



Lee County Board of County Commissioners  
Department of Community Development  
Division of Planning  
Post Office Box 398  
Fort Myers, FL 33902-0398  
Telephone: (239) 533-8585  
FAX: (239) 485-8319

CPA 2007-00052

## APPLICATION FOR A COMPREHENSIVE PLAN AMENDMENT

(To be completed at time of intake)

DATE REC'D 9/28/07

REC'D BY: Cum

APPLICATION FEE 2000.00

TIDEMARK NO: \_\_\_\_\_

THE FOLLOWING VERIFIED:

Zoning ☐

Commissioner District ☐

Designation on FLUM ☐

(To be completed by Planning Staff)

Plan Amendment Cycle: ☒ Normal ☐ Small Scale ☐ DRI ☐ Emergency

Request No: \_\_\_\_\_

### APPLICANT PLEASE NOTE:

Answer all questions completely and accurately. Please print or type responses. If additional space is needed, number and attach additional sheets. The total number of sheets in your application is: \_\_\_\_\_

Submit **6** copies of the complete application and amendment support documentation, including maps, to the Lee County Division of Planning. Additional copies may be required for Local Planning Agency, Board of County Commissioners hearings and the Department of Community Affairs' packages.

I, the undersigned owner or authorized representative, hereby submit this application and the attached amendment support documentation. The information and documents provided are complete and accurate to the best of my knowledge.

9-28-07  
DATE

SIGNATURE OF OWNER OR AUTHORIZED REPRESENTATIVE

RECEIVED

SEP 28 2007

CPA 2007-00052



## I. APPLICANT/AGENT/OWNER INFORMATION

Richard Cowart

APPLICANT

6757 Danah Ct.

ADDRESS

Fort Myers

FL

33908

CITY

STATE

ZIP

239-985-2288

239-267-7478

TELEPHONE NUMBER

FAX NUMBER

Michael E. Roeder, AICP and Thomas B. Hart, Esq.

AGENT\*

1625 Hendry Street, Suite 301

ADDRESS

Fort Myers

FL

33901

CITY

STATE

ZIP

239-334-2722

239-334-1446

TELEPHONE NUMBER

FAX NUMBER

Richard Cowart

OWNER(s) OF RECORD

6757 Danah Ct.

ADDRESS

Fort Myers

FL

33908

CITY

STATE

ZIP

239-985-2288

239-267-7478

TELEPHONE NUMBER

FAX NUMBER

Name, address and qualification of additional planners, architects, engineers, environmental consultants, and other professionals providing information contained in this application.

\* This will be the person contacted for all business relative to the application.



## II. REQUESTED CHANGE (Please see Item 1 for Fee Schedule)

### A. TYPE: (Check appropriate type)

☐ Text Amendment      x ☐ Future Land Use Map Series Amendment  
(Maps 1 thru 21)  
List Number(s) of Map(s) to be amended  
\_\_\_\_\_

### B. SUMMARY OF REQUEST (Brief explanation):

\_\_\_\_\_

The proposed amendment is to change the land use from Open Lands to Rural

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

## III. PROPERTY SIZE AND LOCATION OF AFFECTED PROPERTY (for amendments affecting development potential of property)

### A. Property Location:

1. Site Address: 7060 Musketeer Lane, Fort Myers, FL 33912
2. STRAP(s): 05-46-25-00-00001.0020

### B. Property Information

Total Acreage of Property: 15 acres

Total Acreage included in Request: 15 acres

Area of each Existing Future Land Use Category:

Total Uplands: 11 acres

Total Wetlands: 4 acres

Current Zoning: AG-2

Current Future Land Use Designation: Rural

Existing Land Use: Open Lands



- C. State if the subject property is located in one of the following areas and if so how does the proposed change effect the area:

*Lehigh Acres Commercial Overlay*: NA

*Airport Noise Zone 2 or 3*: NA

*Acquisition Area*: NA

*Joint Planning Agreement Area (adjoining other jurisdictional lands)*: NA

*Community Redevelopment Area*: NA

- D. Proposed change for the Subject Property: From Open Lands to Rural

- E. Potential development of the subject property:

1. Calculation of maximum allowable development under existing FLUM:

Residential Units/Density                      3

Commercial intensity                      \_\_\_\_\_

Industrial intensity                      \_\_\_\_\_

2. Calculation of maximum allowable development under proposed FLUM:

Residential Units/Density                      15

Commercial intensity                      \_\_\_\_\_

Industrial intensity                      \_\_\_\_\_

#### IV. AMENDMENT SUPPORT DOCUMENTATION

At a minimum, the application shall include the following support data and analysis. These items are based on comprehensive plan amendment submittal requirements of the State of Florida, Department of Community Affairs, and policies contained in the Lee County Comprehensive Plan. Support documentation provided by the applicant will be used by staff as a basis for evaluating this request. To assist in the preparation of amendment packets, the applicant is encouraged to provide all data and analysis electronically. (Please contact the Division of Planning for currently accepted formats)

A. General Information and Maps

*NOTE: For each map submitted, the applicant will be required to provide a reduced map (8.5" x 11") for inclusion in public hearing packets.*



**The following pertains to all proposed amendments that will affect the development potential of properties (unless otherwise specified).**

1. Provide any proposed text changes. **NA**
2. Provide a Future Land Use Map showing the boundaries of the subject property, surrounding street network, surrounding designated future land uses, and natural resources. **attached**
3. Map and describe existing land uses (not designations) of the subject property and surrounding properties. Description should discuss consistency of current uses with the proposed changes. **attached**
4. Map and describe existing zoning of the subject property and surrounding properties. **attached**
5. The legal description(s) for the property subject to the requested change. **attached**
6. A copy of the deed(s) for the property subject to the requested change. **attached**
7. An aerial map showing the subject property and surrounding properties. **attached**
8. If applicant is not the owner, a letter from the owner of the property authorizing the applicant to represent the owner. **NA**

**B. Public Facilities Impacts**

**NOTE:** *The applicant must calculate public facilities impacts based on a maximum development scenario (see Part II.H.).* **attached**

**1. Traffic Circulation Analysis**

The analysis is intended to determine the effect of the land use change on the Financially Feasible Transportation Plan/Map 3A (20-year horizon) and on the Capital Improvements Element (5-year horizon). Toward that end, an applicant must submit the following information:

**Long Range – 20-year Horizon:**

- a. Working with Planning Division staff, identify the traffic analysis zone (TAZ) or zones that the subject property is in and the socio-economic data forecasts for that zone or zones;
- b. Determine whether the requested change requires a modification to the socio-economic data forecasts for the host zone or zones. The land uses for the proposed change should be expressed in the same format as the socio-economic forecasts (number of units by type/number of employees by type/etc.);



- c. If no modification of the forecasts is required, then no further analysis for the long range horizon is necessary. If modification is required, make the change and provide to Planning Division staff, for forwarding to DOT staff. DOT staff will rerun the FSUTMS model on the current adopted Financially Feasible Plan network and determine whether network modifications are necessary, based on a review of projected roadway conditions within a 3-mile radius of the site;
- d. If no modifications to the network are required, then no further analysis for the long range horizon is necessary. If modifications are necessary, DOT staff will determine the scope and cost of those modifications and the effect on the financial feasibility of the plan;
- e. An inability to accommodate the necessary modifications within the financially feasible limits of the plan will be a basis for denial of the requested land use change;
- f. If the proposal is based on a specific development plan, then the site plan should indicate how facilities from the current adopted Financially Feasible Plan and/or the Official Trafficways Map will be accommodated.

Short Range – 5-year CIP horizon:

- a. Besides the 20-year analysis, for those plan amendment proposals that include a specific and immediated development plan, identify the existing roadways serving the site and within a 3-mile radius (indicate laneage, functional classification, current LOS, and LOS standard);
- b. Identify the major road improvements within the 3-mile study area funded through the construction phase in adopted CIP's (County or Cities) and the State's adopted Five-Year Work Program;

Projected 2020 LOS under proposed designation (calculate anticipated number of trips and distribution on roadway network, and identify resulting changes to the projected LOS);

- c. For the five-year horizon, identify the projected roadway conditions (volumes and levels of service) on the roads within the 3-mile study area with the programmed improvements in place, with and without the proposed development project. A methodology meeting with DOT staff prior to submittal is required to reach agreement on the projection methodology;
- d. Identify the additional improvements needed on the network beyond those programmed in the five-year horizon due to the development proposal.

2. Provide an existing and future conditions analysis for:

- a. Sanitary Sewer. **attached**
- b. Potable Water. **attached**
- c. Surface Water/Drainage Basins. **attached**
- d. Parks, Recreation, and Open Space. **attached**



Analysis should include (but is not limited to) the following:

- Franchise Area, Basin, or District in which the property is located;
- Current LOS, and LOS standard of facilities serving the site;
- Projected 2020 LOS under existing designation;
- Projected 2020 LOS under proposed designation;
- Improvements/expansions currently programmed in 5 year CIP, 6-10 year CIP, and long range improvements; and
- Anticipated revisions to the Community Facilities and Services Element and/or Capital Improvements Element (state if these revisions are included in this amendment).

3. Provide a letter from the appropriate agency determining the adequacy/provision of existing/proposed support facilities, including:
  - a. Fire protection with adequate response times; **attached**
  - b. Emergency medical service (EMS) provisions;
  - c. Law enforcement;
  - c. Solid Waste; **attached**
  - d. Mass Transit; and
  - e. Schools.

*In reference to above, the applicant should supply the responding agency with the information from Section's II and III for their evaluation. This application should include the applicant's correspondence to the responding agency. **attached***

C. Environmental Impacts

Provide an overall analysis of the character of the subject property and surrounding properties, and assess the site's suitability for the proposed use upon the following:

1. A map of the Plant Communities as defined by the Florida Land Use Cover and Classification system (FLUCCS).
2. A map and description of the soils found on the property (identify the source of the information).
3. A topographic map with property boundaries and 100-year flood prone areas indicated (as identified by FEMA).
4. A map delineating wetlands, aquifer recharge areas, and rare & unique uplands.
5. A table of plant communities by FLUCCS with the potential to contain species (plant and animal) listed by federal, state or local agencies as endangered, threatened or species of special concern. The table must include the listed species by FLUCCS and the species status (same as FLUCCS map).



D. Impacts on Historic Resources

List all historic resources (including structure, districts, and/or archeologically sensitive areas) and provide an analysis of the proposed change's impact on these resources. The following should be included with the analysis: **attached**

1. A map of any historic districts and/or sites, listed on the Florida Master Site File, which are located on the subject property or adjacent properties.
2. A map showing the subject property location on the archeological sensitivity map for Lee County.

E. Internal Consistency with the Lee Plan **attached**

1. Discuss how the proposal affects established Lee County population projections, Table 1(b) (Planning Community Year 2020 Allocations), and the total population capacity of the Lee Plan Future Land Use Map.
2. List all goals and objectives of the Lee Plan that are affected by the proposed amendment. This analysis should include an evaluation of all relevant policies under each goal and objective.
3. Describe how the proposal affects adjacent local governments and their comprehensive plans.
4. List State Policy Plan and Regional Policy Plan goals and policies which are relevant to this plan amendment.

F. Additional Requirements for Specific Future Land Use Amendments **NA**

1. Requests involving Industrial and/or categories targeted by the Lee Plan as employment centers (to or from)
  - a. State whether the site is accessible to arterial roadways, rail lines, and cargo airport terminals,
  - b. Provide data and analysis required by Policy 2.4.4,
  - c. The affect of the proposed change on county's industrial employment goal specifically policy 7.1.4.
2. Requests moving lands from a Non-Urban Area to a Future Urban Area
  - a. Demonstrate why the proposed change does not constitute Urban Sprawl. Indicators of sprawl may include, but are not limited to: low-intensity, low-density, or single-use development; 'leap-frog' type development; radial, strip, isolated or ribbon pattern type development; a failure to protect or conserve natural resources or agricultural land; limited accessibility; the loss of large amounts of functional open space; and the installation of costly and duplicative infrastructure when opportunities for infill and redevelopment exist.



3. Requests involving lands in critical areas for future water supply must be evaluated based on policy 2.4.2.

4. Requests moving lands from Density Reduction/Groundwater Resource must fully address Policy 2.4.3 of the Lee Plan Future Land Use Element.

G. Justify the proposed amendment based upon sound planning principles. Be sure to support all conclusions made in this justification with adequate data and analysis. **attached**

**Item 1: Fee Schedule**

Map Amendment Flat Fee	\$2,000.00 each <b>attached</b>
Map Amendment > 20 Acres	\$2,000.00 and \$20.00 per 10 acres
Small Scale Amendment (10 acres or less)	\$1,500.00 each
Text Amendment Flat Fee	\$2,500.00 each

**AFFIDAVIT - attached**

I, \_\_\_\_\_, certify that I am the owner or authorized representative of the property described herein, and that all answers to the questions in this application and any sketches, data, or other supplementary matter attached to and made a part of this application, are honest and true to the best of my knowledge and belief. I also authorize the staff of Lee County Community Development to enter upon the property during normal working hours for the purpose of investigating and evaluating the request made through this application.

\_\_\_\_\_  
Signature of owner or owner-authorized agent

\_\_\_\_\_  
Date

\_\_\_\_\_  
Typed or printed name

STATE OF FLORIDA )  
COUNTY OF LEE )

The foregoing instrument was certified and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_,  
by \_\_\_\_\_, who is personally known to me or who has produced  
\_\_\_\_\_ as identification.

(SEAL)

\_\_\_\_\_  
Signature of notary public

\_\_\_\_\_  
Printed name of notary public



## AFFIDAVIT

I, Richard T. Cowart as Trustee of the Richard T. Cowart Trust, certify that I am the owner or authorized representative of the property described herein, and that all answers to the questions in this application and any sketches, data, or other supplementary matter attached to and made a part of this application, are honest and true to the best of my knowledge and belief. I also authorize the staff of Lee County Community Development to enter upon the property during normal working hours for the purpose of investigating and evaluating the request made through this application.

R. Cowart  
Signature of owner or owner-authorized agent

3/30/06  
Date

Richard T. Cowart  
Typed or printed name

STATE OF FLORIDA )  
COUNTY OF LEE )

The foregoing instrument was certified and subscribed before me this 30th day of March 2006, by Richard T. Cowart as Trustee of the Richard T. Cowart Trust, who is personally known to me or who has produced \_\_\_\_\_ as identification.

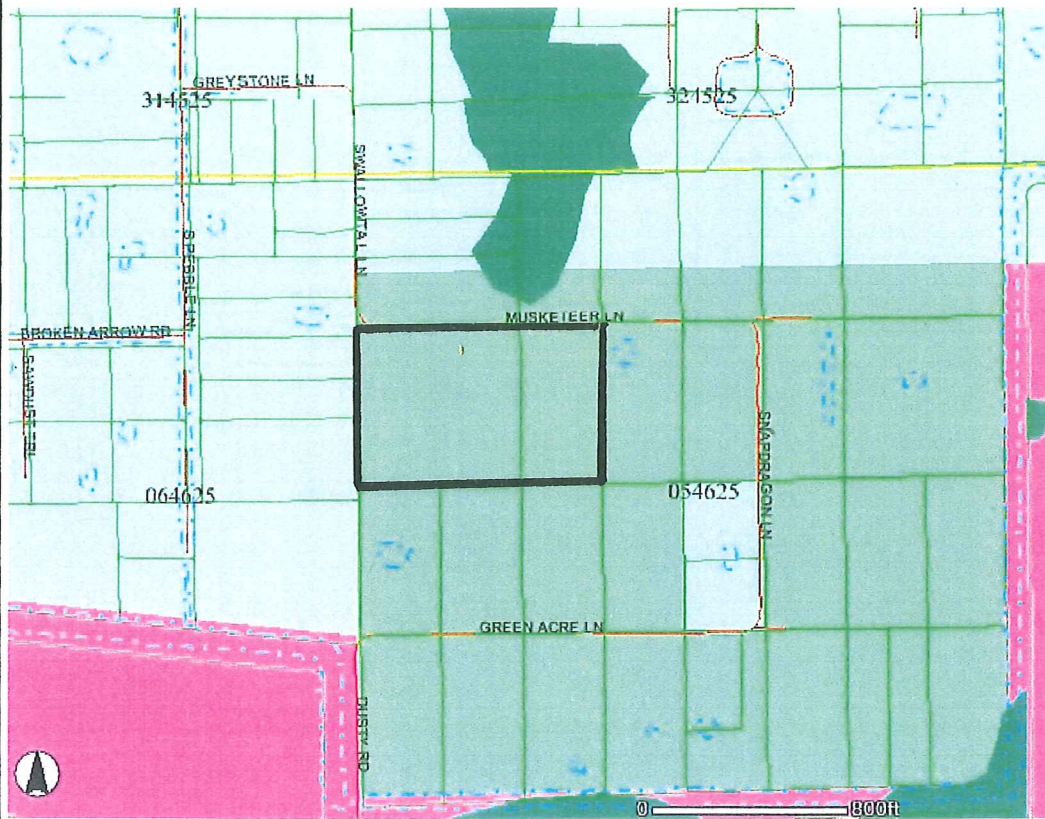
(SEAL)

Ruth Hudson  
Signature of notary public

 Ruth Hudson  
My Commission DB199335  
Printed name of notary public  
Expires August 05, 2006



# Future Land Use Map EXHIBIT A.2



- Legend**
- Hydro Features
  - Condo Building
  - Parcels
  - Parcel Hooks
  - Road Center Line
  - Township Range Lines
  - Township Range Labels
  - Section Lines
  - Future Land Use
  - Arson
  - Arson/Commercial
  - Central Urban
  - Central Rural
  - Conservation Lands Island
  - Conservation Lands Wetland
  - County Recreation, Groundwater Resource
  - General Commercial Interchange
  - General Interchange
  - Industrial Commercial Interchange
  - Industrial Development
  - Industrial Interchange
  - Intensive Development
  - Mixed Use Interchange
  - New Community
  - Open Lands
  - Open Land
  - Outlying Suburban
  - Public Facilities
  - Rural
  - Rural Community Preserve
  - Suburban
  - University Community
  - University Village Interchange
  - Urban Community
  - Wetlands
  - Conservation
  - DRGH
  - General Commercial
  - High Den. MT Res.
  - High Den. Multi-Use Res.
  - Industrial
  - Interchange Commercial
  - Low Den. SF Res.
  - Med. Den. MT Res.
  - Med. Den. SF/CLUP Res.
  - Med. Den. MUPD
  - Med. Den. SF Res.
  - Public/State Public
  - Recreation
  - Resource Preserve
  - Scenic Land
  - Low Density
  - Municipal
  - Mixed Residential
  - Residential Commercial
  - City Limits
  - Service Berths
  - Class Center
  - Port Movers
  - Service
  - Town of Port Movers Service

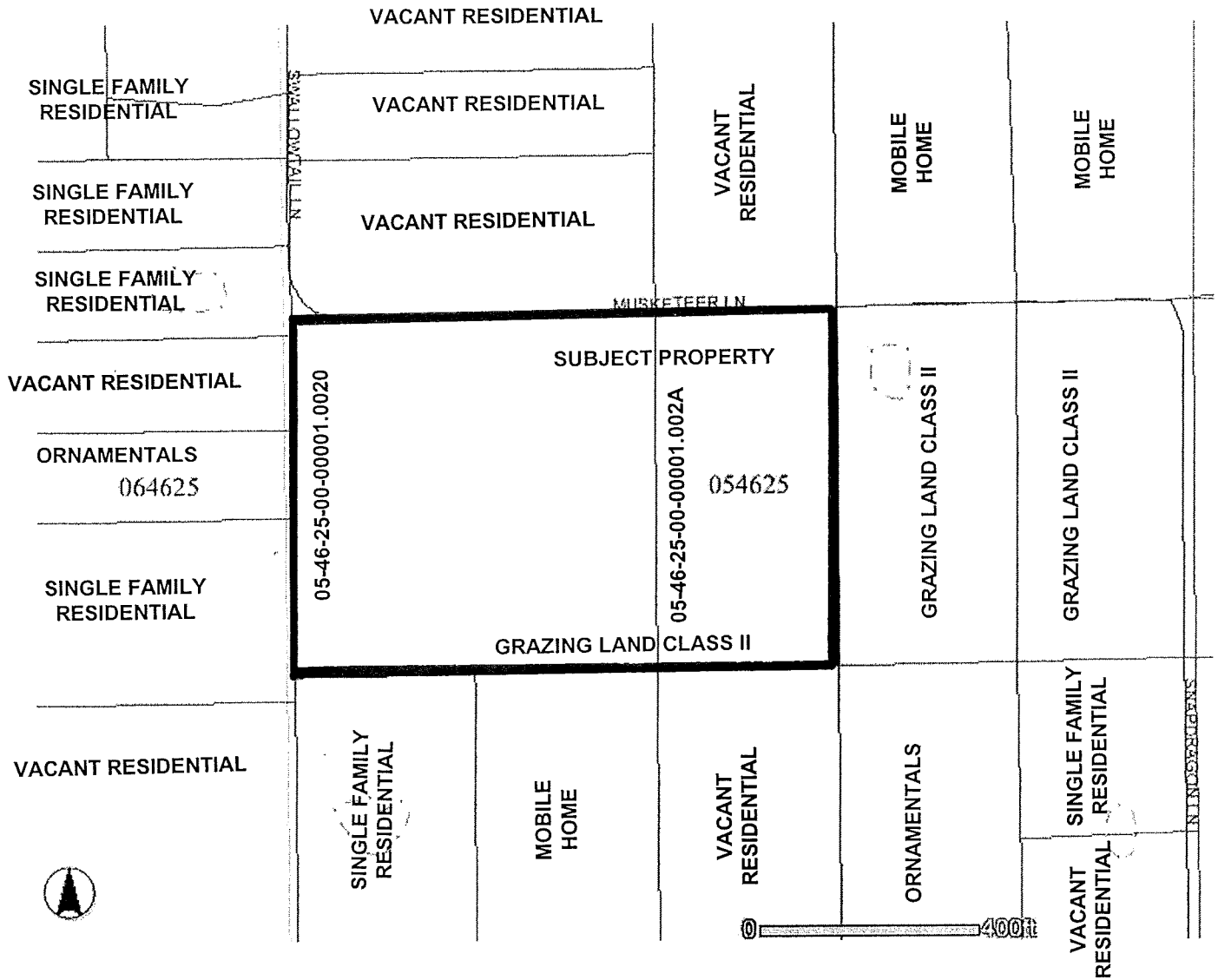


**Existing Land Uses**  
**EXHIBIT A.3**

The existing land uses on the surrounding properties mainly consist of low density residential uses.

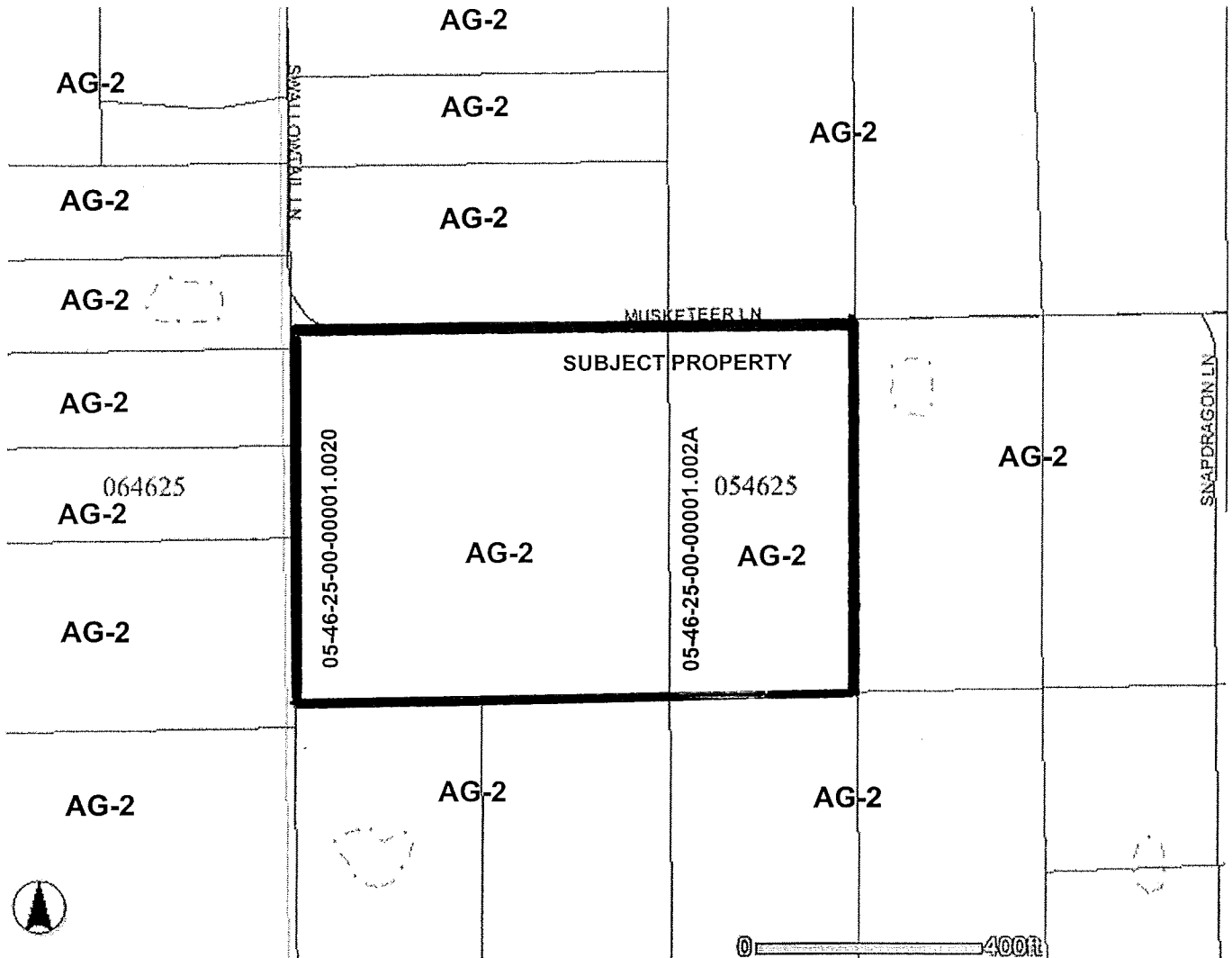


# Existing Land Uses EXHIBIT A.3





Existing Zoning Map  
EXHIBIT A.4







## Bean, Whitaker, Lutz & Kareh, Inc.

13041 McGregor Boulevard  
Fort Myers, Florida 33919-5910  
email – fmooffice@bwlk.net  
(Ph) 239-481-1331 (Fax) 239-481-1073

A Parcel of Land Lying in  
Section 5, Township 46 South, Range 25 East  
Lee County, Florida  
(Coward Parcel)

### Parcel I

Commencing at the Southeast corner of the North 1/3 of the Northwest Quarter (NW 1/4) of Section 5, Township 46 South, Range 25 East, Lee County, Florida; thence S89°07'20"W, 1980.0 feet along the South Line of said North 1/3 of the NW 1/4 of Section 5, Township 46 South, Range 26 East, to the point of beginning; thence N0°36'00"W, 636.46 feet to the centerline of a 60 foot road easement; thence S89°06'50"W, 663.67 feet to the west line of said Section 5; thence S0°53'50"E, 636.37 feet to the Southwest corner of N 1/3 of NW 1/4 of Section 5, thence N89°07'20"E, 660.36 feet, along the south line of said N 1/3 of NW1/4 of Section 5, to the point of beginning. Subject to road easement over the North 30 feet thereof.

### Parcel II

Commencing at the Southeast Corner of the N 1/3 of the NW 1/4 of Section 5, Township 46 South, Range 25 East, Lee County, Florida; Thence S89°07'20"W, 1650 feet along the South line of the N 1/3 of the NW 1/4 of said Section 5, to the point of beginning; thence N0°36'00"W, 636.51 feet to the centerline of a 60 foot road easement; thence S89°06'50"W, 330 feet along said centerline of said road easement; thence S0°36'00"E, 636.46 feet to the South Line of said N 1/3 of NW 1/4; thence N89°07'20"E, 330 feet along said south line to the point of beginning; subject to road easement over the North 30 feet thereof.

