

Noble, Matthew A.

From: Noble, Matthew A.
Sent: Friday, September 21, 2007 10:30 AM
To: Alison Stowe
Subject: RE: Conover CPA2007-00002

It is a qualified insufficient status. Staff believes that insufficient information has been provided to recommend approval of the request. The applicant has not established that the boatyard was a lawfully permitted use. Staff is giving the applicant the opportunity to supplement the application by providing evidence such as approved permits, development orders, occupational licenses, etc. We've also noted that not much aerial observations were provided, I think the only aerial that I've seen is a January 2005 shot. If the applicant desires to schedule this case as is, please let me know...

From: Alison Stowe [mailto:ASTowe@knott-law.com]
Sent: Friday, September 21, 2007 9:40 AM
To: Noble, Matthew A.
Subject: Conover CPA2007-00002

Matt, I was curious as to the status of this case. I was unable to pull up any information on EConnect. Please advise. Thanks.

Alison Stowe
Zoning Department
Knott, Consoer, Ebelini, Hart & Swett, P.A.
239-334-2722
ASTowe@knott-law.com

2/5/2008

**Knott, Consoer, Ebelini
Hart & Swett, P.A.**
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Matthew D. Uhle
Aaron A. Haak
Derrick S. Eihausen
Naty Torres-Alvarado
David A. Burt

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

MEMORANDUM

TO: Matt Noble

FROM: Matt Uhle

DATE: October 8, 2007

RE: Conover Small Scale Amendment / CPA2007-00002

In response to your September 21 memo, which indicated for the first time that our application was "conditionally insufficient," please find 1984 and 1986 aerials showing the subject property and the Property Appraiser cards for the two parcels, one of which states that the building was constructed in 1971. Since development on the site long predated both the County's current regulatory process and my client's ownership of the property, it is obviously not possible to produce copies of development orders and building permits for the site. The use of the property as a boatyard prior to the creation of the Water-Dependent Overlay is established by the affidavits from Gladys Schneider and Chris Conover.

MDU/ams

Attachments

RECEIVED
OCT 10 2007

COMMUNITY DEVELOPMENT

Small Scale Amendment

LEE COUNTY PROPERTY APPRAISER

PROPERTY DATA FOR PARCEL 35-45-22-04-00001.0000
TAX YEAR 2006

Parcel data is available for the following tax years:

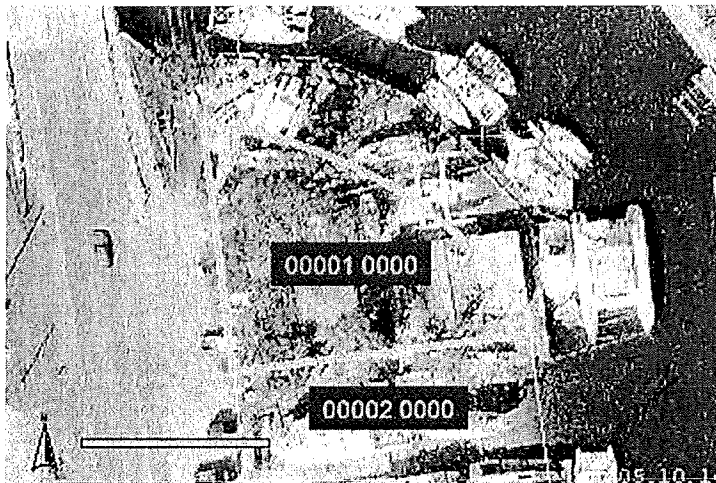
[[2001](#) | [2002](#) | [2003](#) | [2004](#) | [2005](#) | [2006](#)][[Next Lower Parcel Number](#) | [Next Higher Parcel Number](#) | [Display Tangible Accounts on this Parcel](#)[[Display Tax Bills on this Parcel](#) | **NEW! Tax Estimator**]OWNERSHIP, LEGAL, SALES AND DISTRICT DATA ARE FROM THE CURRENT DATABASE.
LAND, BUILDING, VALUE AND EXEMPTION DATA ARE FROM THE 2006 ROLL.**PROPERTY DETAILS****OWNER OF
RECORD**CONOVER
CHRIS W
3923 PHEONIX
DR
SAINT JAMES
CITY FL 33956**SITE ADDRESS**3420
STRINGFELLOW
RD
ST JAMES
CITY FL 33956**LEGAL
DESCRIPTION**GULFHAVEN
UNIT P
PB 9 PG 105
LOT 1[[VIEWER](#)] TAX MAP [[PRINT](#)]

IMAGE OF STRUCTURE

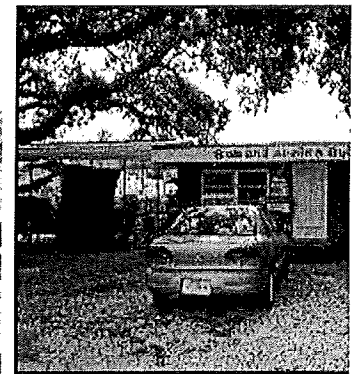


Photo Date: August

[[PICTOMETRY](#)]**TAXING DISTRICT**007 - MATLACHA-PINE ISLAND FIRE
DISTRICT**DOR CODE**

20 - AIRPORTS, TERMINALS, PIERS

**PROPERTY VALUES (TAX
ROLL 2006)** [**NEW!** [HISTORY](#)]**EXEMPTIONS****ATTRIBUTES**

CHART]

JUST	358,270	HOMESTEAD	0	UNITS OF MEASURE	Mixed
ASSESSED	358,270	AGRICULTURAL	0	NUMBER OF UNITS	11,989.00
ASSESSED SOH	358,270	WIDOW	0	FRONTAGE	0
TAXABLE	358,270	WIDOWER	0	DEPTH	0
BUILDING	33,150	DISABILITY	0	BEDROOMS	2
LAND	325,120	WHOLLY	0	BATHROOMS	2
BUILDING FEATURES	0	SOH DIFFERENCE	0	TOTAL BUILDING SqFt	3,018
LAND FEATURES	0			1ST YEAR BUILDING ON TAX ROLL	1971
				HISTORIC DISTRICT	No

SALES/TRANSACTIONS

SALE PRICE	DATE	OR NUMBER	TYPE	TRANSACTION DETAILS DESCRIPTION	VACANT / IMPROVED
100	8/16/2006	<u>2006000322028</u>	04	Disqualified (Multiple STRAP # - 01,03,07) There are 1 additional parcel(s) with this document (may have been split after the transaction date)... <u>35-45-22-04-00002.0000</u>	I
94,900	1/23/1998	<u>2932/555</u>	04	Disqualified (Multiple STRAP # - 01,03,07) There are 1 additional parcel(s) with this document (may have been split after the transaction date)... <u>35-45-22-04-00002.0000</u>	I
100	1/1/1988	<u>1967/981</u>	01	Disqualified (Doc Stamp .70 / SP less th \$100 / Other Disq)	I
50,000	12/1/1986	<u>1888/655</u>	06	Qualified (Fair Market Value / Arms Length / One STRAP #)	I

SOLID WASTE (GARBAGE) ROLL DATA

SOLID WASTE DISTRICT	ROLL TYPE	CATEGORY	UNIT/AREA	TAX AMOUNT
005 - Service Area 5	C - Commercial Category	E	2,722	607.69

COLLECTION DAYS

GARBAGE
Monday

RECYCLING
Monday

HORTICULTURE
Tuesday

ELEVATION INFORMATION

STORM SURGE CATEGORY	FLOOD INSURANCE (<u>FIRM FAQ</u>)				
	RATE CODE	COMMUNITY	PANEL	VERSION	DATE
Tropical Storm	A9:EL9	125124	0290	B	091984

[\[Show \]](#)

APPRAISAL DETAILS

TRIM (*proposed* tax) Notices are available for the following tax years:
[[1997](#) | [1998](#) | [1999](#) | [2000](#) | [2001](#) | [2002](#) | [2003](#) | [2004](#) | [2005](#) | [2006](#)]

[[Next Lower Parcel Number](#) | [Next Higher Parcel Number](#)]

[[New Query](#) | [New Browse](#) | [Parcel Queries Page](#) | [Lee PA Home](#)]

This site is best viewed with [Microsoft Internet Explorer 5.5+](#) or [Netscape Navigator 6.0+](#).
Page was last modified on Wednesday, November 01, 2006 9:58:13 AM.



Spatial District Query Report

STRAP Number: 35-45-22-04-00001.0000

District Name	District Value	Pct of Parcel in District (if fractional)	Notes
Airspace Notification	Notification Height Facility	25' - 50' AMSL St. James Helistop	
Census Tract	Tract ID	702	99.91%
Coastal Building Zone			NOT FOUND
Coastal High Hazard Area	Coastal High Hazard Zone	High hazard	
Fire District	Fire District	Pine Island- Matlacha	
	Taxing Authority	059	
Flood Insurance Zone	Flood Zone	A9-EL9	
FIRM Floodway			NOT FOUND
Flood Insurance Panel	Community Panel Version Date	125124 0290 B 091984	
DNR Flood Zones			NOT FOUND
Flood Insurance Coastal Barrier			NOT FOUND
Lighting District			NOT FOUND
Planning Community	ID Plan Community	16 Pine Island	
Planning Land Use 2010			NOT FOUND
Sanibel/County Agreement			NOT FOUND
School Board District	District School Board Member	1 Robert Chilmonik	
School Choice Zone	Choice Zones	West Zone	
	Choice Zones	West Zone 4	
Solid Waste District	District Area	Area 5	
Storm Surge	Category	T S	
Subdivisions	Subdivision No. Subdivision Name Book Page 1 Book Page 2 Book Page 3	35452204 GULF HAVEN UNIT P PB 9/PG 105	
Traffic Analysis Zone			
Archaeological Sensitivity			NOT FOUND
Sea Turtle Lighting Zone			NOT FOUND
Watersheds	Shed ID	South Pine Island	
FLUCCS1995	Code Landuse	121 Fixed single family units	99.22%
	Code Landuse	816 Canals and locks	0.78%
Soil	Map Symbol Soil Name	69 MATLACHA GRAVELLY FINE	1

		SAND	
Commissioner District	District	1	
	Commissioner	Robert Janes	
Unincorporated Lee County	Zoning	C-1	Zoning Notes
Zoning	Designation		
Development Orders		NOT FOUND	
Road Impact Fee Districts	District	52	
	Tidemark ID	52	
	Name	NORTH	
Water Franchise	Franchise Name	Greater Pine Island Water Assoc.	
Wastewater Franchise		NOT FOUND	
Res. Garbage Collection Day	Hauling Day	Monday	
Res. Recycling Collection Day	Hauling Day	Monday	
Res. Horticulture Collection Day	Hauling Day	Tuesday	

[\[Modify Report Settings \]](#)

Note	Details
1	Small percentages can result from slight variations in the way lines are drawn or imported into our system. Such values may not accurately reflect an overlap with the subject parcel.

Our goal is to provide the most accurate data available, however no warranties, expressed or implied, are provided with this data, its use, or interpretation.
All information subject to change without notice.

ZONE NOTES QUERY REPORT

ZONE NOTES ID: ZONE:C:1:000496

ZONING: C-1

STRAP: 35-45-22-04-00001.0000

SEZ2005-00025, 10FEB06, ISLANDER'S BOAT CLUB, 3558 SEA HOLLY LANE, APPROVAL TO ALLOW
SEZ2004-00021, 27JUNE05, DENIAL OF REQUEST FOR A COMMERCIAL BOAT RAMP @ 3558 SEA HOI

PROPERTY DATA FOR PARCEL 35-45-22-04-00002.0000

TAX YEAR 2006

Parcel data is available for the following tax years:

[[2001](#) | [2002](#) | [2003](#) | [2004](#) | [2005](#) | [2006](#)]

[[Next Lower Parcel Number](#) | [Next Higher Parcel Number](#)

| [Display Tax Bills on this Parcel](#) | **NEW! Tax Estimator**]

OWNERSHIP, LEGAL, SALES AND DISTRICT DATA ARE FROM THE CURRENT DATABASE.
LAND, BUILDING, VALUE AND EXEMPTION DATA ARE FROM THE 2006 ROLL.

PROPERTY DETAILS

OWNER OF RECORD

CONOVER CHRIS W
3923 PHEONIX DR
SAINT JAMES CITY FL 33956

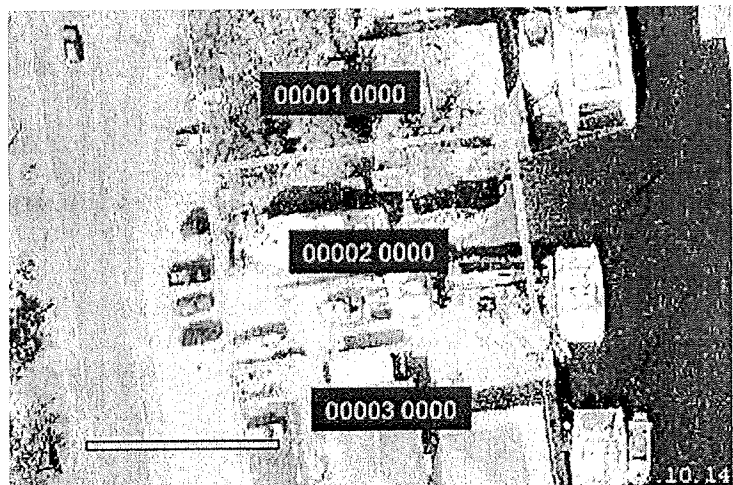
SITE ADDRESS

3408 STRINGFELLOW RD
ST JAMES CITY FL 33956

LEGAL DESCRIPTION

GULFHAVEN UNIT P
PB 9 PG 105
LOT 2

[[VIEWER](#)] TAX MAP [[PRINT](#)]



[[PICTOMETRY](#)]

TAXING DISTRICT

007 - MATLACHA-PINE ISLAND FIRE
DISTRICT

DOR CODE

10 - VACANT COMMERCIAL

PROPERTY VALUES (TAX ROLL 2006)[[NEW!](#) [HISTORY](#) [CHART](#)]

EXEMPTIONS

ATTRIBUTES

JUST	240,950	HOMESTEAD	0 UNITS OF MEASURE	Mixed
ASSESSED	240,950	AGRICULTURAL	0 NUMBER OF UNITS	9,601.00
ASSESSED SOH	240,950	WIDOW	0 FRONTAGE	80
TAXABLE	240,950	WIDOWER	0 DEPTH	120

BUILDING	1,180	DISABILITY	0	BEDROOMS	
LAND	239,770	WHOLLY	0	BATHROOMS	
BUILDING FEATURES	1,180	SOH DIFFERENCE	0	TOTAL BUILDING SqFT	
LAND FEATURES	1,870			1ST YEAR BUILDING ON TAX ROLL	0
				HISTORIC DISTRICT	No

SALES/TRANSACTIONS

SALE PRICE	DATE	OR NUMBER	TYPE	TRANSACTION DETAILS DESCRIPTION	VACANT / IMPROVED
100	8/16/2006	<u>2006000322028</u>	04	Disqualified (Multiple STRAP # - 01,03,07) There are 1 additional parcel(s) with this document (may have been split after the transaction date)... <u>35-45-22-04-00001.0000</u>	V
94,900	1/23/1998	<u>2932/555</u>	04	Disqualified (Multiple STRAP # - 01,03,07) There are 1 additional parcel(s) with this document (may have been split after the transaction date)... <u>35-45-22-04-00001.0000</u>	V
27,500	9/1/1988	<u>2019/1909</u>	01	Disqualified (Doc Stamp .70 / SP less th \$100 / Other Disq)	V
26,500	1/1/1988	<u>1972/1036</u>	06	Qualified (Fair Market Value / Arms Length / One STRAP #)	V

SOLID WASTE (GARBAGE) ROLL DATA

SOLID WASTE DISTRICT	ROLL TYPE	CATEGORY	UNIT/AREA	TAX AMOUNT
005 - Service Area 5	-		0	0.00

COLLECTION DAYS

GARBAGE

RECYCLING

HORTICULTURE

Error loading the Collection Days.

ELEVATION INFORMATION

STORM SURGE CATEGORY	FLOOD INSURANCE (FIRM FAQ)				
	RATE CODE	COMMUNITY	PANEL	VERSION	DATE
Tropical Storm	A9:EL9	125124	0290	B	091984

[[Show](#)]

APPRAISAL DETAILS

TRIM (*proposed tax*) Notices are available for the following tax years:
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Coastal High Hazard Area	Coastal High Hazard Zone	High hazard	
Fire District	Fire District	Pine Island- Matlacha	
	Taxing Authority	059	
Flood Insurance Zone	Flood Zone	A9-EL9	
FIRM Floodway			NOT FOUND
Flood Insurance Panel	Community Panel Version Date	125124 0290 B 091984	
DNR Flood Zones			NOT FOUND
Flood Insurance Coastal Barrier			NOT FOUND
Lighting District			NOT FOUND
Planning Community	ID Plan Community	16 Pine Island	
Planning Land Use 2010			NOT FOUND
Sanibel/County Agreement			NOT FOUND
School Board District	District School Board Member	1 Robert Chilmonik	
School Choice Zone	Choice Zones Choice Zones	West Zone West Zone 4	
Solid Waste District	District Area	Area 5	
Storm Surge	Category	T S	
Subdivisions	Subdivision No. Subdivision Name Book Page 1 Book Page 2 Book Page 3	35452204 GULF HAVEN UNIT P PB 9/PG 105	
Traffic Analysis Zone			
Archaeological Sensitivity			NOT FOUND
Sea Turtle Lighting Zone			NOT FOUND
Watersheds	Shed ID	South Pine Island	
FLUCCS1995	Code Landuse	121 Fixed single family units	
Soil	Map Symbol Soil Name	69 MATLACHA GRAVELLY FINE SAND	
Commissioner District	District	1	

Commissioner		Robert Janes
Unincorporated Lee County	Zoning Designation	C-1
Zoning		Zoning Notes
Development Orders		NOT FOUND
Road Impact Fee Districts	District	52
	Tidemark ID	52
	Name	NORTH
Water Franchise	Franchise Name	Greater Pine Island Water Assoc.
Wastewater Franchise		NOT FOUND
Res. Garbage Collection Day	Hauling Day	Monday
Res. Recycling Collection Day	Hauling Day	Monday
Res. Horticulture Collection Day	Hauling Day	Tuesday

[\[Modify Report Settings \]](#)

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ZONE NOTES QUERY REPORT

ZONE NOTES ID: ZONE:C:1:000496

ZONING: C-1

STRAP: 35-45-22-04-00002.0000

SEZ2005-00025, 10FEB06, ISLANDER'S BOAT CLUB, 3558 SEA HOLLY LANE, APPROVAL TO ALLOW
SEZ2004-00021, 27JUNE05, DENIAL OF REQUEST FOR A COMMERCIAL BOAT RAMP @ 3558 SEA HOI



LEE COUNTY
SOUTHWEST FLORIDA

BOARD OF COUNTY COMMISSIONERS

(239) 533-8312

Bob Janes
District One

November 14, 2007

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

RE: CPA2007-02 Conover Small Scale Amendment, Lee Plan Future Land Use
Amendment

Dear Mr. Uhle:

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

A2. In lieu of a "Proposed Future Land use Map" please provide a map showing the subject property on the Water Dependent Overlay.

