

CPA2007-49
BUCKINGHAM COMMUNITY PLAN
BoCC SPONSORED
AMENDMENT
TO THE
LEE PLAN

LEE COUNTY COMPREHENSIVE PLAN

Lee County Board of County Commissioners
Sponsored Amendment and Staff Analysis

DCA Transmittal Document

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

November 6, 2009

**LEE COUNTY
DIVISION OF PLANNING
STAFF REPORT FOR
COMPREHENSIVE PLAN AMENDMENT
CPA2007-49**



Text Amendment



Map Amendment

<input checked="" type="checkbox"/>	This Document Contains the Following Reviews:
<input checked="" type="checkbox"/>	Staff Review
<input checked="" type="checkbox"/>	Local Planning Agency Review and Recommendation
<input checked="" type="checkbox"/>	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: May 27, 2009
REVISED STAFF REPORT PREPARATION DATE: November 6, 2009

PART I - BACKGROUND AND STAFF RECOMMENDATION

A. SUMMARY OF APPLICATION

1. SPONSOR/APPLICANT:

a. SPONSOR:

LEE COUNTY BOARD OF COUNTY COMMISSIONERS
REPRESENTED BY LEE COUNTY DIVISION OF PLANNING

b. APPLICANT

BUCKINGHAM COMMUNITY PLANNING PANEL

2. REQUEST:

Amend the Future Land Use Element of the Lee Plan to incorporate the recommendations of the Buckingham Community Planning effort. Establish a revised Goal, and new and revised Objectives, and Policies specific to the Buckingham community. Update Table 1 (b), Year 2030 Allocations.

3. LANGUAGE TRANSMITTED BY BOARD OF COUNTY COMMISSIONERS:

GOAL 17: BUCKINGHAM. To manage the future growth in the Buckingham area Community; to preserve the existing rural and agricultural land use pattern; to diversify the choice of housing for Lee County by maintaining and enhancing the historic and rural character; and to protect the unique historical and environmental values of the Buckingham Community. For the purposes of this plan, the precise boundaries of the Buckingham Community are indicated on the Future Land Use Map Series, Map 1, Page 2 of 6, Special Treatment Areas. To help maintain the rural and historic character, and create a visually attractive community, the Buckingham Community will draft and submit amendments to the Lee County Land Development Code to implement the intent of the Buckingham Community objectives and policies for Lee County to review and consider for adoption.

OBJECTIVE 17.1: LAND USE. The primary land use designation for the Buckingham area Community is “Rural Community Preserve.” Other land use designations exist within the Buckingham Community, such as Rural, Sub-Outlying Suburban, Conservation Lands, and Wetlands. Public Facilities have also been designated as appropriate. After the adoption of this amendment nNo land in the Buckingham Community will be changed to a land use category more intense than Rural Community Preserve (including Public Facilities) unless a finding of overriding public necessity is determined by three members of the Board of County Commissioners. Land use decisions will be guided by preserving the rural and agricultural land use pattern.

POLICY 17.1.1: No property within the Buckingham Community will be rezoned to RVPD.

POLICY 17.1.2: The southeast and northeast quadrants of the intersection of Orange River Boulevard and Buckingham Road is designated as the commercial node for the Buckingham area Community. With the exception of the uses and the property identified in this policy, Nno new commercial activities development will be located outside of this commercial node. All new commercial developments in the node are required to provide a minimum of 30% open space. This commercial node is described as those lands 300 feet eastward from the easterly right-of-way of Buckingham Road and lying between Cemetery Road and a point 300 feet north of the intersection of Buckingham Road and Orange River Boulevard. Commercial uses permitted in agricultural zoning districts, such as Feed and Tack stores, are allowed outside of the commercial node if appropriate zoning approval is granted. Commercial boarding stables throughout the Rural Community Preserve will be allowed to give lessons and clinics if lawfully existing or appropriate zoning approval is granted. Commercial uses are permitted on the property zoned C-1 located at 9140 Buckingham Road.

POLICY 17.1.3: Except for those clustered areas approved in accordance with Policy 17.1.5, Any all lots created in the Rural Community Preserve after the adoption of this amendment land use category must have a minimum area of 43,560 square feet, unless a Minimum Use Determination has been issued. Calculation of lot size must exclude any road right-of-way or easement areas, water management areas, and natural water bodies. Any residential planned development zoning granted in the Rural Community Preserve land use category will require a minimum size of one acre (43,560 square feet) for every residential lot.

POLICY 17.1.4: Bonus density is prohibited in the Rural Community Preserve.

POLICY 17.1.5: Clustering of residential development in the Rural Community Preserve requires residential planned development (RPD) zoning. Density in clustered developments will be based on upland acreage. Dwelling units must be located away from the property boundaries. Clustering of residential development is limited in the following fashion:

- 1) Buildings must be set back a minimum of 100 feet from the RPD boundary.
- 2) The RPD must have a minimum of 10 acres in order to cluster homesites.