38780\_DESC2

#### PRINCIPALS:

WILLIAM E. BEAN, PSM, CHAIRMAN  
SCOTT C. WHITAKER, PSM, PRESIDENT  
JOSEPH L. LUTZ, PSM  
AHMAD R. KAREH, PE, MSCE, VICE PRESIDENT

CONSULTING ENGINEERS - SURVEYORS AND MAPPERS - PLANNERS



#### ASSOCIATES:

TRACY N. BEAN, AICP  
W. BRITT POMEROY, JR., PSM  
STEPHEN H. SKORUPSKI, PSM  
ELWOOD FINEFIELD, PSM  
JAMES A. HESSLER, PSM  
JAMES R. COLEMAN, PSM  
RUDOLF A. NORMAN, PE

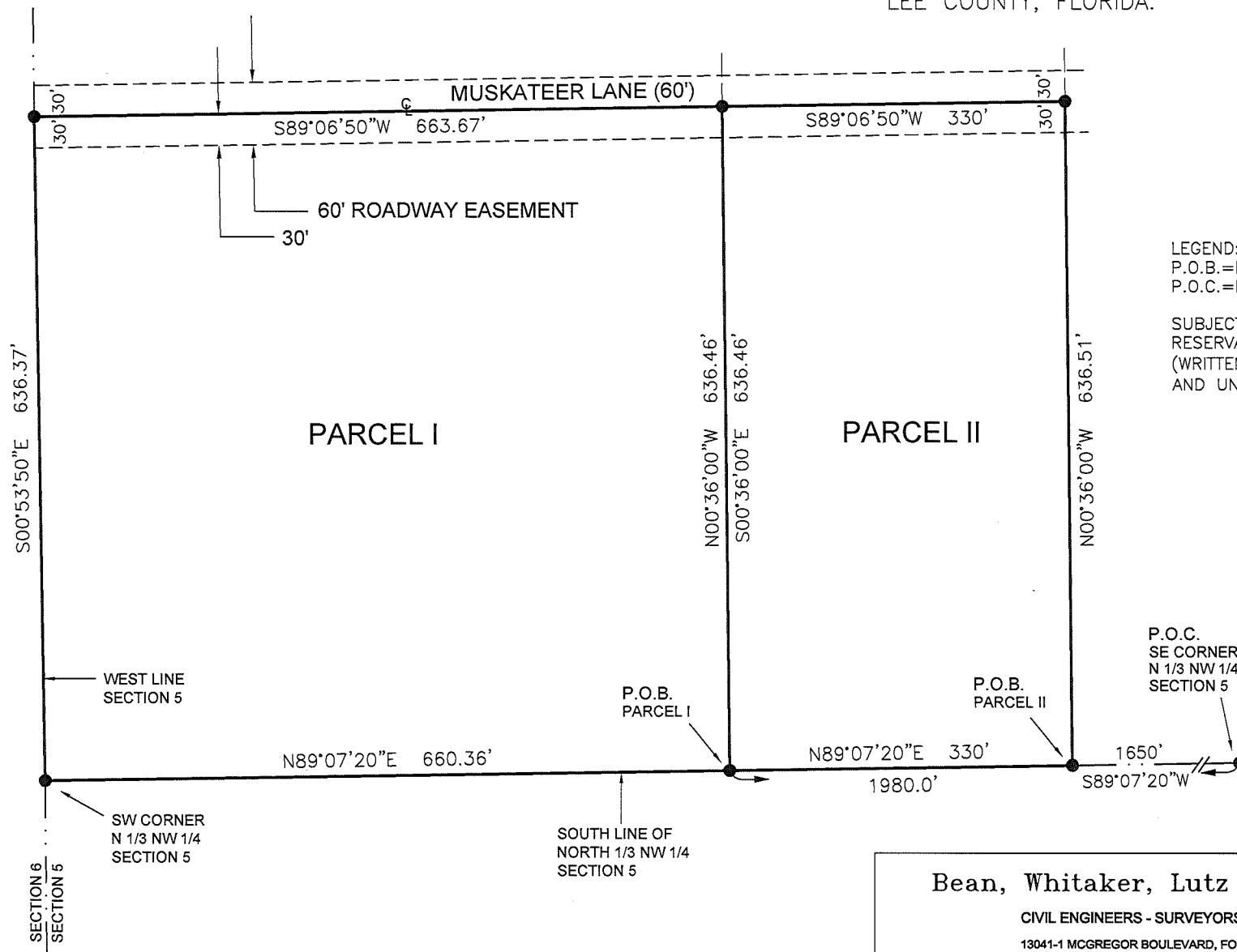


# SKETCH TO ACCOMPANY DESCRIPTION

OF A PARCEL OF LAND

LYING IN

SECTION 5, TOWNSHIP 46 SOUTH, RANGE 25 EAST,  
LEE COUNTY, FLORIDA.



## LEGEND:

P.O.B.=POINT OF BEGINNING

P.O.C.=POINT OF COMMENCEMENT

SUBJECT TO EASEMENTS, RESTRICTIONS,  
RESERVATIONS, AND RIGHTS-OF-WAY  
(WRITTEN AND UNWRITTEN, RECORDED  
AND UNRECORDED).

COWART PARCEL

Bean, Whitaker, Lutz & Kareh, Inc. (LB 4919)

CIVIL ENGINEERS - SURVEYORS AND MAPPERS - PLANNERS

13041-1 MCGREGOR BOULEVARD, FORT MYERS, FLORIDA 33919-5910 (239) 481-1331

SK38780.DWG

DATE	PROJECT NO.	DRAWN BY	SCALE	SHEET	FILE NO. (S-T-R)
11-09-06	38780	CNA	1" = 150'	1 OF 1	5-46-25



## INSTRUCTIONS

(Section A.2.b., Lee County Administrative Code AC 13.7)

A Planning Division notification sign must be posted on a parcel(s) subject to any comprehensive plan map amendment application for a minimum of fifteen (15) calendar days in advance of the Local Planning Agency's Hearing and maintained through the Board of County Commissioners Hearing, if any. This sign will be provided by the Planning Division in the following manner:

- Sign for case **#CPA2007-52 must be posted by September 8, 2008.**
- The sign must be erected in full view of the public, not more than five (5) feet from the nearest street right-of-way or easement.
- The sign must be securely affixed by nails, staples or other means to a wood frame or to a wood panel and then fastened securely to a post, or other structure. The sign may not be affixed to a tree or other foliage.
- The applicant must make a good faith effort to maintain the sign in place, and in a readable condition until the requested action has been heard and a final decision rendered.
- If the sign is destroyed, lost, or rendered unreadable, the applicant must report the condition to the Planning Division, and obtain duplicate copies of the sign from the Planning Division.

The Division may require the applicant to erect additional signs where large parcels are involved with street frontages extending over considerable distances. If required, such additional signs must be placed not more than three hundred (300) feet apart.

When a parcel abuts more than one (1) street, the applicant must post signs along each street.

When a subject parcel does not front a public road, the applicant must post the sign at a point on a public road which leads to the property, and the sign must include a notation which generally indicates the distance and direction to the parcel boundaries and the dimensions of the parcel.

**NOTE: AFTER THE SIGN HAS BEEN POSTED, THE AFFIDAVIT OF POSTING NOTICE, BELOW, SHOULD BE RETURNED NO LATER THAN THREE (3) WORKING DAYS BEFORE THE HEARING DATE TO LEE COUNTY PLANNING DIVISION, 1500 Monroe Street, Fort Myers, FL 33901**

(Return the completed Affidavit below to the Planning Division as indicated in previous paragraph.)

### AFFIDAVIT OF POSTING NOTICE

STATE OF FLORIDA  
COUNTY OF LEE

BEFORE THE UNDERSIGNED AUTHORITY, PERSONALLY APPEARED Mike Nation  
WHO ON OATH SAYS THAT HE/SHE HAS POSTED PROPER NOTICE AS REQUIRED BY SECTION 34-236(b) OF THE  
LEE COUNTY LAND DEVELOPMENT CODE ON THE PARCEL COVERED IN THE ZONING APPLICATION  
REFERENCED BELOW:



SIGNATURE OF APPLICANT OR AGENT

NAME (TYPED OR PRINTED)

ST. OR PO BOX

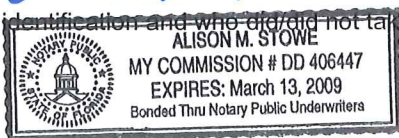
CITY, STATE & ZIP

CPA2007-00052 Cowart

date 09/08/08 initials MM

STATE OF FLORIDA  
COUNTY OF LEE

The foregoing instrument was sworn to and subscribed before me this 8th day of September,  
2008, by Mike Nation, personally known to me or who produced  
as identification and who did not take an oath.



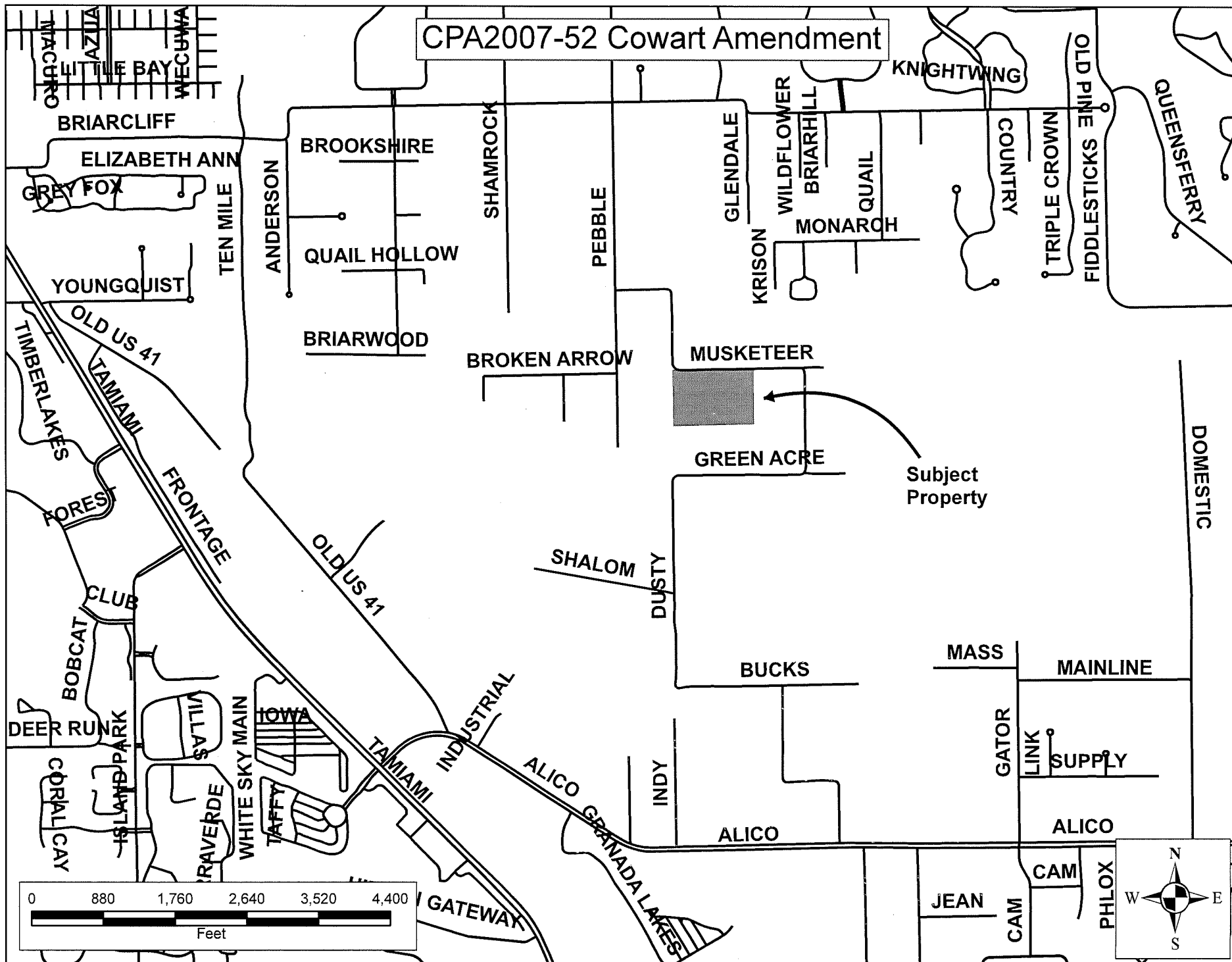
Signature of Notary Public

Printed Name of Notary Public

My Commission Expires:  
(Stamp with serial number)



# CPA2007-52 Cowart Amendment

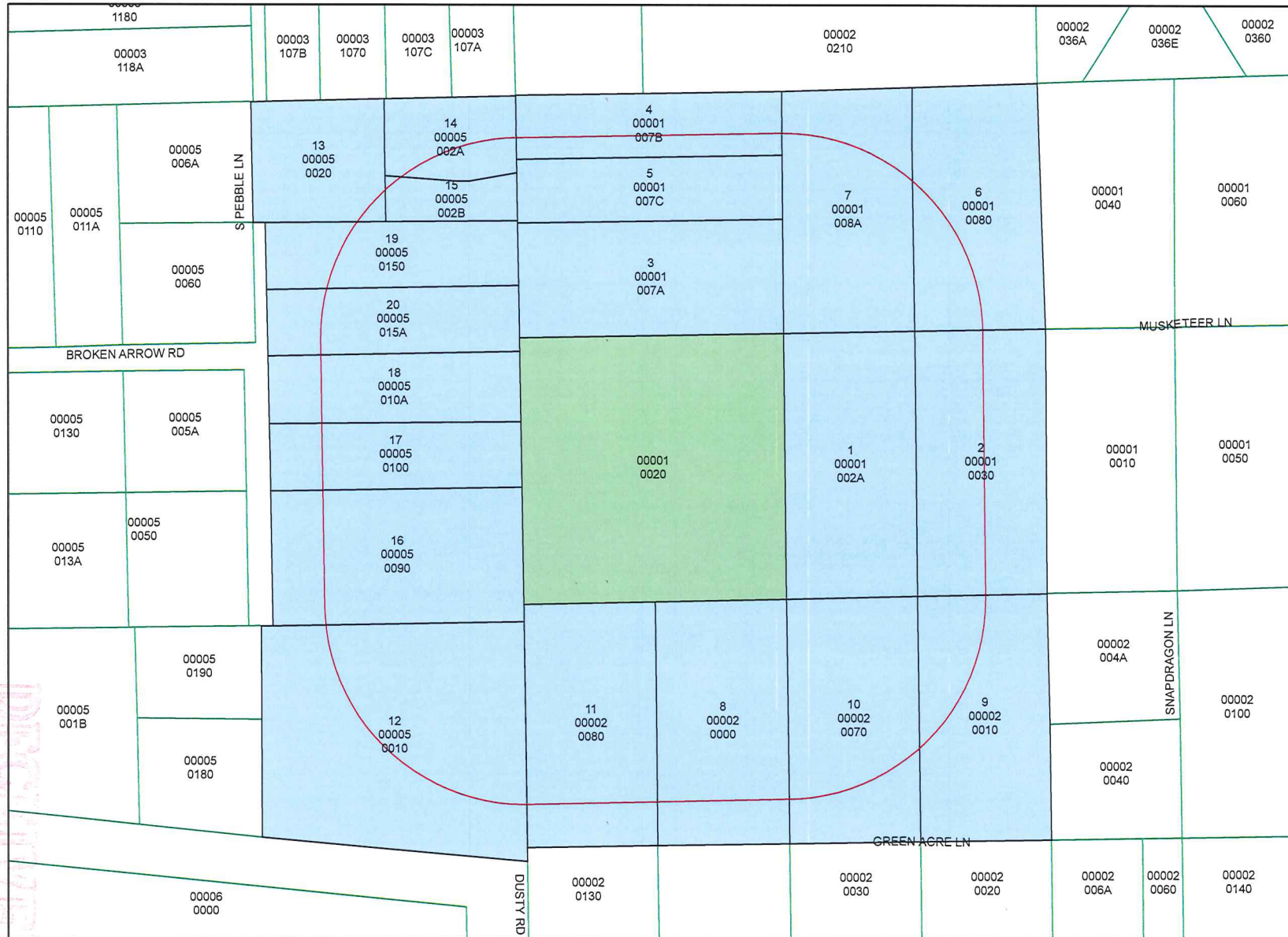




# VARIANCE REPORT

9/8/2008

Subject Parcels : 1 Affected Parcels : 20 Buffer Distance : 500 ft



2007-00052

COMMUNITY DEVELOPMENT

SEP 08 2008



05-46-25-00-00001.0020

420 210 0 420 Feet





# Lee County Property Appraiser

**Kenneth M. Wilkinson, C.F.A.**

**GIS Department / Map Room**

**Phone: (239) 533-6159 • Fax: (239) 533-6139 • eMail: MapRoom@LeePA.org**

## VARIANCE REPORT

2007-00052

RECEIVED  
SEP 08 2008

**Date of Report:** September 08, 2008  
**Buffer Distance:** 500 ft  
**Parcels Affected:** 20  
**Subject Parcel:** 05-46-25-00-00001.0020

### COMMUNITY DEVELOPMENT

<b>OWNER NAME AND ADDRESS</b>	<b>STRAP AND LOCATION</b>	<b>LEGAL DESCRIPTION</b>	<b>Map Index</b>
COWART RICHARD T TR 6566 DANIEL CT FORT MYERS FL 33908	<b>05-46-25-00-00001.002A</b> 7150 MUSKETEER LN FORT MYERS FL 33912	FR SE COR N 1/3 OF NW 1/4 RUN W ALG S LI 1650 FT FOR POB TH N 636.51 FT TH W	1
HIMSCHOOT ELIZABETH M TR 832 SUNSET VISTA DR FORT MYERS FL 33919	<b>05-46-25-00-00001.0030</b> 7200 MUSKETEER LN FORT MYERS FL 33912	COMM SE COR N 1/3 NW 1/4 TH W 1320 FT ALG S LI N 1/3 TO POB TH N 636.56 FT	2
WILLIAMS L G + HANNELORE 8742 FORDHAM ST FORT MYERS FL 33907	<b>05-46-25-00-00001.007A</b> 7061 MUSKETEER LN FORT MYERS FL 33912	PARL IN NW 1/4 OF N2 1/4 SEC 5 TWP 46 R 25 DESC IN OR 954 P 583	3
RATHGEB PETE + 7241 CONCOURSE DRIVE FORT MYERS FL 33908	<b>05-46-25-00-00001.007B</b> 16001 SWALLOWTAIL LN FORT MYERS FL 33912	PARL IN NW COR OF NW 1/4 SEC 5 TWP 46 R 25 DESC IN INST#2006-390520	4
BARROW RICHARD S + LAURA G PO BOX 215 ESTERO FL 33928	<b>05-46-25-00-00001.007C</b> 16051 SWALLOWTAIL LN FORT MYERS FL 33912	PARL IN NW COR OF NW 1/4 DESC IN INST #2006-390520 + #2007-7793	5
CIRCLE J PARTNERSHIP 7251 MUSKETEER LANE FORT MYERS FL 33912	<b>05-46-25-00-00001.0080</b> 7181 MUSKETEER LN FORT MYERS FL 33912	PAR LYING IN N1/3 OF NW1/4 AKA LT 42 K+L RANCHETTES UNREC DESC OR 1904 PG 4795	6
JOHNSON BRUCE A + ELAINE K 7251 MUSKETEER LANE FORT MYERS FL 33912	<b>05-46-25-00-00001.008A</b> 7151 MUSKETEER LN FORT MYERS FL 33912	PAR LYING IN N1/3 OF NW1/4 AKA LT 43 K+L RANCHETTES UNREC DESC OR 1904 PG 4795	7
PENNINGTON RICK + JANET 7051 GREEN ACRE LN FORT MYERS FL 33912	<b>05-46-25-00-00002.0000</b> 7051 GREEN ACRE LN FORT MYERS FL 33912	PARL IN NW 1/4 DESC IN OR 4661 PG 359	8
OLINGER ROBERT G + MARY E 7151 GREEN ACRE LN FORT MYERS FL 33912	<b>05-46-25-00-00002.0010</b> 7151 GREEN ACRE LN FORT MYERS FL 33912	BEG 1320 FT W OF NE COR OF S 1/2 OF N 2/3 OF NW 1/4 SEC 5 TH CONT W 330 FT TH	9
WESTERVELT DAVID A 13099 TALL PINE CIR FORT MYERS FL 33907	<b>05-46-25-00-00002.0070</b> 7101 GREEN ACRE LN FORT MYERS FL 33912	FR NE COR OF S 1/2 OF N 2/3 OF NW 1/4 RUN S 89 DEG 07 MIN 20 SEC W 1650 FT TO	10
EDMAN FRED M + KELLY J 7001 GREEN ACRE LN FORT MYERS FL 33912	<b>05-46-25-00-00002.0080</b> 7001 GREEN ACRE LN FORT MYERS FL 33912	FR NE COR OF S 1/2 OF N 2/3 OF NW 1/4 RUN S 89 DEG 07 MIN 20 SEC W 2310 FT TO	11
PRY RICHARD J 13807 PINE VILLA LN FORT MYERS FL 33912	<b>06-46-25-00-00005.0010</b> 16299 S PEBBLE LN FORT MYERS FL 33912	PARL IN E 1/2 OF E 1/2 OF NE 1/4 DESC IN OR 3469 PG 3774	12
LAWRENCE THOMAS G + MARILYN K 16031 S PEBBLE LN FORT MYERS FL 33912	<b>06-46-25-00-00005.0020</b> 16031 S PEBBLE LN FORT MYERS FL 33912	N 1/2 OF E 1/2 OF E 1/2 OF N 658.775 FT OF NE 1/4 LESS PARL 5.002-A	13
HO NGUYET 16030 S SWALLOWTAIL LN FORT MYERS FL 33912	<b>06-46-25-00-00005.002A</b> 16030 SWALLOWTAIL LN FORT MYERS FL 33912	N1/2 OF E1/2 OF E1/2 OF E 1/2 OF N 658.78 FT OF NE 1/4 LESS PAR 5.002B	14



<b><u>OWNER NAME AND ADDRESS</u></b>	<b><u>STRAP AND LOCATION</u></b>	<b><u>LEGAL DESCRIPTION</u></b>	<b><u>Map Index</u></b>
SCHAD MICHAEL F + ANNA L 16050 SWALLOWTAIL LN FORT MYERS FL 33912	<b>06-46-25-00-00005.002B</b> 16050 SWALLOWTAIL LN FORT MYERS FL 33912	N1/2 OF E1/2 OF E1/2 OF E1/2 OF N658.78 FT OF NE1/4 LESS PAR 5.002A	15
CUNNINGHAM LAWRENCE E+DEW ANN 16201 S PEBBLE LN FORT MYERS FL 33912	<b>06-46-25-00-00005.0090</b> 16201 S PEBBLE LN FORT MYERS FL 33912	E1/2 OF E1/2 OF S329FT OF N1318FT OF NE1/4 LESS OR2729 PG2194	16
BEHRHORST LEE D TR 16095 S PEBBLE LN FORT MYERS FL 33912	<b>06-46-25-00-00005.0100</b> 16101 S PEBBLE LN FORT MYERS FL 33912	S1/2 OF E1/2 OF E1/2 OF S329FT OF N988FT OF NE1/4 LESS W30FT R/RW	17
BEHRHORST LEE D TR 16095 S PEBBLE LN FORT MYERS FL 33912	<b>06-46-25-00-00005.010A</b> 16095 S PEBBLE LN FORT MYERS FL 33912	N1/2 OF E1/2 OF E1/2 OF S329FT OF N988FT OF NE1/4 LESS W30FT R/W OR3161/494	18
MCCLEAF THOMAS + PATRICIA 16081 PEBBLE LN FORT MYERS FL 33912	<b>06-46-25-00-00005.0150</b> 16081 S PEBBLE LN FORT MYERS FL 33912	S1/2 OF E1/2 OF E1/2 OF N 658.78FT OF NE1/4 OF SEC 6 LES .015A+ OR2729 PG2200	19
COLLUCCI SANDRA K 2091 GARDNER RD ALVA FL 33920	<b>06-46-25-00-00005.015A</b> 16091 S PEBBLE LN FORT MYERS FL 33912	S1/2 OF S1/2 OF E1/2 OF E1/2 OF N658.78FT OF NE1/4 SEC 6 DES OR1827 PG539 LESS R/RW	20

**20 RECORDS PRINTED**

2007-00052

RECEIVED  
SEP 08 2008

COMMUNITY DEVELOPMENT



Post by September 8th, 2008

PLANNING SIGN PICKUP SHEET

LEE COUNTY LOCAL PLANNING AGENCY MEETING

September 22nd 2008

DATE	SIGNATURE	PLANNER	CASE NUMBER	CASE NAME
09/08/08	Alison McGraw	Peter Blackwell	CPA2007-52	Cowart Amendment

Please return to Internal Services Secretary: Janet Miller



## INSTRUCTIONS

(Section A.2.b., Lee County Administrative Code AC 13.7)

A Planning Division notification sign must be posted on a parcel(s) subject to any comprehensive plan map amendment application for a minimum of fifteen (15) calendar days in advance of the Local Planning Agency's Hearing and maintained through the Board of County Commissioners Hearing, if any. This sign will be provided by the Planning Division in the following manner:

- a. Sign for case **#CPA2007-52 must be posted by September 8, 2008.**
- b. The sign must be erected in full view of the public, not more than five (5) feet from the nearest street right-of-way or easement.
- c. The sign must be securely affixed by nails, staples or other means to a wood frame or to a wood panel and then fastened securely to a post, or other structure. The sign may not be affixed to a tree or other foliage.
- d. The applicant must make a good faith effort to maintain the sign in place, and in a readable condition until the requested action has been heard and a final decision rendered.
- e. If the sign is destroyed, lost, or rendered unreadable, the applicant must report the condition to the Planning Division, and obtain duplicate copies of the sign from the Planning Division.

The Division may require the applicant to erect additional signs where large parcels are involved with street frontages extending over considerable distances. If required, such additional signs must be placed not more than three hundred (300) feet apart.

When a parcel abuts more than one (1) street, the applicant must post signs along each street.

When a subject parcel does not front a public road, the applicant must post the sign at a point on a public road which leads to the property, and the sign must include a notation which generally indicates the distance and direction to the parcel boundaries and the dimensions of the parcel.

**NOTE: AFTER THE SIGN HAS BEEN POSTED, THE AFFIDAVIT OF POSTING NOTICE, BELOW, SHOULD BE RETURNED NO LATER THAN THREE (3) WORKING DAYS BEFORE THE HEARING DATE TO LEE COUNTY PLANNING DIVISION, 1500 Monroe Street, Fort Myers, FL 33901**

**(Return the completed Affidavit below to the Planning Division as indicated in previous paragraph.)**

### AFFIDAVIT OF POSTING NOTICE

STATE OF FLORIDA  
COUNTY OF LEE

BEFORE THE UNDERSIGNED AUTHORITY, PERSONALLY APPEARED  
WHO ON OATH SAYS THAT HE/SHE HAS POSTED PROPER NOTICE AS REQUIRED BY SECTION 34-236(b) OF THE  
LEE COUNTY LAND DEVELOPMENT CODE ON THE PARCEL COVERED IN THE ZONING APPLICATION  
REFERENCED BELOW:

SIGNATURE OF APPLICANT OR AGENT \_\_\_\_\_

NAME (TYPED OR PRINTED) \_\_\_\_\_

ST. OR PO BOX \_\_\_\_\_

CITY, STATE & ZIP \_\_\_\_\_

CPA2007-00052 Cowart \_\_\_\_\_

date \_\_\_\_\_ initials \_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF LEE

The foregoing instrument was sworn to and subscribed before me this \_\_\_\_ day of \_\_\_\_\_,  
200\_\_, by \_\_\_\_\_, personally known to me or who produced \_\_\_\_\_  
as identification and who did/did not take an oath.