B2a. The applicant needs to provide data and analysis on the availability and level of service for Sanitary Sewer service.

B2b. The applicant needs to provide data and analysis on the availability and level of service for Potable Water service.

G. Please provide a justification for this proposal based on sound planning principles.

In addition, staff is concerned about the date that the subject property started functioning as a boatyard or marina. The C-1 zoning district lists marinas as "E/O" meaning "Existing Only." Section 34-2 of the Lee County Land Development Code provides the definition of the term "Existing Only." A use with this designation is permitted in a zoning district only if it lawfully existed prior to September 27, 1993 or was granted a Special Exception within two years prior to that date and commenced the approved construction within two years after that date.

It is staffs opinion that neither the aerial photographs nor the affidavits provided by the applicant constitute sufficient evidence of the legal operation of a marina or boatyard on the subject property. The applicant needs to provide documentation that the subject property was operating as a marina prior to September 27, 1993. This documentation

may include, but is not limited to, tax bills for the marina, occupational licences, permits, development orders, advertisements in phone books prior to September 27, 1993, etc.

Barring conclusive evidence from the applicant demonstrating the continual operation of a marina or boatyard on the subject property, staff is unsure that we will be able to support the proposed amendment.

Additional comments from other county departments may be forthcoming.

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

A handwritten signature in black ink, appearing to read "Peter Blackwell", with a long, sweeping horizontal line extending from the end of the signature to the right.

Peter Blackwell

Planner

cc: *Planning file: CPA2007-02*

Knott, Consoer, Ebelini
Hart & Swett, P.A.
A T T O R N E Y S - A T - L A W

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

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Fort Myers, Florida 33902-2449

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Telecopier (239) 334-1446

MUhle@knott-law.com

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

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

December 4, 2007

Mr. Peter Blackwell
Lee County Division of Planning
P.O. Box 398
Fort Myers, FL 33902

Re: CPA2007-02/Conover Small Scale Amendment

Dear Peter:

CPA2007-00002

In response to your request for additional information, we have enclosed a copy of a 1989 tax return prepared by Robert Conover which indicates that he operated a "boat refinishing" business called "Bob and Annie's Marine Railway" on the subject property. Most of the other records pertaining to the business were destroyed in the well-publicized fire that damaged the building on the premises.

Exhibits responding to your other items are also enclosed. If you have any questions, please let me know.

Sincerely,

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



Matthew D. Uhle, Esq.

MDU/ams

cc: Chris Conover

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DEC 04 2007
COMMUNITY DEVELOPMENT

Profit or Loss From Business

(Sole Proprietorship)

Partnerships, Joint Ventures, Etc., Must File Form 1065.

▶ Attach to Form 1040 or Form 1041. ▶ See instructions for Schedule C (Form 1040).

F HS FS
CC WS 7

OMB No. 1545-0074

1989

Attachment
Sequence No. 09

ROBERT L. CONOVER

Social security number (SSN)

273 24 8622

Principal business or profession, including product or service (see instructions)

BOAT REFINISHING

B Principal business code

(from page 2) ▶ 218 0 1

C Business name and address ▶ BOB AND ANNIE'S MARINE RAILWAY
P.O. BOX 413, ST. JAMES CITY, FL 33956

D Employer ID number (Not SSN)

E Method(s) used to value closing inventory: (1) ☒ Cost (2) ☐ Lower of cost or market (3) ☐ Other (attach explanation) (4) ☐ Does not apply (if checked, skip line G)F Accounting method: (1) ☒ Cash (2) ☐ Accrual (3) ☐ Other (specify) ▶

G Was there any change in determining quantities, costs, or valuations between opening and closing inventory? (If "Yes," attach explanation.)

H Are you deducting expenses for business use of your home? (If "Yes," see instructions for limitations.)

I Did you "materially participate" in the operation of this business during 1989? (If "No," see instructions for limitations on losses.)

J If this schedule includes a loss, credit, deduction, income, or other tax benefit relating to a tax shelter required to be registered, check here. ▶ ☐
If you checked this box, you MUST attach Form 8271.

Part I Income

1 Gross receipts or sales	1	42578
2 Returns and allowances	2	
3 Subtract line 2 from line 1. Enter the result here	3	42578
4 Cost of goods sold and/or operations (from line 39 on page 2)	4	5913
5 Subtract line 4 from line 3 and enter the gross profit here	5	36665
6 Other income, including Federal and state gasoline or fuel tax credit or refund (see instructions)	6	
7 Add lines 5 and 6. This is your gross income	7	36665

Part II Expenses +

8 Advertising	8	886	22 Repairs	22	1154
9 Bad debts from sales or services (see instructions)	9		23 Supplies (not included in Part III)	23	
10 Car and truck expenses	10	1990	24 Taxes	24	588
11 Commissions	11		25 Travel, meals, and entertainment:		
12 Depletion	12		a Travel	25a	
13 Depreciation and section 179 deduction from Form 4562 (not included in Part III)	13	911	b Meals and entertainment		203
14 Employee benefit programs (other than on line 20)	14		c Enter 20% of line 25b subject to limitations (see instructions)		41
15 Freight (not included in Part III)	15		d Subtract line 25c from line 25b	25d	162
16 Insurance (other than health)	16	509	26 Utilities (see instructions)	26	1471
17 Interest:			27 Wages (less jobs credit)	27	
a Mortgage (paid to banks, etc.)	17a		28 Other expenses (list type and amount):		
b Other	17b	2004	SMALL TOOLS (\$272)		
18 Legal and professional services	18	81	OCCUPATIONAL LICENSE (\$2)		
19 Office expense	19	100	TRASH DISPOSAL (\$1308)		
20 Pension and profit-sharing plans	20		GAS FOR EQUIPMENT (\$260)		
21 Rent or lease:					
a Machinery and equipment	21a				
b Other business property	21b				
22	22		28	4392	
23	23		29	14243	
24	24		30	22417	
25	25				
26	26				
27	27				
28	28				
29	29				
30	30				

9 Add amounts in columns for lines 8 through 28. These are your total expenses

D Net profit or (loss). Subtract line 29 from line 7. If a profit, enter here and on Form 1040, line 12, and on Schedule SE, line 2. If a loss, you MUST go on to line 31. (If a loss, see instructions.)

I If you have a loss, you MUST check the box that describes your investment in this activity (see instructions).
If you checked 31a, enter the loss on Form 1040, line 12, and Schedule SE, line 2.
If you checked 31b, you MUST attach Form 6198.31a ☐ All investment is at risk.
31b ☐ Some investment is not at risk.

Paperwork Reduction Act Notice, see Form 1040 instructions.

1040-5

CPA 2007-00002

Schedule C (Form 1040) 1989

DEC 04 2007

COMMUNITY DEVELOPMENT

Sanitary Sewer Analysis

EXHIBIT B.2.a

The current marina/boatyard business is served by a septic tank. According to FAC Rule 64E-6.008, the approximate peak demand for wastewater treatment that is being generated by this site is 15 gallons per day x 4, the number of employees per 8 hour shift, for a total of 60 GPD. No expansion of the business is proposed, or is practically possible, given the limited size of the subject parcel. As a result, the amendment will not require any additional sewer capacity, either public or private, within the 2030 horizon of the Lee Plan.

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COMMUNITY DEVELOPMENT

CPA 2007-00002

Potable Water Analysis

EXHIBIT B.2.b

The current marina/boatyard business is served by public water facilities. No expansion of the business is proposed, or is practically possible, given the limited size of the subject parcel. As a result, the amendment will not require any additional capacity within the 2030 horizon of the Lee Plan.

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DEC 04 2007

COMMUNITY DEVELOPMENT

CPA 2007-00002

Planning Justification

EXHIBIT G

The evidence provided in the application submittals establishes that the subject property was being used as a boatyard/marina as of the date that the Water-Dependent Overlay was created, and that its omission from the overlay was due to an oversight. Lee Plan Policy 1.7.5 and Goal 128 make it clear that it is the County's policy to encourage the maintenance and development of existing water-dependent shoreline uses. The amendment is, therefore, consistent with the Lee Plan, and with good planning principles in general.

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DEC 04 2007

COMMUNITY DEVELOPMENT

CPA 2007-00002

PLANNING DIVISION

M E M O R A N D U M



LEE COUNTY

SOUTHWEST FLORIDA

To: Board of County Commissioners
From: Paul O'Connor, AICP, Director, Division of Planning
Subject: Lee Plan Adoption/Transmittal Hearing ^{POC}
Date: February 29, 2008

Attached is the Agenda for the upcoming Lee Plan Small Scale Adoption and School District Amendment Transmittal Hearing. The Adoption/Transmittal hearing involves four comprehensive plan amendments. Two of the amendments are small scale amendments and two encompass a proposed Special Amendment Cycle. The hearing will be held on March 11, 2008 in the chambers starting at 5:05 p.m.

The first two plan amendments on the agenda are small scale amendments, CPA2006-02, Cape Royal, and CPA2007-02, Conover. CPA2006-02, Cape Royal, is a privately initiated request to amend the Future Land Use Map for 7.7 acres near the intersection of Pine Island Road and Veterans Parkway from Rural to Suburban and Commercial. CPA2007-02, Conover, is a privately initiated request to amend Map 12, the Water Dependent Overlay Zones, to add a 21,600 square foot site to the Water Dependent Overlay for a site located on the east side of Stringfellow Road south of York Road. Staff is recommending adoption of the two amendments.

The remainder of the agenda involves a proposed Special Amendment Cycle to address revised Florida Statutes. The first amendment in this cycle is CPA 2006-16, the School Facilities Element. In 2005, the Florida Legislature amended section 163.3180 F.S., and mandated the implementation of public school concurrency. That legislation requires that each local government adopt a Public School Facilities Element as part of its Comprehensive Plan and amend its Capital Improvement Element. CPA 2006-16 amends the Community Facilities Element and the Capital Improvements Element of the Lee Plan to add a new Public Schools Facility Element. The amendment also incorporates schools as required public facilities for concurrency purposes and provides for proportionate fair share mitigation options in accordance with the statute. Two new maps, Map 22 School Concurrency Service Areas, and Map 23, Educational and School District Facilities in Lee County, have also been included to address the new school concurrency requirements. Staff is recommending transmittal of the amendment.

The second amendment is CPA 2006-18, the School District Capital Improvement Program. Section 163.3177 [12] [c] F.S. requires that the Lee Plan Capital Improvement Element include the Lee County School District CIP. This amendment proposes to incorporate the School CIP as Table 3A of the Lee Plan. Staff is recommending transmittal of the amendment.

If you have any questions regarding any of these amendments, please feel free to call me directly at 533-8309.

cc: Mary Gibbs, AICP, Director of Community Development
Donna Marie Collins, Assistant County Attorney

**BOARD OF COUNTY COMMISSIONERS
PLAN AMENDMENT HEARING
MARCH 11, 2008
COMMISSION CHAMBERS
5:05 P.M.**

AGENDA

1. Call to order
2. Certification of Affidavit of Publication for Small Scale Amendment by County Attorney
3.
 - A. CPA 2006-02 - Amend the Future Land Use Map Series for an approximate 7.7 +/- acre site located in Section 20, Township 44 South, Range 23 East, to change the classification shown on Map 1, the Future Land Use Map, from Rural to Suburban and Commercial. Amend Map 7, the Lee County Utilities' Future Sewer Service Areas Map, to add the subject site to the future service area. The site is generally located south of Pine Island Road and east of Veterans Parkway.
 - B. Public Comment
 - C. Consider adopting the following ordinance which adopts CPA 2006-02:

AN ORDINANCE AMENDING THE LEE COUNTY COMPREHENSIVE PLAN, COMMONLY KNOWN AS THE "LEE PLAN" AS ADOPTED BY ORDINANCE NO. 89-02, AS AMENDED, SO AS TO ADOPT SMALL SCALE AMENDMENT CPA2006-02 (PERTAINING TO THE DESIGNATION OF A 7.7-ACRE CAPE ROYAL PARCEL FROM RURAL TO SUBURBAN AND COMMERCIAL FUTURE LAND USE CATEGORY) APPROVED DURING A SMALL SCALE COMPREHENSIVE PLAN AMENDMENT EFFORT; PROVIDING FOR AMENDMENT TO THE FUTURE LAND USE MAP SERIES, MAP 1 AND MAP 7; PURPOSE AND SHORT TITLE; LEGAL EFFECT OF "THE LEE PLAN"; GEOGRAPHICAL APPLICABILITY; SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.

4.
 - A. CPA 2007-02 - Amend the Future Land Use Map Series for an approximate .495-acre site located in Section 35, Township 45 South, Range 22 East, to add the site to Map 12, the Water-Dependent Overlay Zones. The site is generally located on the east side of Stringfellow Road just south of York Road.
 - B. Public Comment
 - C. Consider adopting the following ordinance which adopts CPA 2007-02:

AN ORDINANCE AMENDING THE LEE COUNTY COMPREHENSIVE PLAN, COMMONLY KNOWN AS THE "LEE PLAN" AS ADOPTED BY ORDINANCE NO. 89-02, AS AMENDED, SO AS TO ADOPT SMALL SCALE AMENDMENT CPA2007-02 (PERTAINING TO THE DESIGNATION OF A .495-ACRE PINE ISLAND PARCEL AS PART OF THE WATER DEPENDENT OVERLAY ZONE) APPROVED

**DURING A SMALL SCALE COMPREHENSIVE PLAN AMENDMENT EFFORT;
PROVIDING FOR AMENDMENT TO THE FUTURE LAND USE MAP SERIES,
MAP 12; PURPOSE AND SHORT TITLE; LEGAL EFFECT OF “THE LEE PLAN”;
GEOGRAPHICAL APPLICABILITY; SEVERABILITY, CODIFICATION,
SCRIVENER’S ERRORS, AND AN EFFECTIVE DATE.**

5. Certification of Affidavit of Publication for Special Amendment Cycle by County Attorney
6.
 - A. Staff discussion concerning the Special Amendment Cycle
 - B. Consider a motion to initiate the Special Amendment Cycle
7.
 - A. CPA 2006-16 - Amend the Community Facilities Element and the Capital Improvements Element to add a new Public Schools Facility Element. Incorporate schools as required public facilities for concurrency purposes and to provide for proportionate fair share mitigation options in accordance with Senate Bill 360. Incorporate two new maps, Map 22 School Concurrency Service Areas and Map 23 Educational and School District Facilities in Lee County to address the new school concurrency requirements.
 - B. Public Comment
 - C. Motion to transmit or not transmit CPA 2006-16
8.
 - A. CPA2006-18 - Amend the Lee Plan by incorporating the Lee County School District School CIP into the Capital Improvements Element as Table 3A.
 - B. Public Comment
 - C. Motion to transmit or not transmit CPA 2006-16
9. Adjourn

CPA2007-02
CONOVER PRIVATELY SPONSORED
SMALL-SCALE AMENDMENT
TO THE

LEE COUNTY COMPREHENSIVE PLAN

THE LEE PLAN

BoCC Public Hearing Document
for the
March 11th, 2008 Public Hearing

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

February 25, 2008

**LEE COUNTY
DIVISION OF PLANNING
STAFF REPORT FOR
COMPREHENSIVE PLAN AMENDMENT
CPA2007-00002**

☐

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: February 18, 2008

PART I - BACKGROUND AND STAFF RECOMMENDATION

A. SUMMARY OF APPLICATION

1. APPLICANT/REPRESENTATIVE:

Chris Conover

Represented by Matt Uhle of Knott, Consoer, Ebelini, Hart & Swett, P.A.

1625 Hendry Street Third Floor

Fort Myers, FL 33902

- 2. REQUEST:** Amend the Future Land Use Map Series for an approximate 21,600+/- square foot site located in Section 35, Township 45 South, Range 22 East, to add the site to Map 12, the Water Dependent Overlay Zones. The site is generally located on the east side of Stringfellow Road just south of York Road.

B. STAFF RECOMMENDATION AND FINDINGS OF FACT SUMMARY

1. RECOMMENDATION:

Planning staff recommends that the Board of County Commissioners approve the proposed amendment.

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

- The Water Dependent Overlay Map (WDO) became effective on March 1, 1989.
- The WDO zones were created to preserve existing water-dependent uses.
- The subject property is in the Suburban Future Land Use Category.
- The applicant has submitted an affidavit stating that the subject property has been in use as a boatyard since 1986.
- Property Appraiser records show that the existing commercial office building on the north lot of the subject property was built in 1971.
- The applicant has submitted a federal income tax document for the business for tax year 1989.
- Some of the land uses on the property fit the definition of boatyard.
- The C-1 zoning district permits marina and marina ancillary uses that fit the definition of "existing only."
- In order to be considered "existing only" by the LDC, the marina uses on the subject property needed to be in existence prior to September 27, 1993.
- The Marina and Marina Ancillary uses on the property have been in operation since at least as early as 1986.

C. BACKGROUND INFORMATION

Lot Description and History

The subject property consists of Lots 1 and 2 of the Gulfhaven Unit P subdivision. This subdivision was first platted in December 1953 in Plat Book 9 Page 105. The lot descriptions are the same as when they were first platted. Both lots are currently zoned C-1. Both lots are in the Suburban Future Land Use Category on Lee Plan Map 1, the Future Land Use Map. The northern lot is occupied by a small building with signage stating, "Bob and Annie's Marina." The southern lot is currently occupied by a marine railway and winching system. The subject property is abutted on the south side by a store, on the west by Stringfellow Road, and on the north and east by the Dawson canal across which are single-family residences.

The northern lot was purchased by the applicant's family in 1986 and the southern lot in 1988. An affidavit signed by the applicant states that the subject property has been operating as a boatyard since 1986, prior to the adoption of the Water-Dependent Overlay Map. In addition, the applicant has submitted a Form 1040 "Profit or Loss From Business" Tax form for the year 1989. In this form, the business is shown as "Bob and Annie's Marine Railway."

A fire destroyed the back portion of the building on the northern lot. This fire also destroyed most of the applicant's business records.

The Water Dependent Overlay Map

There are limited locations in Lee County that are suitable for water-dependent uses such as boatyards and marinas. It is important to keep these uses from being displaced or pre-empted by non-water-dependent uses that can be located away from the shoreline. Therefore, the Water-dependent Overlay Zones were created so that non-water-dependent uses could only replace water-dependent uses following a public hearing. The Water Dependent Overlay Map (WDO) became effective on March 1, 1989. It was first adopted by Ordinance 89-02 and later amended by Ordinance 03-04.

