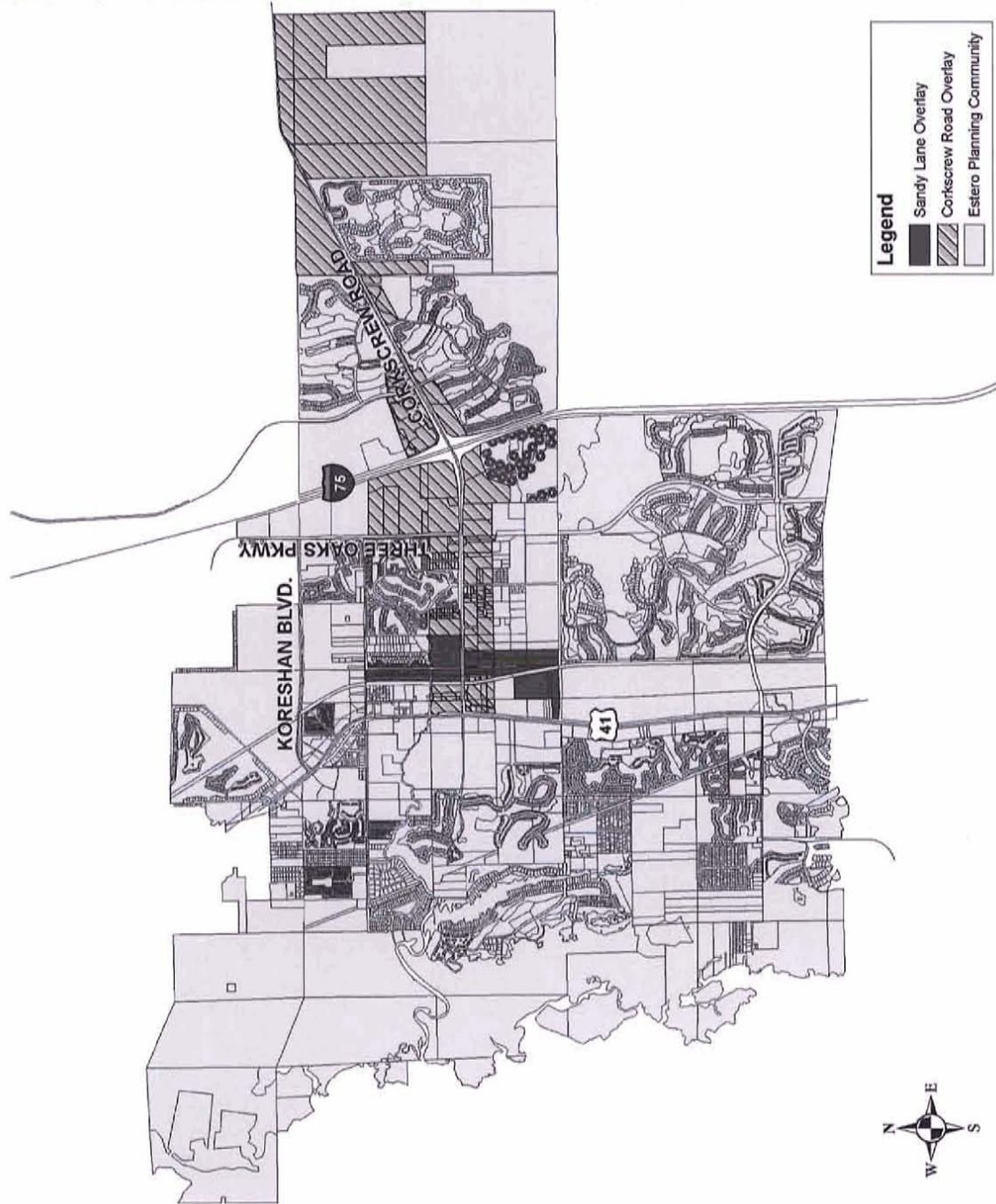
Where allowed as open storage per this Section, vehicles, truck trailers, shipping containers and other similar structures may not be stacked on top of one another and must be in compliance with Chapter 34, Division 36, including Sec. 34-3005 "Storage Facilities".

Sec. 34-3272. Lot of record defined; general development standards.

No changes (1) through (3) b.