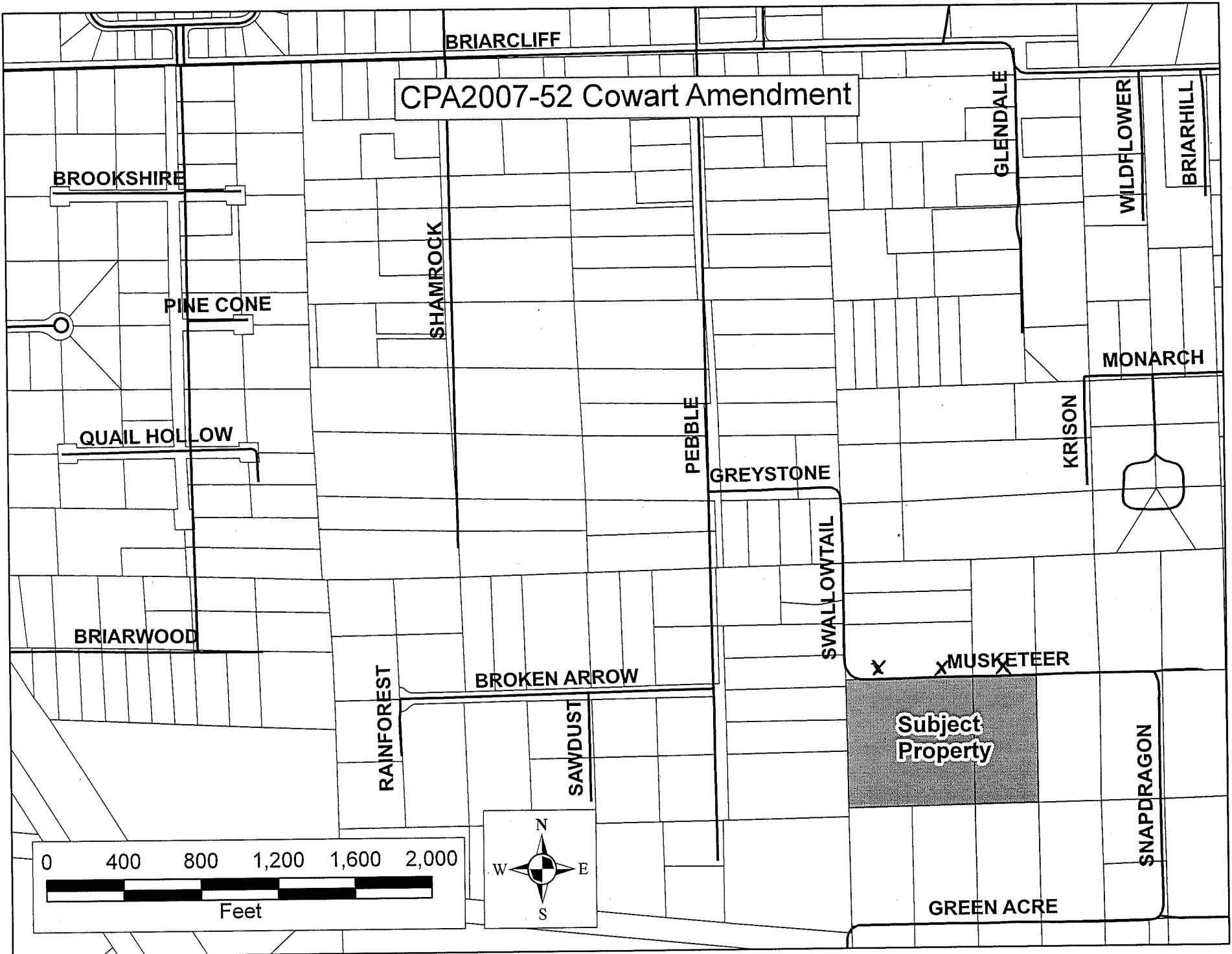
Signature of Notary Public \_\_\_\_\_

Printed Name of Notary Public \_\_\_\_\_

My Commission Expires:  
(Stamp with serial number)



CPA2007-52 Cowart Amendment





**Public Facilities Impacts**  
**EXHIBIT B.1**

The property that is requesting the land use map amendment is located on Musketeer Lane, which ultimately accesses U.S. 41 via Swallowtail Lane, Greystone Lane, Pebble Lane, and Briarcliff Road. Musketeer, Swallowtail, Greystone, and Pebble are all paved local roads with very minimal traffic. Briarcliff Road is a collector that currently operates at LOS "C", and is projected to operate at LOS "C" in the future. U.S. 41 in this link (30200) currently operates at LOS "B" and is projected to operate at LOS "B" in the future. The current designation for this 15 acres would allow a maximum of three units in the Open Lands category, which would translate into approximately 30 average daily trips or possibly 6 peak hour trips in each direction. The requested change to the Rural land use category, if approved, would allow for a maximum of 15 dwelling units, or approximately 150 average daily trips or 30 peak hour trips in each direction, an increase of 24 peak hour trips.

Given the low volume of traffic on all of the roads connecting to U.S. 41, and given the good LOS standard on U.S. 41 at the present time, it was agreed that a detailed Traffic Impact Analysis would not be necessary for these additional 24 peak hour trips. It is not easy to predict which direction on U.S. 41 these trips would go, but a 50/50 split is a reasonable guess. No road improvements will be required to accommodate this additional traffic.



**Sanitary Sewer  
EXHIBIT B.2.a**

The homes that would be built under the Rural land use category would be on large lots that would utilize septic tanks, so there is no sewer analysis that would be required.



**Potable Water**  
**EXHIBIT B.2.b**

Potable water would be supplied by individual wells, and that would be subject to permitting by the relevant County authority.



**Surface Water / Drainage Basins**  
**EXHIBIT B.2.c**

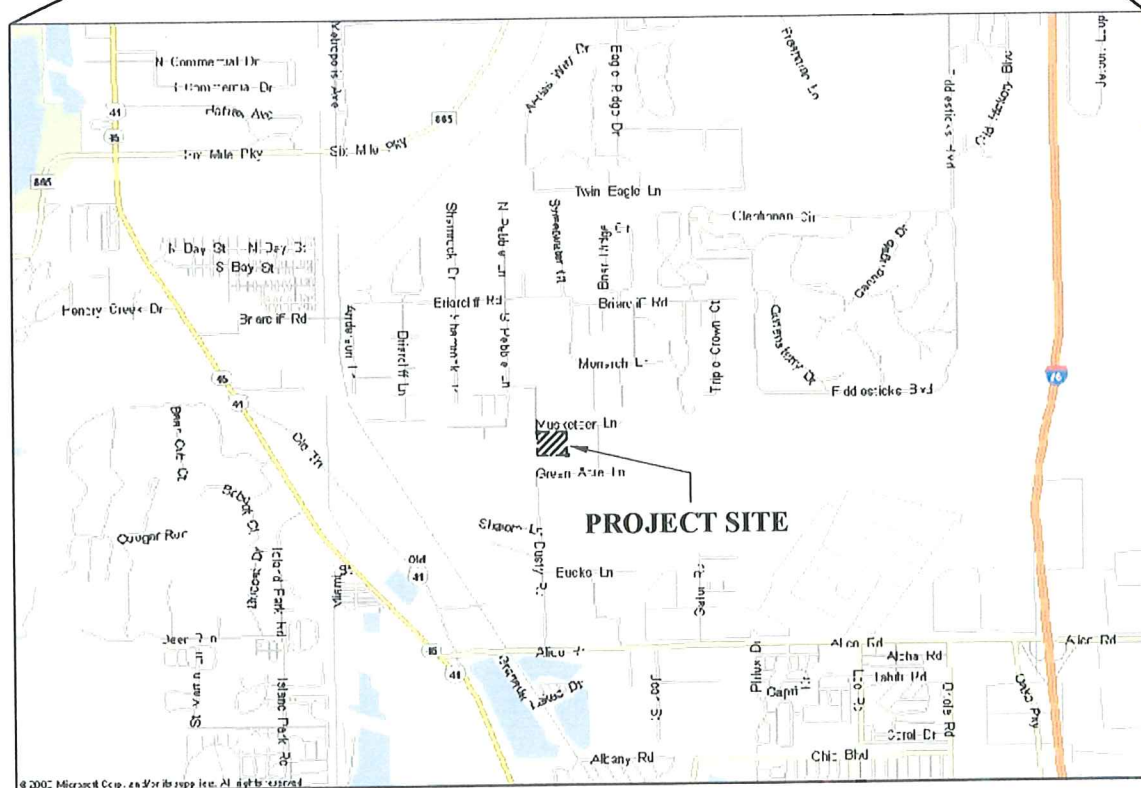
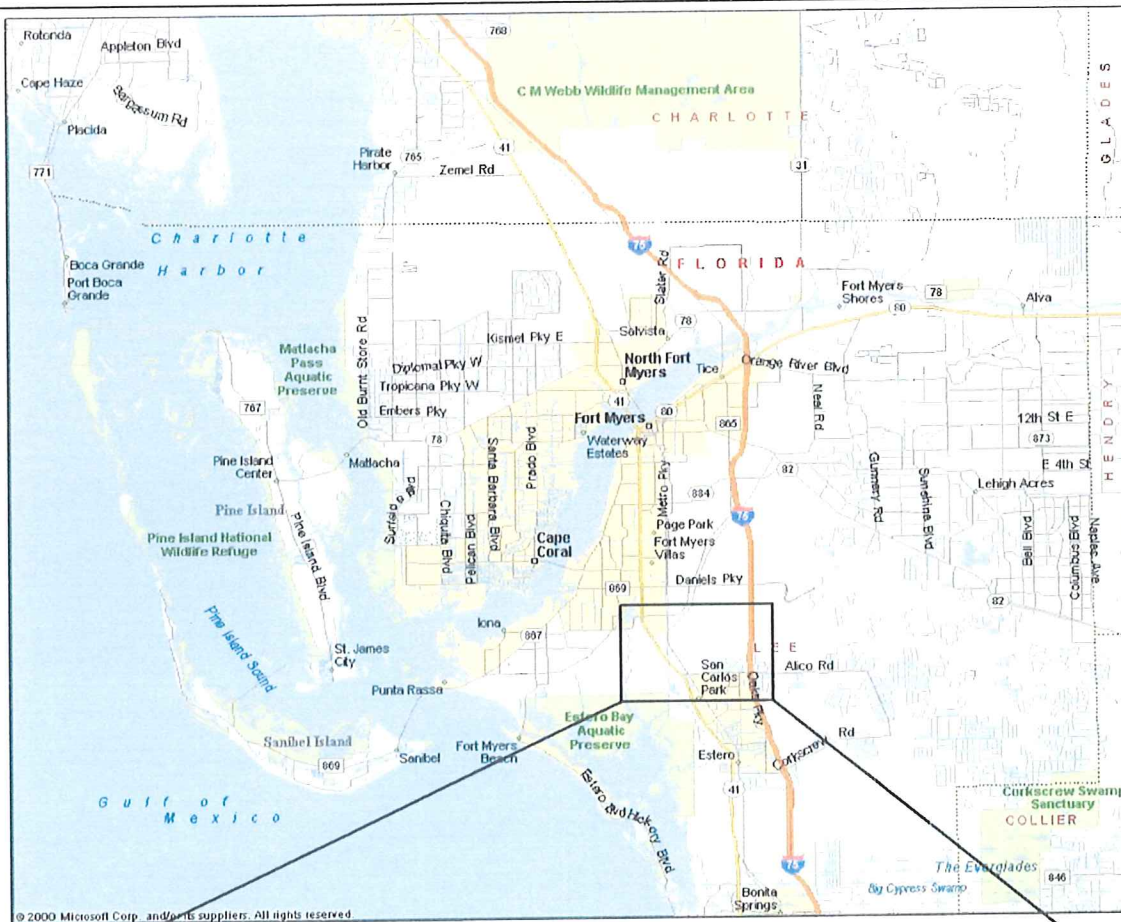
This property is located in the Six Mile Cypress drainage basin, and the addition of 12 single-family homes will not have any impact on water flows or capital improvements, given the allowable discharge rate of 37.1 csm.



**Parks, Recreation, and Open Space**  
**EXHIBIT B.2.d**

The property is located in the South Fort Myers Community Park district, which currently meets its regulatory standard for community parks and will continue to meet that thru 2010. On the other hand, this district does not meet in its desired LOS standards currently, nor will it meet that level in 2010. However, the potential addition of 12 homes to this property will not affect this situation to any measurable degree.





## PROJECT SITE

## VICINITY MAP



**ENVIRONMENTAL RESTORATION  
CONSULTANTS, INC.**

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NAPLES, FL 34108  
Telephone: 239.992.0066  
Cell. 239.287.2706  
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ERCINC@COMCAST.NET

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▲ \_\_\_\_\_  
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MUSKETEER LANE

7060 MUSKETEER LN  
FORT MYERS FL 33912

LOCATION MAP

**CLIENT:** Knott, Consoer, et. al.  
**ADDRESS:** 1625 Hendry Street  
Ft. Myers, FL 33901

SCALE: N.T.S.

PROJECT FILE	Marketing Lo
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Muskelear Ln
DWG NO: MUSKETEER LN dwg

SHEET

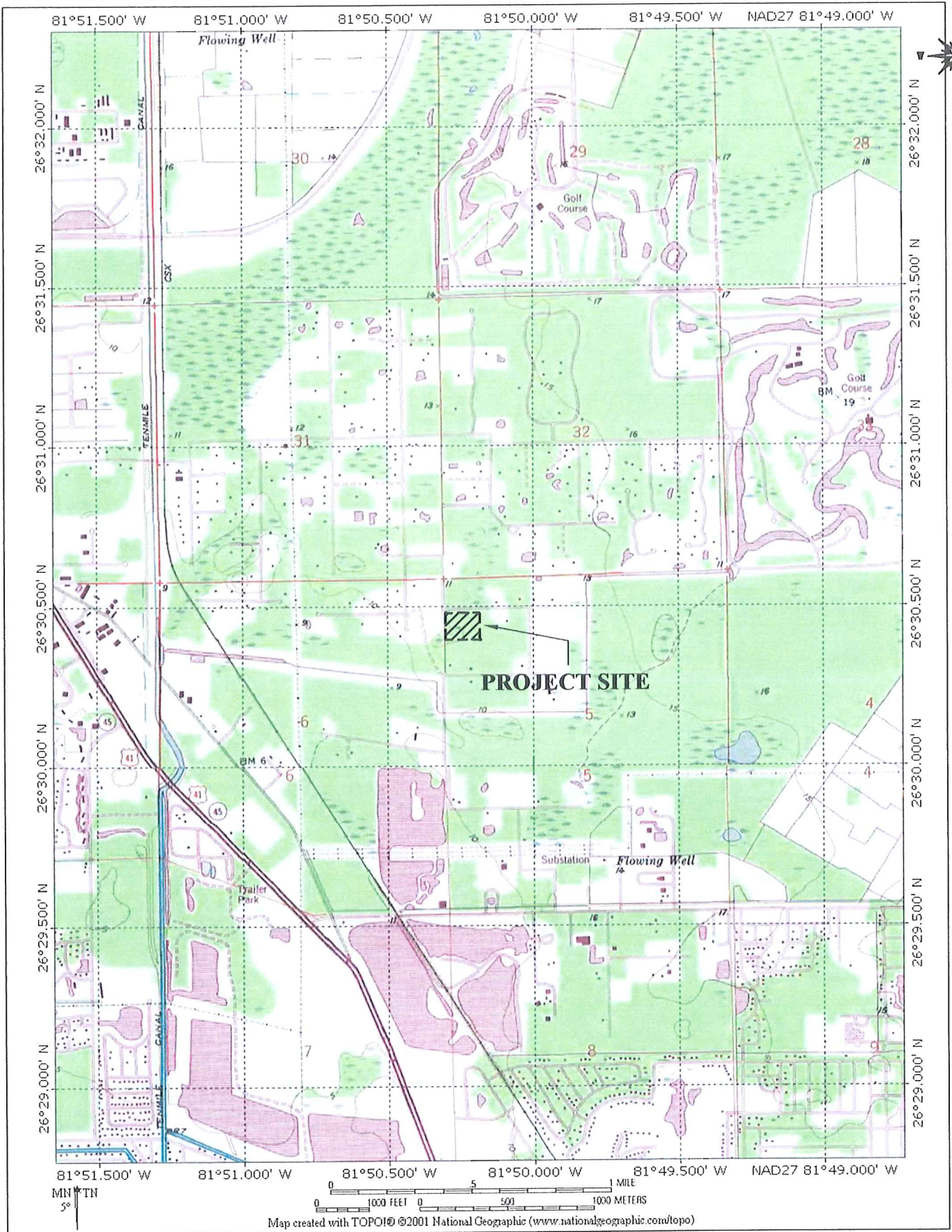
1 of 9

DESIGN BY:	FF
DRAWN BY:	AMF
CHECKED BY:	JA
DATE:	04/04/06

Jeffrey A. Adair

**NOTE:** The undersigned and ENVIRONMENTAL RESTORATION CONSULTANTS, INC. make no representations or guarantees as to the completeness of the information reflected hereon pertaining to easements, right of way, setback lines, reservations, agreements or other matters of record. This instrument is intended to reflect or set forth only those items shown in the references above. ENVIRONMENTAL RESTORATION CONSULTANTS, INC. did not research the public records for matters affecting the above described property. The undersigned and ENVIRONMENTAL RESTORATION CONSULTANTS, INC. shall not be responsible for the accuracy or completeness of the information reflected hereon.





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EMAIL: ERCCINC@COMCAST.NET

DATE	REVISIONS
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**MUSKETEER LANE**  
7060 MUSKETEER LN  
FORT MYERS FL 33912

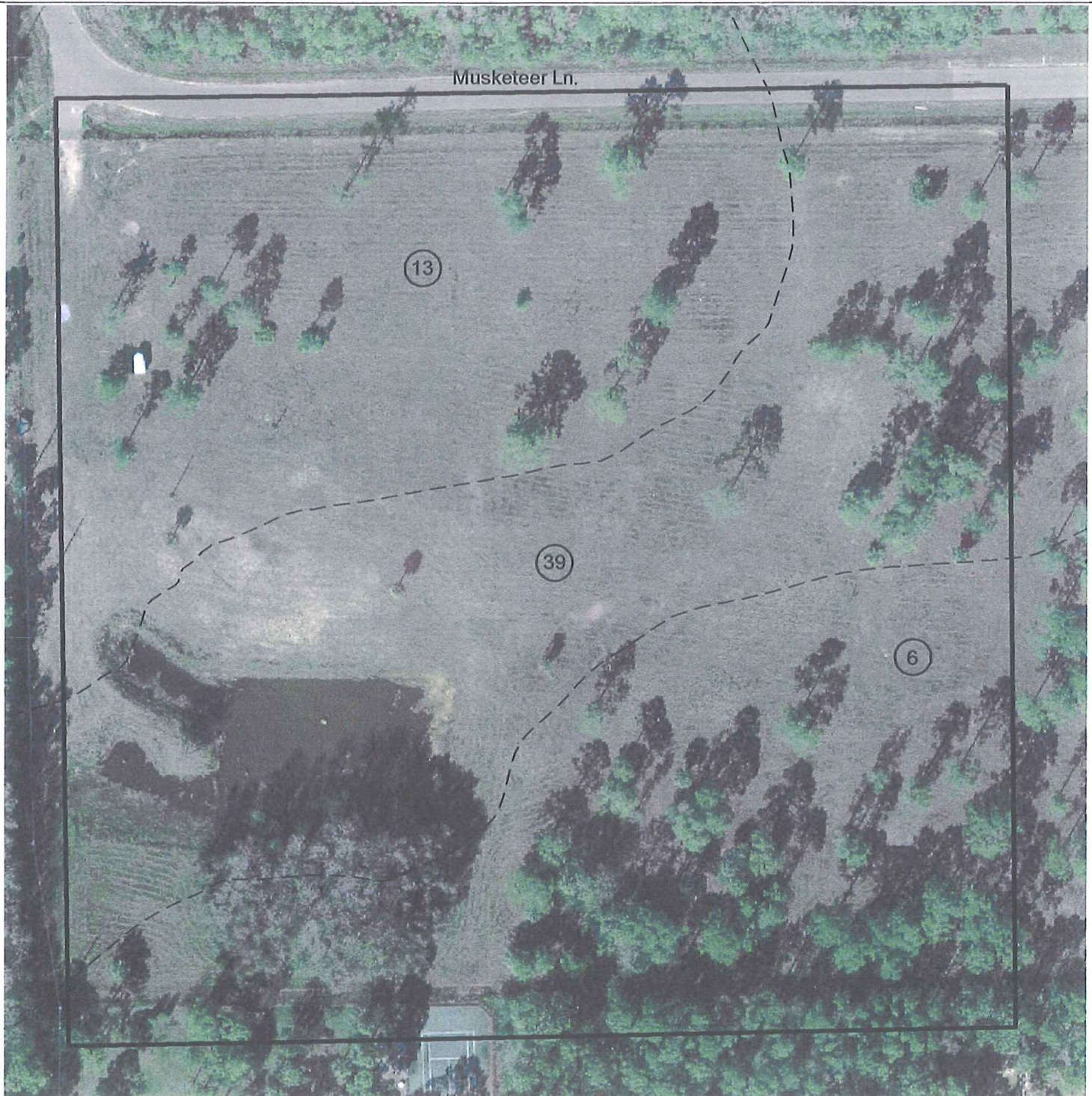
**QUADRANGLE MAP**  
**CLIENT:** Knott, Consoer, et. al.  
**ADDRESS:** 1625 Hendry Street  
Ft. Myers, FL 33901

**SCALE** N.T.S.  
**PROJECT FILE** Musketeer Ln  
**DWG NO.** MUSKETEER LN.dwg  
**SHEET:** 2 of 9

**DESIGN BY:** FF  
**DRAWN BY:** AMF  
**CHECKED BY:** JA  
**DATE:** 04/04/06  
Jeffrey A. Adair

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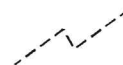
# **LEGEND:**

**TOTAL SITE = 10 Ac.**

**6 - Hallandale fine sand (3.1 Ac.) - Upland**

**13 - Boca fine sand (3.3 Ac.) - Upland**

**39 - Isles fine sand, depressional (3.6 Ac.) - Wetland**



**SOILS TYPE DIVISION**



**SITE BOUNDARY**

GRAPHIC SCALE 1 inch = 100 ft.



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## **MUSKETEER LANE**

7060 MUSKETEER LN  
FORT MYERS FL 33912

## **SOILS MAP**

**CLIENT:** Knott, Consoer, et al.  
**ADDRESS:** 1625 Hendry Street  
Ft. Myers, FL 33901

SCALE: 1:100

**PROJECT FILE**  
Musketeer Ln  
**DWG NO**  
MUSKETEER LN.dwg  
**SHEET:**

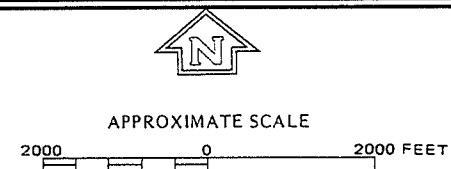
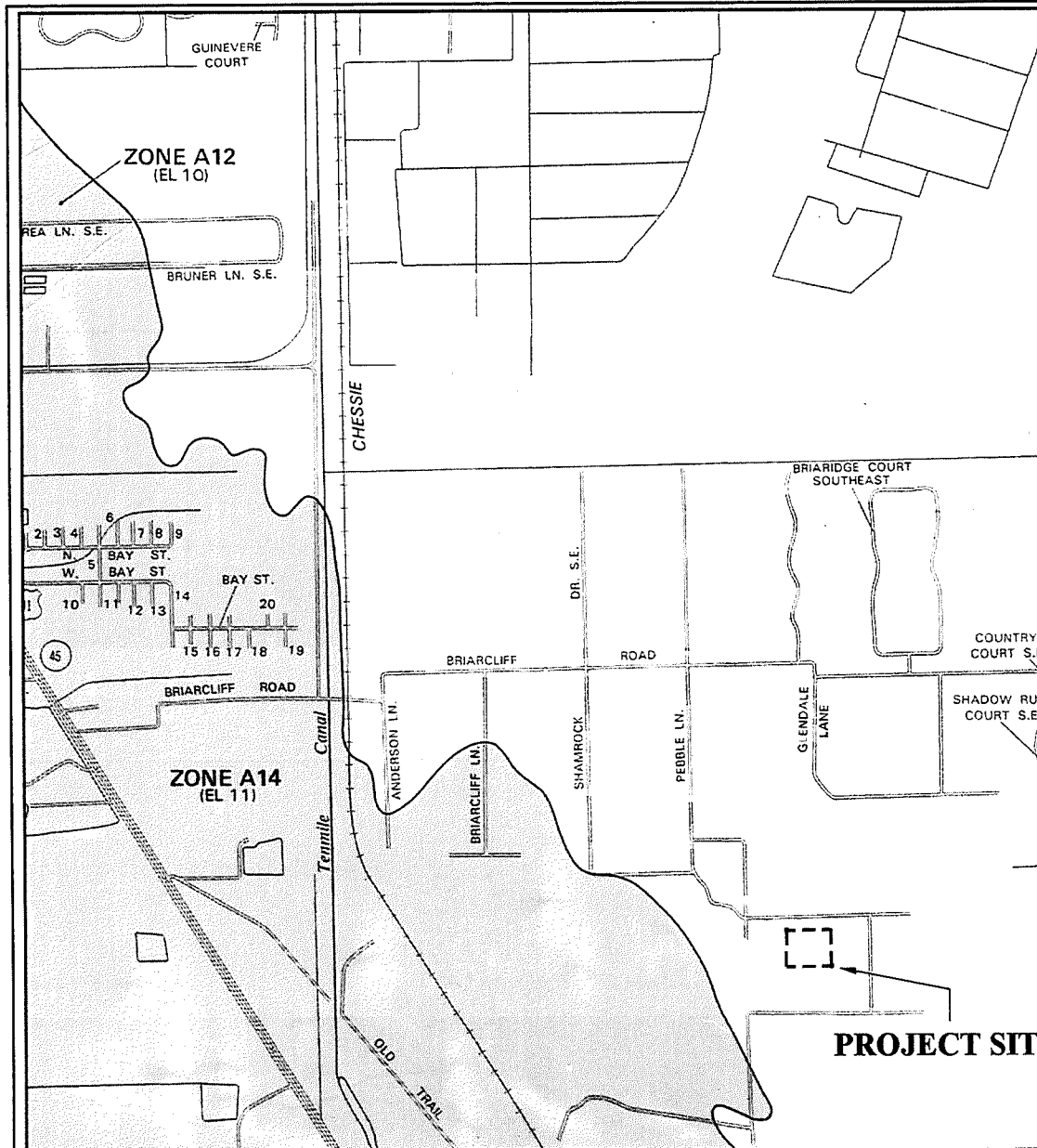
**DESIGN BY:** FF  
**DRAWN BY:** AMF  
**CHECKED BY:** JA  
**DATE:** 04/04/06

3 of 9

Jeffrey A. Adair

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#### KEY TO MAP

500-Year Flood Boundary	-----
100-Year Flood Boundary	-----
Zone Designations*	
100-Year Flood Boundary	-----
500-Year Flood Boundary	-----
Base Flood Elevation Line With Elevation In Feet**	----- 513 -----
Base Flood Elevation in Feet Where Uniform Within Zone**	(EL 987)
Elevation Reference Mark	RM7X
Zone D Boundary	-----
River Mile	• M1.5

\*\* Referenced to the National Geodetic Vertical Datum of 1929

#### \*EXPLANATION OF ZONE DESIGNATIONS

ZONE	EXPLANATION
A	Areas of 100-year flood; base flood elevations and flood hazard factors not determined.
A0	Areas of 100-year shallow flooding where depths are between one (1) and three (3) feet; average depths of inundation are shown, but no flood hazard factors are determined.
AH	Areas of 100-year shallow flooding where depths are between one (1) and three (3) feet; base flood elevations are shown, but no flood hazard factors are determined.
A1-A30	Areas of 100-year flood; base flood elevations and flood hazard factors determined.
A99	Areas of 100-year flood to be protected by flood protection system under construction; base flood elevations and flood hazard factors not determined.
B	Areas between limits of the 100-year flood and 500-year flood; or certain areas subject to 100-year flooding with average depths less than one (1) foot or where the contributing drainage area is less than one square mile; or areas protected by levees from the base flood. (Medium shading)
C	Areas of minimal flooding. (No shading)
D	Areas of undetermined, but possible, flood hazards.
V	Areas of 100-year coastal flood with velocity (wave action); base flood elevations and flood hazard factors not determined.
V1-V30	Areas of 100-year coastal flood with velocity (wave action); base flood elevations and flood hazard factors determined.

#### NOTES TO USER

This is an official copy of a portion of the above referenced flood map. It was extracted using F-MIT On-Line. This map does not reflect changes or amendments which may have been made subsequent to the date on the title block. For the latest product information about National Flood Insurance Program flood maps check the FEMA Flood Map Store at [www.msc.fema.gov](http://www.msc.fema.gov)

**ERC**  
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ERCINC@COMCAST.NET

#### DATE REVISIONS:

△	_____
△	_____
△	_____
△	_____

#### MUSKETEER LANE

7060 MUSKETEER LN  
FORT MYERS FL 33912

#### FEMA MAP

CLIENT: Knott, Consoer, et al.  
ADDRESS: 1625 Hendry Street  
Ft. Myers, FL 33901

SCALE: N.T.S.

PROJECT FILE:  
Musketeer Ln

DWG NO:  
MUSKETEER LN.dwg

SHEET:  
4 of 9

DESIGN BY: FF  
DRAWN BY: AMF  
CHECKED BY: JA  
DATE: 04/04/06

Jeffrey A. Adair

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# **LEGEND:**

**TOTAL SITE = 10 Ac.**

- 534** Reservoir - less than 10 Ac.  
(0.4 Ac.)
- 621** Cypress  
(0.5 Ac.)
- 211** Improved Pastures  
(8.3 Ac.)
- 211-740(H)** Improved Pastures / Disturbed  
Lands (hydic) (0.8 Ac.)