Relevant Lee Plan Goals, Objectives and Policies

There are several policies in the Lee Plan that apply to the proposed amendment:

POLICY 1.7.5: *The Water-Dependent overlay zone designates shoreline areas where priority will be granted to water-dependent uses. Specific requirements are detailed for such zones on San Carlos Island under Goal 12, in the Greater Pine Island area under Goal 14, and for other areas in Lee County in the Conservation and Coastal Management Element.*

GOAL 8: MARINE-ORIENTED LAND USES. *To designate prime locations for marine-oriented land uses and protect them from incompatible or pre-emptive land uses.*

OBJECTIVE 8.1: *Existing marinas, fish houses and port facilities indicated on the Future Land Use Map as having water-dependent overlay zones will be reclassified by the county to commercial and industrial marina zoning categories to protect their rights to rebuild and expand and to prevent their conversion to non-water-dependent uses without a public hearing.*

POLICY 128.1.1: *Commercial and government-operated multi-slip docking facilities indicated on the Future Land Use Map as having water-dependent overlay zones will be reclassified by the county to marina zoning categories to protect their rights to rebuild and expand and to prevent their conversion to non-water-dependent uses without a public hearing.*

POLICY 128.1.2: *The Future Land Use Map will designate water-dependent overlay zones over existing commercial fishing, port and docking sites and commercial marinas to protect their rights to rebuild and expand and to prevent their conversion to non-water-dependent uses without a public hearing.*

POLICY 128.4.1: *In water-dependent overlay zones, the special provisions contained under Goal 8 of the Future Land Use Element will also apply.*

Section 34-2 of the Lee County Land Development Code (LDC) provides relevant definitions for the proposed amendment:

Existing Only. The use is permitted only if it lawfully existed on September 27, 1993 or was granted a special exception within two years prior to that date and commenced the approved

construction within two years after that date. A use that qualifies as "Existing Only" will not be classified as a nonconforming use. It will be afforded the same privileges as a permitted use and may be expanded or reconstructed, in accordance with all applicable current regulations, but only on the specific parcel on which it is located, as that parcel was legally described on September 27, 1993.

Marina means a commercial or industrial Water-Dependent Use located on property adjacent to water with direct access to a navigable channel. The primary function must be to provide commercial dockage, mooring, storage and service facilities for water-craft and land-based facilities and activities necessary to support the water-dependent use. The term "marina" does not apply to docks, davits, boathouses and similar docking facilities that are accessory or ancillary subordinate to: 1) residential buildings that are located on the same premises and are under the same ownership or control as the docks, davits, boathouses, boat ramps, and similar docking facilities; and 2) commercial or industrial establishments that are not Water-dependent Uses.

Marina Accessory uses means normally ancillary and subordinate to a marina, including but not limited to: sale of marine fuel and lubricants, marine supplies, boats, boat motors, and boat parts; restaurant or refreshment facility, boat rental, minor boat rigging and motor repair. However, no dredge, barge, or other work dockage or service is permitted and no boat construction or reconstruction is permitted. See Boatyard.

Boatyard means a boating or harbor facility located on or having direct access to navigable water for building, maintaining, and performing extensive repair on boats and small ships, marine engines and equipment. A boatyard shall be distinguished from a marina by the larger scale and greater extent of work done in a boatyard and by the use of dry dock, marine railway or large capacity lifts used to haul out boats for maintenance or repair. See Marina.

Definitions

Chapter XII of the Lee Plan provides the following definitions:

WATER-DEPENDENT USES- *Land uses for which water access is essential and which could not exist without water access.*

WATER-RELATED USES- *Land uses that might be enhanced by proximity to the water but for which water access is not essential.*

PART II - STAFF ANALYSIS

A. STAFF DISCUSSION

The intent of the Lee Plan WDO is to preserve established water-dependent uses. Lee Plan policies 128.1.1 and 128.1.2 state that the County is to create Water Dependent Overlays (WDOs) on existing water-dependent uses. Therefore the county is obligated to consider the subject property for inclusion in the WDO Map.

In order to be included in the WDO, a parcel needs to have been in existence at the time the WDO map was created. The WDO Map became effective on March 1, 1989. The applicant has provided an affidavit stating that the subject parcel was a boatyard prior to this date. The applicant has also submitted a tax document showing that a "Marine Railway" was operating on the property at least since the effective date of the WDO Map. In addition, county records indicate that a commercial building was created on the property in 1971. Therefore, the property has been in commercial use since before the adoption of the Lee Plan in 1984.

The C-1 zoning district permits marina and marina ancillary uses that fit the definition of "existing only." In order to be considered "existing only" under the LDC, the marina uses on the subject property needed to be in existence prior to September 27, 1993. Based upon the documents provided by the applicant, it appears that the marina use has been in existence since 1984, well before the 1993 cutoff date. The C-1 category does not permit those uses listed in the definition of boatyard. Some of the commercial activities on the property such as boat repair or the marine railway fall under the LDC definition of "boatyard." Therefore, the subject property is currently not in conformance with its zoning.

If the property is designated as a WDO, Lee Plan Goal 8 states that the County will rezone the property to Commercial Marina (CM) or Industrial Marina (IM) zoning. Commercial uses greater than neighborhood centers and industrial uses are not permitted in the Suburban Future Land Use category.

B. CONCLUSIONS

The Water Dependent Overlay was created to preserve existing marinas and other water dependent uses. Lee Plan Policies 128.1.1 and 128.1.2 both state that the County will designate existing marinas as WDOs. The applicant has demonstrated through documents that the water dependent uses were in existence when the WDO was created. Including the property in the WDO will necessitate a rezoning Per Lee Plan Goal 8. The long established uses on the subject property and the need to preserve the diminishing number of sites suitable for water-dependent uses establishes sufficient justification to the proposed amendment.

C. STAFF RECOMMENDATION

Planning staff recommends that the Board of County Commissioners amend the Lee Plan Map 12 by including the subject property in the Water-Dependent Overlay.

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

DATE OF PUBLIC LPA HEARING: February 25th 2008

A. LOCAL PLANNING AGENCY REVIEW

Planning staff and the applicant made short presentations. One LPA member asked if including the property in the Water Dependent Overlay would specifically preserve water access points. Staff responded that the WDO does not specify exactly which uses will be preserved, only that "Water Dependent" uses are preserved. The same member then asked if including the subject property in the WDO would prevent its conversion to residential or other uses. Staff responded that being in a WDO means that a public hearing is required in order to replace water dependent uses with non-water dependent uses in the WDO zone.

B. LOCAL PLANNING AGENCY RECOMMENDATION AND FINDINGS OF FACT SUMMARY

1. RECOMMENDATION:

The LPA recommends that the Board adopt the proposed amendment to the DCA.

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

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

C. VOTE:

NOEL ANDRESS	AYE
LES COCHRAN	AYE
RONALD INGE	AYE
JACQUE RIPPE	ABSENT
CARLETON RYFFEL	AYE
LELAND M. TAYLOR	AYE
RAY ANN WESEL	AYE

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

DATE OF ADOPTION HEARING: March 11, 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

BOB JANES

RAY JUDAH

FRANKLIN B. MANN



Lee County Board of County Commissioners
Department of Community Development
Division of Planning
Post Office Box 398
Fort Myers, FL 33902-0398
Telephone: (239) 479-8585
FAX: (239) 479-8519

APPLICATION FOR A COMPREHENSIVE PLAN AMENDMENT

(To be completed at time of intake)

RECEIVED
MAY 04 2007

DATE REC'D _____

REC'D BY: _____

APPLICATION FEE _____

TIDEMARK NO: **COMMUNITY DEVELOPMENT**

C P A 2007-00002

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.

DATE _____

SIGNATURE OF OWNER OR AUTHORIZED REPRESENTATIVE _____

I. APPLICANT/AGENT/OWNER INFORMATION

Chris Conover
APPLICANT
3923 Phoenix Drive
ADDRESS
St. James City FL 33956
CITY STATE ZIP
239-283-3962
TELEPHONE NUMBER FAX NUMBER

Matthew D. Uhle, 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

Same as Applicant
OWNER(s) OF RECORD
ADDRESS
CITY STATE ZIP
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
Map 12

B. SUMMARY OF REQUEST (Brief explanation):

The subject parcel should be shown as a Water-Dependent use on Map 12.

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

A. Property Location:

1. Site Address: 3408 & 3420 Stringfellow Road, St. James City, FL 33956

2. STRAP(s): 35-45-22-04-00001.0000 & 35-45-22-04-00002.0000

B. Property Information

Total Acreage of Property: +/- 21,600 square feet

Total Acreage included in Request: +/- 21,600 square feet

Area of each Existing Future Land Use Category: All in Suburban

Total Uplands: +/- 21,600 square feet

Total Wetlands: None

Current Zoning: C-1

Current Future Land Use Designation: Suburban

Existing Land Use: Boating / Marina

- 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:

Add parcel to Water-Dependent overlay.

- E. Potential development of the subject property:

1. Calculation of maximum allowable development under existing FLUM:

Residential Units/Density 2 units

Commercial intensity Approximately 5,000 square feet

Industrial intensity None

2. Calculation of maximum allowable development under proposed FLUM:

Residential Units/Density None

Commercial intensity Approximately 5,000 sf Water-Dependent

Industrial intensity Approximately 5,000 sf Water-Dependent

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.
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.
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.
4. Map and describe existing zoning of the subject property and surrounding properties.
5. The legal description(s) for the property subject to the requested change.
6. A copy of the deed(s) for the property subject to the requested change.
7. An aerial map showing the subject property and surrounding properties.
8. If applicant is not the owner, a letter from the owner of the property authorizing the applicant to represent the owner.

B. Public Facilities Impacts

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

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
 - b. Potable Water
 - c. Surface Water/Drainage Basins
 - d. Parks, Recreation, and Open Space.

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;
 - b. Emergency medical service (EMS) provisions;
 - c. Law enforcement;
 - c. Solid Waste;
 - 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.

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:

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

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

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.

Item 1: Fee Schedule

Map Amendment Flat Fee	\$2,000.00 each
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

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

STATE OF FLORIDA)
)
COUNTY OF LEE)

BEFORE ME this day appeared GLADYS SCHNEIDER, who being first duly sworn, deposes and says:

1. She has been a resident of Pine Island since 1986.
2. She has personal knowledge that the premises known as Bob and Annie's Boatyard (Strap Nos. 35-45-22-04-00001.0000 and 35-45-22-04-00002.0000) have been used as a boatyard since 1986.

FURTHER AFFIANT SAYETH NAUGHT.

Witnesses:

Deborah Stiger
Print Name: Deborah Stiger

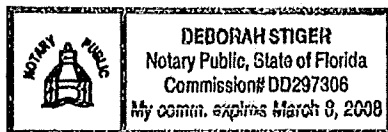
Gladys Schneider
GLADYS SCHNEIDER

Carla Rogers
Print Name: Carla Rogers

The foregoing instrument was acknowledged before me this 28th day of February, 2007, by GLADYS SCHNEIDER, who is ☒ personally known to me or ☐ who has produced _____ as identification.

My Commission Expires: 3-8-07

Deborah Stiger
Notary Public
Deborah Stiger
Printed Name



AFFIDAVIT

STATE OF FLORIDA)
)
COUNTY OF LEE)

BEFORE ME this day appeared CHRIS CONOVER, who being first duly sworn,
deposes and says:

1. He is the current owner of the premises known as Bob and Annie's Boatyard
(Strap Nos. 35-45-22-04-00001.0000 and 35-45-22-04-00002.0000).
2. His father, Robert Conover, acquired the property described above with his wife,
Anna L. Conover, in 1986.
3. The property has been used continuously as a boatyard since 1986.

FURTHER AFFIANT SAYETH NAUGHT.

Witnesses:

Rick Honeycutt
Print Name: Rick Honeycutt

Chris Conover
CHRIS CONOVER

Chris Conover
Print Name: CHRIS CONOVER

The foregoing instrument was acknowledged before me this 31 day of
1, 2007, by CHRIS CONOVER, who is ☒ personally known to me or ☐ who
has produced _____ as identification.

My Commission Expires: May 24, 2010

Rick Honeycutt
Notary Public
Rick Honeycutt
Printed Name





Description of Existing Land Uses
EXHIBIT A.3

The subject parcel has been used as a boatyard for many years, as shown on the affidavits and aerials which accompany this application. The purpose of this request is to protect this longstanding Water-Dependent use in accordance with Lee Plan Policy 128.2.1. The surrounding uses are:

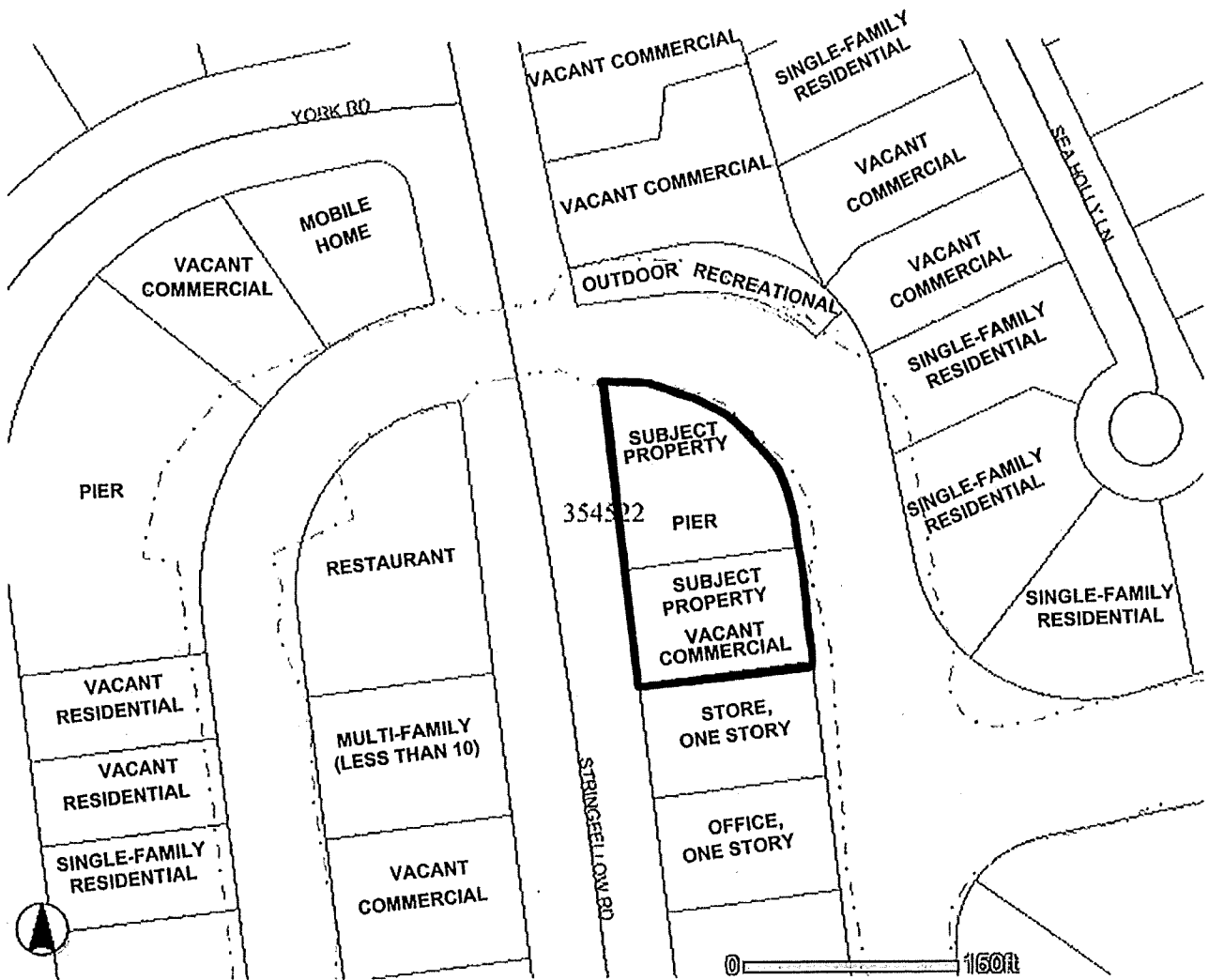
south: commercial uses

west: residential and commercial uses, including a restaurant

east: single-family residential uses

north: commercial uses abutting Stringfellow Road.

Existing Land Use Map
EXHIBIT A.3



Description of Existing Zoning
EXHIBIT A.4

The subject parcel is zoned C-1, as are the abutting parcels to the west, south, north, and northeast. Lots to the southeast are zoned RS-1.

[illegible]

Legal Description
EXHIBIT A.5

LOTS 1 AND 2 OF UNIT P, GULF HAVEN SUBDIVISION, PLAT BOOK 9, PAGE 105, IN THE
PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

Prepared by and return to:

Randall B. Fowlds
2171 Club House Rd.
1. Ft. Myers, FL 32917

[Space Above This Line For Recording Data]

Quit Claim Deed

This Quit Claim Deed made this 16 day of August, 2006 between
Robert L. Conover whose post office address is
3420 Stringfellow Rd. St. James City, FL 33956 grantor, and
Chris W. Conover whose post office address is
3923 Phoenix Dr. St. James City, FL 33956 grantee:

(Whenever used herein the terms "grantor" and "grantee" include all the parties to this instrument and the heirs, legal representatives, and assigns of individuals, and the successors and assigns of corporations, trusts and trustees)

Witnesseth, that said grantor, for and in consideration of the sum TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration to said grantor in hand paid by said grantee, the receipt whereof is hereby acknowledged, does hereby remise, release, and quitclaim to the said grantee, and grantee's heirs and assigns forever, all the right, title, interest, claim and demand which grantor has in and to the following described land, situate, lying and being in Lee County, Florida to-wit:

Legal Description as follows: Lot 1+2 unit P Gulf Haven PB9 PG105, Public Records of
Lee County Florida

Strap Number: 35-45-22-04-00002.0000/35-45-22-04-00001.0000

To Have and to Hold, the same together with all and singular the appurtenances thereto belonging or in anywise appertaining, and all the estate, right, title, interest, lien, equity and claim whatsoever of grantors, either in law or equity, for the use, benefit and profit of the said grantee forever.

In Witness Whereof, grantor has hereunto set grantor's hand and seal the day and year first above written.

Signed, sealed and delivered in our presence:

Randall B. Fowlds
Witness Name: Randall B. Fowlds

Rosa S. Estrecho
Witness Name: Rosa S. Estrecho

Robert L. Conover
(Seal)
Robert L. Conover.

State of Florida
County of Lee

The foregoing instrument was acknowledged before me this 16 day of August, 2006 by Robert L. Conover, who ☒ is personally known or ☐ has produced a driver's license as identification.