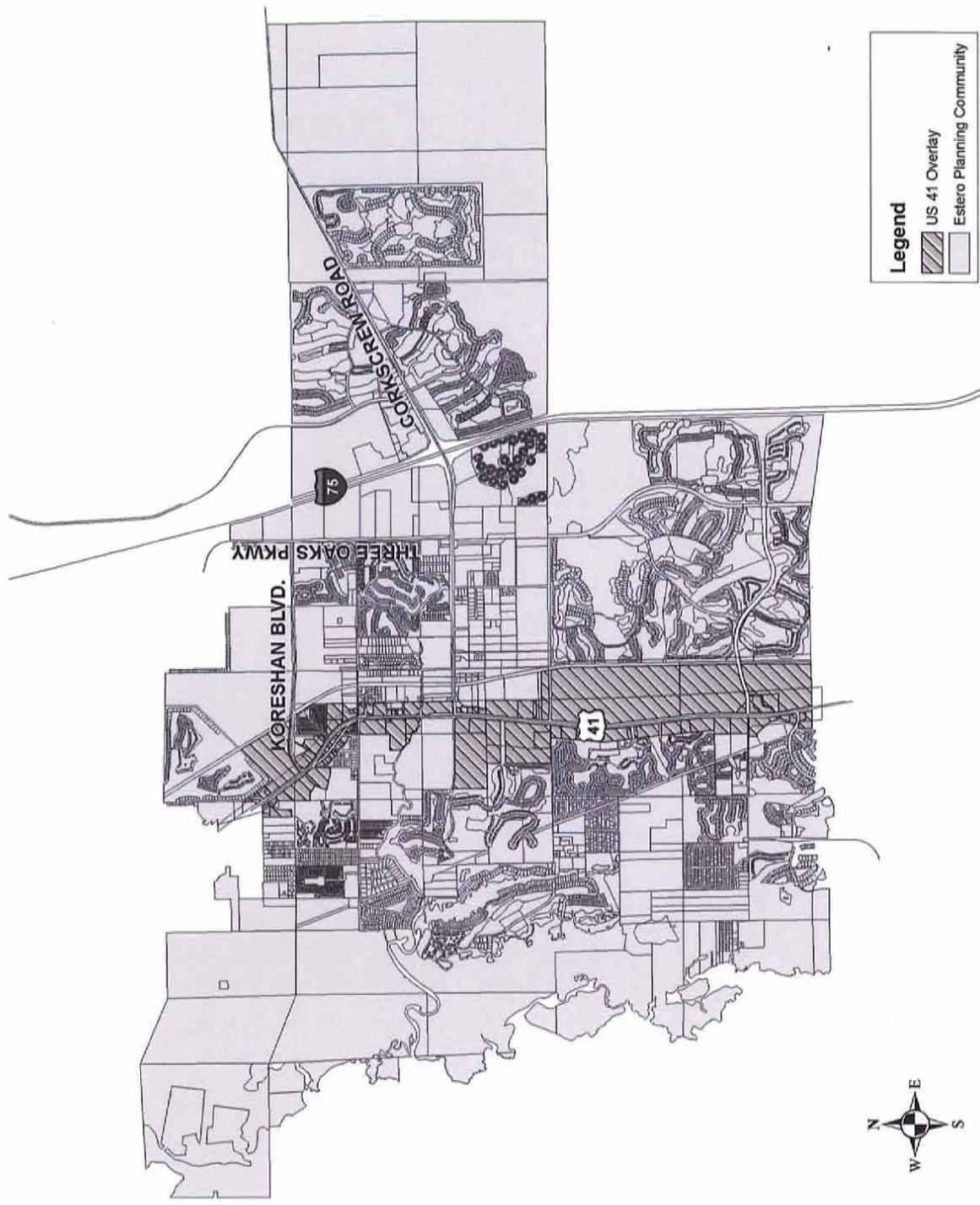
- c. For mobile home or recreational vehicle lots of record, the following will also apply:
 1. All mobile homes, or recreational vehicles, ~~or conventional single-family residences,~~ including any attachments, must be placed at least five feet from any body of water or waterway.
 2. All mobile homes, or recreational vehicles, ~~or conventional single-family residences,~~ must have a minimum separation of ten feet between units (body to body) and appurtenances thereto. Each unit will be permitted to have eaves which encroach not more than one foot into the ten-foot separation.