#2

PHOTO # & location



FLUCCS DIVISION



SITE BOUNDARY



GRAPHIC SCALE 1 inch = 100 ft.



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## **MUSKETEER LANE**

7060 MUSKETEER LN  
FORT MYERS FL 33912

## **EXISTING FLUCCS MAP**

**CLIENT:** Knott, Consoer, et. al.  
**ADDRESS:** 1625 Hendry Street  
Ft. Myers, FL 33901

**SCALE:** 1:100

**PROJECT FILE**  
Muskeeter Ln  
**DWG NO.**  
MUSKETEER LN.dwg

**DESIGN BY:** FF  
**DRAWN BY:** AMF  
**CHECKED BY:** JA  
**DATE:** 04/04/06

**5 of 9**

Jeffrey A. Adair





**PHOTO # 1**

Current land use is primarily improved pasture for cattle. The majority of the property is vegetated with scattered slash pine, small clusters of undebrush, and pasture grasses.



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### MUSKETEER LANE

7060 MUSKETEER LN  
FORT MYERS FL 33912

### PICTURE # 1

CLIENT: Knott, Consoer, et. al.  
ADDRESS: 1625 Hendry Street  
Ft. Myers, FL 33901

SCALE: N.T.S.

PROJECT FILE:  
Musketeer Ln

DWG NO:  
MUSKETEER LN.dwg

SHEET:  
6 of 9

DESIGN BY: FF  
DRAWN BY: AMF  
CHECKED BY: JA  
DATE: 04/04/06

Jeffrey A. Adair

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**PHOTO # 2**

View depicts typical pasture land. Slash pine and indigenous shrubs are more prevalent in the southeast portion of the property.



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EMAIL:  
ERCINC@COMCAST.NET

DATE	REVISIONS:
△	_____
△	_____
△	_____
△	_____

**MUSKETEER LN**

7080 MUSKETEER LN  
FORT MYERS FL 33912

**PICTURE # 2**

CLIENT: Knott, Consoer, et al.  
ADDRESS: 1625 Hendry Street  
Ft. Myers, FL 33901

SCALE: N.T.S.

PROJECT FILE:  
Musketeer Ln  
DWG NO:  
MUSKETEER LN.dwg

DESIGN BY: FF  
DRAWN BY: AMF  
CHECKED BY: JA  
DATE: 04/04/06

SHEET:  
**7 of 9**

Jeffrey A. Adair

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**PHOTO # 3**

View depicts man-made pond (534) and isolated cypress head (621) located in the southwest portion of the site. The cypress community is degraded by melaleuca and Brazilian pepper, and fringed along the pond embankment by Carolina willow.

**ERC**  
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CONSULTANTS, INC.

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Cell: 239.287.2706  
EMAIL:  
ERCINC@COMCAST.NET

DATE REVISIONS:

△	_____
△	_____
△	_____
△	_____

**MUSKETEER LANE**

7060 MUSKETEER LN  
FORT MYERS FL 33912

**PICTURE # 3**

CLIENT: Knott, Consoer, et. al.  
ADDRESS: 1625 Hendry Street  
Ft. Myers, FL 33901

SCALE: N.T.S.

PROJECT FILE:  
Musketeer Ln

DWG NO:  
MUSKETEER LN.dwg

SHEET:  
**8 of 9**

DESIGN BY: FF  
DRAWN BY: AMF  
CHECKED BY: JA  
DATE: 04/04/06

Jeffrey A. Adair

NOTE: The undersigned and ENVIRONMENTAL RESTORATION CONSULTANTS, INC. make no representations or guarantees as to the completeness of the information reflected hereon pertaining to easements, right of way, setback lines, reservations, agreements or other matters of record. This instrument is intended to reflect or set forth only those items shown in the references above. ENVIRONMENTAL RESTORATION CONSULTANTS, INC. did not research the public records for matters affecting the lands shown. This instrument is the property of ENVIRONMENTAL RESTORATION CONSULTANTS, INC. and shall not be reproduced in whole or in part without written permission of ENVIRONMENTAL RESTORATION CONSULTANTS, INC.





**PHOTO # 4**

Melaleuca and Brazilian pepper, as well as altered hydrology, have tended to degrade the cypress head. The fence line along the south parcel line, as well as other perimeters, is well maintained.

**ENVIRONMENTAL RESTORATION CONSULTANTS, INC.**

P.O. BOX 110994,  
NAPLES, FL 34108  
Telephone: 239.992.0086  
Cell: 239.287.2706  
EMAIL: [ERCINC@COMCAST.NET](mailto:ERCINC@COMCAST.NET)

DATE	REVISIONS:
△	_____
△	_____
△	_____
△	_____

**MUSKETEER LANE**

7060 MUSKETEER LN  
FORT MYERS FL 33912

**PICTURE # 4**

**CLIENT:** Knott, Consoer, et. al.  
**ADDRESS:** 1625 Hendry Street  
Ft. Myers, FL 33901

**SCALE:** N.T.S.

**PROJECT FILE:**  
Musketeer Ln

**DWG NO:**  
MUSKETEER LN.dwg

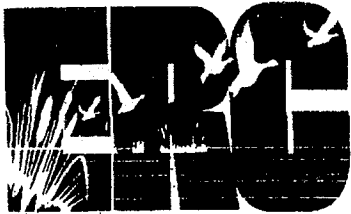
**SHEET:**  
9 to 9

**DESIGN BY:** FF  
**DRAWN BY:** AMF  
**CHECKED BY:** JA  
**DATE:** 04/04/06

Jeffrey A. Adair

NOTE: The undersigned and ENVIRONMENTAL RESTORATION CONSULTANTS, INC. make no representations or guarantees as to the completeness of the information reflected hereon pertaining to easements, right of way, setback lines, reservations, agreements or other matters of record. This instrument is intended to reflect or set forth only those items shown in the references above. ENVIRONMENTAL RESTORATION CONSULTANTS, INC. did not research the public records for matters affecting the lands shown. This instrument is the property of ENVIRONMENTAL RESTORATION CONSULTANTS, INC. and shall not be reproduced in whole or in part without written permission of ENVIRONMENTAL RESTORATION CONSULTANTS, INC.





## Environmental Restoration Consultants, Inc.

March 31, 2006

Ms. Laura Kammerer  
Compliance and Review Department  
Division of Historical Resources  
500 S. Bronough Street  
Tallahassee, FL 32399-0250

Re: Compliance Review Request  
10.0-Acre Parcel; Section 5, Twp. 46 S., Rng. 25 E., Fort Myers  
Strap No. 05-46-25-00-00001.0020, Lee County, Florida

Dear Ms. Kammerer:

On behalf of Knott, Consoer, Ebelini, Hart & Swett, P.A., Environmental Restoration Consultants, Inc. (ERC) is proceeding with the environmental aspects of the Lee County rezoning application and preparation of environmental permit applications to the South Florida Water Management District (SFWMD) and the U.S. Corps of Engineers (COE). These three agencies require a compliance review letter from the Division of Historical Resources indicating the level of archaeological investigation recommended by your agency. As such, we are requesting a compliance letter that provides your recommendations relative to the site. Location maps and a soil map/FLUCCS map indicating existing and proposed conditions are enclosed for your reference.

Should you have any questions or need any additional information, please do not hesitate to call me at 239/287-2706. We thank you for your attention to this matter.

Sincerely,

Jeffrey A. Adair  
President

Enclosures





**LEE COUNTY**  
SOUTHWEST FLORIDA

**BOARD OF COUNTY COMMISSIONERS**

Writer's Direct Dial Number: \_\_\_\_\_

Bob Janes  
*District One*

Douglas R. St. Cerny  
*District Two*

Ray Judah  
*District Three*

Tammy Hall  
*District Four*

John E. Albion  
*District Five*

Donald D. Stilwell  
*County Manager*

David M. Owen  
*County Attorney*

Diana M. Parker  
*County Hearing Examiner*

**LEE COUNTY DEPARTMENT OF COMMUNITY DEVELOPMENT  
DIVISION OF PLANNING  
REVIEW FOR  
HISTORIC AND ARCHAEOLOGICAL RESOURCES**

**PROJECT NAME: Musketeer Lane 10 Acres**

**CASE NUMBER: None supplied**

**STRAP NUMBER: 05-46-25-00-00001.0020**

**DATE OF REVIEW: April 14, 2006**

**REVIEWED BY:** Melody L. Benbow, Senior Planner *MB*  
Lee County Planning Division  
PO Box 398  
Fort Myers, FL 33902  
Phone 239 479 8118 Fax 239 479-8319  
email: mbenbow@leegov.com

**Historical Sites:** There are no known historic sites on the subject parcel.

**Archaeological Sites:** There are no known archeological sites on the subject parcel.

**Level 1 or Level 2 zones of Archaeological Sensitivity:** The subject area is **not** located within Level 2 zone of archaeological sensitivity.

**Copy:**  
Pete Eckenrode, Director of Development Services  
Pam Houck, Zoning Director  
Paul O'Connor, Planning Director  
Jeff Adair, Applicant

S:\HISTORIC\SUFFICIENCY REVIEW\Musketeer Lane 10 acres.doc

P.O. Box 398, Fort Myers, Florida 33902-0398 (239) 335-2111

Internet address <http://www.lee-county.com>

AN EQUAL OPPORTUNITY AFFIRMATIVE ACTION EMPLOYER



**Surface Water / Drainage Basins**  
**EXHIBIT B.2.c**

This property is located in the Six Mile Cypress drainage basin, and the addition of 12 single-family homes will not have any impact on water flows or capital improvements, given the allowable discharge rate of 37.1 csm. Please see attached discussion from the County Concurrency Management Report.



## **SURFACE WATER MANAGEMENT**

In accordance with Policy 60.3 of THE LEE PLAN, surface water management studies were completed on the forty-eight (48) identified drainage basins in Lee County. These studies evaluated water levels along streams, creeks, and drainage canals, resulting from the 25-year, 3-day storm, to determine if storm water runoff would flood evacuation routes where they cross or run parallel to each other.

Based upon information available from current studies, none of the crossings associated with evacuation routes located within the forty-eight (48) watershed areas are anticipated to be flooded for more than twenty-four (24) hours.

All new developments, which receive approval from the South Florida Water Management District and that comply with standards in Chapters 62-3, 62-40, and 62-302 of the Florida Statutes and Rule 40E-4 of the Florida Administrative Code, will be deemed Concurrent with the Surface Water Management Level of Service standards set forth in THE LEE PLAN.

The Federal Emergency Management Agency (FEMA) is conducting a flood insurance restudy of Lee County that includes both the coastal surge (hurricane) and riverine flooding (rainfall) risk areas. The modeling efforts for these events have been completed and are under review. The preliminary study and mapping were submitted to the community in August of 2006 and could become effective as early as March 2008.



**Parks, Recreation, and Open Space**  
**EXHIBIT B.2.d**

The Regulatory “LOS” for Community Parks is 0.8 acres of developed standard Community Parks open for public use per 1,000 permanent population, and the Desired Future “LOS” is 2 acres per 1,000 population. The approximately 30 residents represented by 12 additional units would require 0.0024 acres (or 105 square feet) to meet the Regulatory “LOS”, and 0.06 acres to meet the desired “LOS”.

This property is located in the South Fort Myers Community Park district, which currently meets its Regulatory Standard for community parks and will continue to meet that thru 2010. On the other hand, this district does not meet in its Desired LOS standards currently, nor will it meet that level in 2010. However, the potential addition of 12 homes to this property will not affect this situation to any measurable degree. (See attached chart from the Concurrency Management Report.)

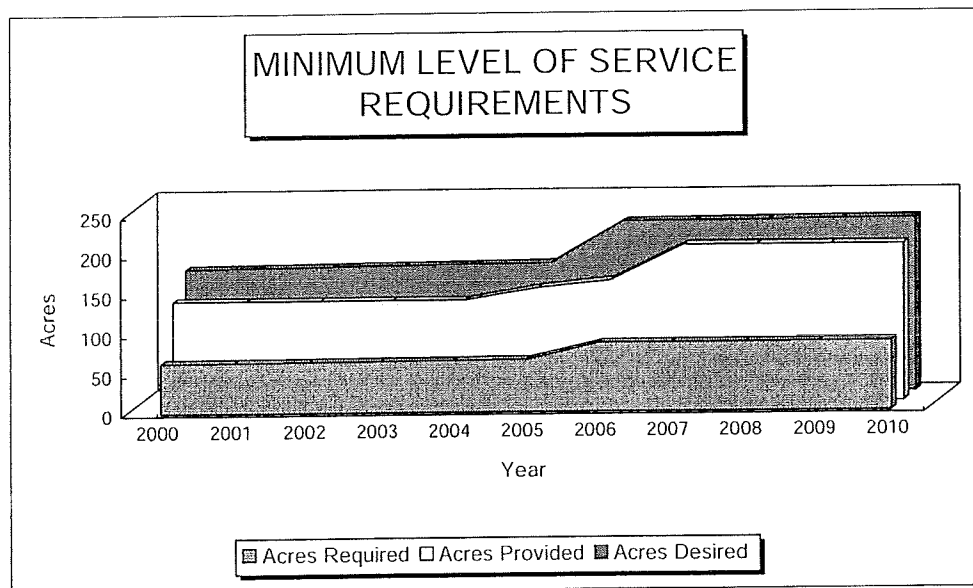
The Regulatory “LOS” for Regional Parks is 6 acres per 1,000 population, and the Desired “LOS” is 8 acres per 1,000 population. Both “LOS” will be met countywide through 2010, and the potential addition of 30 residents will not affect this.



TABLE 18  
District # 44  
South Fort Myers Community Park Benefit District

PARK NAME	LOCATION	ACRES
- EXISTING PARKS FY 06/07 -		
Cypress Lake Community Pool	S. Ft. Myers	2
Cypress Lake High School	S. Ft. Myers	3 *
Harlem Heights Community Park	S. Ft. Myers	5
Hunter Park	S. Ft. Myers	8
Jerry Brooks Park	S. Ft. Myers	10
Kelly Road Community Park	S. Ft. Myers	42
Lexington Middle School	S. Ft. Myers	7 *
Rutenberg Park	S. Ft. Myers	40
Lee County Sports Complex	S. Ft. Myers	30
Tanglewood Elementary School	S. Ft. Myers	3 *
Villas Elementary School	S. Ft. Myers	3 *
WA-KE Hatchee Recreation Center	S. Ft. Myers	<u>1</u>
Subtotal		154
- Parks Planned FY 07/08 -		
WA-KE Hatchee Park	S. Ft. Myers	<u>44</u>
Cumulative Total		198

\* Joint use acreage with the Lee County School District





**Knott, Consoer, Ebelini  
Hart & Swett, P.A.**  
ATTORNEYS - AT - LAW

George H. Knott \*+  
George L. Consoer, Jr. \*\*  
Mark A. Ebelini  
Thomas B. Hart  
H. Andrew Swett

\* Board Certified Civil Trial Lawyer  
\*\* Board Certified Real Estate Lawyer  
+ Board Certified Business Litigation Lawyer

1625 Hendry Street • Third Floor (33901)  
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Fort Myers, Florida 33902-2449

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MRoeder@knott-law.com

Matthew D. Uhle  
Aaron A. Haak  
Derrick S. Eihausen  
Nady Torres-Alvarado  
David A. Burt  
Madeline Ebelini

Director of Zoning  
and Land Use Planning  
Michael E. Roeder, AICP

September 12, 2008

Mr. Peter Blackwell, Planner  
Department of Community Development  
P.O. Box 398  
Fort Myers, FL 33902

**RECEIVED**  
SEP 12 2008

**COMMUNITY DEVELOPMENT**

Re: Cowart / CPA2007-00052

Dear Pete:

We are in receipt of your letter dated August 15, 2008 and would offer the following responses and additional information:

\*\*\*\*\*

**PART IV**

**A5:** The legal descriptions provided by the applicant are not sufficient. Please provide one description encompassing both parcels combined. The point of commencement should be at a verified section under corner and the Point of Beginning should include a State Plane Coordinate.

**RESPONSE:** The legal description was revised and submitted on August 20, 2008 to the zoning counter.

**A7:** The closeup aerial of the subject property provided by the applicant includes all of the subject property. However, for staff to sufficiently analyze the effect of the proposed amendment, staff requires an aerial photograph of the properties surrounding the subject parcel. In the aerial of Section 5S-46S-25E provided by the applicant, the subject property runs off of the north edge of the image. Please provide an aerial photograph of the county section to the north of the entire subject parcel (32S-45S-25E).

**RESPONSE:** The aerial photograph of 32S-45S-25E is included in this resubmittal package.



**B2c:** The applicant has not supplied sufficient data and analysis of the impact of 12 additional residential units on the subject property upon surface water and drainage basins. The single sentence that the applicant has written on this item simply states that the addition of 12 homes will not have any impact on water flows. The applicant needs to provide data and analysis that support this assertion.

**RESPONSE:** The narrative regarding surface water and drainage basins has been revised to reflect your comment and is included in this resubmittal package.

**B2d:** The applicant has not provided sufficient data or analysis to support the conclusion that the proposed amendment will have no effect on parks, recreation, and open space in Lee County. The applicant asserts that the addition of 12 homes will not affect the level of service and recreation but has not provided the data and analysis to support this. Please provide this information.

**RESPONSE:** The narrative regarding parks, recreation, and open space has been revised to reflect your comment and is included in this resubmittal package.

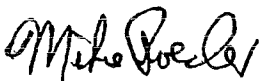
**B3b:** The applicant has not provided a letter from Emergency Medical Services provider.

**RESPONSE:** A second request for a letter regarding service availability was sent to Chief Mary Dickerson at EMS on September 5, 2008. Once this letter is received, it will be submitted under separate cover.

In addition to these submittal items that you requested, we are submitting 22 copy sets of the finalized package for the LPA hearing on September 22<sup>nd</sup>.

Very truly yours,

KNOTT, CONSOER, EBELINI,  
HART & SWETT, P.A.



Michael E. Roeder, AICP  
Director of Zoning and Land Use Planning

MER/ams  
Attachments



**Knott, Consoer, Ebelini  
Hart & Swett, P.A.**  
ATTORNEYS - AT - LAW

George H. Knott \*+  
George L. Consoer, Jr. \*\*  
Mark A. Ebelini  
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H. Andrew Swett

\* Board Certified Civil Trial Lawyer  
\*\* Board Certified Real Estate Lawyer  
+ Board Certified Business Litigation Lawyer

1625 Hendry Street • Third Floor (33901)  
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Naty Torres-Alvarado  
David A. Burt  
Madeline Ebelini

Director of Zoning  
and Land Use Planning  
Michael E. Roeder, AICP

**M E M O R A N D U M**

TO: Pete Blackwell

FROM: Alison M. Stowe

DATE: September 8, 2008

RE: Cowart CPA / CPA2007-00052

---

Attached please find the updated variance report for the above referenced project.

ams  
Attachments

RECEIVED  
SEP 08 2008  
COMMUNITY DEVELOPMENT



Bob Janes  
District One

September 2, 2008

A. Brian Bigelow  
District Two

Ray Judah  
District Three

Tammy Hall  
District Four

Frank Mann  
District Five

Donald D. Stilwell  
County Manager

David M. Owen  
County Attorney

Diana M. Parker  
County Hearing  
Examiner

Mr. Michael Roeder  
c/o Knott, Consoer, Ebelini, Hart & Swett PA  
1625 Hendry Street Suite 301  
Fort Myers, Florida 33901

RE: Deferment of CPA2007-52 Cowart Lee Plan Future Land Use Amendment

Dear Mr. Roeder:

The September LPA meeting is the last one of the current planning cycle. The application for CPA2007-52 is still deemed insufficient by Planning Staff. Even if the application were found sufficient this month, there is not enough time for Planning Staff to properly prepare a staff report for presentation to the LPA. Therefore, Staff is deferring this amendment to next years planning cycle.

If I can be of any assistance or if you have any questions, please do not hesitate to call me at 533-8312.

Sincerely,



DEPARTMENT OF COMMUNITY DEVELOPMENT, DIVISION OF PLANNING

Peter Blackwell

Planner





# LEE COUNTY

## SOUTHWEST FLORIDA

BOARD OF COUNTY COMMISSIONERS

(239) 533-8312

Bob Janes  
District One

A. Brian Bigelow  
District Two

Ray Judah  
District Three

Tammy Hall  
District Four

Frank Mann  
District Five

Donald D. Stilwell  
County Manager

David M. Owen  
County Attorney

Diana M. Parker  
County Hearing  
Examiner

August 15, 2008

Mr. Michael Roeder  
c/o Knott, Consoer, Ebelini, Hart & Swett PA  
1625 Hendry Street Suite 301  
Fort Myers, Florida 33901

RE: CPA2007-52 Cowart Lee Plan Future Land Use Amendment

Dear Mr. Roeder:

Planning staff has reviewed the application submitted for the above reference case and finds that additional information is needed to find the application sufficient for review. Please submit the following information.

#### PART IV

A5: The legal descriptions provided by the applicant are not sufficient. Please provide one description encompassing both parcels combined. The point of commencement should be at a verified section corner and the Point of Beginning should include a State Plane Coordinate.

A7: The closeup aerial of the subject property provided by the applicant includes all of the subject property. However, for staff to sufficiently analyze the effect of the proposed amendment staff requires an aerial photograph of the properties surrounding the subject parcel. In the aerial of Section 5S-46S-25E provided by the applicant the subject property runs off of the north edge of the image. Please provide an aerial photograph of the county section to the north of the entire subject parcel (32S-45S-25E).

B2c: The applicant has not supplied sufficient data and analysis of the impact of 12 additional residential units on the subject property upon surface water and drainage basins. The single sentence that the applicant has written on this item simply states that the addition of 12 homes will not have any impact on water flows. The applicant needs to provide data and analysis that support this assertion.

B2d: The applicant has not provided sufficient data or analysis to support the conclusion that the proposed amendment will have no effect on parks, recreation and open space in Lee County. The applicant asserts that the addition of 12 homes will not affect the level of service for parks and recreation but has not provided the data and analysis to support this. Please provide this information.



B3b: The applicant has not provided a letter from Emergency Medical Services Provider.

If I can be of any assistance or if you have any questions, please do not hesitate to call me at 533-8312.

Sincerely,

A handwritten signature in cursive script, appearing to read "Peter Blackwell".

DEPARTMENT OF COMMUNITY DEVELOPMENT, DIVISION OF PLANNING

Peter Blackwell

Planner



**Knott, Consoer, Ebelini**  
**Hart & Swett, P.A.**  
ATTORNEYS - AT - LAW

George H. Knott \*+  
George L. Consoer, Jr. \*\*  
Mark A. Ebelini  
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+ Board Certified Business Litigation Lawyer

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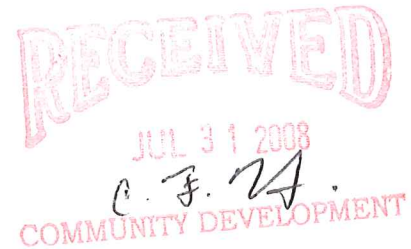
MRoeder@knott-law.com

Matthew D. Uhle  
Aaron A. Haak  
Derrick S. Eihausen  
Naty Torres-Alvarado  
David A. Burt  
Madeline Ebelini

Director of Zoning  
and Land Use Planning  
Michael E. Roeder, AICP

July 31, 2008

Mr. Peter Blackwell, Planner  
Department of Community Development  
P.O. Box 398  
Fort Myers, FL 33902



Re: Cowart Lee Plan Future Land Use Amendment / CPA2007-00052

Dear Peter:

In response to your letter dated June 20, 2008, we would offer the following additional information:

\*\*\*\*\*

**PART I**

The submitted application lists a different address for the owner of record than the property appraiser's records. Please clarify the proper address.

**RESPONSE: The application has been revised to reflect the updated address as 6566 Daniel Court.**

\*\*\*\*\*

**PART III**

A: The application lists only one STRAP number (05-46-25-00-00001.0020) and address although the subject property consists of two lots, each with separate STRAP and address. Please amend the application to include the STRAP and address of both the 10 acre parcel and the 5 acre parcel.

**RESPONSE: The application has been revised to reflect your comment and include both STRAP numbers (05-46-25-00-00001.0020 & 05-46-25-00-00001.002A).**

\*\*\*\*\*



#### **PART IV**

A5: The legal descriptions provided by the applicant are not sufficient. Please provide one description encompassing both parcels combined. The point of commencement should be at a verified section corner and the Point of Beginning should include a State Plane Coordinate.

**RESPONSE: The sketch and legal descriptions are being revised and will be submitted under separate cover.**

In addition, the applicant has not provided a legal description of the wetland areas on the subject property. Please provide a description of the wetlands that conforms to the standards mentioned above.

**RESPONSE: We are not aware of any requirement to provide a legal description of the wetland areas as part of a Comp Plan Amendment, and the only possible purpose for this would be to designate these wetlands as some type of conservation area. We do not believe that is necessary in the context of a Comp Plan Amendment, but if the Board of County Commissioners should conclude that such a condition would be necessary to approve the amendment, then we can prepare that legal description at that time. It makes no sense to go to the expense of surveying and drawing up a legal description for wetlands unless the Board will approve the amendment.**

A7: the aerial provided by the applicant, the subject property runs off the north edge of the image. Please provide an aerial photograph of the entire subject parcel and the surrounding properties.

**RESPONSE: The aerial that was previously submitted did include all of the subject property. The aerial provided by the Property Appraiser's Office encompassed all of Section 05, Township 46, Range 25, which is the entire area that the subject parcels are in.**

B2c: The applicant has not supplied data and analysis of the impact of 12 additional residential units on the subject property upon surface water and drainage basins.

**RESPONSE: We had submitted a very short analysis of the impact upon surface water and drainage basins and we are resubmitting that exhibit.**

B2d: The applicant has not provided data or analysis to support the conclusion that the proposed amendment will have no effect on parks, recreation and open space in Lee County.



**RESPONSE: We had also previously submitted an exhibit relating to parks, recreation and open space and are supplying another copy of that at this time.**

B3b: The applicant has not provided a letter from Emergency Medical Services.

**RESPONSE: A follow-up letter was sent to Chief Mary Dickerson of Emergency Medical Services on June 30, 2008; we have not received a response. Once a response has been received, we will submit it under separate cover.**

B3c: The applicant has not provided a letter from the Lee County Sheriff's Department.

**RESPONSE: A letter from the Lee County Sheriff's Department is included in this resubmittal package.**

B3d: The applicant has not provided a letter from the Mass Transit provider.

**RESPONSE: A letter from Lee County Transit is included in this resubmittal package.**

B3e: The applicant has not provided a letter from the Lee County School District.

**RESPONSE: A letter from the Lee County School District is included in this resubmittal package.**

C: The application states there are 4 acres of wetlands. However, the preliminary environmental assessment prepared by Environmental Restoration Consultants on April 12, 2006 indicates 1.3 acres of wetlands. Please provide an accurate assessment of the wetlands located on the property. In the table of plant communities by FLUCCS, the Preliminary Environmental Assessment labels improved pasture/disturbed lands as FLUCCS 211/740. In the wetland assessment, the improved pasture/disturbed lands is referred to as FLUCCS 221/740. FLUCCS 221 is citrus groves. Please revise the wetland assessment to delineate improved pasture as FLUCCS 211.

**RESPONSE: The reference to 4 acres of wetlands on the application was a mistake and it has been revised to reflect the 1.3 acres of wetlands that exist. Likewise, the reference to FLUCCS 221 is a typo and a new map will be supplied.**

The cypress area had exotic infestation around the perimeter while the interior of the cypress dome was of higher quality. However, the hydrology was severely impacted. ES Staff recommends placing the 0.5 acre cypress area in 'Conservation Lands' land use category and working with SFWMD to incorporate the cypress area into the development's storm water management system in order to restore hydrology while providing excellent water quality for the development.



**RESPONSE: In regard to the cypress area, the applicant is willing to accept a reasonable condition if the amendment is approved, but it is premature to get into this level of detail at the Comprehensive Plan Amendment stage. The owner is probably several years away from any permitting with the South Florida Water Management District.**

E1: The applicant has provided a statement that the proposal will have no effect on the population capacity but does not provide any data or analysis to support this. Please provide the necessary data and analysis.

**RESPONSE: We are submitting data and analysis that addresses the effects on the population capacity.**

E3: The applicant has not provided any analysis of how the proposal affects adjacent local governments or their plans. Please provide this data or analysis or a statement that there are no effects on adjacent local governments.