[Notary Seal]



Randall B Fowlds
Notary Public

Printed Name: Randall B Fowlds

My Commission Expires: 04/24/2009



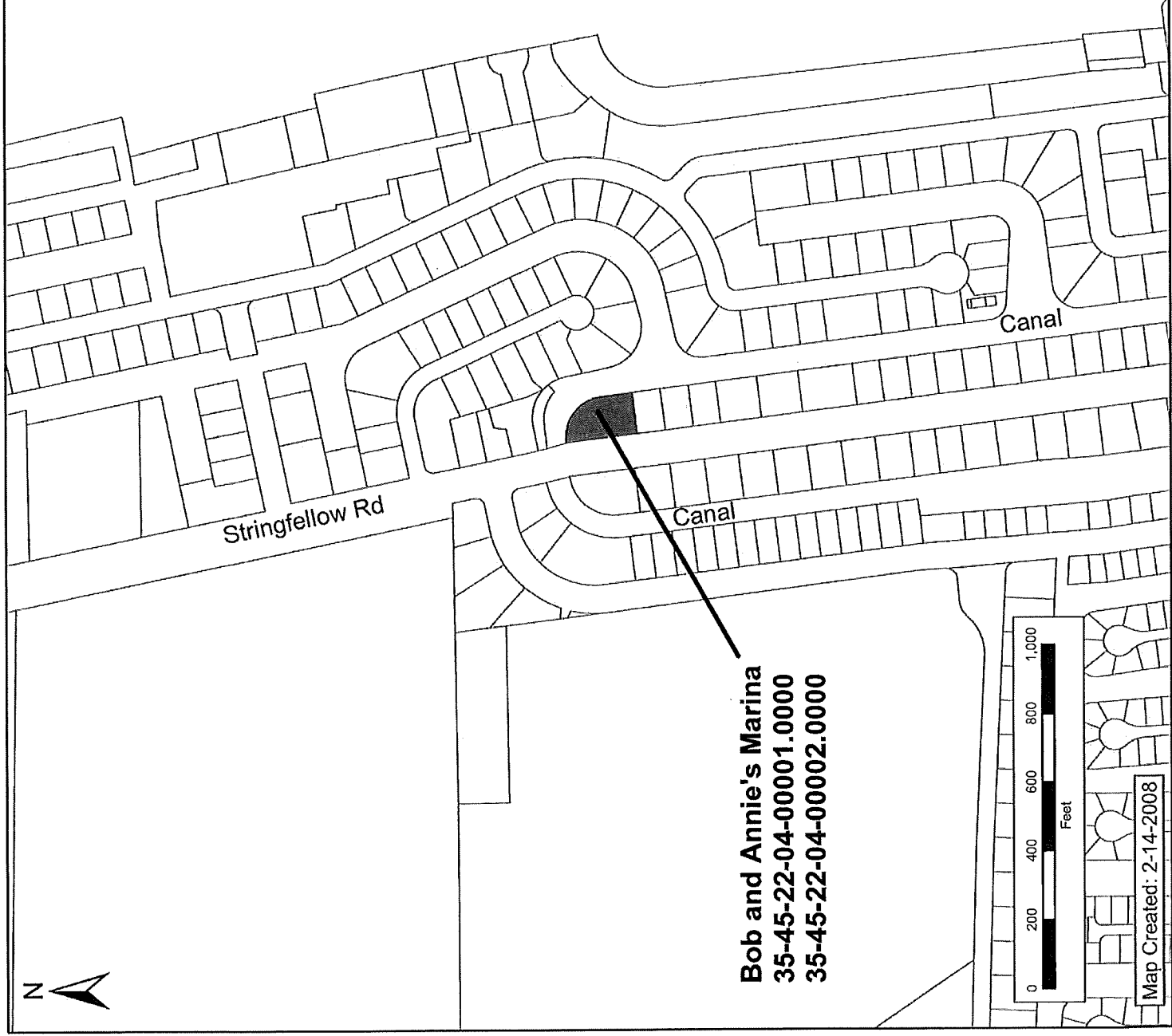
The Water Dependent Overlay Zone on the indicated parcel is defined as 150 feet landward of the shoreline or as landward to include the entire parcel, whichever is less.

Bob and Annie's Marina
35-45-22-04-00001.0000
35-45-22-04-00002.0000



Map Created: 2-14-2008

The Water Dependent Overlay Zone on the indicated parcel is defined as 150 feet landward of the shoreline or as landward to include the entire parcel, whichever is less. This overlay encompasses the existing boatyard uses.

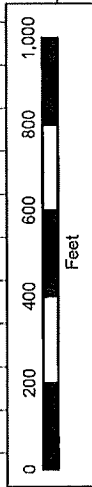


Stringfellow Rd

Canal

Canal

Bob and Annie's Marina
35-45-22-04-00001.0000
35-45-22-04-00002.0000



Map Created: 2-14-2008

Lee County Board Of County Commissioners
Agenda Item Summary

Blue Sheet No. 20080219

1. ACTION REQUESTED/PURPOSE:

Adopt two ordinances that adopt two proposed Lee Plan Small Scale Amendments, CPA2006-00002 Cape Royal Small Scale Amendment and, CPA2007-00002 Conover Small Scale Amendment.

2. FUNDING SOURCE:

No Funding Required.

3. WHAT ACTION ACCOMPLISHES:

CPA2006-00002 is a Small Scale Amendment that amends the Lee Plan Future Land Use Map Series, Map 1, Future Land Use Map, to change the property from Rural to Suburban and Commercial and, Map 7, Lee County Utilities Future Sewer Service Areas Map, to add the site to the future service area..

CPA2007-00002 is a Small Scale Amendment that adds the subject property to the Lee Plan Future Land Use Map Series, Map 12, Water Dependent Overlay Zones, to add the site to the water dependent overlay zone.

4. MANAGEMENT RECOMMENDATION: Approve

5. Departmental Category: <DeptCategory>

6. Meeting Date: 3/11/2008

7. Agenda:

Public

8. Requirement/Purpose: (specify)

- ☒ Statute 163.3187
☐ Ordinance
☒ Admin Code 13-6
☐ Other

9. Request Initiated

Commissioner:

Department: COMMUNITY DEVELOPMENT

Division: Planning

By: Paul OConnor, AICP

10. Background:

Background: Administrative Code 13-6 and Florida Statute 163.3187 provides that small-scale amendments to the County's Comprehensive Plan (the Lee Plan) may be proposed at any time during a calendar year.

CPA2006-00002 - The applicant, Realmark Cape Royal, LLC & Scott Dunlap, has requested a small-scale amendment for a site totaling 7.7 ± acres located in Section 20, Township 44 South, and Range 23 East. The property is located on the south side of Pine Island Road a short distance east of Veterans Parkway/Burnt Store Road. The applicant is seeking an amendment to the Lee Plan's Future Land Use Map series to change the Future Land Use classification shown on Map 1 from Rural to Suburban and Commercial. The amendment will also add the site to Map 7, the Lee County Utilities Sewer Service Areas Map, making the property eligible for Lee County sewer service.

The Local Planning Agency (LPA) reviewed this amendment on February 25, 2008. At that meeting, the LPA concurred with the staff recommendation and approved a motion recommending that the Board of County Commissioners adopt the proposed amendment.

CPA2007-00002 - The applicant, Chris Conover, has requested a small-scale amendment for a site totaling 21,600+/- square feet (0.495 Acres) located in Section 35, Township 45 South, and Range 22 East. The property is located on the east side of Stringfellow Road just south of York Road. The applicant is seeking an amendment to the Future Land Use Map series, Map 12, Water Dependent Overlay Zones, to add the site to the Water Dependent Overlay.

11. Required Review:

Mary Gibbs	<Signature>	<Signature>	<Signature>	<Signature>	<Signature>
COMMUNITY DEVELOPMENT	<Department>	<Department>	<Department>	<Department>	<Department>
<Signature>	<Signature>	<Signature>	<Signature>	<Signature>	<Signature>
<Department>	<Department>	<Department>	<Department>	<Department>	<Department>

12. Commission Action:

The Local Planning Agency (LPA) reviewed this amendment on February 25, 2008. At that meeting, the LPA concurred with the staff recommendation and approved a motion recommending that the Board of County Commissioners adopt the proposed amendment.

Attachments:

Staff Report CPA2006-02 Cape Royal Small Scale Amendment

Proposed Ordinance

Staff Report CPA2007-02 Conover Small Scale Amendment

Proposed Ordinance



BOARD OF COUNTY COMMISSIONERS

Bob Janes
District One

March 20, 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

Ray Eubanks, Administrator, Plan Processing
Florida Department of Community Affairs
Division of Community Planning
2555 Shumard Oak Boulevard
Tallahassee, FL. 32399-2100

Re: Amendments to the Lee Plan
Adoption Submission Package for CPA2006-02 and CPA2007-02

Dear Mr. Eubanks:

In accordance with the provisions of Section 163.3187(1)(c), F.S. and of 9J-11.015, this submission package constitutes two adopted small scale amendment to the Lee Plan, known as CPA2006-02 and CPA2007-02. The adoption hearing for the plan amendments was held on March 11, 2008. CPA2006-02 amends a total of 7.7 acres. The allowable density for 6.6 acres of the site would increase from 1 du/acre to 6 du/acre and the allowable density for 1.1 acres of the site is reduced from 1 du/acre to a future land use category that does not permit residential uses. CPA2007-02 amends a total of 0.5 acres without any changes to the existing residential density of the site. Per 9J-11.015(1), the two small scale amendments are the first small scale amendments adopted in the 2008 calendar year, making the "cumulative total number of acres" for small scale amendments adopted in the 2008 calendar year approximately $8.2 \pm$ acres.

The adopted amendments do not involve property that has been granted a change within the prior 12 months, do not involve the same owner's property within 200 feet, no text changes are being made, and the amendments are not applicable to an area of critical state concern. The name, title, address, telephone number, facsimile number, and email address of the person for the local government who is most familiar with the proposed amendments is as follows:

Mr. Paul O'Connor, AICP
Lee County Planning Division Director
P.O. Box 398
Fort Myers, Florida 33902-0398
(239) 533-8585
Fax (239) 485-8319
Email: oconnops@leegov.com

Included with this package, Per 9J-11.015, is one copy of each adopted amendment, supporting data and analysis, and adopting ordinances No. 08-04 and No. 08-05. By copy of this letter and its attachments, I certify that these amendments have been sent to the Regional Planning Council, the Department of Agriculture and Consumer Services, the Florida Department of Transportation, the Department of Education, the Department of Environmental Protection, the Department of State, the Florida Fish and Wildlife Conservation Commission, and the South Florida Water Management District.

Sincerely,
DEPT. OF COMMUNITY DEVELOPMENT
Division of Planning



Paul O'Connor, AICP
Director

All documents and reports attendant to this adoption are being sent, by copy of this cover, to:

Ken Heatherington
Southwest Florida Regional Planning Council

Wendy Evans
Department of Agriculture and Consumer Services

Florida Department of Transportation

Tracy D. Suber
Department of Education

Jim Quinn
Department of Environmental Protection

Susan Harp
Department of State

Mary Ann Poole
Florida Fish and Wildlife Conservation Commission

P.K. Sharma
South Florida Water Management District

AMENDMENTS EXEMPT FROM STATE AND REGIONAL REVIEW

1. Name of Local Government Lee County

Person completing this form Paul O'Connor, AICP

Phone Number 239-533-8585

Name of Newspaper in which notice of amendment was published The News Press - Fort Myers, Florida

Date Publication Noticed March 3, 2008

(Please attach copy of notice)

2. Please indicate type of amendment being submitted:

X a). a map amendment directly related to proposed small scale development activities that meet the criteria of Section 163.3187(1)(c), F.S.;

_____ b). a map amendment solely to property within an urban service boundary that meets the criteria of Section 163.3184(17), F.S.;

_____ c). a map amendment solely to property within a designated urban infill and redevelopment area pursuant to Section 163.3184(18), F.S.;

_____ d). a plan amendment associated with an area certified pursuant to Section 163.3246, F.S.

Please complete the following information if amendment is submitted under 2(a):

3. If amendment contains a residential land use category indicate:

density allowed prior to change 6 dwelling unit(s) per acre.

density allowed after change 6 dwelling unit(s) per acre.

4. Number of acres of small scale development amendments contained in package:

a. Within Urban Infill, Urban Redevelopment or Downtown Revitalization as defined by Section 163.3164, FS N/A

b. Within Transportation Concurrency Exception Area pursuant to Section 163.3180(5), FS N/A

c. Within Regional Activity Centers or Urban Central Business Districts pursuant to Section 380.06(2)(e), FS N/A

d. Within a Rural Area of Critical Economic Concern pursuant to Section 163.3187(1)(c)4, FS N/A

(Please attach certifying letter to OTTED)

e. Outside categories a., b, c. and d. 0.5

5. Cumulative total number of acres of small scale development amendments for the calendar year:

a. Categories listed in Item 4 a, b, c and d. above N/A

b. Categories listed in Item 4 e above 8.2

6. Total number of acres of small scale development amendments in this package that are located within the coastal high hazard area as identified in the comprehensive plan 0.5

Pursuant to Rule 9J-11.015(1)(b)5, Florida Administrative Code, this form must be mailed with all amendments as defined by Section 9J-11.015(1)(a) Florida Administrative Code to:

DEPARTMENT OF COMMUNITY AFFAIRS

PLAN PROCESSING SECTION

2555 Shumard Oak Boulevard

Tallahassee, Florida 32399-2100

(850) 488-4925

Fort Myers, Florida
Affidavit of Publication

STATE OF FLORIDA
COUNTY OF LEE

Before the undersigned authority, personally appeared **Kathy Allebach** who on oath says that he/she is the **Legal Assistant** of the News-Press, a daily newspaper, published at Fort Myers, in Lee County, Florida; that the attached copy of advertisement, being a **Display**

In the matter of
**Notice of Proposed Amendment to The Lee
County Comprehensive Land Use Plan**
In the court was published in said newspaper in the
issues of

March 3, 2008

Affiant further says that the said News-Press is a paper of general circulation daily in Lee, Charlotte, Collier, Glades and Hendry Counties and published at Fort Myers, in said Lee County, Florida and that said newspaper has heretofore been continuously published in said Lee County; Florida, each day, and has been entered as a second class mail matter at the post office in Fort Myers in said Lee County, Florida, for a period of one year next preceding the first publication of the attached copy of the advertisement; and affiant further says that he/she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

Sworn to and subscribed before me this

3rd day of March 2008 by

Kathy Allebach
personally known to me or who has produced

as identification, and who did or did not take an oath. Q10 - 1 - 2 - 1 - 1

Notary Public Gladys D. Vanderbeck

Print Name  Commission # DD378967
Expires December 13, 2008

My commission Expires:

RECEIVED
MAR 14 2008

COMMUNITY DEVELOPMENT

NOTICE OF PROPOSED AMENDMENT TO THE LEE COUNTY COMPREHENSIVE LAND USE PLAN (Small Scale)

On Tuesday, March 11, 2008, the Lee County Board of Commissioners will hold a public hearing to consider two small scale amendments to the Lee County Comprehensive Land Use Plan (Lee Plan). The hearing will be held in the Board of County Commissioners Hearing Chambers in the renovated Courthouse at 2120 Main Street in downtown Fort Myers. The hearing will commence at 5:05 p.m. or as soon thereafter as may be heard. The nature of the proposed Lee Plan amendments is to amend the Future Land Use Map Series, Map 1, Map 7, and Map 12, to change the Future Land Use classification of two specific parcels of land described below:

1. Amend the Future Land Use Map Series, Map 1, Map 7, and Map 12, to change the Future Land Use classification of two specific parcels of land described below:

1. Amend the Future Land Use Map Series for an approximate 7.7+/- acre site located in Section 20, Township 44 South, Range 23 East, to change the classification shown on Map 1, the Future Land Use Map, from Rural to Suburban and Commercial. Amend Map 7, the Lee County Utilities' Future Sewer Service Areas Map, to add the subject site to the future service area. The site is generally located south of Pine Island Road and east of Veterans Parkway.

Sponsor: Realmark Cape Royal, LLC

At the conclusion of the hearing, the Board will vote to adopt, adopt with specific modifications, or not adopt the proposed small scale amendment through the adoption of the following ordinance:

AN ORDINANCE AMENDING THE LEE COUNTY COMPREHENSIVE PLAN, COMMONLY KNOWN AS THE "LEE PLAN" AS ADOPTED BY ORDINANCE NO. 89-02, AS AMENDED, SO AS TO ADOPT SMALL SCALE AMENDMENT CPA2006-02 (PERTAINING TO THE DESIGNATION OF A 7.7-ACRE CAPE ROYAL PARCEL FROM RURAL TO SUBURBAN AND COMMERCIAL FUTURE LAND USE CATEGORY) APPROVED DURING A SMALL SCALE COMPREHENSIVE PLAN AMENDMENT EFFORT; PROVIDING FOR AMENDMENT TO THE FUTURE LAND USE MAP SERIES, MAP 1 AND MAP 7; PURPOSE AND SHORT TITLE; LEGAL EFFECT OF "THE LEE PLAN" GEOGRAPHICAL APPLICABILITY; SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.

2. Amend the Future Land Use Map Series for an approximate .495-acre site located in Section 35, Township 45 South, Range 22 East, to add the site to Map 12, the Water-Dependent Overlay Zones. The site is generally located on the east side of Stringfellow Road just south of York Road.

Sponsor: Chris Conover

At the conclusion of the hearing, the Board will vote to adopt; adopt with specific modifications, or not adopt the proposed small scale amendment through the adoption of the following ordinance:

AN ORDINANCE AMENDING THE LEE COUNTY COMPREHENSIVE PLAN, COMMONLY KNOWN AS THE "LEE PLAN" AS ADOPTED BY ORDINANCE NO. 89-02, AS AMENDED, SO AS TO ADOPT SMALL SCALE AMENDMENT CPA2007-02 (PERTAINING TO THE DESIGNATION OF A .495-ACRE PINE ISLAND PARCEL AS PART OF THE WATER DEPENDENT OVERLAY ZONE) APPROVED DURING A SMALL SCALE COMPREHENSIVE PLAN AMENDMENT EFFORT; PROVIDING FOR AMENDMENT TO THE FUTURE LAND USE MAP SERIES, MAP 12; PURPOSE AND SHORT TITLE; LEGAL EFFECT OF "THE LEE PLAN" GEOGRAPHICAL APPLICABILITY; SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.

The proposed ordinance may be inspected by the public at the Office of the County Attorney, Courthouse Administration Building, 2115 Second Street, 6th Floor, Fort Myers, Florida.

This meeting is open to the public and all interested parties are encouraged to attend. Interested parties may appear and be heard with respect to the proposed amendment to the Lee Plan. Pursuant to Florida Statutes, persons participating in the Comprehensive Plan Amendment process, who provide their name and address on the Citizen Courtesy Information List available during the hearing, will receive a courtesy information statement from DCA prior to the publication of the Notice of Intent to find the plan amendment in compliance. If a person decides to appeal the Board's decision, he or she will need a record of the proceedings, and, for such purpose, he or she may need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence upon which the appeal is to be based. Further information may be obtained by contacting the Lee County Division of Planning at 239-533-8585.