**APPENDIX I PLANNING COMMUNITY AND REDEVELOPMENT OVERLAY
DISTRICT BOUNDARIES AND LEGAL DESCRIPTIONS ^[1]**



Map 1— Estero Planning Community, Corkscrew/Sandy Lane Overlay

DELETE MAP



Map 2—Estero Planning Community, US 41 Overlay

DELETE MAP

**DRAFT ADMINISTRATIVE
CODE AC-13-16
TRANSPORTATION
PROPORTIONATE SHARE
CALCULATIONS FOR NEW
DEVELOPMENT
PROJECTS**

**ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS**

CATEGORY: DEVELOPMENT/PLANNING/ZONING	CODE NUMBER: AC-13-16
TITLE: TRANSPORTATION PROPORTIONATE SHARE CALCULATIONS FOR NEW DEVELOPMENT PROJECTS	ADOPTED: 8/21/91
	AMENDED: 1/4/95 7/7/98 __/__/1__
	ORIGINATING DEPARTMENT: COMMUNITY DEVELOPMENT AND TRANSPORTATION

DRAFT

I. PURPOSE

This administrative code describes procedures to calculate proportionate share costs for projects that may be subject to development agreements, and proportionate share agreements. All new development is required to pay road impact fees under the terms of Lee County Ordinance 15-03, Lee County Land Development Code (LDC), Chapter 2, Article VI, Division 2, as amended. Some developments may be required to pay a proportionate share of roadway improvement costs in excess of road impact fees pursuant to Chapter 163.3180(5)(i), and 380.06(15)(e) F.S., as amended and in the LDC, based on their larger size, use, character, or location. Mitigation of impacts on the County's road system is mandated by the Lee County Comprehensive Plan, specifically Policy 38.1.1.

II. SCOPE

The policies and procedures contained in this code have been prepared to aid the development community, Lee County Board of County Commissioners (BOCC) and staff in assessing mitigation for significant impacts of developments on the surrounding road network. This code is supplemental in nature as to the following:

- A. Developments of Regional Impact (DRI), pursuant to Chapter 380, Florida Statutes, and Rule 73C-40.045, Florida Administrative Code for the determination of significant impacts.
- B. Development Agreements and proportionate share agreements, pursuant to Chapter 163, F.S., or Chapter 125, F.S.,
- C. Lee County Land Development Code (LDC) Chapter 2 provisions for payment of road impact fees and the determination of proportionate share contributions.

III. POLICY/PROCEDURE

A. Definitions

Cost - All improvements and associated costs of capital improvement implementation, such as design, right-of-way acquisition, planning and design studies, engineering, inspection, and physical development costs directly associated with construction of motor vehicle, transit, pedestrian and bicycle facilities, as may be adjusted to the anticipated year it will be incurred.

Development Trips - Estimated vehicular traffic volume assigned to a roadway segment(s) from the stage or phase of development under review;

Phase - a discrete, five year or lesser construction timeframe of development, including the local government issuance of certificates of occupancy for that construction or its functional occupancy.

Potential Significant Impact - When traffic projected to be generated at the end of any stage or phase of the proposed development, cumulatively with previous stages or phases, will utilize five percent or more of the adopted peak hour level of service maximum service volume of the roadway.

Proportionate Share – Calculated and based upon the number of trips from the proposed development expected to reach roadways during the peak hour from the stage or phase being approved, divided by the change in the peak hour maximum service volume of roadways resulting from construction of an improvement necessary to maintain or achieve the adopted level of service, multiplied by the construction cost, at the time of development payment, of the improvement necessary to maintain or achieve the adopted level of service.

Roads Impact Fee District – The geographic area in which road impact fees may be collected and spent, as depicted in the Lee County Land Development Code Appendix K, Map 1.

Service Volume – The highest number of vehicles for a given level of service.

Service Volume Increase - The additional number of vehicles for a given level of service resulting from an improvement to a roadway segment.

Significant Impact - When traffic projected to be generated at the end of any stage or phase of the proposed development, cumulatively with previous stages or phases, will utilize five percent or more of the adopted peak hour level of service maximum service volume of the roadway, and the roadway is projected to be operating below the adopted level of service standard at buildout of that stage or phase.

Stage - one in a series of approximately equal increments in the development of a proposed development upon which are placed quantified limits for construction that are reasonably calculated to ensure that the state and regional roadway network affected by the proposed development will not be overburdened by development traffic. A stage is to be a subset of a particular project phase of development planned for a project by a developer. A stage of development includes both a specific type and amount of development and the associated, approved buildout timeframe for that development.

State Highway System – All streets, road, highways, and other public ways open to travel by

the public generally and dedicated to the public use according to law or by prescription and designated by the Florida Department of Transportation (FDOT), consistent with Chapters 334 and 335, F.S.