**RESPONSE: We are submitting an exhibit that addresses the effects on adjacent local governments.**

E4: The applicant has not provided a list of State or Regional Plan goals or policies which are relevant to the proposed amendment. Please provide this list.

**RESPONSE: We are submitting an exhibit that addresses the list of relevant state and regional goals and policies.**

Please do not hesitate to contact me if you need additional information.

Very truly yours,

KNOTT, CONSOER, EBELINI,  
HART & SWETT, P.A.



Michael E. Roeder, AICP  
Director of Zoning and Land Use Planning

MER/ams  
Attachments



Bob Janes  
District One

A. Brian Bigelow  
District Two

Ray Judah  
District Three

Tammy Hall  
District Four

Frank Mann  
District Five

Donald D. Stilwell  
County Manager

David M. Owen  
County Attorney

Diana M. Parker  
County Hearing  
Examiner

June 20, 2008

Mr. Michael Roeder  
c/o Knott, Consoer, Ebelini, Hart & Swett PA  
1625 Hendry Street Suite 301  
Fort Myers, Florida 33901

RE: CPA2007-52 Cowart Lee Plan Future Land Use Amendment

Dear Mr. Roeder:

Planning staff has reviewed the application submitted for the above reference case and finds that additional information is needed to find the application sufficient for review. Please submit the following information.

**PART I**

The submitted application lists a different address for the owner of record than the property appraisers records. Please clarify the proper address.

**PART III**

A: The application lists only one STRAP number (05-46-25-00-00001.0020) and address although the subject property consists of two lots, each with a separate STRAP and address. Please amend the application to include the STRAP and address of both the 10 acre parcel and the 5 acre parcel.

**PART IV**

A5: The legal descriptions provided by the applicant are not sufficient. Please provide one description encompassing both parcels combined. The point of commencement should be at a verified section corner and the Point of Beginning should include a State Plane Coordinate.

In addition, the applicant has not provided a legal description of the wetland areas on the subject property. Please provided a description of the wetlands that conforms to the standards mentioned above.

A7: In the aerial provided by the applicant the subject property runs off of the north edge of the image. Please provide an aerial photograph of the entire subject parcel and the surrounding properties.



B2c: The applicant has not supplied data and analysis of the impact of 12 additional residential units on the subject property upon surface water and drainage basins.

B2d: The applicant has not provided data or analysis to support the conclusion that the proposed amendment will have no effect on parks, recreation and open space in Lee County.

B3b: The applicant has not provided a letter from Emergency Medical Services Provider.

B3c: The applicant has not provided a letter from the Lee County Sheriffs Department.

B3d: The applicant has not provided a letter from the Mass Transit provider.

B3e: The applicant has not provided a letter from the Lee County School District.

C: The application states there are 4 acres of wetlands. However, the preliminary environmental assessment prepared by Environmental Restoration Consultants on April 12, 2006 indicates 1.3 acres of wetlands. Please provide an accurate assessment of the wetlands located on the property. In the table of plant communities by FLUCCS the Preliminary Environmental Assessment labels improved pasture / disturbed lands as FLUCCS 211 / 740. In the wetland assessment the improved pasture / disturbed lands is referred to as FLUCCS 221 / 740. FLUCCS 221 is citrus groves. Please revise the wetland assessment to delineate improved pasture as FLUCCS 211.

The cypress area had exotic infestation around the perimeter while the interior of the cypress dome was of higher quality however the hydrology was severely impacted. ES Staff recommends placing the 0.5 acre cypress area in conservation lands use category and working with SFWMD to incorporate the cypress area into the development's storm water management system in order to restore hydrology while providing excellent water quality for the development.

E1: The applicant has provided a statement that the proposal will have no effect on the population capacity but does not provide any data or analysis to support this. Please provide the necessary data and analysis.

E3: The applicant has not provided any analysis of how the proposal affects adjacent local governments or their plans. Please provide this data or analysis or a statement that there are no effects on adjacent local governments.

E4: The applicant has not provided a list of State or Regional Plan goals or policies which are relevant to the proposed amendment. Please provide this list.

If I can be of any assistance or if you have any questions, please do not hesitate to call me at 533-8312.



ly,

A handwritten signature in black ink, appearing to read "Peter Blackwell". The signature is fluid and cursive, with a long, sweeping underline that extends to the right.

DEPARTMENT OF COMMUNITY DEVELOPMENT, DIVISION OF PLANNING

Blackwell



**Knott, Consoer, Ebelini  
Hart & Swett, P.A.**  
ATTORNEYS - AT - LAW

George H. Knott \*+  
George L. Consoer, Jr. \*\*  
Mark A. Ebelini  
Thomas B. Hart  
H. Andrew Swett

\* Board Certified Civil Trial Lawyer  
\*\* Board Certified Real Estate Lawyer  
+ Board Certified Business Litigation Lawyer

1625 Hendry Street • Third Floor (33901)  
P.O. Box 2449  
Fort Myers, Florida 33902-2449

Telephone (239) 334-2722  
Telecopier (239) 334-1446

MRoeder@knott-law.com

Matthew D. Uhle  
Aaron A. Haak  
Derrick S. Eihausen  
Natly Torres-Alvarado  
David A. Burt  
Madeline Ebelini

Director of Zoning  
and Land Use Planning  
Michael E. Roeder, AICP

**MEMORANDUM**

TO: Lee County Department of Community Development

FROM: Mike Roeder

DATE: June 6, 2008

RE: Cowart / CPA2007-00052

---

Attached please find six copies of the environmental assessment and corresponding maps.

MER/ams  
Attachments

**RECEIVED**  
JUN 06 2008  
**PERMIT COUNTER**

CPA  
2007-00052





LEE COUNTY  
SOUTHWEST FLORIDA

BOARD OF COUNTY COMMISSIONERS

Bob Janes  
*District One*

A. Brian Bigelow  
*District Two*

Ray Judah  
*District Three*

Tammy Hall  
*District Four*

Frank Mann  
*District Five*

Donald D. Stilwell  
*County Manager*

David M. Owen  
*County Attorney*

Diana M. Parker  
*County Hearing Examiner*

September 14, 2007

Mr. Michael E. Roeder, AICP  
Knott, Consoer, Ebelini  
Hart & Sweet, P.A.  
1625 Hendry St. Third Floor  
P.O. Box 2449  
Ft. Myers, FL 33902-2449

**SUBJECT: Revised Comprehensive Plan Amendment for Musketeer Lane**

Dear Mr. Roeder:

The Lee County Solid Waste Division is capable of providing solid waste collection service for the proposed 15 residential dwelling units to be located at 7060 and 7150 Musketeer Lane through our franchised hauling contractors. Disposal of the solid waste generated at this location will be accomplished at the Lee County Resource Recovery Facility and the Lee-Hendry Regional Landfill. Plans have been made, allowing for growth, to maintain long-term disposal capacity at these facilities.

If you have any questions, please call me at (239) 338-3302.

Sincerely,

William T. Newman  
Operations Manager  
Solid Waste Division





# *San Carlos Park Fire Protection and Rescue Service District*

19591 Ben Hill Griffin Parkway • Fort Myers, Florida 33913-8989

Emergency **911**  
Office **239.267.7525**  
Fax **239.267.7505**

September 17, 2007

Michael E. Roeder, AICP  
Zoning and Land Use Planning  
Knott, Consoer, Ebelini  
Hart & Swett, P.A.  
1625 Hendry Street  
Fort Myers, 33901

Dear Mr. Roeder,

The Property located at 7060 and 7150 Musketeer Lane is within the jurisdiction of the San Carlos Park Fire and Rescue Service District. We currently provide fire and rescue service to this location. We have a concern increasing the density of this property due to the fact that there is not a fire hydrant within 1000 foot of the property. Please keep us updated as the project proceeds through the development process with Lee County Codes and Building Services. Please feel free to contact me at your convenience.

Respectfully,

A handwritten signature in black ink, appearing to read "T M Beard", written over the printed name.

Thomas M. Beard  
Fire Marshal





FLORIDA DEPARTMENT OF STATE  
Sue M. Cobb  
Secretary of State  
DIVISION OF HISTORICAL RESOURCES

May 22, 2006

Alison M. Stowe  
Knott, Conner, Ebelini, Hart & Swett, P.A.  
1625 Hendry Street  
Fort Myers, FL 33902-2449  
Fax: (239) 334-1446

Dear Ms. Stowe:

In response to your inquiry of May 19, 2006, the Florida Master Site File lists no previously recorded cultural resources in the following parcels:

T46S, R35E, Section 5

In interpreting the results of our search, please remember the following points:

- Areas which have not been completely surveyed, such as yours, may contain unrecorded archaeological sites, unrecorded historically important structures, or both.
- As you may know, state and federal laws require formal environmental review for some projects. Record searches by the staff of the Florida Master Site File do not constitute such a review of cultural resources. If your project falls under these laws, you should contact the Compliance Review Section of the Bureau of Historic Preservation at 850-245-6333 or at this address.

If you have any further questions concerning the Florida Master Site File, please contact us as below.

Sincerely,

*Celeste Ivory*  
Marie Celeste Ivory  
Archaeological Data Analyst, Florida Master Site File  
Division of Historical Resources  
R. A. Gray Building  
500 South Bronough Street  
Tallahassee, Florida 32399-0250

Phone: 850-245-6440, Fax: 850-245-6439  
State SunCom: 205-6440  
Email: [fmsfile@doh.state.fl.us](mailto:fmsfile@doh.state.fl.us)  
Web: <http://www.doh.state.fl.us/dhr/msf/>

500 S. Bronough Street • Tallahassee, FL 32399-0250 • <http://www.flheritage.com>

☐ Director's Office  
(850) 245-6300 • FAX: 245-6435

☐ Archaeological Research  
(850) 245-6444 • FAX: 245-6436

☐ Historic Preservation  
(850) 245-6333 • FAX: 245-6437

☐ Historical Museums  
(850) 245-6400 • FAX: 245-6433

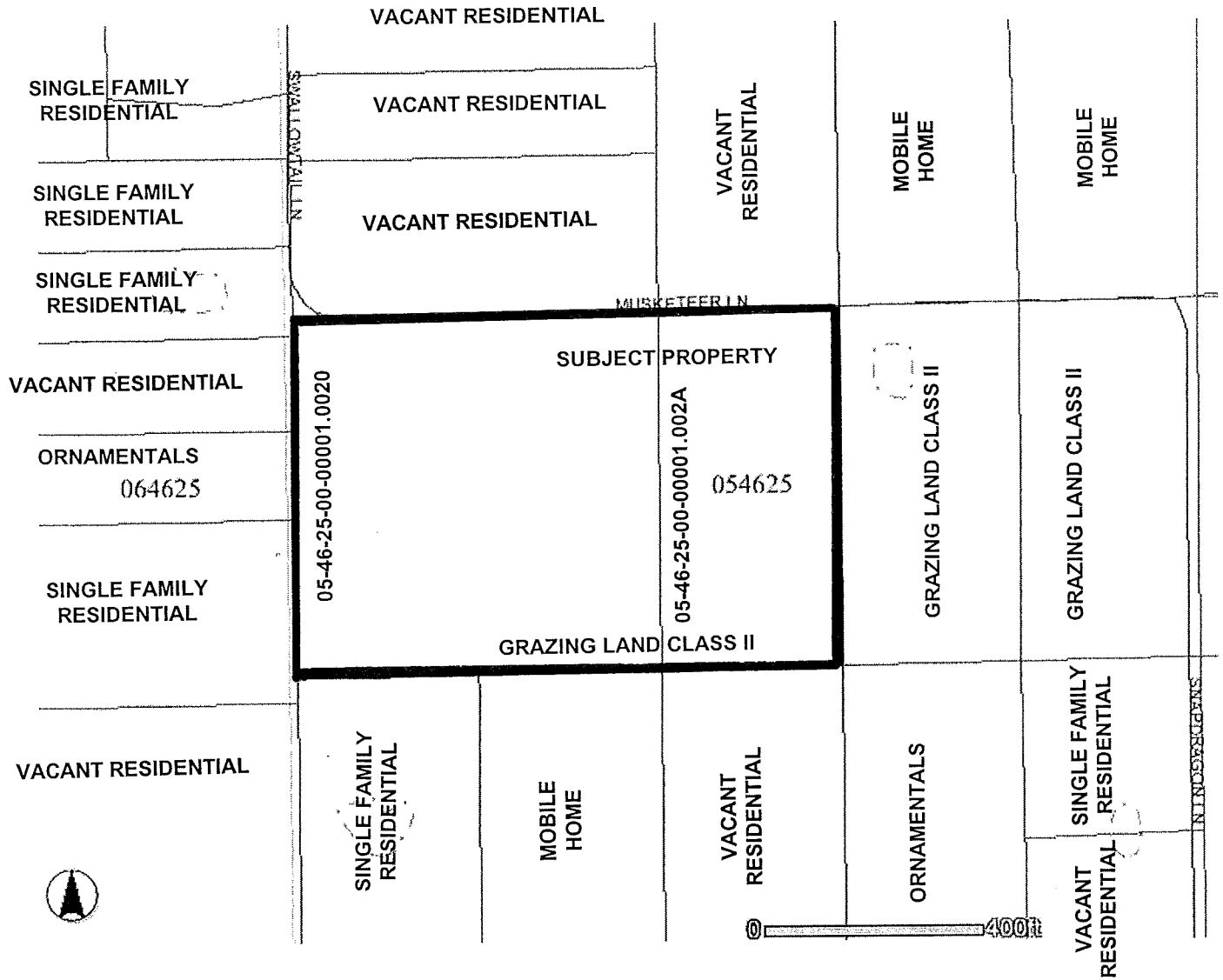
☐ Palm Beach Regional Office

☐ St. Augustine Regional Office  
(904) 275-5045 • FAX: 825-3044

☐ Tampa Regional Office  
(813) 272-3845 • FAX: 272-2340

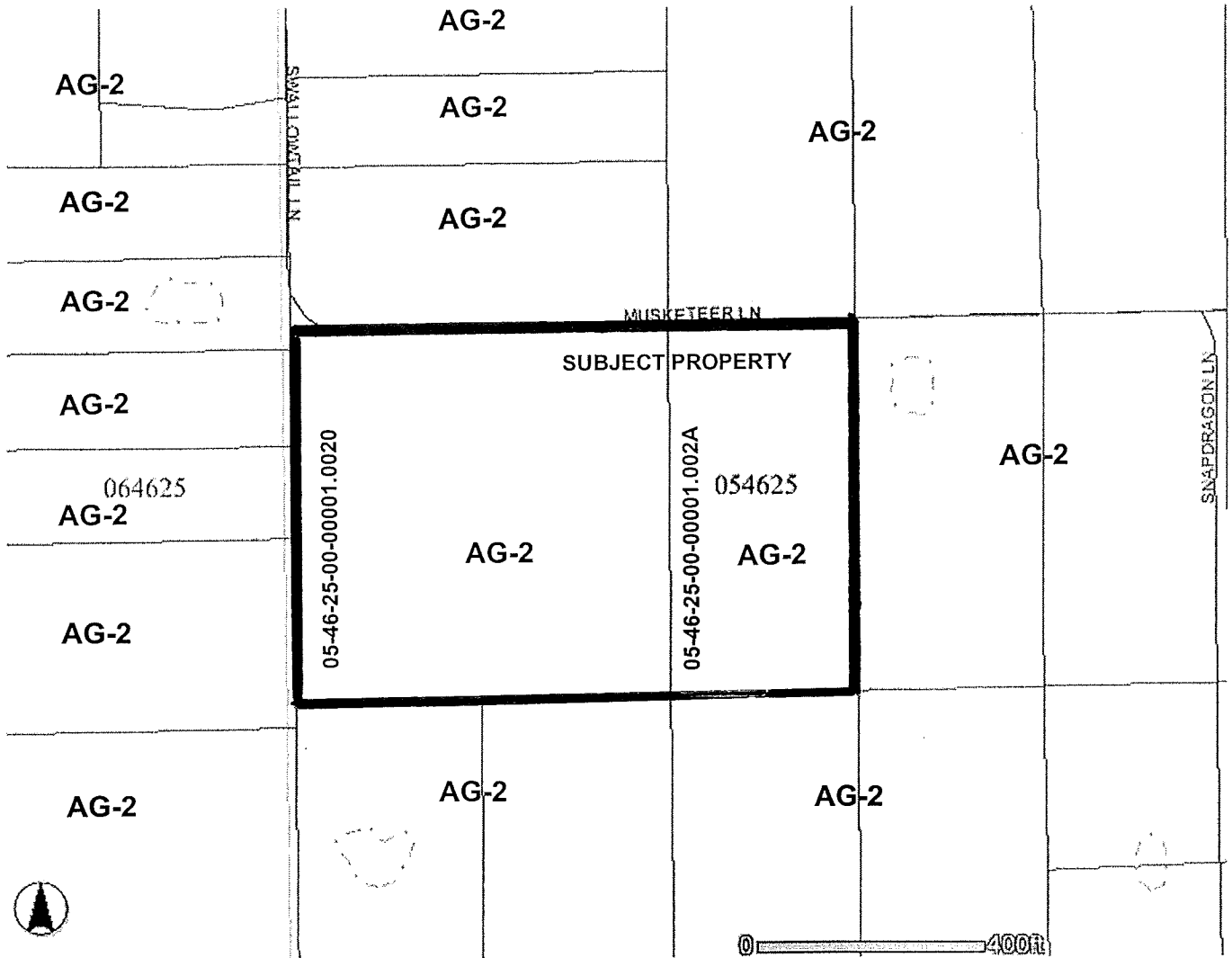


# Existing Land Uses EXHIBIT A.3





Existing Zoning Map  
EXHIBIT A.4









**Existing Land Uses**  
**EXHIBIT A.3**

The existing land uses on the surrounding properties mainly consist of low density residential uses.





## Bean, Whitaker, Lutz & Kareh, Inc.

13041 McGregor Boulevard  
Fort Myers, Florida 33919-5910  
email – [fmooffice@bwlk.net](mailto:fmooffice@bwlk.net)  
(Ph) 239-481-1331 (Fax) 239-481-1073

A Parcel of Land Lying in  
Section 5, Township 46 South, Range 25 East  
Lee County, Florida  
(Coward Parcel)

### Parcel I

Commencing at the Southeast corner of the North 1/3 of the Northwest Quarter (NW 1/4) of Section 5, Township 46 South, Range 25 East, Lee County, Florida; thence S89°07'20"W, 1980.0 feet along the South Line of said North 1/3 of the NW 1/4 of Section 5, Township 46 South, Range 26 East, to the point of beginning; thence N0°36'00"W, 636.46 feet to the centerline of a 60 foot road easement; thence S89°06'50"W, 663.67 feet to the west line of said Section 5; thence S0°53'50"E, 636.37 feet to the Southwest corner of N 1/3 of NW 1/4 of Section 5, thence N89°07'20"E, 660.36 feet, along the south line of said N 1/3 of NW1/4 of Section 5, to the point of beginning. Subject to road easement over the North 30 feet thereof.

### Parcel II

Commencing at the Southeast Corner of the N 1/3 of the NW 1/4 of Section 5, Township 46 South, Range 25 East, Lee County, Florida; Thence S89°07'20"W, 1650 feet along the South line of the N 1/3 of the NW 1/4 of said Section 5, to the point of beginning; thence N0°36'00"W, 636.51 feet to the centerline of a 60 foot road easement; thence S89°06'50"W, 330 feet along said centerline of said road easement; thence S0°36'00"E, 636.46 feet to the South Line of said N 1/3 of NW 1/4; thence N89°07'20"E, 330 feet along said south line to the point of beginning; subject to road easement over the North 30 feet thereof.

38780\_DESC2

#### PRINCIPALS:

WILLIAM E. BEAN, PSM, CHAIRMAN  
SCOTT C. WHITAKER, PSM, PRESIDENT  
JOSEPH L. LUTZ, PSM  
AHMAD R. KAREH, PE, MSCE, VICE PRESIDENT

CONSULTING ENGINEERS - SURVEYORS AND MAPPERS - PLANNERS



#### ASSOCIATES:

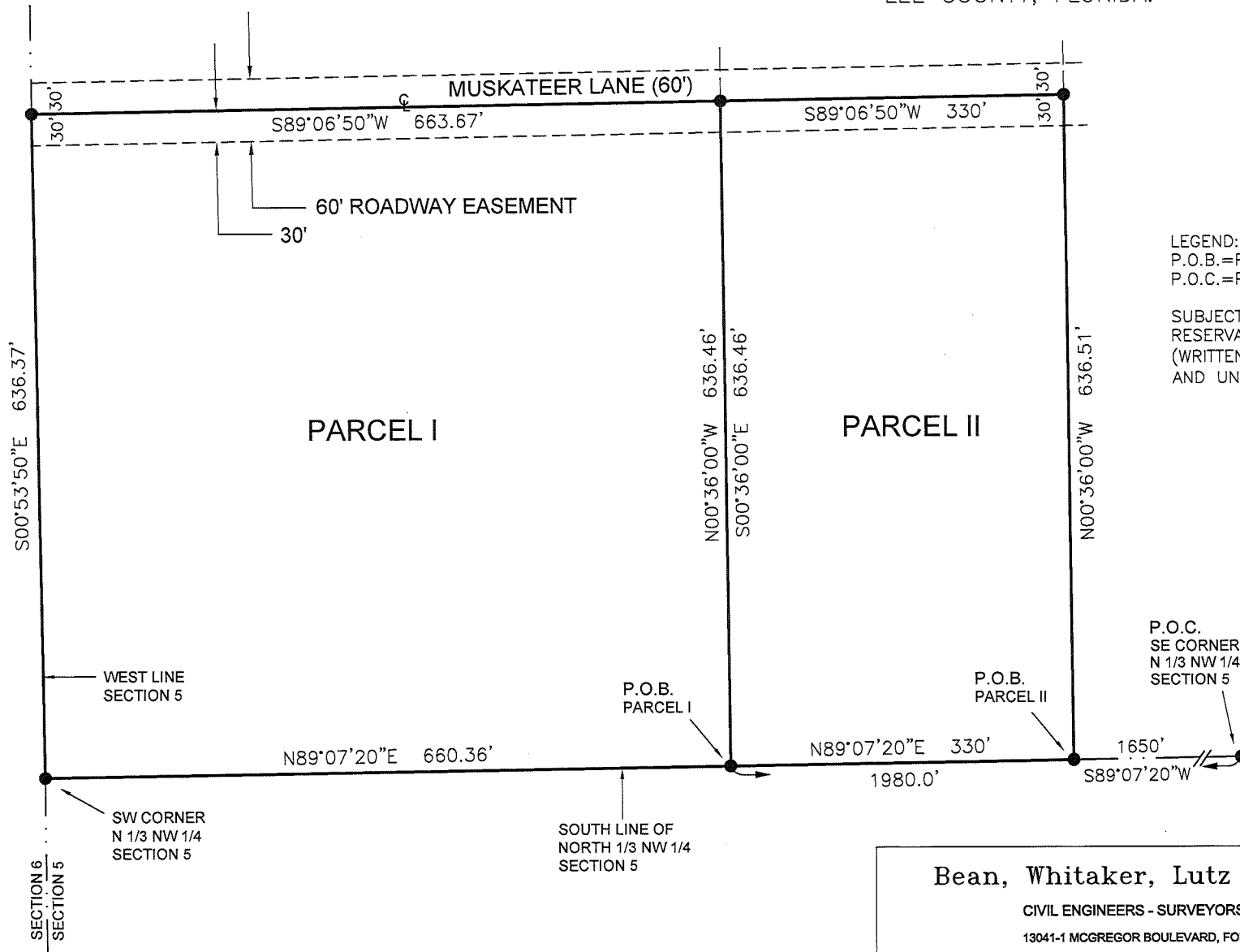
TRACY N. BEAN, AICP  
W. BRITT POMEROY, JR., PSM  
STEPHEN H. SKORUPSKI, PSM  
ELWOOD FINEFIELD, PSM  
JAMES A. HESSLER, PSM  
JAMES R. COLEMAN, PSM  
RUDOLF A. NORMAN, PE



# SKETCH TO ACCOMPANY DESCRIPTION

OF A PARCEL OF LAND  
LYING IN

SECTION 5, TOWNSHIP 46 SOUTH, RANGE 25 EAST,  
LEE COUNTY, FLORIDA.



LEGEND:  
P.O.B.=POINT OF BEGINNING  
P.O.C.=POINT OF COMMENCEMENT

SUBJECT TO EASEMENTS, RESTRICTIONS,  
RESERVATIONS, AND RIGHTS-OF-WAY  
(WRITTEN AND UNWRITTEN, RECORDED  
AND UNRECORDED).

COWART PARCEL

Bean, Whitaker, Lutz & Kareh, Inc. (LB 4919)

CIVIL ENGINEERS - SURVEYORS AND MAPPERS - PLANNERS

13041-1 MCGREGOR BOULEVARD, FORT MYERS, FLORIDA 33919-5910 (239) 481-1331

SK38780.DWG

DATE	PROJECT NO.	DRAWN BY	SCALE	SHEET	FILE NO. (S-T-R)
11-09-06	38780	CNA	1" = 150'	1 OF 1	5-46-25



**Justification of the Proposed Amendment**  
**EXHIBIT G**

This is a request to go from a *very* low density residential category to a low density residential category. The property is located in an area of low density residential, although at a somewhat higher density than 1 unit per acre. However, since the only reason this entire area was designated as Open Lands in the first place is no longer applicable, a change to Rural is entirely appropriate. The road system is in very good condition, and the location allows for easy access to many of the employment and shopping opportunities of South Fort Myers.



## **Goals and Objectives of the Lee Plan EXHIBIT E.2**

The two main policies that are relevant to this analysis are Policy 1.4.1, the definition of Rural areas, and Policy 1.4.4, the definition of Open Lands. This area does not match the definition of Open Lands contained in Policy 1.4.4, since it is not located north of Rural property and is not in Township 43 South. In reality, this small area of Open Lands was designated as a way to protect property in the noise zones of the airport from any density increases, since it could not be designated Industrial Development as the remaining land in the area, due to its existing residential character. The property is actually south of a designated Rural area and immediately to the east an existing Rural designation. In addition, another 5 acre parcel to the southeast of this has already been designated Rural on the Future Land Use Map. The airport noise zone has been revised since this property was designated as Open Lands, and it no longer encompasses this area. Given that that restriction is no longer applicable, the property better complies with the definition of Rural than Open Lands, in that the area is not “extremely remote” from public services but it is in an area characterized by low density residential development. The potential increase from 3 units to 15 units is quite modest and would not trigger any other Lee Plan policies as long as the environmental features of the site are protected. Any future rezoning or subdivision approval would include those protections.



**Internal Consistency with the Lee Plan**  
**EXHIBIT E.1**

A potential increase of approximately 30 residents will not have a measurable affect on the total population capacity of the Future Land Use Map.



**Surface Water / Drainage Basins**  
**EXHIBIT B.2.c**

This property is located in the Six Mile Cypress drainage basin, and the addition of 12 single-family homes will not have any impact on water flows or capital improvements, given the allowable discharge rate of 37.1 csm.

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**Parks, Recreation, and Open Space**  
**EXHIBIT B.2.d**

The property is located in the South Fort Myers Community Park district, which currently meets its regulatory standard for community parks and will continue to meet that thru 2010. On the other hand, this district does not meet in its desired LOS standards currently, nor will it meet that level in 2010. However, the potential addition of 12 homes to this property will not affect this situation to any measurable degree.

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**Mike Scott**  
**Office of the Sheriff**



**State of Florida**  
**County of Lee**

February 26, 2007

Alison Stowe  
Knott, Consoer, Ebelini, Hart & Swett, P.A.  
1625 Hendry St  
PO Box 2449  
Ft Myers, Fl 33902-2449  
Reference to Project: Musketeer Lane

Dear Ms. Stowe

The Lee County Sheriff's Office has reviewed the proposed Musketeer Lane Project located at 7060 and 7250 Musketeer Lane. In order to provide core law enforcement services to this site, a Crime Prevention through Environmental Design (CPTED) study must be conducted. This study involves a survey of the physical, mechanical and organizational structure of the development to identify features which may contribute to unwanted behaviors such as criminal acts.

Upon application to Lee County for a development order or building permit, please contact Kevin Farrell, Crime Prevention Practitioner, at (239)477-2821 or (239)851-2258 to have this study conducted. Thank you in advance for your cooperation in this matter.