In accordance with the Americans with Disabilities Act, reasonable accommodations will be made upon request. If you are in need of a reasonable accommodation, please contact Janet Miller at 239-533-8583.

March 11, 2008

5:05 p.m.

1. Call to order; certification of Affidavit of Publication by County Attorney.

2. Lee Plan Amendment proposed for adoption by Board of County Commissioners:

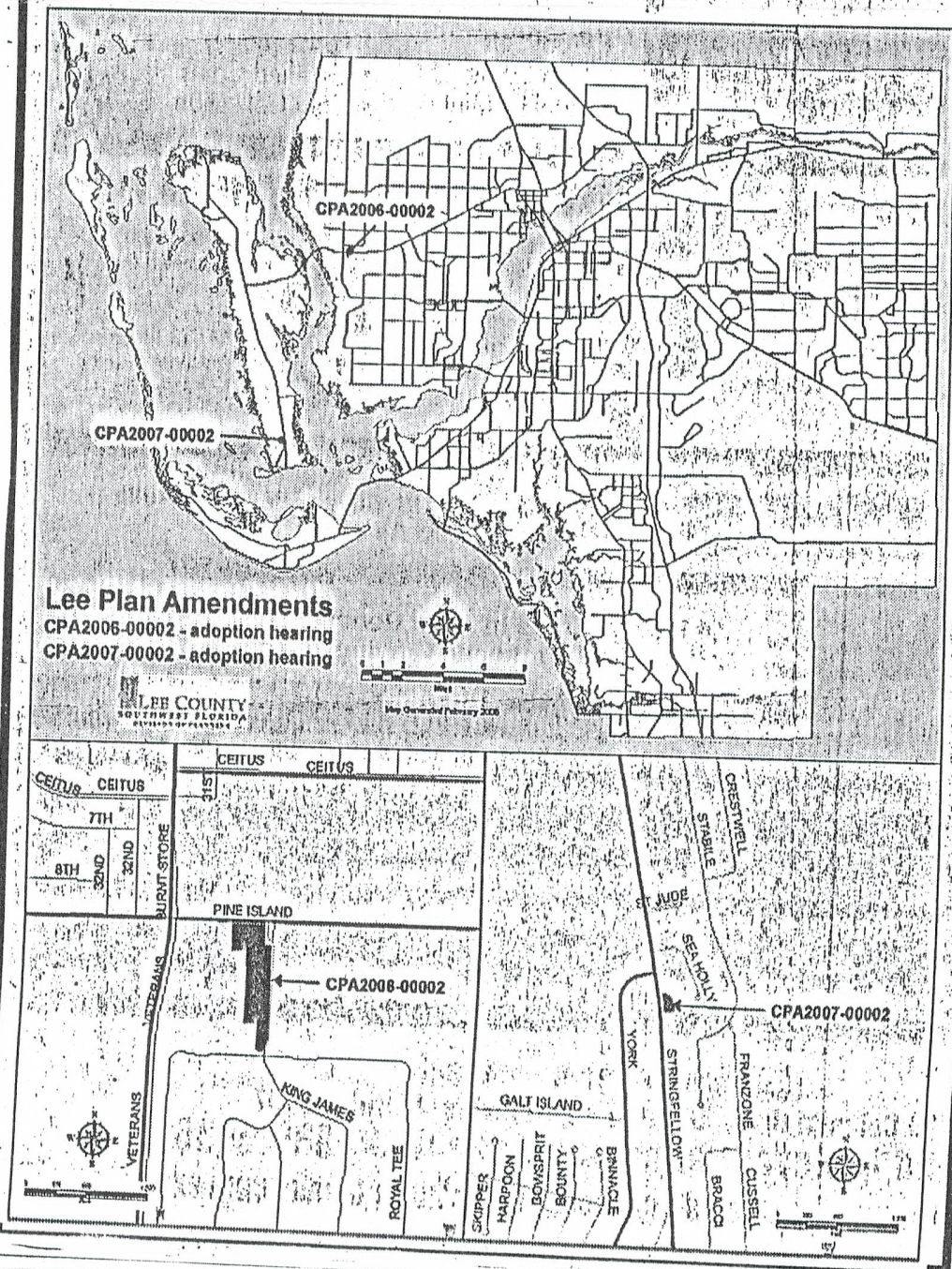
CPA2006-02 – Amend the Future Land Use Map Series for an approximate 7.7 +/- acre site located in Section 20, Township 44 South, Range 23 East, to change the classification shown on Map 11, the Future Land Use Map, from Rural to Suburban and Commercial. Amend Map 17, the Lee County Utilities Future Sewer Service Areas Map, to add the subject site to the future service area. The site is generally located south of Pine Island Road and east of Veterans Parkway.

Sponsor: Realmark Cape Royal, LLC

3. Lee Plan Amendment proposed for adoption by Board of County Commissioners:

CPA2007-02 - Amend the Future Land Use Map Series for an approximate 495-acre site located in Section 35, Township 45 South, Range 22, East, to add the site to Map 12, the Water-Dependent Overlay Zones. The site is generally located on the east side of Stringfellow Road just south of York Road.

4. Adjourning



LEE COUNTY ORDINANCE NO. 08-05
(Small Scale Amendment .495 acres)

AN ORDINANCE AMENDING THE LEE COUNTY COMPREHENSIVE PLAN, COMMONLY KNOWN AS THE "LEE PLAN" AS ADOPTED BY ORDINANCE NO. 89-02, AS AMENDED, SO AS TO ADOPT SMALL SCALE AMENDMENT CPA2007-02 (PERTAINING TO THE DESIGNATION OF A .495-ACRE PINE ISLAND PARCEL AS PART OF THE WATER DEPENDENT OVERLAY ZONE) APPROVED DURING A SMALL SCALE COMPREHENSIVE PLAN AMENDMENT EFFORT; PROVIDING FOR AMENDMENT TO THE FUTURE LAND USE MAP SERIES, MAP 12; PURPOSE AND SHORT TITLE; LEGAL EFFECT OF "THE LEE PLAN"; GEOGRAPHICAL APPLICABILITY; SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.

WHEREAS, the Lee County Comprehensive Plan ("Lee Plan") Policy 2.4.1 and Chapter XIII, provides for adoption of amendments to the Lee Plan in compliance with State statutes and in accordance with administrative procedures adopted by the Board of County Commissioners ("Board"); and,

WHEREAS, the Board, in accordance with §163.3181, Florida Statutes, and Lee County Administrative Code 13-6 provide an opportunity for private individuals to request amendment to the Future Land Use Map through a small scale amendment public hearing process; and,

WHEREAS, on February 25, 2008, the Local Planning Agency held a public hearing regarding adoption of the proposed small scale amendment to the Lee Plan and recommended that the Board adopt proposed small scale amendment CPA2007-02; and,

WHEREAS, on March 11, 2008, the Board of County Commissioners held a public hearing regarding the proposed small scale amendment and approved a motion to adopt small scale amendment CPA2007-02 pertaining to the designation of a .495-acre parcel located on the east side of Stringfellow Road just south of York Road in Section 35, Township 45 South, Range 22 East to add this parcel to the Water Dependent Overlay zone in the Future Land Use Map Series, Map 12.

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

SECTION ONE: PURPOSE, INTENT, AND SHORT TITLE

The Board of County Commissioners of Lee County, Florida, in compliance with Chapter 163, Part II, Florida Statutes, and Lee County Administrative Code 13-6, conducted a public hearing to review a proposed amendment to the Lee Plan Future Land Use Map Series. The purpose of this ordinance is to adopt the amendment to the Lee Plan discussed at that meeting and approved by a majority of the Board of County Commissioners. The short title and proper reference for the Lee County Comprehensive Land Use Plan, as hereby amended, will continue to be the "Lee Plan." This amending

ordinance may be referred to as the "2008 Small Scale Amendment CPA2007-02, designation of the .495-acre parcel located on the east side of Stringfellow Road just south of York Road Ordinance."

SECTION TWO: ADOPTION OF SMALL SCALE AMENDMENT TO LEE PLAN FUTURE LAND USE MAPS SERIES, MAP 12

The Lee County Board of County Commissioners hereby amends the existing Lee Plan, adopted by Ordinance Number 89-02, as amended, by adopting an amendment to the Future Land Use Map Series, Map 12, that changes the designation of a .495-acre parcel located on the east side of Stringfellow Road just south of York Road in Section 35, Township 45 South, Range 22 East to include it as part of the Water Dependent Overlay Zone.

The corresponding staff report and analysis, along with all attachments for this amendment, are adopted as "support documentation" for the Lee Plan.

SECTION THREE: LEGAL EFFECT OF THE "LEE PLAN"

No public or private development will be permitted except in conformity with the Lee Plan. All land development regulations and land development orders must be consistent with the Lee Plan as amended.

SECTION FOUR: GEOGRAPHIC APPLICABILITY

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

SECTION FIVE: SEVERABILITY

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

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

It is the intention of the Board of County Commissioners that the provisions of this ordinance will become and be made a part of the Lee County Code. Sections of this ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section," "article," or other appropriate word or phrase in order to accomplish this intention; and regardless of whether inclusion in the code is accomplished, sections of this ordinance may be renumbered or relettered. The correction of typographical errors that do not affect the intent, may be authorized by the County Manager, or his or her designee, without need of public hearing, by filing a corrected or recodified copy with the Clerk of the Circuit Court.

SECTION SEVEN: EFFECTIVE DATE

The small scale Lee Plan amendment adopted by this ordinance will be effective 31 days after adoption unless challenged within 30 days after adoption. If challenged within 30 days after adoption, the small scale amendment to the Lee Plan will not be effective until the Florida Department of Community Affairs or the Administrative Commission issues a final order determining the small scale amendment is in compliance with Florida Statutes, §163.3184. No development orders, development permits, or land uses dependent on this amendment may be issued or commenced before the amendment has become effective.

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

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

DONE AND ADOPTED this 11th day of March, 2008.

ATTEST:
CHARLIE GREEN, CLERK

BY: Marcia Wilson
Deputy Clerk

LEE COUNTY
BOARD OF COUNTY COMMISSIONERS

BY: Ray Judah
Ray Judah, Chairman

DATE: 3/11/08

Approved as to form by:

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

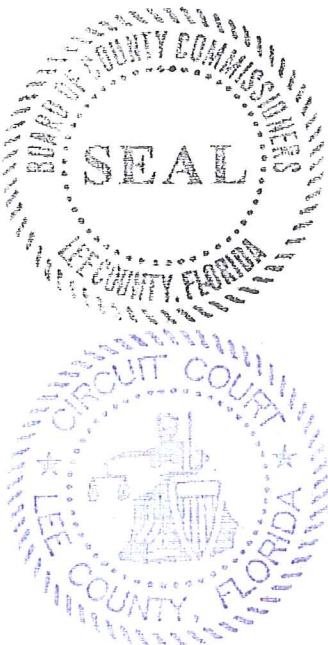
State of Florida
County of Lee

I, Charlie Green, Clerk of the Circuit Court for Lee County, Florida, do hereby certify this document to be a true and correct copy of the original document filed in the Minutes Department.

Given under my hand and official seal at Fort Myers, Florida, this 18th day of March, A.D. 2008

CHARLIE GREEN, CLERK

By: Marcia Wilson
Deputy Clerk



CPA2007-02
CONOVER PRIVATELY SPONSORED
SMALL-SCALE AMENDMENT
TO THE

LEE COUNTY COMPREHENSIVE PLAN

THE LEE PLAN

BoCC Adoption Document

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

March 11, 2008

**LEE COUNTY
DIVISION OF PLANNING
STAFF REPORT FOR
COMPREHENSIVE PLAN AMENDMENT
CPA2007-00002**

☐

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: February 18, 2008

PART I - BACKGROUND AND STAFF RECOMMENDATION

A. SUMMARY OF APPLICATION

1. APPLICANT/REPRESENTATIVE:

Chris Conover
Represented by Matt Uhle of Knott, Consoer, Ebelini, Hart & Swett, P.A.
1625 Hendry Street Third Floor
Fort Myers, FL 33902

- 2. REQUEST:** Amend the Future Land Use Map Series for an approximate 21,600+/- square foot site located in Section 35, Township 45 South, Range 22 East, to add the site to Map 12, the Water Dependent Overlay Zones. The site is generally located on the east side of Stringfellow Road just south of York Road.

B. STAFF RECOMMENDATION AND FINDINGS OF FACT SUMMARY

1. RECOMMENDATION:

Planning staff recommends that the Board of County Commissioners approve the proposed amendment.

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

- The Water Dependent Overlay Map (WDO) became effective on March 1, 1989.
- The WDO zones were created to preserve existing water-dependent uses.
- The subject property is in the Suburban Future Land Use Category.
- The applicant has submitted an affidavit stating that the subject property has been in use as a boatyard since 1986.
- Property Appraiser records show that the existing commercial office building on the north lot of the subject property was built in 1971.
- The applicant has submitted a federal income tax document for the business for tax year 1989.
- Some of the land uses on the property fit the definition of boatyard.
- The C-1 zoning district permits marina and marina ancillary uses that fit the definition of "existing only."
- In order to be considered "existing only" by the LDC, the marina uses on the subject property needed to be in existence prior to September 27, 1993.
- The Marina and Marina Ancillary uses on the property have been in operation since at least as early as 1986.

C. BACKGROUND INFORMATION

Lot Description and History

The subject property consists of Lots 1 and 2 of the Gulfhaven Unit P subdivision. This subdivision was first platted in December 1953 in Plat Book 9 Page 105. The lot descriptions are the same as when they were first platted. Both lots are currently zoned C-1. Both lots are in the Suburban Future Land Use Category on Lee Plan Map 1, the Future Land Use Map. The northern lot is occupied by a small building with signage stating, "Bob and Annie's Marina." The southern lot is currently occupied by a marine railway and winching system. The subject property is abutted on the south side by a store, on the west by Stringfellow Road, and on the north and east by the Dawson canal across which are single-family residences.

The northern lot was purchased by the applicant's family in 1986 and the southern lot in 1988. An affidavit signed by the applicant states that the subject property has been operating as a boatyard since 1986, prior to the adoption of the Water-Dependent Overlay Map. In addition, the applicant has submitted a Form 1040 "Profit or Loss From Business" Tax form for the year 1989. In this form, the business is shown as "Bob and Annie's Marine Railway."

A fire destroyed the back portion of the building on the northern lot. This fire also destroyed most of the applicant's business records.

The Water Dependent Overlay Map

There are limited locations in Lee County that are suitable for water-dependent uses such as boatyards and marinas. It is important to keep these uses from being displaced or pre-empted by non-water-dependent uses that can be located away from the shoreline. Therefore, the Water-dependent Overlay Zones were created so that non-water-dependent uses could only replace water-dependent uses following a public hearing. The Water Dependent Overlay Map (WDO) became effective on March 1, 1989. It was first adopted by Ordinance 89-02 and later amended by Ordinance 03-04.

Relevant Lee Plan Goals, Objectives and Policies

There are several policies in the Lee Plan that apply to the proposed amendment:

POLICY 1.7.5: *The Water-Dependent overlay zone designates shoreline areas where priority will be granted to water-dependent uses. Specific requirements are detailed for such zones on San Carlos Island under Goal 12, in the Greater Pine Island area under Goal 14, and for other areas in Lee County in the Conservation and Coastal Management Element.*

GOAL 8: MARINE-ORIENTED LAND USES. *To designate prime locations for marine-oriented land uses and protect them from incompatible or pre-emptive land uses.*

OBJECTIVE 8.1: *Existing marinas, fish houses and port facilities indicated on the Future Land Use Map as having water-dependent overlay zones will be reclassified by the county to commercial and industrial marina zoning categories to protect their rights to rebuild and expand and to prevent their conversion to non-water-dependent uses without a public hearing.*

POLICY 128.1.1: *Commercial and government-operated multi-slip docking facilities indicated on the Future Land Use Map as having water-dependent overlay zones will be reclassified by the county to marina zoning categories to protect their rights to rebuild and expand and to prevent their conversion to non-water-dependent uses without a public hearing.*

POLICY 128.1.2: *The Future Land Use Map will designate water-dependent overlay zones over existing commercial fishing, port and docking sites and commercial marinas to protect their rights to rebuild and expand and to prevent their conversion to non-water-dependent uses without a public hearing.*

POLICY 128.4.1: *In water-dependent overlay zones, the special provisions contained under Goal 8 of the Future Land Use Element will also apply.*

Section 34-2 of the Lee County Land Development Code (LDC) provides relevant definitions for the proposed amendment:

Existing Only. The use is permitted only if it lawfully existed on September 27, 1993 or was granted a special exception within two years prior to that date and commenced the approved

construction within two years after that date. A use that qualifies as "Existing Only" will not be classified as a nonconforming use. It will be afforded the same privileges as a permitted use and may be expanded or reconstructed, in accordance with all applicable current regulations, but only on the specific parcel on which it is located, as that parcel was legally described on September 27, 1993.

Marina means a commercial or industrial Water-Dependent Use located on property adjacent to water with direct access to a navigable channel. The primary function must be to provide commercial dockage, mooring, storage and service facilities for water-craft and land-based facilities and activities necessary to support the water-dependent use. The term "marina" does not apply to docks, davits, boathouses and similar docking facilities that are accessory or ancillary subordinate to: 1) residential buildings that are located on the same premises and are under the same ownership or control as the docks, davits, boathouses, boat ramps, and similar docking facilities; and 2) commercial or industrial establishments that are not Water-dependent Uses.

Marina Accessory uses means normally ancillary and subordinate to a marina, including but not limited to: sale of marine fuel and lubricants, marine supplies, boats, boat motors, and boat parts; restaurant or refreshment facility, boat rental, minor boat rigging and motor repair. However, no dredge, barge, or other work dockage or service is permitted and no boat construction or reconstruction is permitted. See Boatyard.

Boatyard means a boating or harbor facility located on or having direct access to navigable water for building, maintaining, and performing extensive repair on boats and small ships, marine engines and equipment. A boatyard shall be distinguished from a marina by the larger scale and greater extent of work done in a boatyard and by the use of dry dock, marine railway or large capacity lifts used to haul out boats for maintenance or repair. See Marina.

Definitions

Chapter XII of the Lee Plan provides the following definitions:

WATER-DEPENDENT USES- *Land uses for which water access is essential and which could not exist without water access.*

WATER-RELATED USES- *Land uses that might be enhanced by proximity to the water but for which water access is not essential.*

PART II - STAFF ANALYSIS

A. STAFF DISCUSSION

The intent of the Lee Plan WDO is to preserve established water-dependent uses. Lee Plan policies 128.1.1 and 128.1.2 state that the County is to create Water Dependent Overlays (WDOs) on existing water-dependent uses. Therefore the county is obligated to consider the subject property for inclusion in the WDO Map.

