

**Lee County Board Of County Commissioners  
Agenda Item Summary**

Blue Sheet No. 20060603

**1. ACTION REQUESTED/PURPOSE:**

Decision as to whether to amend the county regulations pertaining to the calculation of project density.

**2. WHAT ACTION ACCOMPLISHES:**

The Board's direction will confirm whether it is necessary to amend county regulations.

**3. MANAGEMENT RECOMMENDATION:**

Calculate project density based on the land area within the boundary lines of a development.

**4. Departmental Category:** LA

**A4A**

**5. Meeting Date:**

**05-30-2006**

**6. Agenda:**

- Consent
- Administrative
- Appeals
- Public
- Walk-On

**7. Requirement/Purpose: (specify)**

- Statute
- Ordinance
- Admin. Code
- Other

**8. Request Initiated:**

**Commissioner** \_\_\_\_\_  
**Department** Community Development  
**Division** \_\_\_\_\_  
**By:** *Mary Gibbs*  
 Mary Gibbs, Director

**9. Background:**

At the April 17<sup>th</sup> County Commission Zoning Hearing, the Board requested the density issue be brought back for a decision on whether density may be based on an acreage total that includes the right-of-way of external roads abutting a project. The specific zoning case was Buckingham Villages RPD rezoning and bonus density. The application was to rezone 59 acres in Lehigh to a Residential Planned Development for a multiple family development. The Board adopted the Hearing Examiner's recommendation on the calculation of density, which excluded the acreage of abutting road right of way. The Hearing Examiner's recommended density was based solely on land contained within the development boundary. (See attached minutes for further information.)

The Comprehensive Plan and the Land Development Code both define density. The Lee Plan defines density below:

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

This definition clearly states that only land within the development is to be utilized to calculate gross density.

(continued next page)

**10. Review for Scheduling:**

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager/P.W. Director
					Analyst	Risk	Grants	Mgr.	
<i>M. Gibbs</i>				<i>DMC 5/18</i>	<i>5/18/06</i>	<i>MS/18/06</i>	<i>5/18/06</i>	<i>5/18/06</i>	<i>[Signature]</i>

**11. Commission Action:**

- Approved
- Deferred
- Denied
- Other

RECEIVED BY COUNTY ADMIN: <i>TD</i>
5-18-06
10:20
COUNTY ADMIN FORWARDED TO: <i>PP</i>
5/18/06
4:30 PM

Rec. by COAETy
Date: 5/18/06
Time: 9:30 AM
Forwarded To: <i>ADW</i> 5/18/06 10:15

The Land Development Code (Section 34-1492 and 34-1493) also addresses density. The LDC defines “Total land area” as *“the total area of lands, expressed in acres or fractions thereof, contained within the boundary lines of a development”* (emphasis added). In Section 34-1493(2), there is an allowance to include one-half the abutting right-of-way in the calculation of density, but only for existing developments. The provision does not apply to proposed developments.

In summary, using the “plain meaning”, density is calculated based only upon the acreage “within” the development boundaries and excludes external rights of way.

Attachment: Minutes of April 17<sup>th</sup> BoCC Zoning Hearing

ZONING MINUTES

NAME:

BUCKINGHAM VILLAGES

REQUEST:

- 1) Rezone 59.39± acres, from Agriculture (AG-2) and Single-Family Residential (RS-1) to Residential Planned Development (RPD), to allow a 631 multi-family dwelling unit development located at 15320 Homestead Road, a/k/a Unice Avenue North. In a companion case, REZ2005-00004, 253 bonus density units are requested. No blasting is requested. The applicant will be required to connect to central water and sewer.
- 2) Participate in Lee County's Housing Bonus Density Program under the provisions of the Lee County Land Development Code (LDC). Per LDC Section 34-151.9, the applicant is seeking to utilize the "Cash-Contribution Density Bonus (Option 2)" to develop 253 bonus density dwelling units. The total project proposes 631 multi-family dwelling units on approximately 59.39 acres. The applicant is requesting a total of approximately 10 dwelling units per acre on the subject site.