Sincerely,

Mike Scott  
Sheriff

Captain Gene Sims  
Lee County Sheriff's Office  
Administration Bureau  
14750 Six Mile Cypress Pkwy  
Fort Myers, Fl 33912  
239-477-1424 (Office)

CPA 2007-00052

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JUL 31 2008

COMMUNITY DEVELOPMENT

COPY





**Mike Scott**  
**Office of the Sheriff**



**State of Florida**  
**County of Lee**

April 17, 2007

Alison Stowe  
Knott, Consoer, Ebelini, Hart & Swett, P.A.  
1625 Hendry St  
PO Box 2449  
Ft Myers, Fl 33902-2449

Reference: Musketeer Lane

Dear Ms. Stowe

The Lee County Sheriff's Office is anticipating the construction of the Musketeer Lane development within Lee County. In order for this agency to provide an adequate level of core law enforcement services, a Crime Prevention through Environmental Design (CPTED) survey must be completed. Two letters have been mailed to you in the last month by Kevin Farrell, Crime Prevention Practitioner, and myself, in an effort to solicit your cooperation. As of this date, your correspondence has not been received.

In order for the Lee County Sheriff's Office to proceed with the CPTED survey and therefore provide an adequate level of core law enforcement services, your immediate correspondence and cooperation are required. Please contact Kevin Farrell at (239)477-2821 or (239)851-2258 to begin the survey process.

Sincerely,

CPA 2007-00052

Mike Scott  
Sheriff

Captain Gene Sims  
Lee County Sheriff's Office  
Administration Bureau  
14750 Six Mile Cypress Pkwy  
Fort Myers, Fl 33912  
239-477-1424 (Office)

CC: File  
Matthew A. Noble

COPY

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JUL 31 2008

COMMUNITY DEVELOPMENT





*Mike Scott*  
Office of the Sheriff



State of Florida  
County of Lee

March 5, 2007

Alison Stowe  
Knott, Consoer, Ebelini, Hart & Swett, P.A.  
1625 Hendry St  
PO Box 2449  
Ft Myers, FL 33902-2449

Dear Ms. Stowe

I have received a request from Captain James Nygaard to contact you regarding the proposed development called Musketeer Lane, located 7060 and 7250 Musketeer Lane in Lee County, Florida.

To properly answer your request for the Lee County Sheriff's Office to provide service to your project, I would like to do a Crime Prevention Through Environmental Design (CPTED) study of your project.

Would you please forward me a concept plan showing the placement of the buildings, interior roadways, access control points from main streets, square footage and usage of each building, type and location of all lighting, parking lot design, any fencing, parking calculations of non-residential buildings, and type and location of plantings. If you are incorporating any security measures in the project, please include a description and location of same.

I would appreciate a large readable copy of the above, blueprint size, and the status of any development order or building permit.

Please feel free to contact me if you have any questions.

Yours truly,

Kevin Farrell, FCPP  
Crime Prevention Unit  
239-477-2821  
kfarrell@sheriffleefl.org

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JUL 31 2008

COMMUNITY DEVELOPMENT

COPY

CPA 2007-00052







LEE COUNTY  
SOUTHWEST FLORIDA

BOARD OF COUNTY COMMISSIONERS

Bob Janes  
District One

A. Brian Bigelow  
District Two

Ray Judah  
District Three

Tammy Hall  
District Four

Frank Mann  
District Five

Donald D. Stilwell  
County Manager

David M. Owen  
County Attorney

Diana M. Parker  
County Hearing  
Examiner

October 4, 2007

Mr. Michael E. Roeder, AICP  
Knott, Consoer, Ebelini, Hart & Swett, P.A.  
P.O. Box 2449  
Fort Myers, FL 33902-2449

**Re: 7060 and 7150 Musketeer Lane**

Mr. Roeder:

Lee County Transit received your letter on September 10, 2007 in reference to the entire 15 acre inclusion of the property in the Comprehensive Plan Amendment application for the subject property instead of the original 10 acres. Lee County does not currently provide public transportation services to the subject property or to any of the surrounding rural areas. Planning studies have not identified the need to extend service to the site anytime within the existing Lee County Transit Development Plan, which goes through 2015 and the Lee County Long Range Transportation Plan, which goes through 2030. We do not anticipate this to change with the proposed Comprehensive Plan Amendment changing the designated land use for all 15 acres.

If you have any questions please contact me at (239) 533-0333 or you can send an e-mail to [mhorsting@leegov.com](mailto:mhorsting@leegov.com).

Sincerely,

Michael Horsting, AICP  
Principal Planner  
Lee County Transit

2007-00052

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# THE SCHOOL DISTRICT OF LEE COUNTY

2855 COLONIAL BLVD. ♦ FORT MYERS, FLORIDA 33966-1012 ♦ (239) 334-1102 ♦ TTD/TTY (239) 335-1512  
WWW.LEESCHOOLS.NET

October 4, 2007

Mr. Michael Roeder, AICP  
Knott, Consoer, Ebelini, Hart & Swett, PA  
1625 Hendry Street  
PO Box 2449  
Fort Myers, FL 33902-2449

Jeanne S. Dozier  
*Chairman, District 2*  
Jane E. Kuckel, Ph.D.  
*Vice Chairman, District 3*  
Robert D. Chilmonik  
*District 1*  
Steven K. Teuber, J.D.  
*District 4*  
Elinor C. Scricca, Ph.D.  
*District 5*  
James W. Browder, Ed.D.  
*Superintendent*  
Keith B. Martin, Esq.  
*Board Attorney*  
Julie B. Nieminski  
*Board Internal Auditor*

Re: Comprehensive Plan Amendment for Musketeer Lane

Dear Mr. Roeder:

Thank you for the opportunity to review your letter in regards to the Comprehensive Plan Amendment for Musketeer Lane. This proposed development is in the South Choice Zone of the District. This letter is in response to your request dated September 06, 2007.

As Knott, Consoer, Ebelini, Hart & Swett, PA, are retained to evaluate the application process for your client, please note that proposed residential community will impact the educational facilities with a generation of less than five (5) students based upon the impact fee ratio of .316. Once zoning has been changed and this file has been updated than it would be reevaluated during the development process through Lee County.

Thank you for your attention to this issue. If I may be of further assistance, please give me a call at (239) 479-5661.

Respectfully,

Susan Teston, Community Development Planner  
Planning, Growth & School Capacity

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JUL 31 2008

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CIPA 2007-00052



**Population Capacity Analysis**  
**EXHIBIT E.1**

The addition of 12 net dwelling units to this property would add approximately 25 residents using the 2.09 residents per unit formula for Lee County. Twenty-five residents in a total County population of over 600,000 would not create any measurable impact on any of the County's facilities or programs.

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JUL 31 2008

COMMUNITY DEVELOPMENT



**Effect on Local Governments and Their Plans**  
**EXHIBIT E.3**

These 15 acres are located in unincorporated Lee County, at least 5 miles from any other local government. Therefore, the addition of 25 residents will not have any appreciable impact on any other local government in the area.

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JUL 31 2003

COMMUNITY DEVELOPMENT

2007-00052



**Regional and State Plans**  
**EXHIBIT E.4**

The following provisions in the Regional Policy Plan are relevant to this amendment:

1. Goal 1: The supply and variety of housing type in various price ranges is to insure that all residents have access to decent and affordable housing.
2. Goal 2: Southwest Florida will develop (or redevelop) communities that are livable and offer residents a wide range of housing and employment opportunity.

The following policies from the State Comprehensive Plan are also relevant to this amendment:

1. Section 187.20 (4) HOUSING--
  - (a) Goal.--The public and private sectors shall increase the affordability and availability of housing for low-income and moderate-income persons, including citizens in rural areas, while at the same time encouraging self-sufficiency of the individual and assuring environmental and structural quality and cost-effective operations.
2. Section 187.201 (14) PROPERTY RIGHTS.--
  - (a) Goal.--Florida shall protect private property rights and recognize the existence of legitimate and often competing public and private interests in land use regulations and other government action.
3. Section 187.201 (15) LAND USE.--
  - (a) Goal.--In recognition of the importance of preserving the natural resources and enhancing the quality of life of the state, development shall be directed to those areas which have in place, or have agreements to provide, the land and water resources, fiscal abilities, and service capacity to accommodate growth in an environmentally acceptable manner.

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JUL 31 2008  
COMMUNITY DEVELOPMENT



**Public Facilities Impacts**  
**EXHIBIT B.1**

The property that is requesting the land use map amendment is located on Musketeer Lane, which ultimately accesses U.S. 41 via Swallowtail Lane, Greystone Lane, Pebble Lane, and Briarcliff Road. Musketeer, Swallowtail, Greystone, and Pebble are all paved local roads with very minimal traffic. Briarcliff Road is a collector that currently operates at LOS "C", and is projected to operate at LOS "C" in the future. U.S. 41 in this link (30200) currently operates at LOS "B" and is projected to operate at LOS "B" in the future. The current designation for this 15 acres would allow a maximum of three units in the Open Lands category, which would translate into approximately 30 average daily trips or possibly 6 peak hour trips in each direction. The requested change to the Rural land use category, if approved, would allow for a maximum of 15 dwelling units, or approximately 150 average daily trips or 30 peak hour trips in each direction, an increase of 24 peak hour trips.

Given the low volume of traffic on all of the roads connecting to U.S. 41, and given the good LOS standard on U.S. 41 at the present time, it was agreed that a detailed Traffic Impact Analysis would not be necessary for these additional 24 peak hour trips. It is not easy to predict which direction on U.S. 41 these trips would go, but a 50/50 split is a reasonable guess. No road improvements will be required to accommodate this additional traffic.

CPA 2007-00052

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JUL 31 2003

COMMUNITY DEVELOPMENT





# Bean, Whitaker, Lutz & Kareh, Inc.

13041 McGregor Boulevard  
Fort Myers, Florida 33919-5910  
email – fmooffice@bwlk.net  
(Ph) 239-481-1331 (Fax) 239-481-1073

CPA 2007-00052

RECEIVED  
AUG 20 2008

Description of a Parcel of Land  
Lying in  
Section 5, Township 46 South, Range 25 East  
Lee County, Florida  
(Cowart Overall Parcel)

COMMUNITY DEVELOPMENT

A parcel of land situated in the State of Florida, County of Lee, lying in Section 5, Township 46 South, Range 25 East and further described as follows:

Commencing at a 6" X 6" concrete monument marking the northwest corner of Section 5, Township 46 South, Range 25 East; thence S00°53'22"E along the west line of said Section 5 for 636.37 feet to the northwest corner of Parcel I as recorded in Official Record Book 3737 at Page 4195, said point being the centerline of a 60 foot road easement and the Point of Beginning; thence continue S00°53'22"E along said west line of Section 5 and the west line of said Parcel I for 636.37 feet to a 3" X 3" concrete monument with an "X" on top marking the southwest corner of the north 1/3 of the northwest 1/4 of said Section 5 and the southwest corner of said Parcel I; thence N89°07'20"E along the south line of said fraction and the south line of said Parcel I and Parcel II as recorded in Official Record Book 3737 at Page 4195 for 989.20 feet to the southeast corner of said Parcel II; thence N00°36'00"W along the east line of said Parcel II for 636.48 feet to the northeast corner of said Parcel II and said centerline of 60 foot road easement; thence S89°06'58"W along said centerline and the north line of said Parcels I and II for 992.42 feet to the Point of Beginning.

Subject to road easement over the north 30 feet thereof.

Bearings are based on the deed of record indicating the south line of the north 1/3 of the northwest 1/4 of Section 5 as bearing N89°07'20"E.

Parcel contains 14.48 acres (630,575 square feet), more or less.

Bean, Whitaker, Lutz & Kareh, Inc. (LB 4919)

  
Scott C. Whitaker, P.S.M. 4324

38780\_DESC3

7/18/08

#### PRINCIPALS:

WILLIAM E. BEAN, PSM, CHAIRMAN  
SCOTT C. WHITAKER, PSM, PRESIDENT  
JOSEPH L. LUTZ, PSM  
AHMAD R. KAREH, PE, MSCE, VICE PRESIDENT

CONSULTING ENGINEERS - SURVEYORS AND MAPPERS - PLANNERS



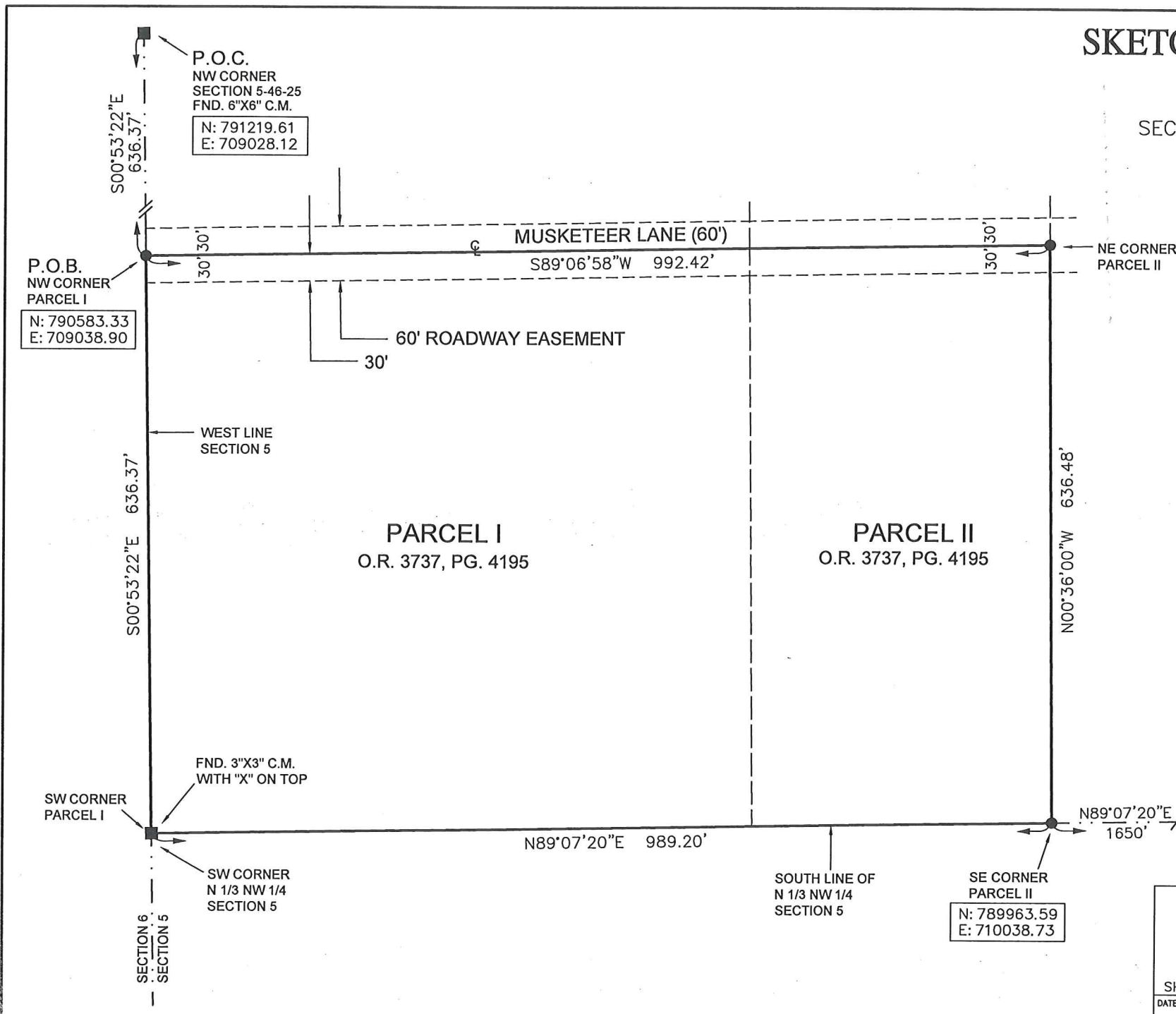
#### ASSOCIATES:

TRACY N. BEAN, AICP  
JAMES A. HESSLER, PSM  
CHARLES D. KNIGHT, PSM  
MUNIR R. SULEH, PE, M.S.E.E.



# SKETCH TO ACCOMPANY DESCRIPTION

OF A PARCEL OF LAND  
LYING IN  
SECTION 5, TOWNSHIP 46 SOUTH, RANGE 25 EAST,  
LEE COUNTY, FLORIDA.



LEGEND:  
P.O.B.=POINT OF BEGINNING  
P.O.C.=POINT OF COMMENCEMENT  
O.R.=OFFICIAL RECORD BOOK  
PG.= PAGE  
FND.= FOUND  
C.M.= CONCRETE MONUMENT

COORDINATES ARE BASED ON THE STATE  
PLANE COORDINATE SYSTEM FLORIDA  
WEST ZONE (NORTH AMERICAN DATUM OF  
1983-2007 ADJUSTMENT).

\*\*\* THIS IS NOT A SURVEY \*\*\*  
Bean, Whitaker, Lutz & Kareh, Inc.

*Scott C. Whitaker*  
SCOTT C. WHITAKER, P.S.M.  
Florida Certificate No. 4324

## COWART OVERALL PARCEL

Bean, Whitaker, Lutz & Kareh, Inc. (LB 4919)

CIVIL ENGINEERS - SURVEYORS AND MAPPERS - PLANNERS

13041 MCGREGOR BOULEVARD, FORT MYERS, FLORIDA 33919-5910 (239) 481-1331

SK38780\_OVERALL.DWG

DATE	PROJECT NO.	DRAWN BY	SCALE	SHEET	FILE NO. (S-T-R)
7-18-08	38780	CNA	1"= 150'	1 OF 1	5-46-25

COMMUNITY DEVELOPMENT

AUG 20 2008

2007-00052



CHRONOLOGY FOR SECTION 5, T 46, R 25  
(In Reference to CPA 2007-52)

1. 1962-1984, Zoned what eventually became AG-2, one unit per acre, MOL.
2. 1984, Designated Rural by the first Lee Plan land use map, one unit per acre.
3. 1986, Designated Industrial on the FLUM at the request of the Port Authority based on Part 150 Noise Compatibility Study.
4. 1993, Small scale amendment approved on Snapdragon Lane (93-01), changing five acres from Industrial Development to Rural, based on a finding that the Industrial Development designation for this area was in error. Staff recommended that in the upcoming EAR cycle, all similarly situated parcels be redesignated Rural.
5. 1998, County initiates land use amendment for 135 acres in Section 5 from Industrial Development to Rural (PAM 98-12). Original staff recommendation was for a footnote in Table 1(a) that would limit density in this Section to 1du/2.5 acres.
6. 3/22/99, LPA approves the amendment to Rural with the recommended density of 1du/2.5 acres.
7. 6/2/99, BOCC approves the amendment to Open Lands, but with a footnote to Table 1(a) that the density would be 1du/5acres without the requirement for Planned Development Zoning. Minutes from the meeting reflect that this change was based on concern over noise from the airport.
8. 5/16/07 BOCC adopts updated Part 150 Noise Compatibility Study (CPA 2005-10) which excludes this property from any noise impact contours.





LEE COUNTY  
SOUTHWEST FLORIDA

BOARD OF COUNTY COMMISSIONERS

Bob Janes  
District One

A. Brian Bigelow  
District Two

Ray Judah  
District Three

Tammy Hall  
District Four

Frank Mann  
District Five

Donald D. Stilwell  
County Manager

David M. Owen  
County Attorney

Diana M. Parker  
County Hearing  
Examiner

Hearing Date: September 22, 2008

Case Number: CPA2007-52

Case Name: Cowart Comprehensive Plan Amendment

Request: Amend Lee Plan The Future Land Use Map, Map 1 to redesignate a 15 acre parcel from Open Lands future land use category to Rural future land use category.

Location: The property is located in Section 5 of Township 46 South Range 25 East. The property is located on Musketeer Lane one half mile south of Briarcliff Road.

APPLICANT: Richard Cowart

APPLICANT'S  
REPRESENTATIVE: Michael Roeder  
1625 Hendry Street, Suite 301  
Fort Myers, FL 33901

Lee County Planner: Peter Blackwell  
(239) 533-8312

The file may be reviewed Monday through Friday between the hours of 8:00 am and 4:30 pm at the Lee County, Planning Division, 1500 Monroe St., Fort Myers, FL 33901. Call (239) 533-8585 for additional information.

This is a courtesy notice. Please review the New-Press for Local Planning Agency meeting notices.

This case is anticipated to be reviewed by the Local Planning Agency on: 8:30 AM  
September 22, 2008



**CPA 2007-52  
PRIVATELY SPONSORED  
COWART  
AMENDMENT TO THE**

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**LEE COUNTY COMPREHENSIVE PLAN**

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**THE LEE PLAN**

**Privately Sponsored Application  
and Staff Analysis**

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**LPA Public Hearing Document  
for the  
September 22nd, 2008 Public Hearing**

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

**September 12, 2008**



**LEE COUNTY  
DIVISION OF PLANNING  
STAFF REPORT FOR  
COMPREHENSIVE PLAN AMENDMENT  
CPA2007-52**

☐

Text Amendment

☒

Map Amendment

	This Document Contains the Following Reviews:
✓	Staff Review
	Local Planning Agency Review and Recommendation
	Board of County Commissioners Hearing for Transmittal
	Staff Response to the DCA Objections, Recommendations, and Comments (ORC) Report
	Board of County Commissioners Hearing for Adoption

STAFF REPORT PREPARATION DATE: September 12, 2008

**PART I - BACKGROUND AND STAFF RECOMMENDATION**

**A. SUMMARY OF APPLICATION**

**1. APPLICANT/REPRESENTATIVE:**

Richard Cowart

Represented by Michael Roeder of Knott, Consoer, Ebelini, Hart & Swett PA  
1625 Hendry St. Suite 301  
Ft. Myers, FL, 33901

**2. REQUEST:**

Amend The Future Land Use Map Series, Map 1. to redesignate a 15 acre parcel from "Open Lands" future land use category to the "Rural" future land use category.

**B. STAFF RECOMMENDATION AND FINDINGS OF FACT SUMMARY**

**1. RECOMMENDATION:**

Staff recommends that the Board of Commissioners **not** transmit the proposed amendment.

**2. BASIS AND RECOMMENDED FINDINGS OF FACT:**

- The subject property is composed of one 10 acre lot and one 5 acre lot.



- The parcel was redesignated from Industrial Development to Open Lands by Lee Plan Amendment PAM98-12.
- Table 1 (b) of the Lee Plan is intended to place a cap on residential increase within certain planning communities of Lee County.
- The applicant has not demonstrated any need for increased any additional residential units in this area.
- The subject property is located in an area consisting mainly of 2.5 and 5- acre parcels.
- The proposed amendment would create an island of higher density residential parcels in a low density rural area.
- The subject property is abutted by low-density residential and agricultural uses.
- The subject property is adjacent to the airport flyway for Southwest Florida International Airport.
- Increasing density on the subject parcel would create a negative precedent in the area.
- The maximum density currently permitted by the Open Lands category in the subject parcel matches the existing rural residential character of the surrounding area.

## C. BACKGROUND INFORMATION

### 1. INTRODUCTION

The subject property is a 15 acre parcel in the Daniels Parkway planning community. The parcel is currently zoned AG-2 and is in the Open Lands future land use category on the Future Land Use Map. The applicant is proposing to change the future land use category designation from Open Lands to Rural. Per Footnote 7 of Table 1 (a), the maximum possible units on the subject property as it is currently designated is 3. The proposed amendment would allow up to 15 one-acre residential units on the subject property. The property is south of Briarcliff Road and north of the industrial areas along Alico road. The surrounding area is characterized by 5 and 2.5-acre parcels with low-density residential, vacant parcels, and agricultural uses.

### 2. COMPREHENSIVE PLAN BACKGROUND

The subject property was originally located within the Rural future land use category. In 1996, a 135-acre area known as Area "K" was redesignated to the Industrial Development future land use category as part of the Lee Plan Evaluation and Appraisal Report. The subject property is in the northwest corner of this area. In November 1999 Lee Plan Amendment PAM98-12 changed the Industrial Development future land use category to Open Lands for Area K. The basis for this change was that, due to it's residential nature, Area K was incompatible with industrial uses and that the 1996 Industrial Development designation was in error. The Open Lands future land use category is described in Goal 1 of the Lee Plan:

*Policy 1.4.4: Open Lands are upland areas that are located north of rural and/or sparsely*



*developed areas in Township 43 South. These areas are extremely remote from public services and are characterized by agricultural and low-density residential uses. Commercial and industrial uses are permitted in this category in accordance with the standards in the Rural category. The maximum density in this category is one dwelling unit per ten acres (1 du/10 acres); except that a maximum density of one dwelling unit per five acres (1 du/5 acres) is permitted if the planned development process is used to prevent adverse impacts on environmentally sensitive lands (as defined in Policy 107.1.1.4.)*

The maximum permitted residential density in the Open Lands category is normally 1 unit per 10 acres. However, Footnote 7 of Lee Plan Table 1(a) states:

*The maximum density of 1 unit per 5 acres can only be approved through the planned development process (see Policy 1.4.4), except in the approximately 135 acres of land lying east of US41 and north of Alico Road in the Northwest corner of Section 5, Township 46, Range 25.*

The subject property is within the 135 acre area described in Footnote 7 and therefore can achieve a maximum permitted density of 1 unit per 5 acres. This would allow a total of 3 dwelling units on the subject property. Under the Rural category the maximum density is one unit per acre. This would increase the potential number of units to 15.

## **PART II - STAFF ANALYSIS**

### **A. STAFF DISCUSSION**

#### **Introduction**

The proposed amendment is to change the future land use category on a 15-acre parcel from Open Lands to Rural. The additional residential units generated by the proposed amendment would not place additional demands on public sanitary sewer or potable water services as the rural character of the area allows for private wells and septic tanks. Likewise, law enforcement, solid waste service, traffic, and school district levels of service will not be significantly affected by an additional 12 residential units.

The proposed amendment would result in an area of relatively higher-density one-acre residential lots that are inappropriate within that particular rural neighborhood. The surrounding parcels, including those which are already in the Rural future land use category, are almost all 2.5 and 5 acres in size.

#### **Surrounding Zoning and Future Land Uses**

The subject property is zoned AG-2. All the parcels abutting the subject property and in the general area are also zoned AG-2. The land to the north and west of the subject property is in the Rural future land use category. The land to the south and east of the subject property is in the Open Lands future land use category. To the north of the property across Musketeer Lane are two 5-acre parcels that are currently vacant residential. On the south side of the property are three 5-acre parcels that are single-family residential, mobile home and vacant residential, respectively. To the east is a 5-acre parcel listed as grazing land and to the west two 2.5-acre parcels that are vacant residential and agricultural and a 5-acre single family residential parcel.

#### **Environmental Issues**

The site has previously been cleared and is currently maintained and is used as pasture for cattle. The surrounding land uses include vacant forested parcels, pasture and nursery activities with low density single-family.



Per ES Staff site inspection on May 19, 2008 Staff noted the following:

There are four vegetated communities within the project site including 13.3± acres of improved pasture (FLUCCS 211). The canopy is open and is dominated by South Florida Slash Pine (*Pinus elliotti*), cabbage palm (*Sabal palmetto*) and in the southeast corner scattered laurel oak (*Quercus laurifolia*). The ±0.8 acre improved pasture/disturbed land (FLUCCS 211/740) is dominated by match weed (*Phyla nodiflora*). The ±0.4 acre reservoir (FLUCCS 534) provides water for cattle. The ±0.5 acre cypress area canopy is dominated by cypress (*Taxodium distichum*); with the southern perimeter dominated by melaleuca. The midstory is dominated by Brazilian pepper and climbing cassia (*Senna pendula*). Ground cover was primarily swamp fern (*Blechnum serrulatum*).

The 0.5 acre wetland was dehydrated; however the mature cypress appears healthy. If this change goes forward then ES Staff recommends placing the 0.5 acre cypress area in conservation lands use category and working with SFWMD to incorporate the cypress area into the future storm water management system in order to restore hydrology while providing excellent water quality and hydrological connectivity.

Lee Plan Objective 61.2 and Policies 1.4.6. and 61.2.1 support ES Staff's recommendation for hydrological restoration of the cypress dome and further support ES Staff's recommendation of conservation land use category for the cypress dome. The attached ES Staff report fully details the relevant Lee Plan objective and policies.

Please see attached ES Staff report (Exhibit 3) for a full environmental assessment of the subject property and Exhibit 4 which indicates the conservation lands on the wetland area.

#### **Population Accommodation and Lee Plan Table 1(b)**

The subject property is in the Daniels Parkway Planning Community. There are 120 acres allocated to residential development in this planning community. Of that, 38 are existing, leaving 82 acres. The proposed amendment would not increase the acreage allocated to residential uses. However, the potential number of residences within that acreage would increase from 3 units to 15. At 2.09 residents per unit, the additional 12 units would add approximately 25 residents to the planning community. The intent of Table 1(b) and the allocation table was to limit the increase of population within certain planning communities due to the over abundance of residential land within Lee County. Although the proposed amendment does not increase residential acreage, it does increase the number of residential units. This increase is contrary to the intent of Table 1(b) and the Lee Plan. Lee County currently has sufficient residential accommodation for the year 2030 planning horizon. Adding more units is unnecessary and does not address or fulfill any type of deficiency or shortage.