Transportation Deficiency - a transportation facility or facilities on which the adopted level-of-service standard is exceeded by the existing, committed, and vested trips, plus additional projected background trips from any source other than the development project under review, and trips that are forecast by established traffic standards, including traffic modeling, consistent with the University of Florida's Bureau of Economic and Business Research medium population projections. Additional projected background trips are to be coincident with the particular stage or phase of development under review.

B. Applicability of Significant Impacts

1. For a stage or phase of DRI development, the determination of significant impacts and proportionate share is based on a multiagency review process outlined in Florida Statute 380.06 and Florida Administrative Code 73C-40.045. DRI traffic impact analysis will generally be included in an Application for Development Approval (ADA) or Notice of Proposed Change (NOPC). Revisions to mitigation requirements in an approved DRI Development Order condition will require further traffic analysis and must be submitted as an NOPC. Specific assumptions for a DRI traffic analysis may be discussed at the transportation methodology meeting held prior to submittal of the DRI application. The methodology meeting for an unincorporated Lee County DRI will be conducted with Lee County DCD/DOT staff and review staff from FDOT, and all other municipalities or agencies that maintain roadway segments in the study area.
2. Recommended conditions for a zoning application, unless coincident with a DRI ADA or NOPC, will not include the determination of significant impacts for calculation of proportionate share.
3. The approved Development Order (DO) traffic impact statement will include a determination of potential significant impacts and significant impacts. If there are significant impacts, then the approved DO may include a stipulation requiring the applicant to enter into a proportionate share agreement. Analysis based on the methodology described in III.D. is required when the projected development traffic:
 - a. generated at the end of any DO stage or phase of a proposed non-DRI development, cumulatively with previous stages or phases, will exceed 300 trip ends during the peak hour, or
 - b. shows a potential significant impact.
4. Staff will calculate a preliminary proportionate share based on an approved Traffic Impact Statement (TIS), as outlined in III.F. and as demonstrated in the example scenarios in Exhibit 1, to determine whether a proportionate share agreement will be necessary.
 - a. No agreement is required with Lee County if the proportionate share is less than road impact fees for the stage or phase of the development. Proportionate share mitigation will be satisfied by payment of road impact fees. However, an applicant may initiate a proportionate share agreement at their option.
 - b. An agreement with Lee County is required if the proportionate share for significant

impacts on county maintained roadways is greater than road impact fees for the stage or phase of the development. Proportionate share mitigation may be satisfied through a schedule of payments, which may include road impact fees.

- c. Lee County may, at its option, participate in an agreement with other agencies when the proportionate share of significant impacts on county maintained roadways is less than road impact fees for the stage or phase of the development, and there are significant impacts to roadways under other jurisdictions. Proportionate share mitigation will be satisfied through payment of road impact fees or as outlined in the agreement.

C. Proportionate Share Calculations

1. Proportionate shares must be calculated using the formula in the Land Development Code Section 2-71:

$$\text{Proportionate Share} = \text{Development Trips} / (\text{Service Volume increase}) * \text{Cost}$$

2. This proportionate share formula is applied to each roadway segment on which the development phase or stage has significant impacts. The sum of these computations is the development's phase or stage proportionate share. The method and timing of payment of proportionate share amounts above roads impact fees will be established in a proportionate share agreement as required by the Lee County Land Development Code Section 2-74 and as further specified herein.
3. The applicant shall receive a credit against proportionate share on a dollar-for-dollar basis for impact fees and other transportation mitigation requirements paid or payable in the future for the project. The credit shall be reduced up to 20 percent by the percentage share that the project's traffic represents of the added capacity of the selected improvement.

D. Methodology

The Lee County Concurrency Report and the approved DO TIS will identify preliminary transportation deficiencies. The applicant's TIS data will be used to develop a preliminary proportionate share analysis and will determine significant impacts based on this administrative code. When a significant impact is identified, the applicant has the option to perform a more detailed traffic study to further evaluate significant impacts and transportation deficiencies to determine the proportionate share for the development phase or stage. The applicant may request a methodology meeting for a more detailed study prior to, or coincident with, the pre-application meeting. All components of the methodology for the applicant to calculate a proportionate share are subject to review and approval by Lee County. The following may be discussed in the methodology meeting and must be documented in a more detailed study to determine the proportionate share:

1. Study area - Identify significant impacts and transportation deficiencies and include any roadway segment and parcels that are :
 - a. Adjacent to, within one mile of, or between, each potential significant impact roadway segment.
 - b. Within three miles of each potential significant impact roadway segment and

approved for development with 300 or more PM peak hour trips.