POLICY 17.1.6: When possible, residential development adjacent to the Rural Community Preserve boundary should make appropriate transitions to the community with a graduated increase in density as development moves away from the Rural Community Preserve boundaries. Appropriate buffers will be established for projects adjacent to the Rural Community Preserve.

POLICY 17.1.7: To preserve the shoreline, a 50 foot set back is required from the Orange River. The setback will be measured from the mean high water line or from the top of bank of the Orange River, whichever is further landward. Docks are exempt from this setback requirement.

OBJECTIVE 17.2: TRANSPORTATION. To protect the rural character of the Buckingham area, the following restrictions apply: The Lee County Department of Transportation must have at least one public meeting in the Buckingham Community on any proposed road expansion or extension proposed within the community. The Lee County Board of County Commissioners must have at least one public meeting after 5:00 p.m. on any proposed road expansion or extension within the community. All roadway extensions or expansions must consider the protection of the rural character of the Buckingham Community. For purposes of this objective, safety improvements such as intersection improvements and turn lane additions or improvements, will not be deemed an expansion or extension.

POLICY 17.2.1: The following restrictions will apply to future road plans:

1. ~~The existing publicly maintained Luckett Road segments currently functioning as local roads will be retained. Any proposal to change the functionality of Luckett Road, such as to provide Lehigh Acres with access to I-75 at the Luckett Road interstate interchange, will require an analysis (Alignment Study, including public input) of the impacts to the Buckingham Rural Community Preserve. This analysis will include the review of alignments including diverting the proposed collector or arterial corridor as far south as possible, starting east of Pangola, in order to skirt the Buckingham area.~~

Any proposal to change the adopted alignment of Luckett Road within the Buckingham Community will require analysis and public input. The analysis must consider the community's desire to have this alignment as far south as possible, starting east of Pangola, in order to skirt the Buckingham Community.

2. The extension of State Route 31 south of the Orange River is prohibited.

3. The extension of Ellis Road is prohibited;
4. The extension of Staley Road to State Route 82 is prohibited;
5. No new east/west collector roadways will be planned or built within the Buckingham Rural Community Preserve;
6. All future rights-of-way in the Buckingham Community will be no greater than 100 feet (except for Buckingham Road and Lockett Road extensions).
7. The extension and connection of Long Road to Ellis rRoad is prohibited. (Amended by Ordinance No. 94-30, 99-15, 00-22)

POLICY 17.2.2: The Lee County Department of Transportation will work with the Buckingham Community to identify issues, propose options, and develop a plan directed at improving safety on roads, limiting the negative effects of traffic, and improving the overall functionality of roads within the Buckingham Community.

OBJECTIVE 17.3: SEWER AND WATER PUBLIC FACILITIES AND UTILITIES. ~~In order to discourage unwanted urban development, central sewer lines will not be extended into the Buckingham Rural Community Preserve, except in the areas identified by Map 7 as Future Sanitary Sewer Service Areas, the existing Resource may be extended along major roads of the Buckingham Rural Preserve upon request of property owners, with extension and connection fees paid by the person(s) requesting the water service. Connection to this expanded water service network will be on a voluntary basis. Under no circumstances will the availability of central water be accepted as justification for a density increase, or reduction of lot size requirements, within the Buckingham Rural Community Preserve. (Amended by Ordinance No. 00-22, 03-19) To protect the rural character of the Buckingham Community, public facilities and utilities will be designed to maintain or enhance the overall rural character of the community.~~

POLICY 17.3.1: In order to discourage unwanted urban development, central sewer lines will not be extended into the Rural Community Preserve, except to the areas identified by Lee Plan Map 7 as Future Sanitary Sewer Service Areas, the existing Resource Recovery Facility, the adjacent Lee County Parks and Recreation Facility, and any future public facility. Sewer lines may be extended to future public facilities after one or more public meetings are held in the community and a public hearing is held before the Board of County Commissioners. The County may also extend transmission/force mains through the Rural Community Preserve, if necessary. Under no circumstances will the availability of central sewer lines be accepted as justification for a density or intensity increase, or reduction of lot size requirements (except as provided in Policy 17.1.5), within the Rural Community Preserve. The County will consider waivers to Lee County Utility's central sewer mandetory connection requirement in the Buckingham Community. A waiver may not be granted unless the landowner has the approval of the Health Department, and the request is in accordance with section 381.00655(2)(b), F.S.

POLICY 17.3.2: Central water lines may be extended along roads of the Rural Community Preserve upon request of property owners, with extension and connection fees paid by the

person(s) receiving the water service. The County may also extend central water lines through the Rural Community Preserve, if necessary. Extension of public central water lines will require the Lee County Board of County Commissioners to hold at least one public meeting after 5:00 p.m. Connection to this expanded water service network will be on a voluntary basis. Under no circumstances will the availability of central water be accepted as justification for a density or intensity increase, or reduction of lot size requirements (except as provided in Policy 17.1.5), within the Rural Community Preserve.