#### **School Impacts**

According to a letter from the School District of Lee County, the proposed amendment would generate less than five additional students.

#### **Sheriffs Office**

The applicant has provided several Letters from the Lee County Sheriffs Office (LCSO). These letters state that in order to provide an adequate level of core law enforcement services, a Crime Prevention through Environmental Design (CPTED) survey must be completed. The LCSO requested that the applicant supply a concept plan and site design for this study. Such plans would be premature at this time.

#### **Fire**

the applicant supplied a letter from the fire marshal of the San Carlos Park Fire Protection and Rescue Service District dated September 17, 2007. In the letter, the fire marshal stated a concern about increasing the density in the area due to the fact that there is no fire hydrant within 1000 feet of the property.



### **Emergency Medical Services**

In a conversation with Planning Staff, the EMS staff confirmed that the additional 12 residential units would not significantly affect EMS levels of service.

### **Utilities**

The subject property is within the Lee County Utilities Future Water Service and Future Sewer Service Areas. However, the nearest accessible potable water line is approximately 4,000 road-feet away at Briarcliff Road. The nearest accessible sewer line is at US 41.

Under the proposed Rural future land use, a maximum density of one unit per acre would be permitted. At such a density, septic tanks could be used. Therefore, no sanitary sewer service is needed. Likewise, at one unit per acre, potable water could be supplied by individual wells.

### **Solid Waste**

A September 14, 2007 letter from the Lee County Solid Waste Division states that the division is capable of providing solid waste collection service for the additional 12 units on the subject property that could result from the approval of the proposed amendment.

### **Parks, Recreation and Open Space**

The subject property is located in the South Fort Myers Community Park District. An increase of approximately 25 residents would not significantly impact the level of service for parks and recreation.

### **Historic Resources**

A May 22, 2006 letter from the Florida Division of Historical Resources states that the Florida Master Site File lists no previously recorded cultural resources in section 5, Township 46 South Range 25 East.

### **Transportation Issues**

Lee County Department of transportation Staff have determined that the proposed amendment would result in an increase of 15 trips on a PM peak hour basis. DOT Staff have determined that this increase would have no appreciable effect on the transportation system.

### **Compatibility**

The subject property is located in an area almost entirely composed of 5 and 2.5 acre parcels. The area north of Musketeer Lane is in the Rural future land use category, and therefore has a maximum density of one unit per acre. However, the parcels in that area have been developed at 5 and 2.5 acres. The proposed amendment would create an isolated area of higher density residential within a lower density area. Residents of this higher-density area would have to travel through the lower-density areas surrounding it. To approach the property from the south would required traffic to cross through the area designated Open Lands consisting of mainly 5-acre parcels. To approach the subject property from the north would require traffic to pass through an area that has been developed as 2.5 and 5- acre parcels. This does not conform with Lee Plan Policy 39.1.4 which is intended to prevent traffic from higher-density development traveling through lower-density areas.

The maximum density currently permitted by the Open Lands category in the subject parcel matches the existing rural residential character of the surrounding area. It is more compatible with the configuration and size of surrounding parcels than the Rural category.



In addition, the subject property lays within the approach path for Southwest Florida International Airport. Although it is not within a noise zone that restricts residential use, air traffic from the airport is still an issue in this area. Increasing residential density in this area would expose additional residents to air traffic noise and would potentially result in additional complaints to the Lee County Port Authority.

## **B. CONCLUSIONS**

The subject property as it is currently designated is compatible with surrounding land uses as well as the size and character of the low-density residential lots. Amending the future land use category to Rural would allow an increase of residential density that is not in keeping with the relatively remote neighborhood. It would create an isolated pocket of increased density in a lower density residential area. In addition, increased residential density would expose more residents to air traffic noise from Southwest Florida International Airport. The proposed amendment does not address any pressing issue or fulfill any need within the County. The applicant has not demonstrated any need for the increased residential density.

## **C. STAFF RECOMMENDATION**

Staff recommends that the Board of County Commissioners not transmit the proposed amendment.

In the alternative, if the Board of County Commissioners votes to transmit the proposed amendment, staff recommends that the Board include in the transmittal additional language to redesignate the .88-acre area identified in Exhibit 4 to the Conservation future land use category.



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

DATE OF PUBLIC HEARING: September 22, 2008

**A. LOCAL PLANNING AGENCY REVIEW**

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

**1. RECOMMENDATION:**

**2. BASIS AND RECOMMENDED FINDINGS OF FACT:**

**C. VOTE:**

**NOEL ANDRESS**

\_\_\_\_\_

**LES COCHRAN**

\_\_\_\_\_

**RONALD INGE**

\_\_\_\_\_

**JACQUE RIPPE**

\_\_\_\_\_

**CARLETON RYFFEL**

\_\_\_\_\_

**LELAND M. TAYLOR**

\_\_\_\_\_

**RAE ANN WESSEL**

\_\_\_\_\_



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

DATE OF TRANSMITTAL HEARING: \_\_\_\_\_

**A. BOARD REVIEW:**

**B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:**

**1. BOARD ACTION:**

**2. BASIS AND RECOMMENDED FINDINGS OF FACT:**

**C. VOTE:**

**A. BRIAN BIGELOW**

**TAMMARA HALL**

**ROBERT P. JANES**

**RAY JUDAH**

**FRANKLIN B. MANN**

_____
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**PART V - DEPARTMENT OF COMMUNITY AFFAIRS OBJECTIONS, RECOMMENDATIONS,  
AND COMMENTS (ORC) REPORT**

DATE OF ORC REPORT: \_\_\_\_\_

**A. DCA OBJECTIONS, RECOMMENDATIONS AND COMMENTS**

**B. STAFF RESPONSE**



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

DATE OF ADOPTION HEARING: \_\_\_\_\_

**A. BOARD REVIEW:**

**B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:**

**1. BOARD ACTION:**

**2. BASIS AND RECOMMENDED FINDINGS OF FACT:**

**C. VOTE:**

**A. BRIAN BIGELOW**

**TAMMARA HALL**

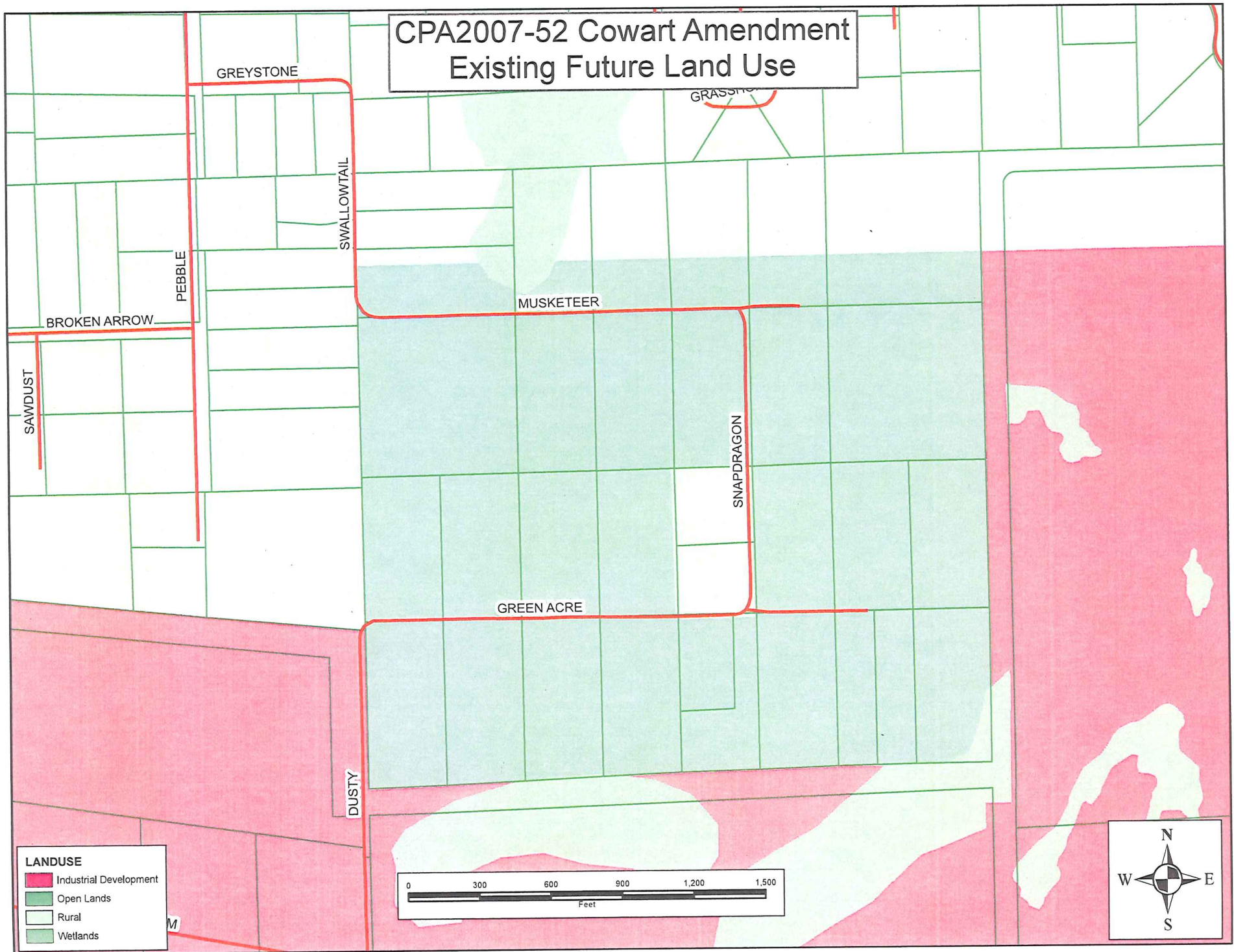
**ROBERT P. JANES**

**RAY JUDAH**

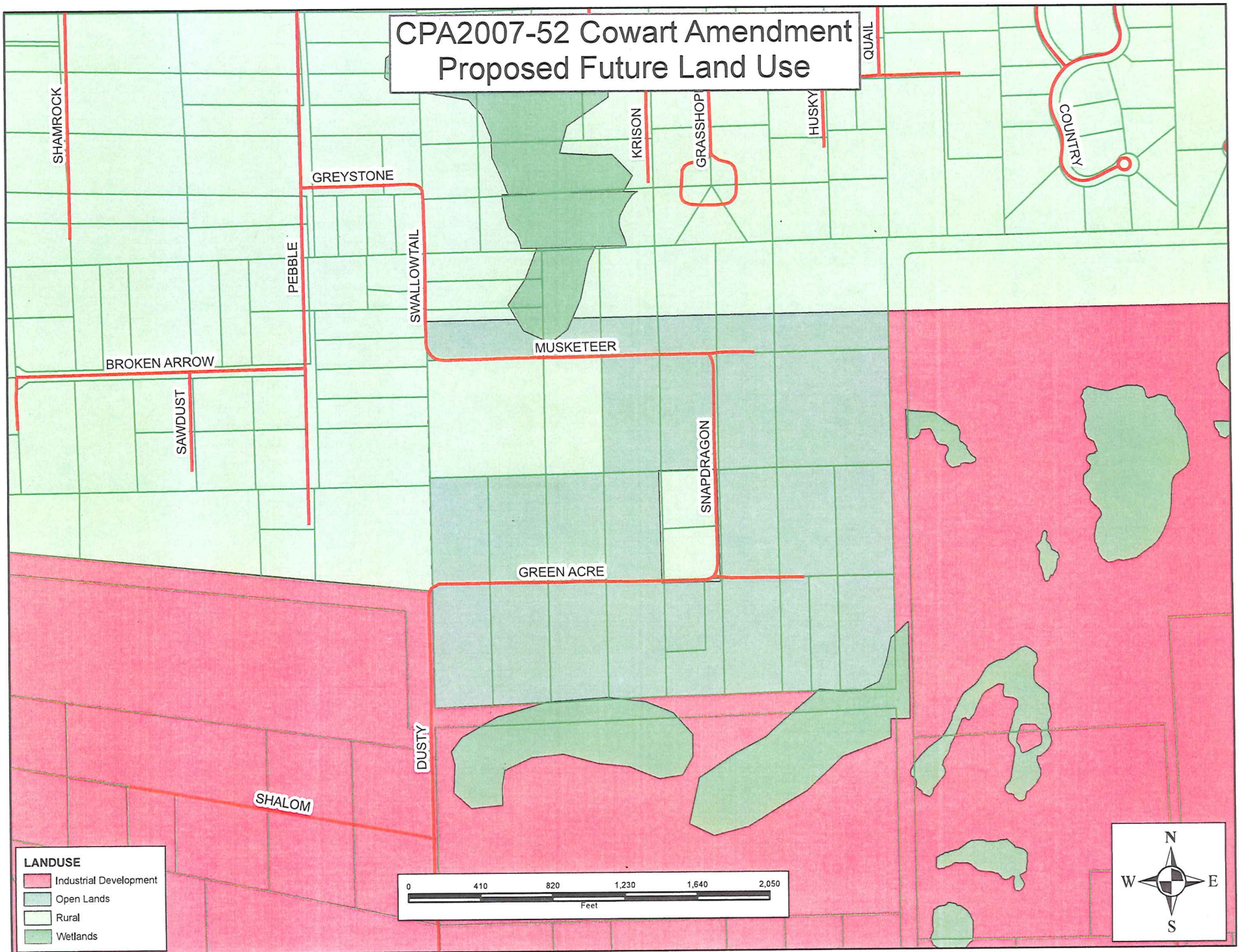
**FRANKLIN B. MANN**

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**STAFF REPORT  
FROM  
DEPARTMENT OF COMMUNITY DEVELOPMENT  
DIVISION OF ENVIRONMENTAL SCIENCES**

**Date:** May 28, 2008

**To:** Pete Blackwell, Planner

**From:** Doug Griffith, Environmental Planner *DGS for DLG*  
**Phone:** 239-533-8323  
**E-mail:** [dgriffith@leegov.com](mailto:dgriffith@leegov.com)

**Project:** Cowart Site

**Case:** CPA2007-00052

**Strap:** 05-46-25-00-00001.0020 & 05-46-25-00-00001.002A

**PROJECT SITE:**

The project site is located on the southeast corner of Swallowtail Lane and Musketeer Lane in Section 5, Township. 46S, Range 25E. The site has previously been cleared and is currently maintained and is used as pasture for cattle. The surrounding land uses include vacant forested parcels, pasture and nursery activities with low density single-family. The applicants request is to change the current land use from open lands to rural to allow for the development of 15 residential units.

Open Lands Land Use Category are areas that are located north of Rural and/or sparsely developed areas in Township 43 South. These areas are extremely remote from public services and are characterized by agricultural and low-density residential uses. Commercial and industrial uses are permitted in this category in accordance with the standards in the rural category. The maximum density in this category is one dwelling unit per ten acres; except that a maximum density of one dwelling unit per five acres is permitted if the planned development process is used to prevent adverse impacts on environmentally sensitive lands (as defined in Policy 107.1.1.4).

A Vegetative Community Assessment was performed by Environmental Restoration Consultants, Inc. (ERC) on April 14, 2006 on 10± acres of the property. ES Staff (Doug Griffith) conducted a site inspection on May 19, 2008. The Florida Land Use, Cover and Classification System (FLUCCS) map depicted FLUCCS 211 Improved Pasture as no known listed species. Staff notes that Lee County Listed Species list depicts sand hill cranes associated with FLUCCS 211. FLUCCS 740 disturbed lands was depicted as associated with no listed species FLUCCS 740 is known habitat for a variety of species including gopher tortoise a species listed as threatened by the Florida Fish and Wildlife Conservation Commission (FWC). ES Staff noted that the environmental assessment was only for 10 acres of the 15 acre parcel and there was a discrepancy between acreage of the wetland. Environmental Restoration Consultants resubmitted an environmental assessment on June 4, 2008 and, although they noted it was a 15 acre parcel which



included the wetlands located onsite, the FLUCCS was still for 10 acres. The assessment and a (FLUCCS) map depicting the 10 acres were submitted by the applicant. Per ES Staff site inspection on May 19, 2008 Staff noted the following:

There are four vegetated communities within the project site including 13.3± acres of improved pasture (FLUCCS 211). The canopy is open and is dominated by South Florida Slash Pine (*Pinus elliotti*), cabbage palm (*Sabal palmetto*) and in the southeast corner scattered laurel oak (*Quercus laurifolia*). The ±0.8 acre improved pasture/disturbed land (FLUCCS 211/740) is dominated by match weed (*Phyla nodiflora*). The ±0.4 acre reservoir (FLUCCS 534) provides water for cattle. The ±0.5 acre cypress area canopy is dominated by cypress (*Taxodium distichum*); with the southern perimeter dominated by melaleuca. The midstory is dominated by Brazilian pepper and climbing cassia (*Senna pendula*). Ground cover was primarily swamp fern (*Blechnum serrulatum*).

The 0.5 acre wetland was dehydrated; however the mature cypress appears healthy. If this change goes forward then ES Staff recommends placing the 0.5 acre cypress area in conservation lands use category and working with SFWMD to incorporate the cypress area into the future storm water management system in order to restore hydrology while providing excellent water quality and hydrological connectivity.

#### **CONSERVATION LANDS:**

The Conservation Lands land use category was created to accurately depict the use of lands for conservation purposes. Conservation Lands include uplands and wetlands that are owned and used for long-range conservation purposes. The Conservation Lands FLUM category is for lands that are primarily used to conserve important natural resources, environmentally sensitive areas, significant archeological or historical resources, or other conservation uses. Conservation Lands typically include such uses as wildlife preserves; large wetland and upland mitigation areas; natural resource based parks; and water conservation lands such as aquifer recharge areas, flow-ways, flood prone areas and well fields.

The Conservation Lands objective is to put into the public domain private lands that provide the following public benefits:

- Sustain native plant and animal populations; and
- Help protect people and property from flooding; and
- Help replenish our underground drinking water supply; and
- Help to improve or sustain the water quality of our coastal bays, inlets; and
- Provide eco-tourism opportunities, and
- Provide local environmentally oriented recreational and educational opportunities.

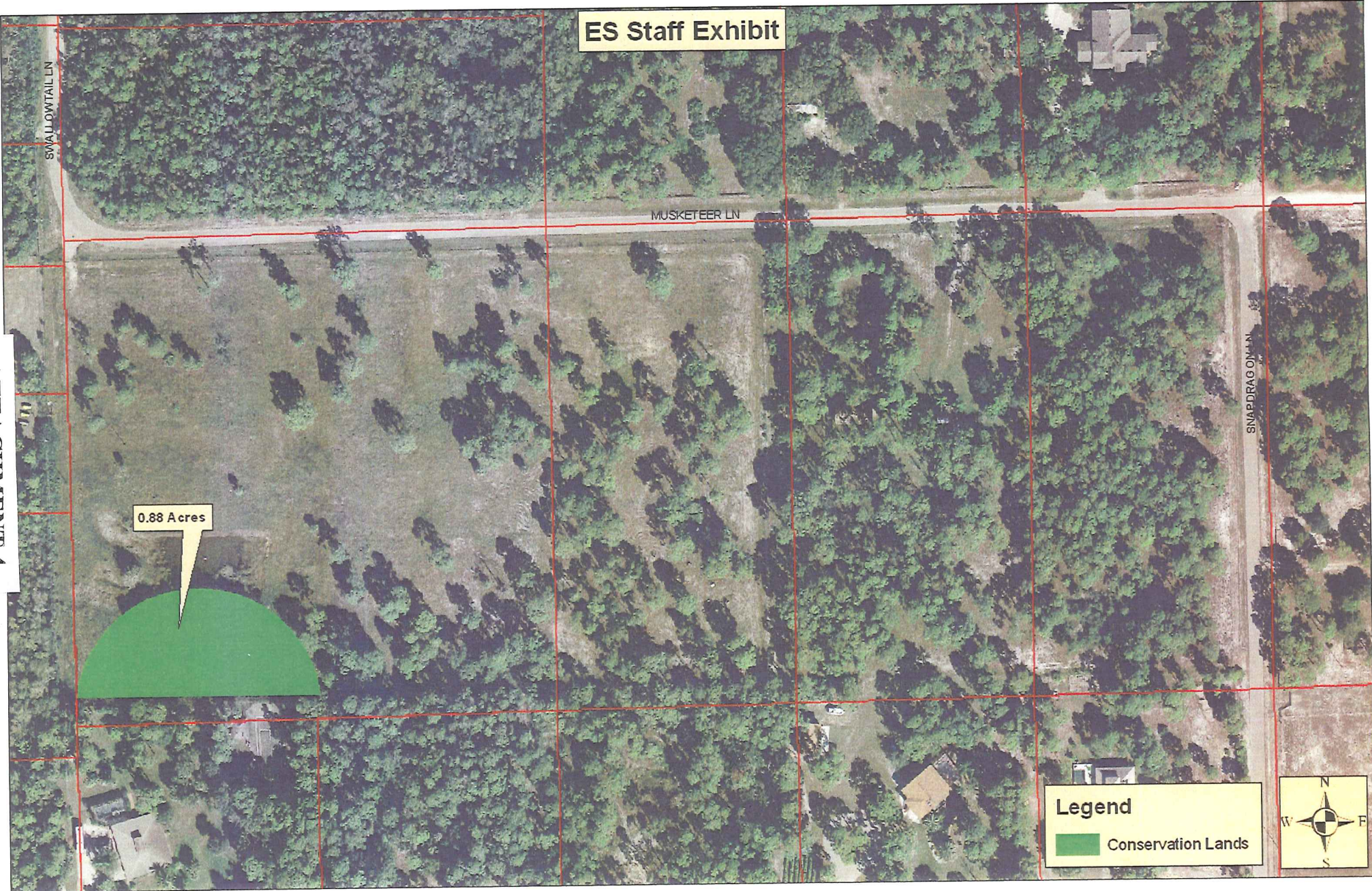


The following Comprehensive Plan Goals, Objectives and Policies support ES Staff's recommendation for hydrological restoration of the cypress dome and further support ES Staff's recommendation of conservation land use category for the cypress dome.

- **Policy 1.4.6:** *The Conservation Lands include uplands and wetlands that are owned and used for long-range conservation purposes. Upland and wetland conservation lands will be shown as separate categories on the Future Land Use map. Conservation Lands may include such uses as wildlife preserves; wetland and upland mitigation areas and banks; ancillary uses for environmental research and education, historic and cultural preservation, and natural resource based parks, and water conservation lands such as aquifer recharge areas, flow-ways, flood prone areas and well fields.*
- **Objective 61.2: Mimicking the Functions of Natural Systems.** *Support a surface water management strategy that relies on natural features and natural systems to receive and otherwise manage storm and surface water.*
- **Policy 61.2.1:** *All development proposals outside the future urban areas must recognize areas where soils, vegetation, hydrogeology, topography and other factor's indicate that water flows or ponds; and require that these areas be utilized to the maximum extent possible without significant structural alteration, for onsite Stormwater management.*

Please see attached Exhibit which indicates the conservation lands on the wetland area.







**CPA 2007-52  
PRIVATELY SPONSORED  
COWART  
AMENDMENT TO THE**

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**LEE COUNTY COMPREHENSIVE PLAN**

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**THE LEE PLAN**

**Privately Sponsored Application  
and Staff Analysis**

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**BoCC Public Hearing Document  
for the  
October 22<sup>nd</sup>, 2008 Public Hearing**

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

**October 8, 2008**



**LEE COUNTY  
DIVISION OF PLANNING  
STAFF REPORT FOR  
COMPREHENSIVE PLAN AMENDMENT  
CPA2007-52**

☐

Text Amendment

☒

Map Amendment

	This Document Contains the Following Reviews:
✓	Staff Review
✓	Local Planning Agency Review and Recommendation
	Board of County Commissioners Hearing for Transmittal
	Staff Response to the DCA Objections, Recommendations, and Comments (ORC) Report
	Board of County Commissioners Hearing for Adoption

STAFF REPORT PREPARATION DATE: September 12, 2008

**PART I - BACKGROUND AND STAFF RECOMMENDATION**

**A. SUMMARY OF APPLICATION**

**1. APPLICANT/REPRESENTATIVE:**

Richard Cowart

Represented by Michael Roeder of Knott, Consoer, Ebelini, Hart & Swett PA  
1625 Hendry St. Suite 301  
Ft. Myers, FL, 33901

**2. REQUEST:**

Amend The Future Land Use Map Series, Map 1. to redesignate a 15 acre parcel from "Open Lands" future land use category to the "Rural" future land use category.

**B. STAFF RECOMMENDATION AND FINDINGS OF FACT SUMMARY**

**1. RECOMMENDATION:**

Staff recommends that the Board of Commissioners **not** transmit the proposed amendment.

**2. BASIS AND RECOMMENDED FINDINGS OF FACT:**

- The subject property is composed of one 10 acre lot and one 5 acre lot.



- The parcel was redesignated from Industrial Development to Open Lands by Lee Plan Amendment PAM98-12.
- Table 1 (b) of the Lee Plan is intended to place a cap on residential increase within certain planning communities of Lee County.
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- The subject property is located in an area consisting mainly of 2.5 and 5- acre parcels.
- The proposed amendment would create an island of higher density residential parcels in a low density rural area.
- The subject property is abutted by low-density residential and agricultural uses.
- The subject property is adjacent to the airport flyway for Southwest Florida International Airport.
- Increasing density on the subject parcel would create a negative precedent in the area.
- The maximum density currently permitted by the Open Lands category in the subject parcel matches the existing rural residential character of the surrounding area.

## **C. BACKGROUND INFORMATION**

### **1. INTRODUCTION**

The subject property is a 15 acre parcel in the Daniels Parkway planning community. The parcel is currently zoned AG-2 and is in the Open Lands future land use category on the Future Land Use Map. The applicant is proposing to change the future land use category designation from Open Lands to Rural. Per Footnote 7 of Table 1 (a), the maximum possible units on the subject property as it is currently designated is 3. The proposed amendment would allow up to 15 one-acre residential units on the subject property. The property is south of Briarcliff Road and north of the industrial areas along Alico road. The surrounding area is characterized by 5 and 2.5-acre parcels with low-density residential, vacant parcels, and agricultural uses.

### **2. COMPREHENSIVE PLAN BACKGROUND**

The subject property was originally located within the Rural future land use category. In 1986, a 135-acre area known as Area "K" was redesignated to the Industrial Development future land use category as part of the Lee Plan Evaluation and Appraisal Report. The subject property is in the northwest corner of this area. In November 1999 Lee Plan Amendment PAM98-12 changed the Industrial Development future land use category to Open Lands for Area K. The basis for this change was that, due to it's residential nature, Area K was incompatible with industrial uses and that the 1986 Industrial Development designation was in error. The Open Lands future land use category is described in Goal 1 of the Lee Plan:



***Policy 1.4.4: Open Lands*** are upland areas that are located north of rural and/or sparsely developed areas in Township 43 South. These areas are extremely remote from public services and are characterized by agricultural and low-density residential uses. Commercial and industrial uses are permitted in this category in accordance with the standards in the Rural category. The maximum density in this category is one dwelling unit per ten acres (1 du/10 acres); except that a maximum density of one dwelling unit per five acres (1 du/5 acres) is permitted if the planned development process is used to prevent adverse impacts on environmentally sensitive lands (as defined in Policy 107.1.1.4.)

The maximum permitted residential density in the Open Lands category is normally 1 unit per 10 acres. However, Footnote 7 of Lee Plan Table 1(a) states:

*The maximum density of 1 unit per 5 acres can only be approved through the planned development process (see Policy 1.4.4), except in the approximately 135 acres of land lying east of US41 and north of Alico Road in the Northwest corner of Section 5, Township 46, Range 25.*

The subject property is within the 135 acre area described in Footnote 7 and therefore can achieve a maximum permitted density of 1 unit per 5 acres. This would allow a total of 3 dwelling units on the subject property. Under the Rural category the maximum density is one unit per acre. This would increase the potential number of units to 15.

## **PART II - STAFF ANALYSIS**

### **A. STAFF DISCUSSION**

#### **Introduction**

The proposed amendment is to change the future land use category on a 15-acre parcel from Open Lands to Rural. The additional residential units generated by the proposed amendment would not place additional demands on public sanitary sewer or potable water services as the rural character of the area allows for private wells and septic tanks. Likewise, law enforcement, solid waste service, traffic, and school district levels of service will not be significantly affected by an additional 12 residential units.