2. Traffic analysis year of completion of the development phase or stage.

3. Approved development trips.

- a. Potential traffic from all existing land uses within the study area, including previous development phase or stage DO approvals, DRI, Planned Development, DO, commercial and residential conventional zoning approvals.
- b. Approximation of approved development trips outside the study area by use of a manual estimated increase in traffic or a Florida Standard Urban Transportation Modeling Structure (FSUTMS) analysis. Include assumptions, source data and adjustments.

4. Existing plus committed road network - Include committed improvements programmed for full funding of construction within the first five years of an adopted local or state capital improvement program.

5. Service volumes - As adopted by the agency or jurisdiction responsible for maintenance of each significantly impacted roadway segment. Generalized service volumes must be used on county-maintained facilities for traffic analysis of a phase or stage more than five years from the date of the last update of the link-specific service volumes.

6. Road improvement cost - Calculations specific to the identified project for the significantly impacted roadway and based on the best available data.

- a. Capital improvement program costs determined by local or state agencies in an adopted study or as contained in an adopted capital improvement program.
- b. If the project is not included in any capital improvement program, then the cost may be obtained from the current Lee County Metropolitan Planning Organization's Long Range Transportation Plan.
- c. If project costs are unavailable in a local or state program or plan, then total average cost per mile figures, and estimated component costs may be utilized.

1. Construction costs must be based on average FDOT cost per mile or square foot data.

2. Right-of-way acquisition costs based on property appraisals and comparable sales with review and input from County Lands.

3. Project planning, management, design, studies, permitting, and inspection cost varies by project, and may initially be estimated as 60 percent of the construction cost.

7. Trip generation – Use of the current edition of ITE Trip Generation, ITE Trip Generation Handbook, or alternative calculation methods and data sources as approved by DCD/DOT staff to determine project trip generation, internal capture, pass-by capture, and net new trips.

8. Trip distribution and assignment – Allocation of project traffic to the existing plus committed network.

9. Background traffic – Methods proposed to estimate traffic volume from existing land uses and development trips as outlined above and based on the adopted LOS. Sources for traffic and permanent count station data such as truck factors, 100th highest volume hour of the year (K-100), peak season factor, and directional (D) factors.

10. Level-of service determinations – Method to calculate background traffic, project traffic from the stage or phase being considered, directional and total traffic in the 100th highest volume hour of the project stage or phase buildout year. Identify any transportation deficiency.

11. Determination of proportionate share – Input data for all calculations and comparison to roads impact fees. The proportionate share calculation will not include road segments with an identified transportation deficiency.

E. Proportionate Share Application Process

If an agreement is needed based on the determination that the phase or stage of development's proportionate share is greater than road impact fees as described herein, then the following application process must be followed:

1. Agreement Meeting

- a. The applicant must schedule a meeting with the County Attorney, DOT and DCD directors, or designee(s), to discuss the legal and technical aspects of the proportionate share agreement,
- b. If preliminary significant impacts are identified on a roadway maintained by another jurisdictional agency, then a representative from that agency must be invited to the meeting.

2. Application - When a proportionate share agreement is submitted, the developer must submit a package containing the following to DCD (failure to include one or more of these items will result in delay of agreement preparation):

- a. Name, address and phone number of owner(s), developer and agent;
- b. Property location, including parcel identification numbers;
- c. Legal description and survey of property;
- d. Project description, including type, intensity and amount of development;
- e. Proposed phasing or staging schedule, if applicable;
- f. Description of requested proportionate share mitigation method;
- g. Copy of DRI/Zoning condition(s) requiring a proportionate share agreement;

- h. Copy of the project's TIS; and,
- i. Location map depicting the site and affected road network.

3. Draft agreement

The County Attorney, or designee, may prepare a draft agreement or may permit an applicant to prepare a draft agreement for review. Other jurisdictional agencies whose road segments are impacted may be a party to an agreement with Lee County, or enter into a separate agreement with the applicant. A draft agreement for review under this administrative code will be delivered to all parties for review. DCD and DOT will provide technical support for traffic analysis review, proportionate share calculations and agreement content.

4. Final Approval by the Lee County Board of County Commissioners

The county will notify the applicant regarding the date the agreement will be considered for final approval by the Board at a regularly scheduled Board meeting. The agreement will go into effect upon execution by the Board and must be executed prior to approval of the first DO for vertical construction.