In order to be included in the WDO, a parcel needs to have been in existence at the time the WDO map was created. The WDO Map became effective on March 1, 1989. The applicant has provided an affidavit stating that the subject parcel was a boatyard prior to this date. The applicant has also submitted a tax document showing that a "Marine Railway" was operating on the property at least since the effective date of the WDO Map. In addition, county records indicate that a commercial building was created on the property in 1971. Therefore, the property has been in commercial use since before the adoption of the Lee Plan in 1984.

The C-1 zoning district permits marina and marina ancillary uses that fit the definition of "existing only." In order to be considered "existing only" under the LDC, the marina uses on the subject property needed to be in existence prior to September 27, 1993. Based upon the documents provided by the applicant, it appears that the marina use has been in existence since 1984, well before the 1993 cutoff date. The C-1 category does not permit those uses listed in the definition of boatyard. Some of the commercial activities on the property such as boat repair or the marine railway fall under the LDC definition of "boatyard." Therefore, the subject property is currently not in conformance with its zoning.

If the property is designated as a WDO, Lee Plan Goal 8 states that the County will rezone the property to Commercial Marina (CM) or Industrial Marina (IM) zoning. Commercial uses greater than neighborhood centers and industrial uses are not permitted in the Suburban Future Land Use category.

B. CONCLUSIONS

The Water Dependent Overlay was created to preserve existing marinas and other water dependent uses. Lee Plan Policies 128.1.1 and 128.1.2 both state that the County will designate existing marinas as WDOs. The applicant has demonstrated through documents that the water dependent uses were in existence when the WDO was created. Including the property in the WDO will necessitate a rezoning Per Lee Plan Goal 8. The long established uses on the subject property and the need to preserve the diminishing number of sites suitable for water-dependent uses establishes sufficient justification to the proposed amendment.

C. STAFF RECOMMENDATION

Planning staff recommends that the Board of County Commissioners amend the Lee Plan Map 12 by including the subject property in the Water-Dependent Overlay.

PART III - LOCAL PLANNING AGENCY REVIEW AND RECOMMENDATION

DATE OF PUBLIC LPA HEARING: February 25th 2008

A. LOCAL PLANNING AGENCY REVIEW

Planning staff and the applicant made short presentations. One LPA member asked if including the property in the Water Dependent Overlay would specifically preserve water access points. Staff responded that the WDO does not specify exactly which uses will be preserved, only that "Water Dependent" uses are preserved. The same member then asked if including the subject property in the WDO would prevent its conversion to residential or other uses. Staff responded that being in a WDO means that a public hearing is required in order to replace water dependent uses with non-water dependent uses in the WDO zone.

B. LOCAL PLANNING AGENCY RECOMMENDATION AND FINDINGS OF FACT SUMMARY

1. RECOMMENDATION:

The LPA recommends that the Board adopt the proposed amendment to the DCA.

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

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

C. VOTE:

NOEL ANDRESS	AYE
LES COCHRAN	AYE
RONALD INGE	AYE
JACQUE RIPPE	ABSENT
CARLETON RYFFEL	AYE
LELAND M. TAYLOR	AYE
RAY ANN WESEL	AYE

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

DATE OF ADOPTION HEARING: March 11, 2008

A. BOARD REVIEW:

Planning staff and the applicant gave brief presentations. Members of the public spoke on behalf of the project and one member of the public spoke against it. The person speaking against the amendment cited pollution and other issues with the business on the subject property. The owner of the business then stated that the property has been cleaned up and further problems will also be addressed. Planning staff corroborated the state of the property and noted that the proposed amendment is the first part of a two-stage process. The second stage would involve the Planned Development rezoning process. One commissioner stated that there is a definite need to preserve boatyards within Lee County.

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

1. BOARD ACTION:

The Board voted to adopt the proposed small scale amendment.

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

The commissioners accepted the findings of fact as advanced by staff.

C. VOTE:

A. BRIAN BIGELOW

AYE

TAMMARA HALL

AYE

BOB JANES

AYE

RAY JUDAH

AYE

FRANKLIN B. MANN

AYE



Lee County Board of County Commissioners
Department of Community Development
Division of Planning
Post Office Box 398
Fort Myers, FL 33902-0398
Telephone: (239) 479-8585
FAX: (239) 479-8519

APPLICATION FOR A COMPREHENSIVE PLAN AMENDMENT

(To be completed at time of intake)

RECEIVED
MAY 04 2007

DATE REC'D _____

REC'D BY: _____

APPLICATION FEE _____

TIDEMARK NO: **COMMUNITY DEVELOPMENT**

C P A 2007-00002

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.

DATE SIGNATURE OF OWNER OR AUTHORIZED REPRESENTATIVE

I. APPLICANT/AGENT/OWNER INFORMATION

Chris Conover

APPLICANT

3923 Phoenix Drive

ADDRESS

St. James City

FL

33956

CITY

STATE

ZIP

239-283-3962

TELEPHONE NUMBER

FAX NUMBER

Matthew D. Uhle, Esq.

AGENT*

1625 Hendry Street, Suite 301

ADDRESS

Fort Myers

FL

33901

CITY

STATE

ZIP

239-334-2722

TELEPHONE NUMBER

239-334-1446

FAX NUMBER

Same as Applicant

OWNER(s) OF RECORD

ADDRESS

CITY

STATE

ZIP

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
Map 12

B. SUMMARY OF REQUEST (Brief explanation):

The subject parcel should be shown as a Water-Dependent use on Map 12.

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

A. Property Location:

1. Site Address: 3408 & 3420 Stringfellow Road, St. James City, FL 33956

2. STRAP(s): 35-45-22-04-00001.0000 & 35-45-22-04-00002.0000

B. Property Information

Total Acreage of Property: +/- 21,600 square feet

Total Acreage included in Request: +/- 21,600 square feet

Area of each Existing Future Land Use Category: All in Suburban

Total Uplands: +/- 21,600 square feet

Total Wetlands: None

Current Zoning: C-1

Current Future Land Use Designation: Suburban

Existing Land Use: Boating / Marina

- 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:

Add parcel to Water-Dependent overlay.

- E. Potential development of the subject property:

1. Calculation of maximum allowable development under existing FLUM:

Residential Units/Density 2 units

Commercial intensity Approximately 5,000 square feet

Industrial intensity None

2. Calculation of maximum allowable development under proposed FLUM:

Residential Units/Density None

Commercial intensity Approximately 5,000 sf Water-Dependent

Industrial intensity Approximately 5,000 sf Water-Dependent

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.
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.
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.
4. Map and describe existing zoning of the subject property and surrounding properties.
5. The legal description(s) for the property subject to the requested change.
6. A copy of the deed(s) for the property subject to the requested change.
7. An aerial map showing the subject property and surrounding properties.
8. If applicant is not the owner, a letter from the owner of the property authorizing the applicant to represent the owner.

B. Public Facilities Impacts

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

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
 - b. Potable Water
 - c. Surface Water/Drainage Basins
 - d. Parks, Recreation, and Open Space.

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;
 - b. Emergency medical service (EMS) provisions;
 - c. Law enforcement;
 - c. Solid Waste;
 - 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.

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:

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

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

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.

Item 1: Fee Schedule

Map Amendment Flat Fee	\$2,000.00 each
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

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

STATE OF FLORIDA)
)
COUNTY OF LEE)

BEFORE ME this day appeared GLADYS SCHNEIDER, who being first duly sworn, deposes and says:

1. She has been a resident of Pine Island since 1986.
2. She has personal knowledge that the premises known as Bob and Annie's Boatyard (Strap Nos. 35-45-22-04-00001.0000 and 35-45-22-04-00002.0000) have been used as a boatyard since 1986.

FURTHER AFFIANT SAYETH NAUGHT.

Witnesses:

Deborah Stiger
Print Name: Deborah Stiger

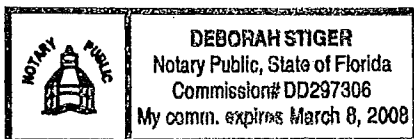
Gladys Schneider
GLADYS SCHNEIDER

Carla Rogers
Print Name: Carla Rogers

The foregoing instrument was acknowledged before me this 28th day of February, 2007, by GLADYS SCHNEIDER, who is ☒ personally known to me or ☐ who has produced _____ as identification.

My Commission Expires: 3-8-07

Deborah Stiger
Notary Public
Deborah Stiger
Printed Name



AFFIDAVIT

STATE OF FLORIDA)
)
COUNTY OF LEE)

BEFORE ME this day appeared CHRIS CONOVER, who being first duly sworn,
deposes and says:

1. He is the current owner of the premises known as Bob and Annie's Boatyard
(Strap Nos. 35-45-22-04-00001.0000 and 35-45-22-04-00002.0000).
2. His father, Robert Conover, acquired the property described above with his wife,
Anna L. Conover, in 1986.
3. The property has been used continuously as a boatyard since 1986.

FURTHER AFFIANT SAYETH NAUGHT.

Witnesses:

Rick Honeycutt
Print Name: Rick Honeycutt

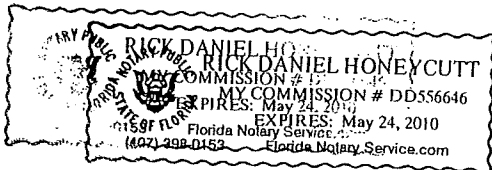
Chris Conover
CHRIS CONOVER

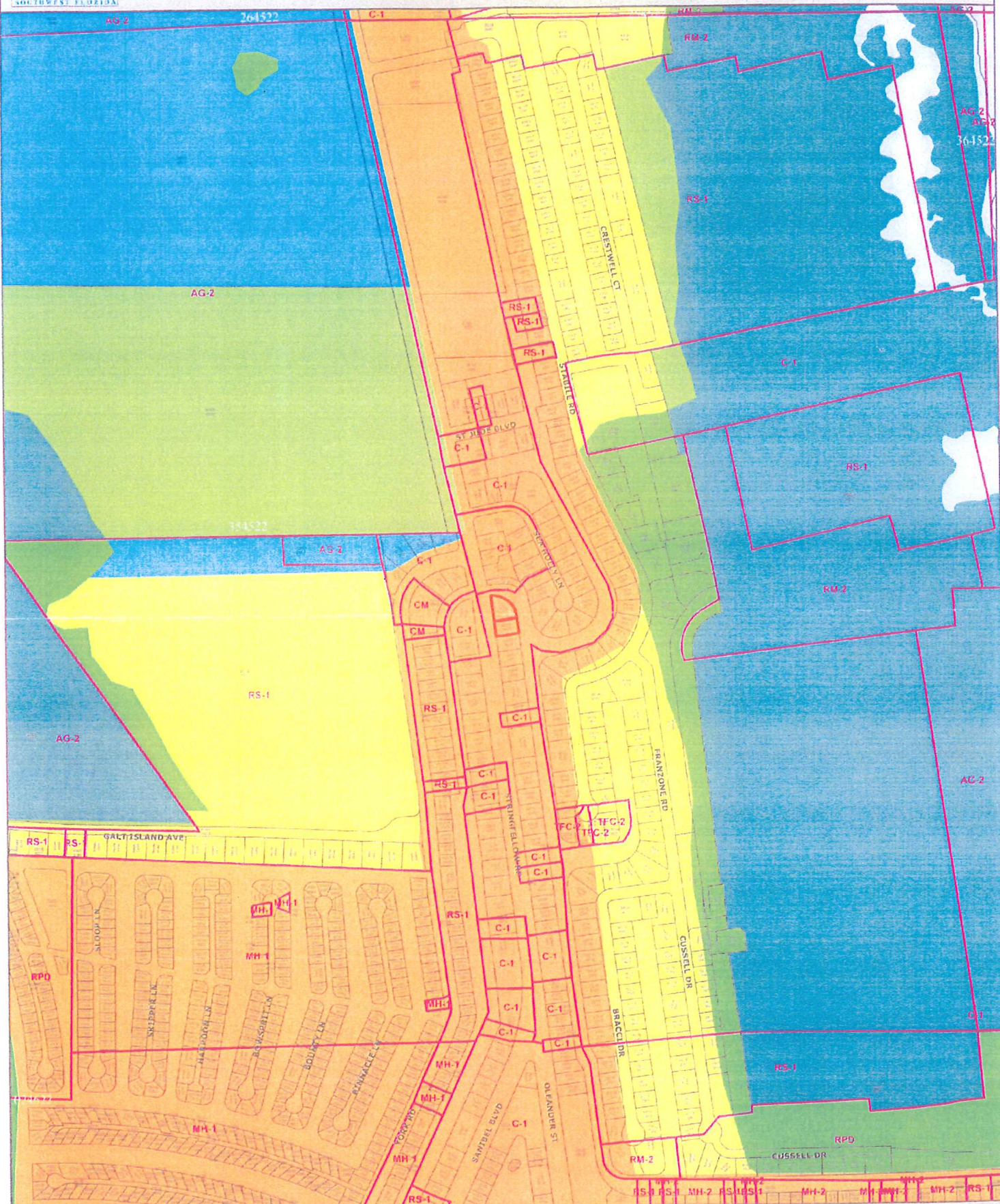
Chris Conover
Print Name: CHRIS CONOVER

The foregoing instrument was acknowledged before me this 31 day of
1, 2007, by CHRIS CONOVER, who is ☒ personally known to me or ☐ who
has produced _____ as identification.

My Commission Expires: May 24, 2010

Rick Honeycutt
Notary Public
Rick Honeycutt
Printed Name





MAP EXPLANATION

Maps and documents made available to the public by the Lee County Property Appraiser's Office are not legally recorded maps or surveys and therefore are not intended to be used as such. The maps and documents are provided as a reference only. Information from this map is not to be used for any purpose other than the information, advice, and data from the map. The map is not to be used for any purpose other than the information, advice, and data from the map. The map is not to be used for any purpose other than the information, advice, and data from the map.

Legend

- Parcel
- 5-foot points
- Zoning

FUTURE LAND USE

- Coastal Rural
- Coastal Urban
- Coastal Wetland

Conservation Lands

- Wetland
- Upland
- Waters

Scale

Lee County Property Appraiser's Office
Map Date
January 12, 2007



Description of Existing Land Uses
EXHIBIT A.3

The subject parcel has been used as a boatyard for many years, as shown on the affidavits and aerials which accompany this application. The purpose of this request is to protect this longstanding Water-Dependent use in accordance with Lee Plan Policy 128.2.1. The surrounding uses are:

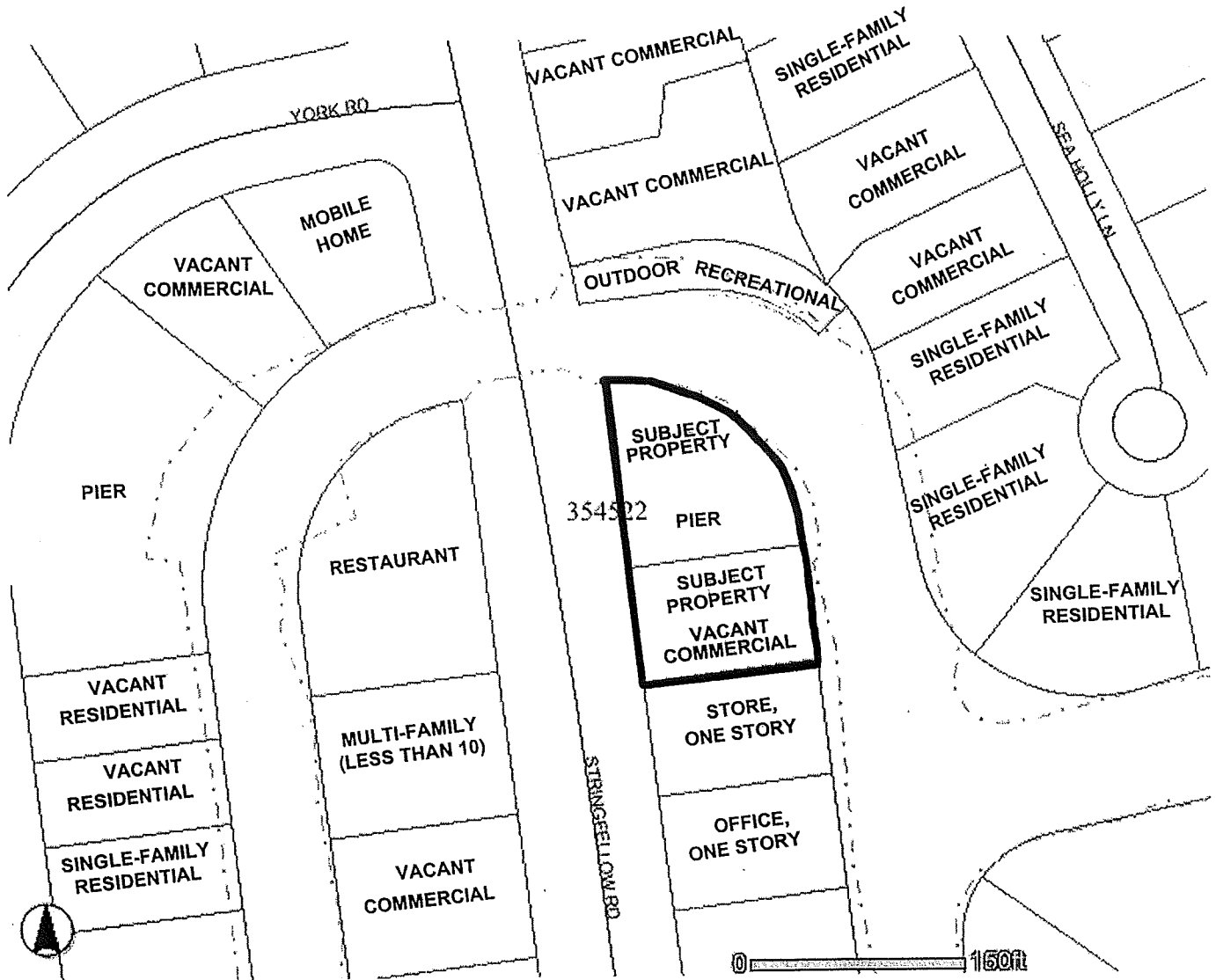
south: commercial uses

west: residential and commercial uses, including a restaurant

east: single-family residential uses

north: commercial uses abutting Stringfellow Road.

Existing Land Use Map
EXHIBIT A.3



Description of Existing Zoning
EXHIBIT A.4

The subject parcel is zoned C-1, as are the abutting parcels to the west, south, north, and northeast. Lots to the southeast are zoned RS-1.