The proposed amendment would result in an area of relatively higher-density one-acre residential lots that are inappropriate within that particular rural neighborhood. The surrounding parcels, including those which are already in the Rural future land use category, are almost all 2.5 and 5 acres in size.

#### **Surrounding Zoning and Future Land Uses**

The subject property is zoned AG-2. All the parcels abutting the subject property and in the general area are also zoned AG-2. The land to the north and west of the subject property is in the Rural future land use category. The land to the south and east of the subject property is in the Open Lands future land use category. To the north of the property across Musketeer Lane are two 5-acre parcels that are currently vacant residential. On the south side of the property are three 5-acre parcels that are single-family residential, mobile home and vacant residential, respectively. To the east is a 5-acre parcel listed as grazing land and to the west two 2.5-acre parcels that are vacant residential and agricultural and a 5-acre single family residential parcel.



## **Environmental Issues**

The site has previously been cleared and is currently maintained and is used as pasture for cattle. The surrounding land uses include vacant forested parcels, pasture and nursery activities with low density single-family.

Per ES Staff site inspection on May 19, 2008, Staff noted the following:

There are four vegetated communities within the project site including 13.3± acres of improved pasture (FLUCCS 211). The canopy is open and is dominated by South Florida Slash Pine (*Pinus elliotti*), cabbage palm (*Sabal palmetto*) and in the southeast corner scattered laurel oak (*Quercus laurifolia*). The ±0.8 acre improved pasture/disturbed land (FLUCCS 211/740) is dominated by match weed (*Phyla nodiflora*). The ±0.4 acre reservoir (FLUCCS 534) provides water for cattle. The ±0.5 acre cypress area canopy is dominated by cypress (*Taxodium distichum*); with the southern perimeter dominated by melaleuca. The midstory is dominated by Brazilian pepper and climbing cassia (*Senna pendula*). Ground cover was primarily swamp fern (*Blechnum serrulatum*).

The 0.5 acre wetland was dehydrated; however the mature cypress appears healthy. If this change goes forward then ES Staff recommends placing the 0.5 acre cypress area in conservation lands use category and working with SFWMD to incorporate the cypress area into the future storm water management system in order to restore hydrology while providing excellent water quality and hydrological connectivity.

Lee Plan Objective 61.2 and Policies 1.4.6. and 61.2.1 support ES Staff's recommendation for hydrological restoration of the cypress dome and further support ES Staff's recommendation of conservation land use category for the cypress dome. The attached ES Staff report fully details the relevant Lee Plan objective and policies.

Please see attached ES Staff report (Exhibit 3) for a full environmental assessment of the subject property and Exhibit 4 which indicates the conservation lands on the wetland area.

## **Population Accommodation and Lee Plan Table 1(b)**

The subject property is in the Daniels Parkway Planning Community. There are 120 acres allocated to residential development in this planning community. Of that, 38 are existing, leaving 82 acres. The proposed amendment would not increase the acreage allocated to residential uses. However, the potential number of residences within that acreage would increase from 3 units to 15. At 2.09 residents per unit, the additional 12 units would add approximately 25 residents to the planning community. The intent of Table 1(b) and the allocation table was to limit the increase of population within certain planning communities due to the over abundance of residential land within Lee County. Although the proposed amendment does not increase residential acreage, it does increase the number of residential units. This increase is contrary to the intent of Table 1(b) and the Lee Plan. Lee County currently has sufficient residential accommodation for the year 2030 planning horizon. Adding more units is unnecessary and does not address or fulfill any type of deficiency or shortage.

## **School Impacts**

According to a letter from the School District of Lee County, the proposed amendment would generate less than five additional students.

## **Sheriffs Office**

The applicant has provided several Letters from the Lee County Sheriffs Office (LCSO). These letters state that in order to provide an adequate level of core law enforcement services, a Crime Prevention through Environmental Design (CPTED) survey must be completed. The LCSO requested that the applicant supply a concept plan and site design for this study. Such plans would be premature at this time.



**Fire**

the applicant supplied a letter from the fire marshal of the San Carlos Park Fire Protection and Rescue Service District dated September 17, 2007. In the letter, the fire marshal stated a concern about increasing the density in the area due to the fact that there is no fire hydrant within 1000 feet of the property.

**Emergency Medical Services**

In a conversation with Planning Staff, the EMS staff confirmed that the additional 12 residential units would not significantly affect EMS levels of service.

**Utilities**

The subject property is within the Lee County Utilities Future Water Service and Future Sewer Service Areas. However, the nearest accessible potable water line is approximately 4,000 road-feet away at Briarcliff Road. The nearest accessible sewer line is at US 41.

Under the proposed Rural future land use, a maximum density of one unit per acre would be permitted. At such a density, septic tanks could be used. Therefore, no sanitary sewer service is needed. Likewise, at one unit per acre, potable water could be supplied by individual wells.

**Solid Waste**

A September 14, 2007 letter from the Lee County Solid Waste Division states that the division is capable of providing solid waste collection service for the additional 12 units on the subject property that could result from the approval of the proposed amendment.

**Parks, Recreation and Open Space**

The subject property is located in the South Fort Myers Community Park District. An increase of approximately 25 residents would not significantly impact the level of service for parks and recreation.

**Historic Resources**

A May 22, 2006 letter from the Florida Division of Historical Resources states that the Florida Master Site File lists no previously recorded cultural resources in section 5, Township 46 South Range 25 East.

**Transportation Issues**

Lee County Department of transportation Staff have determined that the proposed amendment would result in an increase of 15 trips on a PM peak hour basis. DOT Staff have determined that this increase would have no appreciable effect on the transportation system.

**Compatibility**

The subject property is located in an area almost entirely composed of 5 and 2.5 acre parcels. The area north of Musketeer Lane is in the Rural future land use category, and therefore has a maximum density of one unit per acre. However, the parcels in that area have been developed at 5 and 2.5 acres. The proposed amendment would create an isolated area of higher density residential within a lower density area. Residents of this higher-density area would have to travel through the lower-density areas surrounding it. To approach the property from the south would required traffic to cross through the area designated Open Lands consisting of mainly 5-acre parcels. To approach the subject property from the north would require traffic to pass through an area that has been developed as 2.5 and 5- acre parcels. This does not conform with Lee Plan Policy 39.1.4 which is intended to prevent traffic from higher-density development traveling through lower-density areas.



The maximum density currently permitted by the Open Lands category in the subject parcel matches the existing rural residential character of the surrounding area. It is more compatible with the configuration and size of surrounding parcels than the Rural category.

In addition, the subject property lays within the approach path for Southwest Florida International Airport. Although it is not within a noise zone that restricts residential use, air traffic from the airport is still an issue in this area. Increasing residential density in this area would expose additional residents to air traffic noise and would potentially result in additional complaints to the Lee County Port Authority.

## **B. CONCLUSIONS**

The subject property as it is currently designated is compatible with surrounding land uses as well as the size and character of the low-density residential lots. Amending the future land use category to Rural would allow an increase of residential density that is not in keeping with the relatively remote neighborhood. It would create an isolated pocket of increased density in a lower density residential area. In addition, increased residential density would expose more residents to air traffic noise from Southwest Florida International Airport. The proposed amendment does not address any pressing issue or fulfill any need within the County. The applicant has not demonstrated any need for the increased residential density.

## **C. STAFF RECOMMENDATION**

Staff recommends that the Board of County Commissioners not transmit the proposed amendment.

In the alternative, if the Board of County Commissioners votes to transmit the proposed amendment, staff recommends that the Board include in the transmittal additional language to redesignate the .88-acre area identified in Exhibit 4 to the Conservation future land use category.



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

DATE OF PUBLIC HEARING: September 22, 2008

#### **A. LOCAL PLANNING AGENCY REVIEW**

Both planning staff and the applicant made presentations to the LPA. During the applicants' presentation, the applicant proposed that the subject property be designated as Rural but with a maximum density of 1 dwelling unit per 2.5 acres. One LPA member asked staff what future land use category abutted the subject property on the west. Staff indicated that it was in the Rural future land use category. Another member asked if the Metro Parkway extension was close enough to be a factor in this case. Planning and DOT Staff said that it was too far away to affect the subject property.

Lee County Port Authority Staff stated that although the subject property is not within the airport noise zones shown on Lee Plan Map 3, it is on the approach path to Southwest Florida International Airport. Overflights already occur and these overflights will increase as new airplane technology routes them over the subject property.

Several residents of the Briarcliff community addressed the LPA. The residents all stressed their desire to maintain the rural character of their neighborhood. All of the residents who spoke were opposed to the proposed amendment. One of the issues they raised were the effect of additional traffic on the local road surface. The residents stated that the road is privately maintained and is not sufficient for heavy traffic. They stated that the local road is already used as a short cut by traffic to and from the industrial area to the south. Another issue raised by the residents was the lack of fire hydrants near the subject property.

One LPA member expressed concerns about the wetlands in the area around the subject property. One LPA member asked about the small area of Rural future land use along Snapdragon Lane and staff explained that it was the parcel subject to the small-scale amendment PAM 93-01. One LPA member stated that the property abutting the west side of the subject property was already in the Rural future land use category. The same member stated that the public has not had time to consider the applicants revised proposal to limit maximum density to 1 unit per 2.5 acres. Another member replied that the case still had to go before the Board of County Commissioners transmittal hearing which would allow the public to comment on the revised proposal.

#### **B. LOCAL PLANNING AGENCY RECOMMENDATION AND FINDINGS OF FACT SUMMARY**

##### **1. RECOMMENDATION:**

The LPA recommended that the Board of Commissioners **NOT** transmit the proposed amendment.

##### **2. BASIS AND RECOMMENDED FINDINGS OF FACT:**

The majority of the LPA accepted the facts as advanced by staff. Members stated concerns over the potential of creating a precedent for other increases in density in the area. Members also felt that the proposed amendment was not compatible with the rural character of the area.



**C. VOTE:**

<b>NOEL ANDRESS</b>	<b>AYE</b>
<b>LES COCHRAN</b>	<b>AYE</b>
<b>RONALD INGE</b>	<b>AYE</b>
<b>JACQUE RIPPE</b>	<b>AYE</b>
<b>CARLETON RYFFEL</b>	<b>NAY</b>
<b>LELAND M. TAYLOR</b>	<b>ABSENT</b>
<b>RAE ANN WESSEL</b>	<b>AYE</b>



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

DATE OF TRANSMITTAL HEARING: October 22, 2008

**A. BOARD REVIEW:**

**B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:**

**1. BOARD ACTION:**

**2. BASIS AND RECOMMENDED FINDINGS OF FACT:**

**C. VOTE:**

**A. BRIAN BIGELOW**

**TAMMARA HALL**

**ROBERT P. JANES**

**RAY JUDAH**

**FRANKLIN B. MANN**

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**PART V - DEPARTMENT OF COMMUNITY AFFAIRS OBJECTIONS, RECOMMENDATIONS,  
AND COMMENTS (ORC) REPORT**

DATE OF ORC REPORT: \_\_\_\_\_

**A. DCA OBJECTIONS, RECOMMENDATIONS AND COMMENTS**

**B. STAFF RESPONSE**



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

DATE OF ADOPTION HEARING: \_\_\_\_\_

**A. BOARD REVIEW:**

**B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:**

**1. BOARD ACTION:**

**2. BASIS AND RECOMMENDED FINDINGS OF FACT:**

**C. VOTE:**

**A. BRIAN BIGELOW**

**TAMMARA HALL**

**ROBERT P. JANES**

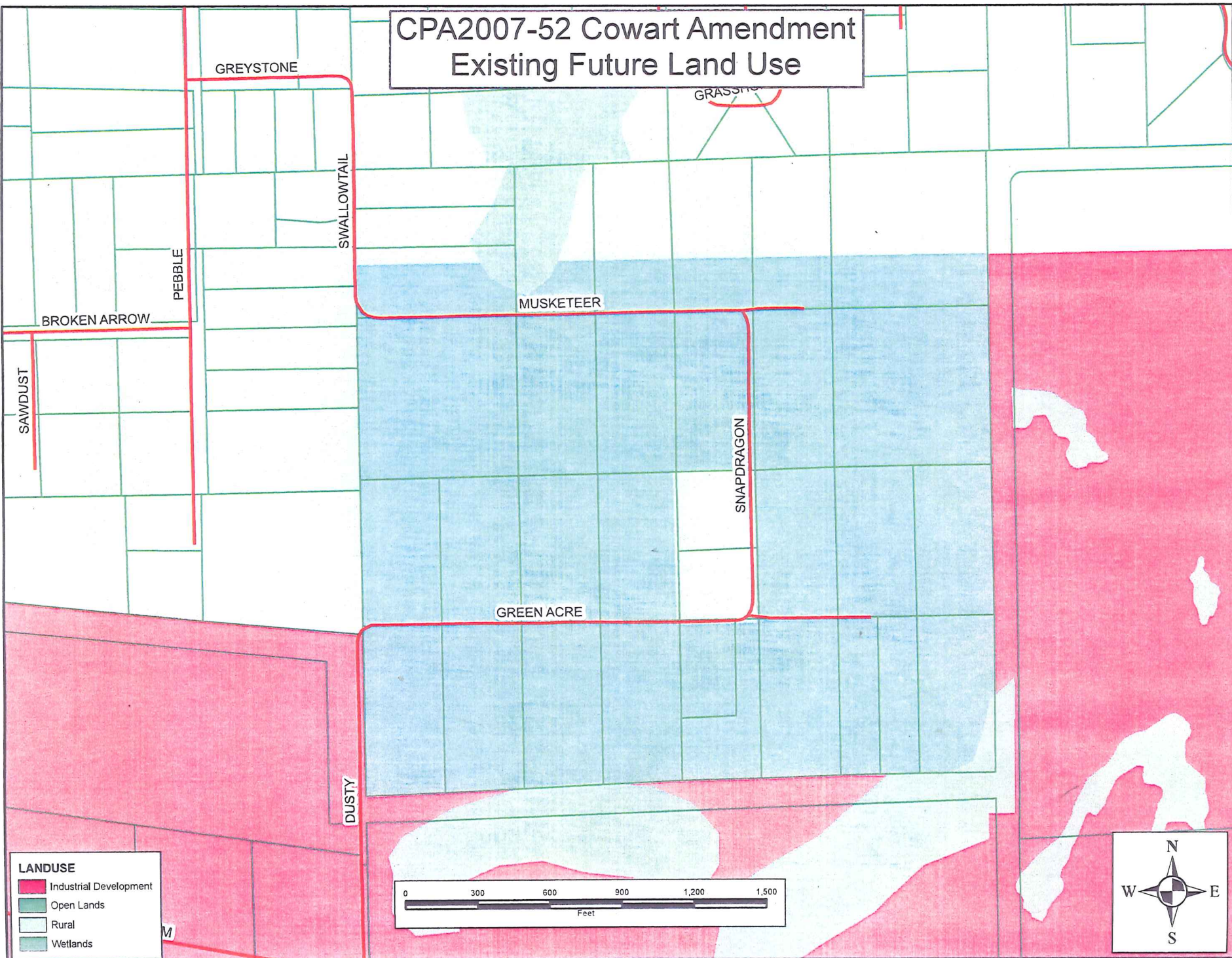
**RAY JUDAH**

**FRANKLIN B. MANN**

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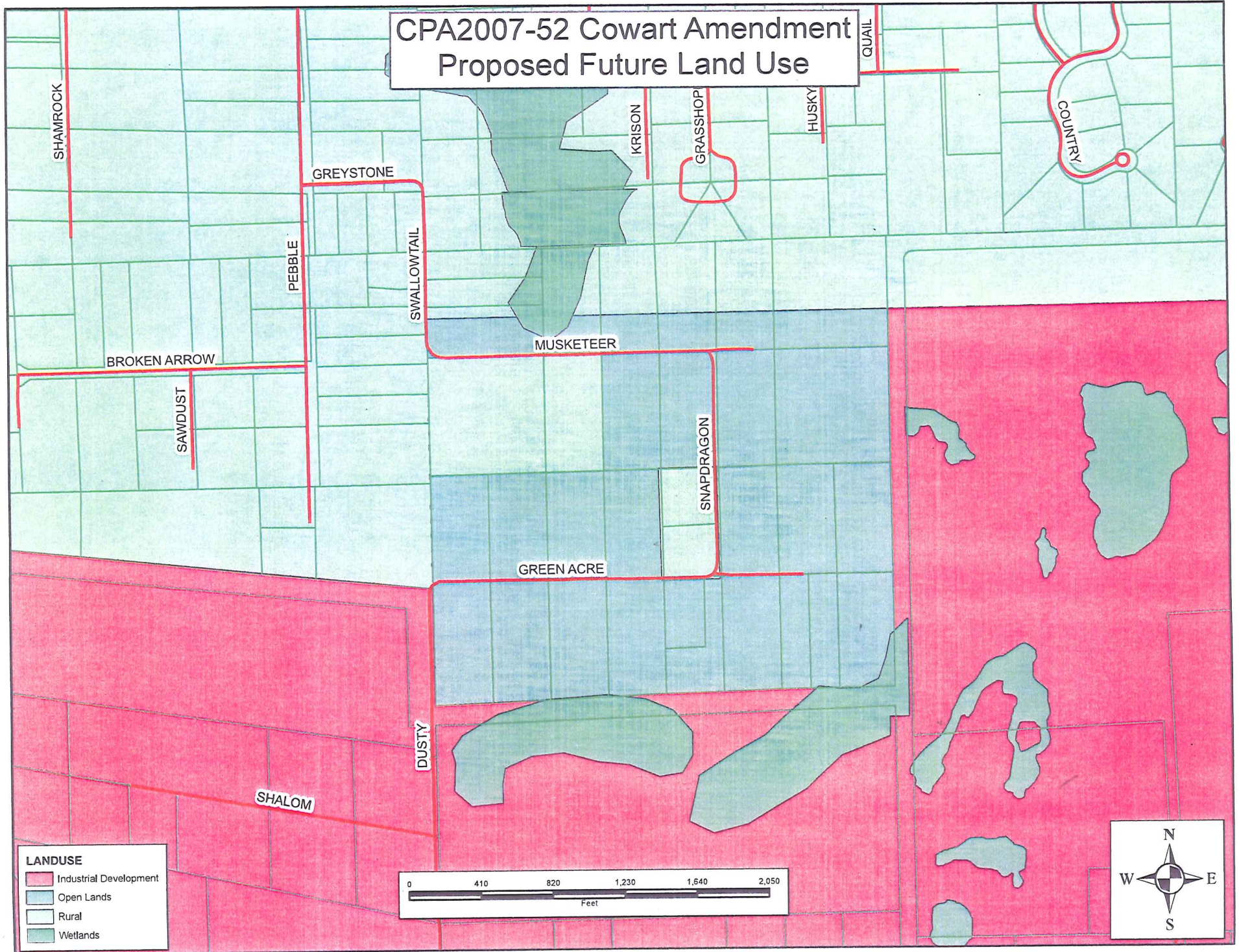


# CPA2007-52 Cowart Amendment Existing Future Land Use





# CPA2007-52 Cowart Amendment Proposed Future Land Use





**STAFF REPORT  
FROM  
DEPARTMENT OF COMMUNITY DEVELOPMENT  
DIVISION OF ENVIRONMENTAL SCIENCES**

**Date:** May 28, 2008

**To:** Pete Blackwell, Planner

**From:** Doug Griffith, Environmental Planner *DGS for DLG*  
**Phone:** 239-533-8323  
**E-mail:** [dgriffith@leegov.com](mailto:dgriffith@leegov.com)

**Project:** Cowart Site

**Case:** CPA2007-00052

**Strap:** 05-46-25-00-00001.0020 & 05-46-25-00-00001.002A

**PROJECT SITE:**

The project site is located on the southeast corner of Swallowtail Lane and Musketeer Lane in Section 5, Township. 46S, Range 25E. The site has previously been cleared and is currently maintained and is used as pasture for cattle. The surrounding land uses include vacant forested parcels, pasture and nursery activities with low density single-family. The applicants request is to change the current land use from open lands to rural to allow for the development of 15 residential units.

Open Lands Land Use Category are areas that are located north of Rural and/or sparsely developed areas in Township 43 South. These areas are extremely remote from public services and are characterized by agricultural and low-density residential uses. Commercial and industrial uses are permitted in this category in accordance with the standards in the rural category. The maximum density in this category is one dwelling unit per ten acres; except that a maximum density of one dwelling unit per five acres is permitted if the planned development process is used to prevent adverse impacts on environmentally sensitive lands (as defined in Policy 107.1.1.4).

A Vegetative Community Assessment was performed by Environmental Restoration Consultants, Inc. (ERC) on April 14, 2006 on 10± acres of the property. ES Staff (Doug Griffith) conducted a site inspection on May 19, 2008. The Florida Land Use, Cover and Classification System (FLUCCS) map depicted FLUCCS 211 Improved Pasture as no known listed species. Staff notes that Lee County Listed Species list depicts sand hill cranes associated with FLUCCS 211. FLUCCS 740 disturbed lands was depicted as associated with no listed species FLUCCS 740 is known habitat for a variety of species including gopher tortoise a species listed as threatened by the Florida Fish and Wildlife Conservation Commission (FWC). ES Staff noted that the environmental assessment was only for 10 acres of the 15 acre parcel and there was a discrepancy between acreage of the wetland. Environmental Restoration Consultants resubmitted an environmental assessment on June 4, 2008 and, although they noted it was a 15 acre parcel which



included the wetlands located onsite, the FLUCCS was still for 10 acres. The assessment and a (FLUCCS) map depicting the 10 acres were submitted by the applicant. Per ES Staff site inspection on May 19, 2008 Staff noted the following:

There are four vegetated communities within the project site including 13.3± acres of improved pasture (FLUCCS 211). The canopy is open and is dominated by South Florida Slash Pine (*Pinus elliotti*), cabbage palm (*Sabal palmetto*) and in the southeast corner scattered laurel oak (*Quercus laurifolia*). The ±0.8 acre improved pasture/disturbed land (FLUCCS 211/740) is dominated by match weed (*Phyla nodiflora*). The ±0.4 acre reservoir (FLUCCS 534) provides water for cattle. The ±0.5 acre cypress area canopy is dominated by cypress (*Taxodium distichum*); with the southern perimeter dominated by melaleuca. The midstory is dominated by Brazilian pepper and climbing cassia (*Senna pendula*). Ground cover was primarily swamp fern (*Blechnum serrulatum*).

The 0.5 acre wetland was dehydrated; however the mature cypress appears healthy. If this change goes forward then ES Staff recommends placing the 0.5 acre cypress area in conservation lands use category and working with SFWMD to incorporate the cypress area into the future storm water management system in order to restore hydrology while providing excellent water quality and hydrological connectivity.

#### **CONSERVATION LANDS:**

The Conservation Lands land use category was created to accurately depict the use of lands for conservation purposes. Conservation Lands include uplands and wetlands that are owned and used for long-range conservation purposes. The Conservation Lands FLUM category is for lands that are primarily used to conserve important natural resources, environmentally sensitive areas, significant archeological or historical resources, or other conservation uses. Conservation Lands typically include such uses as wildlife preserves; large wetland and upland mitigation areas; natural resource based parks; and water conservation lands such as aquifer recharge areas, flow-ways, flood prone areas and well fields.

The Conservation Lands objective is to put into the public domain private lands that provide the following public benefits:

- Sustain native plant and animal populations; and
- Help protect people and property from flooding; and
- Help replenish our underground drinking water supply; and
- Help to improve or sustain the water quality of our coastal bays, inlets; and
- Provide eco-tourism opportunities, and
- Provide local environmentally oriented recreational and educational opportunities.

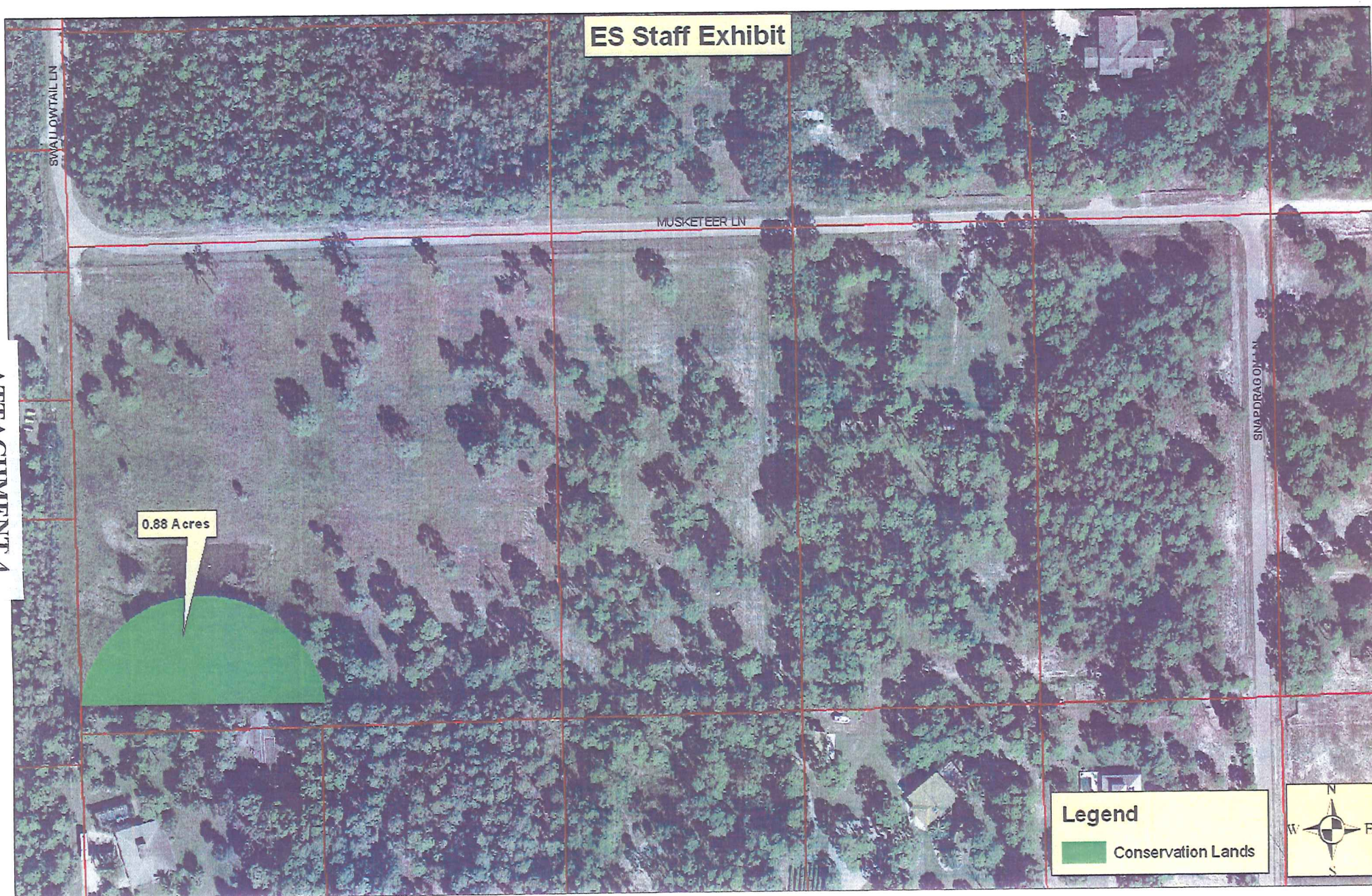


The following Comprehensive Plan Goals, Objectives and Policies support ES Staff's recommendation for hydrological restoration of the cypress dome and further support ES Staff's recommendation of conservation land use category for the cypress dome.

- **Policy 1.4.6:** *The Conservation Lands include uplands and wetlands that are owned and used for long-range conservation purposes. Upland and wetland conservation lands will be shown as separate categories on the Future Land Use map. Conservation Lands may include such uses as wildlife preserves; wetland and upland mitigation areas and banks; ancillary uses for environmental research and education, historic and cultural preservation, and natural resource based parks, and water conservation lands such as aquifer recharge areas, flowways, flood prone areas and well fields.*
- **Objective 61.2: Mimicking the Functions of Natural Systems.** *Support a surface water management strategy that relies on natural features and natural systems to receive and otherwise manage storm and surface water.*
- **Policy 61.2.1:** *All development proposals outside the future urban areas must recognize areas where soils, vegetation, hydrogeology, topography and other factor's indicate that water flows or ponds; and require that these areas be utilized to the maximum extent possible without significant structural alteration, for onsite Stormwater management.*

Please see attached Exhibit which indicates the conservation lands on the wetland area.





ES Staff Exhibit

MUSKETEER LN

SWALLOWTAIL LN

SNAPDRAGON LN

0.88 Acres

Legend

Conservation Lands