F. Appropriation of revenues

The county will deposit proportionate share revenues in the appropriate roads impact fee district for funding of scheduled improvements in the Capital Improvement Element (CIE), or as otherwise established in the terms of the proportionate share agreement.

If a scheduled transportation facility improvement is removed from the CIE, then the revenues collected for its construction may be applied toward the construction of another improvement within that same corridor or sector that would mitigate the impacts of development pursuant to the requirements of Lee County Land Development Code section 2-69.

G. Intergovernmental Coordination

1. Where an impacted regional transportation facility has been designated as regionally significant in an adopted regional transportation plan as provided in Section 339.155, F.S., the county may coordinate with other impacted jurisdictions and agencies to apply proportionate share contributions to seek funding for improving the impacted regional facility-through an interlocal agreement. Coordination will begin with the agreement process described herein. After initial notification, the impacted jurisdiction has up to 90 days in which to notify the county of intent to participate in an agreement regarding the proportionate share obligation. If the impacted jurisdiction declines participation, then the applicant would be subject only to the proportionate share requirements of the county, and county approval may include a condition that the applicant provides evidence that the proportionate share obligation to the impacted jurisdiction has been satisfied.
2. Pursuant to policies in the Intergovernmental Coordination Element of the Lee Plan and

applicable policies in the Southwest Florida Regional Planning Council's Strategic Regional Policy Plan, the county will coordinate with affected jurisdictions, including FDOT, regarding mitigation to impacted transportation facilities not under the jurisdiction of the county. An interlocal agreement may be established with other affected jurisdictions to address the cross jurisdictional transportation impacts of development.

EXHIBIT 1

Sample proportionate share calculation

Scenario One

Development "A" includes Congested Road, a four-lane arterial, in the study area. The traffic analysis indicates the project, including all approved phases and stages, will add 120 vehicle trips to Congested Road from 100th Avenue to 110th Avenue in the peak hour peak direction. The maximum service volume at LOS "E" is 2,000 vehicles in the peak hour in the peak direction.

Based on the calculation below, Development "A" utilizes six percent of the adopted service volume.

Significance determination

$$\text{percentage} = (\text{Cumulative project traffic})/(\text{maximum service volume at LOS standard}) = (120)/(2000) = 6 \text{ percent}$$

The approved traffic analysis indicates an unacceptable LOS "F", without the project stage on Congested Road from 100th Avenue to 110th Avenue. This meets the definition of an identified transportation deficiency. The development is not required to pay a proportionate share towards a future improvement to Congested Road,

Scenario Two

Development "B" includes Destination Parkway, a four-lane arterial, in the study area. The maximum service volume at LOS "E" is 2,000 vehicles in the peak hour in the peak direction. The approved traffic analysis indicates an acceptable LOS "D", and no identified transportation deficiencies without the project stage, and an unacceptable LOS "F" with the project stage. The traffic analysis indicates the project, including all approved phases and stages, will add 180 vehicle trips to Destination Parkway from 150th Street to 160th Street in the peak hour peak direction. Based on the calculation below, Development "B" utilizes nine percent of the adopted service volume.

Significance determination

$$\text{percentage} = (\text{Cumulative project traffic})/(\text{maximum service volume at LOS standard}) = (180)/(2000) = 9 \text{ percent}$$

This meets the definition of a significant impact on Destination Parkway with five percent or more of the adopted peak hour level of service maximum service volume of the roadway, and the roadway is projected to be operating below the adopted level of service standard at buildout of that stage or phase.

The traffic analysis indicates the project stage under review will add 40 vehicle trips to Destination Parkway from 150th Street to 160th Street in the peak hour, peak direction. An improvement is identified in the MPO LRTP with an estimate cost of \$5,000,000 for six-laning Destination Parkway from 150th Street to 160th Street. The service volume will increase from 2,000 to 3,000 vehicles in the peak hour in the peak direction.

Applying the data to the proportionate share formula

Development trips = 40 (vehicle trips in the peak hour, in the peak direction from the phase or stage under review)

Service Volume Increase = (SV at 6-lanes) – (SV at 4-lanes) = 3,000 – 2,000 = 1,000

Cost = \$5,000,000

Development “B” Proportionate Share for Destination Parkway from 150th Street to 160th Street

= Development Trips/(Service Volume Increase) * Cost

= (40)/(1000) * \$5,000,000

= 0.04 * \$5,000,000

= \$200,000.