LOCATION:

15320 Homestead Road, east on Lee Boulevard to Sunniland Boulevard, north to Crocker Avenue, east to Homestead Road, on which the property fronts, in S22-T44S-R26E, Lee County, FL.

STRAP NUMBER:

The applicant indicates the STRAP number is:

22-44-26-00-00003.0000

SIZE OF PROPERTY:

59.39± acres

PROPERTY OWNER'S

Al Quattrone

REPRESENTATIVE:

Quattrone and Associates  
239-936-5222

Development Services Senior Planner Alvin (Chip) Block reviewed the requests for the Board; and noted that staff had recommended approval with conditions of both requests, for a total of 631 dwelling units including the bonus density units. He pointed out that the Hearing Examiner (HE) had recommended approval with conditions of the RPD zoning, for a total of 356 residential dwelling units; had recommended denial of the applicant's bonus density request; and had recommended that, if the Board chose to approve the bonus density request, the total number of units should be less than the 631 units requested. After mentioning that the difference between the two recommendations was 275 units, Mr. Block stated that there were six Participants of Record. In response to questions from Commissioner Albion, Mr. Block indicated that evidence presented before the HE had not altered staff's opinion that the request for 631 units was appropriate; and added that staff had reviewed only the cash contribution option as submitted by the applicant. Community Development Planner Matt Noble further explained that, due to the location and attributes of the development, many of the units would be in the workforce/affordable Housing category; added that staff found no Level of Service issues during review of the project's traffic impacts; and pointed out that traffic could exit onto Sunniland Boulevard, Lee Boulevard, Sunshine Boulevard, and Buckingham and Gunnery Roads. Attorney Richard Pringle, of the firm of Strayhorn and Strayhorn, representing the applicant, pointed out that a great deal of effort had been put into the design of a project that would offer a different housing product for Lehigh Acres, where many lots were platted for single-family and duplex units; and noted that the concept was consistent with Lee Plan Goal 5. He added that a density higher than 6 units per acre (u/a) was required to provide a town home and multi-family development with areas for clubhouses and other amenities, and that few parcels in Lehigh Acres were appropriate for such a development. Attorney Pringle explained that, since the 1990s, staff had consistently interpreted Sections 34-1492 and 34-1493 to allow inclusion of one-half the right-of-way in re-zoning cases; and suggested that any revisions should be accomplished through the ordinance hearing process. He pointed out that the subject property adjoined an elementary school property on which a middle school would be built, Harns Marsh, and Buckingham Airfield; and that the single-family/duplex residential area was located across Homestead Road, which had a 100-foot right-of-way. He emphasized that the shortest distance from those lots to structures within the project would be more than 150 feet, and mentioned the applicant's willingness to double setbacks and buffers. After describing the project's consistency with Lee Plan Goal 5, Attorney Pringle remarked that compliance with Policy 39.1.4, which requires that access to a new development not go through a lower-density residential area, would be difficult anywhere in Lehigh Acres. He further stated that the proximity to the existing and proposed schools and parks was consistent with Policy 5.1.3; and opined that Policy 5.1.5 would be applicable to Industrial or Commercial development, not to a residential project. Attorney Pringle concluded his presentation by stating that the project had met with the approval of staff and Lehigh Acres community leaders, asserting that it was a good fit for the property and for Lehigh Acres, and requesting Board approval of staff's recommendation on both requests. The Vice-Chairman called the names of the Participants, and the following individual came forward:

4/17/06

Lehigh Acres resident Robert Anderson expressed support for the proposed project, which would provide much-needed lower cost workforce housing to the area.