Existing Zoning Map
EXHIBIT A.4



Legal Description
EXHIBIT A.5

LOTS 1 AND 2 OF UNIT P, GULF HAVEN SUBDIVISION, PLAT BOOK 9, PAGE 105, IN THE
PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

Prepared by and return to:

Randall B Fowlds
2171 Club House Rd.
N. Ft. Myers, FL 33917

[Space Above This Line For Recording Data]

Quit Claim Deed

This Quit Claim Deed made this 16 day of August, 2006 between
Robert L. Conover whose post office address is
3420 Stringfellow Rd. St. James City, FL 33956 grantor, and
Chris W. Conover whose post office address is
3923 Phoenix Dr. St. James City, FL 33956 grantee:

(Whenever used herein the terms "grantor" and "grantee" include all the parties to this instrument and the heirs, legal representatives, and assigns of individuals, and the successors and assigns of corporations, trusts and trustees)

Witnesseth, that said grantor, for and in consideration of the sum TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration to said grantor in hand paid by said grantee, the receipt whereof is hereby acknowledged, does hereby remise, release, and quitclaim to the said grantee, and grantee's heirs and assigns forever, all the right, title, interest, claim and demand which grantor has in and to the following described land, situate, lying and being in Lee County, Florida to-wit:

Legal Description as follows: Lot 1+2 unit P Gulf Haven PB9 P6105, Public Records of
Lee County Florida

Strap Number: 35-45-22-04-00002.0000/35-45-22-04-00001.0000

To Have and to Hold, the same together with all and singular the appurtenances thereto belonging or in anywise appertaining, and all the estate, right, title, interest, lien, equity and claim whatsoever of grantors, either in law or equity, for the use, benefit and profit of the said grantee forever.

In Witness Whereof, grantor has hereunto set grantor's hand and seal the day and year first above written.

Signed, sealed and delivered in our presence:

Randall B Fowlds
Witness Name: Randall B Fowlds

Rosa S. Estrada
Witness Name: ROSA S. ESTRADA

Robert L. Conover (Seal)
Robert L. Conover.

State of Florida
County of Lee

The foregoing instrument was acknowledged before me this 16 day of August, 2006 by Robert L. Conover, who ☒ is personally known or ☐ has produced a driver's license as identification.

[Notary Seal]



Randall B Fowlds
Notary Public

Printed Name: Randall B Fowlds

My Commission Expires: 04/24/2009



The Water Dependent Overlay Zone on the indicated parcel is defined as 150 feet landward of the shoreline or as landward to include the entire parcel, whichever is less.

Stringfellow Rd

Canal

Canal

Bob and Annie's Marina
35-45-22-04-00001.0000
35-45-22-04-00002.0000



Map Created: 2-14-2008



Stringfellow Rd

Canal

Canal

Bob and Annie's Marina
35-45-22-04-00001.0000
35-45-22-04-00002.0000



Map Created: 2-14-2008

The Water Dependent Overlay Zone on the indicated parcel is defined as 150 feet landward of the shoreline or as landward to include the entire parcel, whichever is less. This overlay encompasses the existing boatyard uses.

Impact on Historic Resources
EXHIBIT D

The requested Water-Dependent Overlay designation will assist the applicant in retaining a longstanding water-dependent use on the site. Otherwise, the application will not have any impact on historic resources.

**FLORIDA DEPARTMENT of STATE**

CHARLIE CRIST
Governor

KURT S. BROWNING
Secretary of State

March 9, 2007

Alison M. Stowe
Knott, Consoer, Ebelini, Hart & Swett, P.A.
1625 Hendry Street
Fort Myers, FL 33901
Fax: 239-334-1446

Dear Ms. Stowe:

In response to your inquiry of March 9, 2007, the Florida Master Site File lists no previously recorded cultural resources in the following parcel:

T45S, R22E, Section 35

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,

A handwritten signature in cursive script that reads "Celeste Ivory".

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
Email: sitefile@dos.state.fl.us
Web: <http://flheritage.com/preservation>
<http://dhr.dos.state.fl.us/comments/>

Population Accommodation Analysis
EXHIBIT E.1

The subject parcel could be redeveloped as two residential units pursuant to the Suburban FLUM category. The addition of the property to Map 12 would prohibit the conversion of the site to a residential use without a public hearing. The impact of the proposed amendment on the capacity of the FLUM is de minimis.

Lee Plan Consistency / Planning Rationale
EXHIBIT E.2

The affidavits and aerial photographs that are included in this submittal package establish that the subject parcel was used as an industrial water-dependent use prior to the adoption of the Water-Dependent Overlay in 1989. As a result, the proposed amendment is consistent with the following Lee Plan provisions relating to the protection of water-dependent uses:

- 1). Goal 8;
- 2). Goal 128;
- 3). Objective 128.2; and
- 4). Policies 128.2.1 and 128.2.2

Impact on Adjacent Local Governments
EXHIBIT E.3

The proposed amendment will not have any impacts on any other local governments.

Consistency with State and Regional Plans
EXHIBIT E.4

The proposed amendment is consistent with the following state and regional plan provisions:

State Plan

Coastal and Marine Resources, Policy 10: The amendment requests the County to give Planning priority to an existing water-dependent use.

Regional Plan

None identified.

CPA2007-02
CONOVER PRIVATELY SPONSORED
SMALL-SCALE AMENDMENT
TO THE

LEE COUNTY COMPREHENSIVE PLAN

THE LEE PLAN

LPA Public Hearing Document
for the
February 25th, 2008 Public Hearing

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

February 18, 2008

**LEE COUNTY
DIVISION OF PLANNING
STAFF REPORT FOR
COMPREHENSIVE PLAN AMENDMENT
CPA2007-00002**

☐

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: February 18, 2008

PART I - BACKGROUND AND STAFF RECOMMENDATION

A. SUMMARY OF APPLICATION

1. APPLICANT/REPRESENTATIVE:

Chris Conover

Represented by Matt Uhle of Knott, Consoer, Ebelini, Hart & Swett, P.A.

1625 Hendry Street Third Floor

Fort Myers, FL 33902

- 2. REQUEST:** Amend the Future Land Use Map Series for an approximate 21,600+/- square foot site located in Section 35, Township 45 South, Range 22 East, to add the site to Map 12, the Water Dependent Overlay Zones. The site is generally located on the east side of Stringfellow Road just south of York Road.

B. STAFF RECOMMENDATION AND FINDINGS OF FACT SUMMARY

1. RECOMMENDATION:

Planning staff recommends that the Board of County Commissioners approve the proposed amendment.

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

- The Water Dependent Overlay Map (WDO) became effective on March 1, 1989.
- The WDO zones were created to preserve existing water-dependent uses.
- The subject property is in the Suburban Future Land Use Category.
- The applicant has submitted an affidavit stating that the subject property has been in use as a boatyard since 1986.
- Property Appraiser records show that the existing commercial office building on the north lot of the subject property was built in 1971.
- The applicant has submitted a federal income tax document for the business for tax year 1989.
- Some of the land uses on the property fit the definition of boatyard.
- The C-1 zoning district permits marina and marina ancillary uses that fit the definition of "existing only."
- In order to be considered "existing only" by the LDC, the marina uses on the subject property needed to be in existence prior to September 27, 1993.
- The Marina and Marina Ancillary uses on the property have been in operation since at least as early as 1986.

C. BACKGROUND INFORMATION

Lot Description and History

The subject property consists of Lots 1 and 2 of the Gulfhaven Unit P subdivision. This subdivision was first platted in December 1953 in Plat Book 9 Page 105. The lot descriptions are the same as when they were first platted. Both lots are currently zoned C-1. Both lots are in the Suburban Future Land Use Category on Lee Plan Map 1, the Future Land Use Map. The northern lot is occupied by a small building with signage stating, "Bob and Annie's Marina." The southern lot is currently occupied by a marine railway and winching system. The subject property is abutted on the south side by a store, on the west by Stringfellow Road, and on the north and east by the Dawson canal across which are single-family residences.

The northern lot was purchased by the applicant's family in 1986 and the southern lot in 1988. An affidavit signed by the applicant states that the subject property has been operating as a boatyard since 1986, prior to the adoption of the Water-Dependent Overlay Map. In addition, the applicant has submitted a Form 1040 "Profit or Loss From Business" Tax form for the year 1989. In this form, the business is shown as "Bob and Annie's Marine Railway."

A fire destroyed the back portion of the building on the northern lot. This fire also destroyed most of the applicant's business records.

The Water Dependent Overlay Map

There are limited locations in Lee County that are suitable for water-dependent uses such as boatyards and marinas. It is important to keep these uses from being displaced or pre-empted by non-water-dependent uses that can be located away from the shoreline. Therefore, the Water-dependent Overlay Zones were created so that non-water-dependent uses could only replace water-dependent uses following a public hearing. The Water Dependent Overlay Map (WDO) became effective on March 1, 1989. It was first adopted by Ordinance 89-02 and later amended by Ordinance 03-04.

Relevant Lee Plan Goals, Objectives and Policies

There are several policies in the Lee Plan that apply to the proposed amendment:

POLICY 1.7.5: *The Water-Dependent overlay zone designates shoreline areas where priority will be granted to water-dependent uses. Specific requirements are detailed for such zones on San Carlos Island under Goal 12, in the Greater Pine Island area under Goal 14, and for other areas in Lee County in the Conservation and Coastal Management Element.*

GOAL 8: MARINE-ORIENTED LAND USES. *To designate prime locations for marine-oriented land uses and protect them from incompatible or pre-emptive land uses.*

OBJECTIVE 8.1: *Existing marinas, fish houses and port facilities indicated on the Future Land Use Map as having water-dependent overlay zones will be reclassified by the county to commercial and industrial marina zoning categories to protect their rights to rebuild and expand and to prevent their conversion to non-water-dependent uses without a public hearing.*

POLICY 128.1.1: *Commercial and government-operated multi-slip docking facilities indicated on the Future Land Use Map as having water-dependent overlay zones will be reclassified by the county to marina zoning categories to protect their rights to rebuild and expand and to prevent their conversion to non-water-dependent uses without a public hearing.*

POLICY 128.1.2: *The Future Land Use Map will designate water-dependent overlay zones over existing commercial fishing, port and docking sites and commercial marinas to protect their rights to rebuild and expand and to prevent their conversion to non-water-dependent uses without a public hearing.*

POLICY 128.4.1: *In water-dependent overlay zones, the special provisions contained under Goal 8 of the Future Land Use Element will also apply.*

Section 34-2 of the Lee County Land Development Code (LDC) provides relevant definitions for the proposed amendment:

Existing Only. The use is permitted only if it lawfully existed on September 27, 1993 or was granted a special exception within two years prior to that date and commenced the approved

construction within two years after that date. A use that qualifies as "Existing Only" will not be classified as a nonconforming use. It will be afforded the same privileges as a permitted use and may be expanded or reconstructed, in accordance with all applicable current regulations, but only on the specific parcel on which it is located, as that parcel was legally described on September 27, 1993.

Marina means a commercial or industrial Water-Dependent Use located on property adjacent to water with direct access to a navigable channel. The primary function must be to provide commercial dockage, mooring, storage and service facilities for water-craft and land-based facilities and activities necessary to support the water-dependent use. The term "marina" does not apply to docks, davits, boathouses and similar docking facilities that are accessory or ancillary subordinate to: 1) residential buildings that are located on the same premises and are under the same ownership or control as the docks, davits, boathouses, boat ramps, and similar docking facilities; and 2) commercial or industrial establishments that are not Water-dependent Uses.

Marina Accessory uses means normally ancillary and subordinate to a marina, including but not limited to: sale of marine fuel and lubricants, marine supplies, boats, boat motors, and boat parts; restaurant or refreshment facility, boat rental, minor boat rigging and motor repair. However, no dredge, barge, or other work dockage or service is permitted and no boat construction or reconstruction is permitted. See Boatyard.

Boatyard means a boating or harbor facility located on or having direct access to navigable water for building, maintaining, and performing extensive repair on boats and small ships, marine engines and equipment. A boatyard shall be distinguished from a marina by the larger scale and greater extent of work done in a boatyard and by the use of dry dock, marine railway or large capacity lifts used to haul out boats for maintenance or repair. See Marina.

Definitions

Chapter XII of the Lee Plan provides the following definitions:

WATER-DEPENDENT USES- *Land uses for which water access is essential and which could not exist without water access.*

WATER-RELATED USES- *Land uses that might be enhanced by proximity to the water but for which water access is not essential.*

PART II - STAFF ANALYSIS

A. STAFF DISCUSSION

The intent of the Lee Plan WDO is to preserve established water-dependent uses. Lee Plan policies 128.1.1 and 128.1.2 state that the County is to create Water Dependent Overlays (WDOs) on existing water-dependent uses. Therefore the county is obligated to consider the subject property for inclusion in the WDO Map.

In order to be included in the WDO, a parcel needs to have been in existence at the time the WDO map was created. The WDO Map became effective on March 1, 1989. The applicant has provided an affidavit stating that the subject parcel was a boatyard prior to this date. The applicant has also submitted a tax document showing that a "Marine Railway" was operating on the property at least since the effective date of the WDO Map. In addition, county records indicate that a commercial building was created on the property in 1971. Therefore, the property has been in commercial use since before the adoption of the Lee Plan in 1984.

The C-1 zoning district permits marina and marina ancillary uses that fit the definition of "existing only." In order to be considered "existing only" under the LDC, the marina uses on the subject property needed to be in existence prior to September 27, 1993. Based upon the documents provided by the applicant, it appears that the marina use has been in existence since 1984, well before the 1993 cutoff date. The C-1 category does not permit those uses listed in the definition of boatyard. Some of the commercial activities on the property such as boat repair or the marine railway fall under the LDC definition of "boatyard." Therefore, the subject property is currently not in conformance with its zoning.

If the property is designated as a WDO, Lee Plan Goal 8 states that the County will rezone the property to Commercial Marina (CM) or Industrial Marina (IM) zoning. Commercial uses greater than neighborhood centers and industrial uses are not permitted in the Suburban Future Land Use category.

B. CONCLUSIONS

The Water Dependent Overlay was created to preserve existing marinas and other water dependent uses. Lee Plan Policies 128.1.1 and 128.1.2 both state that the County will designate existing marinas as WDOs. The applicant has demonstrated through documents that the water dependent uses were in existence when the WDO was created. Including the property in the WDO will necessitate a rezoning Per Lee Plan Goal 8. The long established uses on the subject property and the need to preserve the diminishing number of sites suitable for water-dependent uses establishes sufficient justification to the proposed amendment.

C. STAFF RECOMMENDATION

Planning staff recommends that the Board of County Commissioners amend the Lee Plan Map 12 by including the subject property in the Water-Dependent Overlay.

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

DATE OF PUBLIC LPA HEARING: February 25th 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

RAY ANN WESEL

**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

BOB JANES

RAY JUDAH

FRANKLIN B. MANN

**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

BOB JANES

RAY JUDAH

FRANKLIN B. MANN



LEE COUNTY
SOUTHWEST FLORIDA

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MAY 04 2007

COMMUNITY DEVELOPMENT

APPLICATION FOR A
COMPREHENSIVE PLAN AMENDMENT

Lee County Board of County Commissioners
Department of Community Development
Division of Planning
Post Office Box 398
Fort Myers, FL 33902-0398
Telephone: (239) 479-8585
FAX: (239) 479-8519

(To be completed at time of intake)

DATE REC'D 5-4-07

REC'D BY: amkw

APPLICATION FEE \$1500.00

TIDEMARK NO: CPA2007-00002

THE FOLLOWING VERIFIED:

Zoning C1 ☐

Commissioner District 1

Designation on FLUM ☐ suburban

(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.

05/04/07 Alison McFowle
DATE SIGNATURE OF OWNER OR AUTHORIZED REPRESENTATIVE

I. APPLICANT/AGENT/OWNER INFORMATION

Chris Conover

APPLICANT

3923 Phoenix Drive

ADDRESS

St. James City

FL

33956

CITY

STATE

ZIP

239-283-3962

TELEPHONE NUMBER

FAX NUMBER

Matthew D. Uhle, Esq.

AGENT*

1625 Hendry Street, Suite 301

ADDRESS

Fort Myers

FL

33901

CITY

STATE

ZIP

239-334-2722

TELEPHONE NUMBER

239-334-1446

FAX NUMBER

Same as Applicant

OWNER(s) OF RECORD

ADDRESS

CITY

STATE

ZIP

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.

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EPA 2007-00002

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
Map 12

B. SUMMARY OF REQUEST (Brief explanation):

The subject parcel should be shown as a Water-Dependent use on Map 12.

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

A. Property Location:

1. Site Address: 3408 & 3420 Stringfellow Road, St. James City, FL 33956
2. STRAP(s): 35-45-22-04-00001.0000 & 35-45-22-04-00002.0000

B. Property Information

Total Acreage of Property: +/- 21,600 square feet

Total Acreage included in Request: +/- 21,600 square feet

Area of each Existing Future Land Use Category: All in Suburban

Total Uplands: +/- 21,600 square feet

Total Wetlands: None

Current Zoning: C-1

Current Future Land Use Designation: Suburban

Existing Land Use: Boating / Marina

CPA
2007-00002

- 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

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- D. Proposed change for the Subject Property:

Add parcel to Water-Dependent overlay.

- E. Potential development of the subject property:

COMMUNITY DEVELOPMENT

1. Calculation of maximum allowable development under existing FLUM:

Residential Units/Density 2 units

Commercial intensity Approximately 5,000 square feet

Industrial intensity None

2. Calculation of maximum allowable development under proposed FLUM:

Residential Units/Density None

Commercial intensity Approximately 5,000 sf Water-Dependent

Industrial intensity Approximately 5,000 sf Water-Dependent

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.

CPA
2007-00002

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

1. Provide any proposed text changes.
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.
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.
4. Map and describe existing zoning of the subject property and surrounding properties.
5. The legal description(s) for the property subject to the requested change.
6. A copy of the deed(s) for the property subject to the requested change.
7. An aerial map showing the subject property and surrounding properties.
8. If applicant is not the owner, a letter from the owner of the property authorizing the applicant to represent the owner.

B. Public Facilities Impacts

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

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.);

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CPA

2007-00002

- 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
- b. Potable Water
- c. Surface Water/Drainage Basins
- d. Parks, Recreation, and Open Space.

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

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

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COMMUNITY DEVELOPMENT

PA 2007-00002

- 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;
 - b. Emergency medical service (EMS) provisions;
 - c. Law enforcement;
 - c. Solid Waste;
 - 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.

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).

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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:

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

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

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.

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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.

Item 1: Fee Schedule

Map Amendment Flat Fee	\$2,000.00 each
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

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.

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(SEAL)

COMMUNITY DEVELOPMENT

Signature of notary public

Printed name of notary public

CPA

2007-00002

AFFIDAVIT

STATE OF FLORIDA)
)
COUNTY OF LEE)

BEFORE ME this day appeared GLADYS SCHNEIDER, who being first duly sworn, deposes and says:

1. She has been a resident of Pine Island since 1986.
2. She has personal knowledge that the premises known as Bob and Annie's Boatyard (Strap Nos. 35-45-22-04-00001.0000 and 35-45-22-04-00002.0000) have been used as a boatyard since 1986.

FURTHER AFFIANT SAYETH NAUGHT.