Attorney Pringle expressed appreciation for Mr. Anderson's support; and emphasized that the development could provide housing for school teachers, other young professionals, young families, and government employees. Mr. Block explained that, if the Board considered approval of staff's recommendation, the total number of dwelling units should be specified, up to the maximum of 631; and that staff would prefer inclusion of language in the proposed bonus density contract that had been deleted by the HE. Referring to Page 15 of the HE report, Commissioner Judah asked whether the proposed bonus density complied with the minimum requirements of the LDC. Assistant County Attorney Timothy Jones explained that the HE had raised the issues of compatibility and density calculations; and opined that the record contained adequate, competent, substantial evidence to allow the Board to either approve or deny the bonus density request. He added that, in many cases, there would not be a great difference in the end results between the two density calculation methods; and expressed agreement with the HE's interpretation. Commissioner Judah suggested that the Board could accept the HE's recommendation for 6 u/a, and could deal with the bonus density issue after the calculation issue was resolved. In response to Commissioner Judah's question regarding utilities, Attorney Jones explained that consideration of current and future urban infrastructure availability was required; and that the Board could deny the re-zoning request if it could be determined that the infrastructure would not be available within a reasonable time. Commissioner Albion pointed out that, since the neighboring schools would be connected to water and sewer utilities, there should be no issue regarding availability of those services to the development. He then opined that the money from the bonus density cash option would be of little value toward the purchase of lots for affordable housing elsewhere, and explained his preference for the actual construction of affordable housing units. Commissioner Janes concurred; opined that, because the utilities might not be available for 10-15 years, the project was premature; and noted that cash received now would be worth much less in the future. Commissioner Judah moved approval of the HE's recommendation, with the stipulation that the Board would have an opportunity in the near future to revisit the bonus density request and clarify the road right-of-way issue in the LDC; seconded by Commissioner St. Cerny for discussion. Board discussion ensued regarding the need for affordable housing in Lehigh Acres, the determination at the Development Order stage as to whether Florida Governmental Utility Authority (FGUA) or Lee County Utilities (LCU) would provide the utilities connections, the requirement for such connections prior to development, the possible waiver of the fee for the applicant to submit a separate bonus density request, and the possibility of deferring or remanding both requests. Attorney Jones responded to the Commissioners' questions and provided additional information throughout the discussion. Attorney Pringle indicated that, although many of the units would be priced at or below \$223,000.00, it would not be feasible to cap prices on all units. Commissioner Albion clarified that only bonus density units would require affordable pricing, and that price caps would not be required on the base density units. Attorney Jones commented that the Board could approve the HE's recommendation as to base density; and approve the allowable bonus density, with the condition that the applicant submit a site-specific bonus density contract for Board approval through the normal process. After Mr. Noble indicated that the review fee for an amendment would be \$2,100.00, Attorney Jones stated that the Board could also direct that the fee be waived; and that a time-frame should be established. Commissioner Judah expressed his understanding of Attorney Jones' suggestion; and added that the proposed contract should be submitted within twelve months. After Attorney Jones pointed out that the Board would be approving the base density of 6 u/a and a bonus density of 4 u/a, he emphasized that the Board must decide whether or not the density calculations should include the roads; and indicated that the difference would be approximately 37 total units. Brief discussion followed regarding Board approval of previous requests that included the roads in the calculations, after which Commissioner Judah asked whether the Board should remand the case to be re-packaged. Attorney Jones responded that several options were available for staff to bring the density calculation issue back to the Board separately from the present case, and Commissioner Albion commented that the additional fee should not adversely affect the project. Attorney Pringle stated that the applicant's issue would be time rather than the money involved, and noted the applicant's agreement that 40% of the housing would be priced at or below \$223,000.00. Commissioner Albion pointed out that the affordable threshold price might increase before development began, and that the question was whether the Board was prepared to approve 10 u/a if 40% would meet affordable housing requirements. After Commissioner Judah stated his support for such approval, Attorney Jones pointed out that the Board would not be approving the bonus density until the applicant submitted the required contract. Commissioner Judah clarified that the motion was to approve the HE's recommendation, and to provide for the bonus density as long as the agreement was site-specific for units at the workforce housing price level. In response to Attorney Jones' question, Commissioner Judah confirmed that the motion included approval of the HE's density calculations, which did not include the road rights-of-way. The seconder agreed, and the motion was called and carried with Commissioner Hall absent.

RESOLUTION NO. Z-06-006

#### COMMISSIONER ITEM:

FORECLOSURE SALE OF WEEKS FISH CAMP - Commissioner Judah mentioned that the Weeks Fish Camp was being sold at the foreclosure sale that had begun at 11:00 a.m., and noted that it might have been an opportunity to enhance public access with a critical piece of property. County Lands Director Karen L. Forsyth