Witnesses:

Deborah Stiger
Print Name: Deborah Stiger

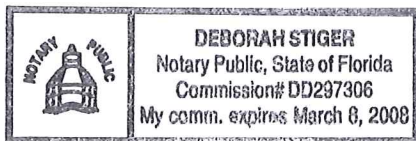
Gladys Schneider
GLADYS SCHNEIDER

Carla Rogers
Print Name: Carla Rogers

The foregoing instrument was acknowledged before me this 28th day of February, 2007, by GLADYS SCHNEIDER, who is ☒ personally known to me or ☐ who has produced _____ as identification.

My Commission Expires: 3-8-07

Deborah Stiger
Notary Public
Deborah Stiger
Printed Name



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COMMUNITY DEVELOPMENT

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2007-00002

AFFIDAVIT

STATE OF FLORIDA)
)
COUNTY OF LEE)

BEFORE ME this day appeared CHRIS CONOVER, who being first duly sworn,
deposes and says:

1. He is the current owner of the premises known as Bob and Annie's Boatyard
(Strap Nos. 35-45-22-04-00001.0000 and 35-45-22-04-00002.0000).
2. His father, Robert Conover, acquired the property described above with his wife,
Anna L. Conover, in 1986.
3. The property has been used continuously as a boatyard since 1986.

FURTHER AFFIANT SAYETH NAUGHT.

Witnesses:

Rick Honeycutt
Print Name: Rick Honeycutt

Chris Conover
CHRIS CONOVER

Chris Conover
Print Name: CHRIS CONOVER

The foregoing instrument was acknowledged before me this 31 day of
1, 2007, by CHRIS CONOVER, who is ☒ personally known to me or ☐ who
has produced _____ as identification.

My Commission Expires: May 24, 2010

Rick Honeycutt
Notary Public
Rick Honeycutt
Printed Name

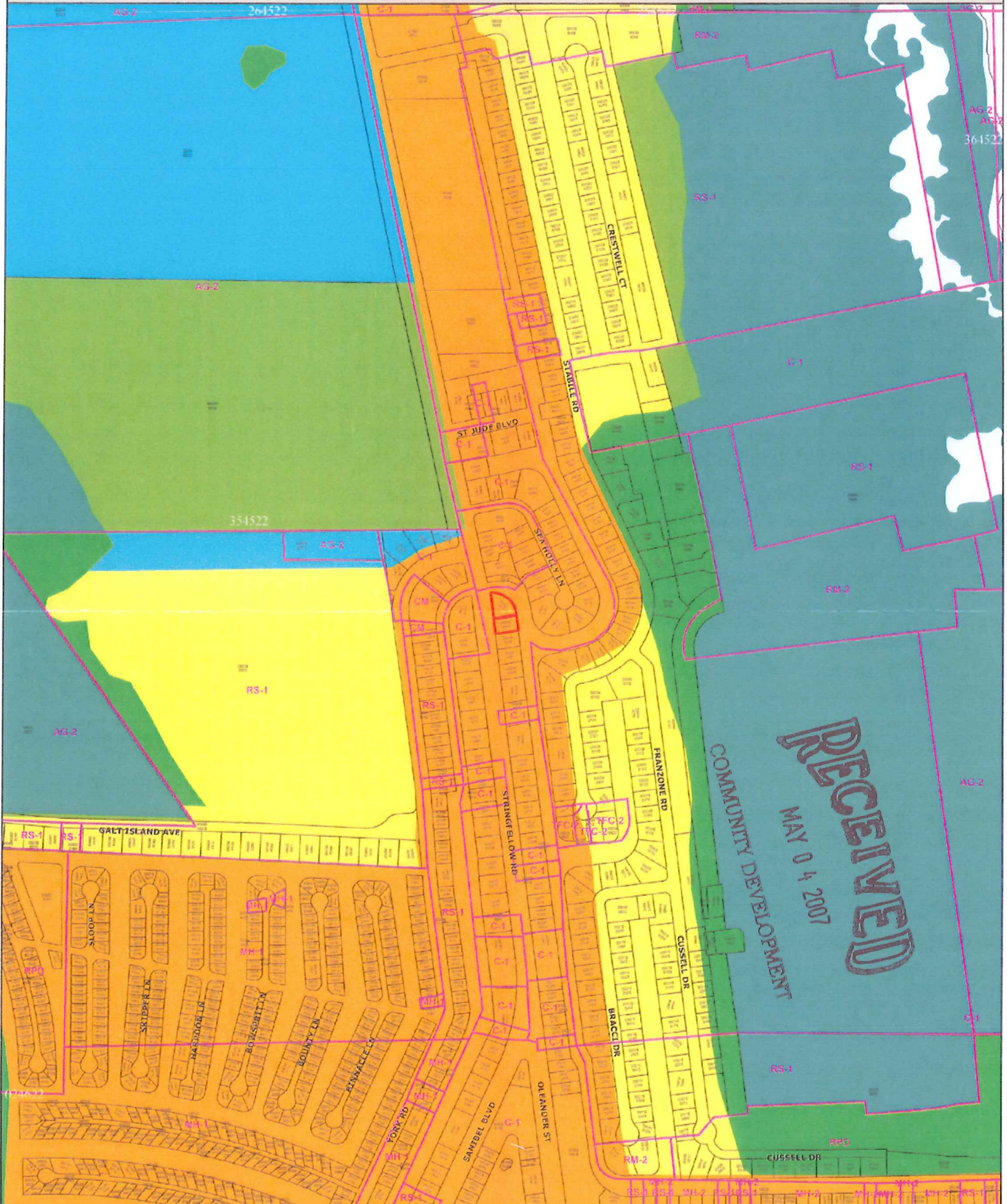


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MAP DISCLAIMER:

Maps and documents made available to the public by the Lee County Property Appraiser's Office are not legally recorded maps or surveys and therefore are not intended to be used as such. The maps and documents are created as part of a Geographic Information System (GIS) that contains records, information, and data from various departments, offices, agencies, sites and other sources. The source data may contain errors. Users are encouraged to verify the information or conditions associated with the data on which this map is based for accuracy, completeness, and timeliness.

Legend



FUTURE LAND USE



Conservation Lands Wetland



Source:
Lee County Property Appraiser's Office
Lee County DOCC

Map date:
January 12, 2007



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2007-00002

Description of Existing Land Uses
EXHIBIT A.3

The subject parcel has been used as a boatyard for many years, as shown on the affidavits and aerials which accompany this application. The purpose of this request is to protect this longstanding Water-Dependent use in accordance with Lee Plan Policy 128.2.1. The surrounding uses are:

south: commercial uses

west: residential and commercial uses, including a restaurant

east: single-family residential uses

north: commercial uses abutting Stringfellow Road.

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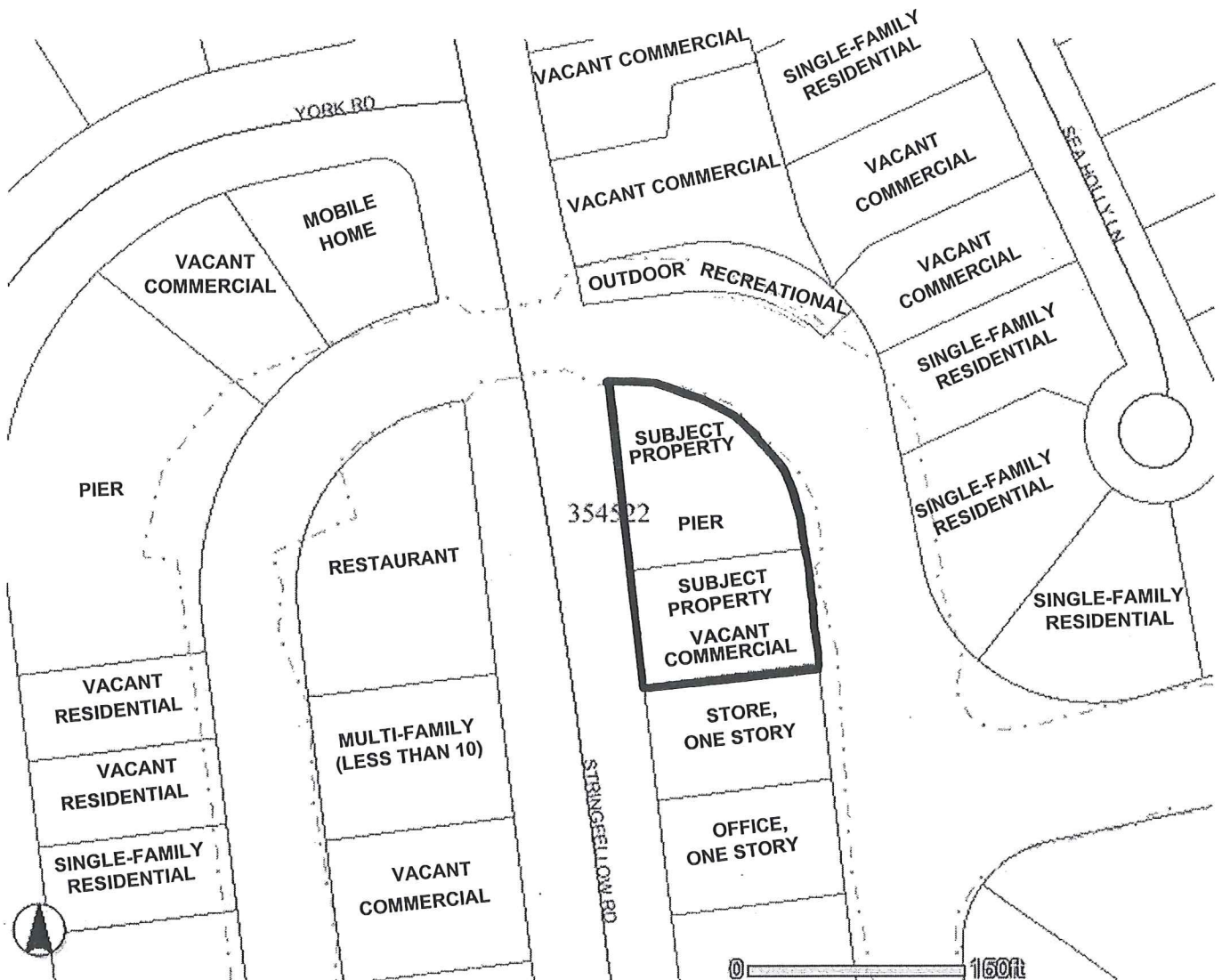
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Existing Land Use Map
EXHIBIT A.3



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Description of Existing Zoning
EXHIBIT A.4

The subject parcel is zoned C-1, as are the abutting parcels to the west, south, north, and northeast. Lots to the southeast are zoned RS-1.

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Existing Zoning Map
EXHIBIT A.4



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Legal Description
EXHIBIT A.5

LOTS 1 AND 2 OF UNIT P, GULF HAVEN SUBDIVISION, PLAT BOOK 9, PAGE 105, IN THE
PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

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Prepared by and return to:

Randall B Fowlds
2171 Club House Rd.
N. Ft. Myers, FL 33917

[Space Above This Line For Recording Data]

Quit Claim Deed

This Quit Claim Deed made this 16 day of August, 2006 between
Robert L. Conover whose post office address is
3420 Stringfellow Rd. St. James City, FL 33956 grantor, and
Chris W. Conover whose post office address is
3923 Pheonix Dr. St. James City, FL 33956 grantee:

(Whenever used herein the terms "grantor" and "grantee" include all the parties to this instrument and the heirs, legal representatives, and assigns of individuals, and the successors and assigns of corporations, trusts and trustees)

Witnesseth, that said grantor, for and in consideration of the sum TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration to said grantor in hand paid by said grantee, the receipt whereof is hereby acknowledged, does hereby remise, release, and quitclaim to the said grantee, and grantee's heirs and assigns forever, all the right, title, interest, claim and demand which grantor has in and to the following described land, situate, lying and being in Lee County, Florida to-wit:

Legal Description as follows: Lot 1+2 unit P Gulf Haven PB9 PG105, Public Records of
Lee County Florida

Strap Number: 35-45-22-04-00002.0000/35-45-22-04-00001.0000

To Have and to Hold, the same together with all and singular the appurtenances thereto belonging or in anywise appertaining, and all the estate, right, title, interest, lien, equity and claim whatsoever of grantors, either in law or equity, for the use, benefit and profit of the said grantee forever.

In Witness Whereof, grantor has hereunto set grantor's hand and seal the day and year first above written.

Signed, sealed and delivered in our presence:

Randall B Fowlds
Witness Name: Randall B Fowlds

Rosa S. Estrada
Witness Name: ROSA S. ESTRADA

Robert L. Conover
(Seal)
Robert L. Conover.

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CPA 2007-00002

State of Florida
County of Lee

The foregoing instrument was acknowledged before me this 16 day of August, 2006 by Robert L. Conover, who ☒ is personally known or [] has produced a driver's license as identification.

[Notary Seal]



Randall B Fowlds
Notary Public

Printed Name: Randall B Fowlds

My Commission Expires: 04/24/2009

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Impact on Historic Resources
EXHIBIT D

The requested Water-Dependent Overlay designation will assist the applicant in retaining a longstanding water-dependent use on the site. Otherwise, the application will not have any impact on historic resources.

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**FLORIDA DEPARTMENT of STATE****CHARLIE CRIST**
Governor**KURT S. BROWNING**
Secretary of State

March 9, 2007

Alison M. Stowe
Knott, Consoer, Ebelini, Hart & Swett, P.A.
1625 Hendry Street
Fort Myers, FL 33901
Fax: 239-334-1446

Dear Ms. Stowe:

In response to your inquiry of March 9, 2007, the Florida Master Site File lists no previously recorded cultural resources in the following parcel:

T45S, R22E, Section 35

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,

A handwritten signature in cursive script, appearing to read "Celeste Ivory".

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
Email: sitefile@dos.state.fl.us
Web: <http://flheritage.com/preservation>
<http://dhr.dos.state.fl.us/comments/>

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MAY 04 2007

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Population Accommodation Analysis
EXHIBIT E.1

The subject parcel could be redeveloped as two residential units pursuant to the Suburban FLUM category. The addition of the property to Map 12 would prohibit the conversion of the site to a residential use without a public hearing. The impact of the proposed amendment on the capacity of the FLUM is de minimis.

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CPA 2007-00002

Lee Plan Consistency / Planning Rationale
EXHIBIT E.2

The affidavits and aerial photographs that are included in this submittal package establish that the subject parcel was used as an industrial water-dependent use prior to the adoption of the Water-Dependent Overlay in 1989. As a result, the proposed amendment is consistent with the following Lee Plan provisions relating to the protection of water-dependent uses:

- 1). Goal 8;
- 2). Goal 128;
- 3). Objective 128.2; and
- 4). Policies 128.2.1 and 128.2.2

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Impact on Adjacent Local Governments
EXHIBIT E.3

The proposed amendment will not have any impacts on any other local governments.

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2007-00002

Consistency with State and Regional Plans
EXHIBIT E.4

The proposed amendment is consistent with the following state and regional plan provisions:

State Plan

Coastal and Marine Resources, Policy 10: The amendment requests the County to give Planning priority to an existing water-dependent use.

Regional Plan

None identified.

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CPT

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Spatial District Query Report

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MAY 04 2007

STRAP Number: 35-45-22-04-00001.0000

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District Name	District Value		Pct of Parcel in District (if fractional)	Notes
Airport Noise Zone			NOT FOUND	
Airspace Notification	Notification Height	25' - 50' AMSL		
	Facility	St. James Helistop		
Census Tract	Tract ID	702	99.91%	
Coastal Building Zone			NOT FOUND	
Coastal High Hazard Area	Coastal High Hazard Zone	High hazard		
Fire District	Fire District	Pine Island-Matlacha		
	Taxing Authority	059		
Flood Insurance Zone	Flood Zone	A9-EL9		
FIRM Floodway			NOT FOUND	
Flood Insurance Panel	Community	125124		
	Panel	0290		
	Version	B		
	Date	091984		
DNR Flood Zones			NOT FOUND	
Flood Insurance Coastal Barrier			NOT FOUND	
Lighting District			NOT FOUND	
Planning Community	ID	16		
	Plan Community	Pine Island		
Planning Land Use 2010	Landuse	Suburban		
Sanibel/County Agreement			NOT FOUND	
School Board District	District	1		
	School Board Member	Robert Chilmonik		
School Choice Zone	Choice Zones	West Zone		
	Choice Zones	West Zone 4		
Solid Waste District	District Area	Area 5		
Storm Surge	Category	T S		
Subdivisions	Subdivision No.	35452204		
	Subdivision Name	GULF HAVEN UNIT P		
	Book Page 1	PB 9/PG 105		
	Book Page 2			
	Book Page 3			
Traffic Analysis Zone				
Archaeological Sensitivity			NOT FOUND	
Sea Turtle Lighting Zone			NOT FOUND	
Watersheds	Shed ID	South Pine Island		
FLUCCS1995	Code	121	99.22%	
	Landuse	Fixed single family units		
	Code	816	0.78%	1
	Landuse	Canals and locks		
Vegetation Permit Required	Vegetation Permit	Pine Island		2

C P A

2007-00002

Soil	Map Symbol	69	
	Soil Name	MATLACHA GRAVELLY FINE SAND	
Panther Habitat			NOT FOUND
Eagle Nesting Site Buffer	Buffer Distance	750	99.8%
	Buffer Distance	1500	0.2%
Commissioner District	District	1	
	Commissioner	Robert Janes	
Unincorporated Lee County Zoning	Zoning Designation	C-1	Zoning Notes
Development Orders			NOT FOUND
Road Impact Fee Districts	District	52	
	Tidemark ID	52	
	Name	NORTH	
Water Franchise	Franchise Name	Greater Pine Island Water Assoc.	
Wastewater Franchise			NOT FOUND
Res. Garbage Collection Day	Hauling Day	Monday	
Res. Recycling Collection Day	Hauling Day	Monday	
Res. Horticulture Collection Day	Hauling Day	Tuesday	

[Modify Report Settings]

Note	Details
1	Small percentages can result from slight variations in the way lines are drawn or imported into our system. Such values may not accurately reflect an overlap with the subject parcel.
2	Vegetation Removal Permit REQUIRED, Contact Environmental Sciences (239) 479-8585.

Our goal is to provide the most accurate data available, however no warranties, expressed or implied, are provided with this data, its use, or interpretation.
All information subject to change without notice.

Impact on Historic Resources
EXHIBIT D

The requested Water-Dependent Overlay designation will assist the applicant in retaining a longstanding water-dependent use on the site. Otherwise, the application will not have any impact on historic resources.

**FLORIDA DEPARTMENT of STATE**

CHARLIE CRIST
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March 9, 2007

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Celeste Ivory
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Phone: 850-245-6440
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Impact on Adjacent Local Governments
EXHIBIT E.3

The proposed amendment will not have any impacts on any other local governments.

Consistency with State and Regional Plans
EXHIBIT E.4

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Regional Plan

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