POLICY 17.3.3: All new large developments (as defined in chapter 10 of the Land Development Code) must install utilities underground. Utilities include, but are not limited to, electricity, telephone, and cable lines.

POLICY 17.3.4: East County Water Control District is encouraged to continue to develop and maintain its infrastructure to minimize flooding, manage flows down the Orange River, and improve water quality. In addition, ECWCD is encouraged to work with the Lee County Emergency Operations Center to develop a system to warn residents in advance of large releases of water.

POLICY 17.3.5: Any development or redevelopment of the property must be developed in a manner that does not adversely impact the rural community. Any use must provide appropriate separation, buffering, traffic mitigation and control, and environmental protection.

POLICY 17.3.6: Detention and correctional facilities are prohibited within the Buckingham Community boundaries.

POLICY 17.3.7: No new landfills or resource recovery facilities are permitted in the Buckingham Community. Expansion of the Resource Recovery facilities located on the County property is permitted, including the introduction of new operations and facilities to address solid waste needs.

OBJECTIVE 17.4: LANDSCAPING, BUFFERING, COMMUNITY AESTHETICS, AND QUALITY OF LIFE. Adequate and appropriate landscaping, open space, and buffering must be provided as a means of protecting and enhancing the Buckingham Community's historic rural character and environmental values from developments, utilities, public services, roads, and land use changes or other improvements.

POLICY 17.4.1: Essential Service and Community Facilities must provide an appropriate native vegetative buffer to address compatibility issues and to enhance the Buckingham Community's rural and low density residential character. Buffering materials must be designed to enhance and protect the aesthetic values inherent to the Buckingham Community.

POLICY 17.4.2: Lee County will continue, through Lee County Solid Waste Collection Agreements, to require all current and future solid waste collection contractors to perform weekly litter collection along approximately one and one half miles of Buckingham Road, in the vicinity of the Resource Recovery Facility.

POLICY 17.4.3: Within the Buckingham Community, residential walls are prohibited as boundaries for housing subdivisions or large residential developments. Berms are allowed in accordance with the Lee County Land Development Code, but must be designed to be undulating.

POLICY 17.4.4: Residential and commercial lighting must be designed to reduce light pollution and light trespass in the Buckingham Community.

POLICY 17.4.5: Lee County is discouraged from approving any deviation that would result in a reduction of landscaping, buffering, or signage guidelines.

OBJECTIVE 17.5: ENVIRONMENT, OPEN SPACE AND PARKS. The Buckingham Community values its rural environment and has a goal of protecting open space for the present and future generations.

POLICY 17.5.1: Lee County will work with the Buckingham Community to develop a plan for an interconnected system of parks, hiking, and horse riding trails within the Buckingham Community.

POLICY 17.5.2: The Orange River has areas where it is narrow, with fluctuating levels of water flow and surrounding low density residential uses. Any access to the Orange River, except for single family docks, will be reviewed through the Planned Development zoning process to insure consistency with surrounding areas. Docks, except for single family docks, approved prior to [the date of adoption] may remain but may not be expanded unless the expansion complies with this policy.

POLICY 17.5.3: The removal of invasive exotic plants, as defined by the state or county, is required for all new development within the Rural Community Preserve.

OBJECTIVE 17.6: It is the policy of Lee County to protect the historical agricultural uses within the Buckingham Community. These uses include a variety of agricultural applications such as tree farms, citrus farms, stables, cattle, cows, goats, and other livestock and crops of varying sizes. Lee County will accommodate existing agriculture uses into the future.

POLICY 17.6.1: Lee County will, when asked by the Property Appraiser, advise the Property Appraiser that it is the intent of the Lee Plan to protect and maintain agriculture in the Buckingham Community.

POLICY 17.6.2: Growing of crops for alternative energy sources on an experimental basis, such as *Jatropha curcas*, will be considered an agricultural use.

OBJECTIVE 17.7: PUBLIC PARTICIPATION. Lee County will encourage and solicit public input and participation prior to and during the review and adoption of county regulations, Land Development Code provisions, Lee Plan provisions, and zoning approvals that affect the Buckingham Community.

POLICY 17.7.1: As a courtesy, Lee County will register citizen groups and civic organizations within the Buckingham Planning Community that desire notification of pending review of Land Development Code amendments and Lee Plan amendments. Upon registration, Lee County will provide registered groups with documentation regarding these pending amendments through mail, email, or other electronic means. This notice is a courtesy only and is not jurisdictional. Accordingly, the County's failure to mail/email or to timely provide the notice, or failure of a group to receive notice, will not constitute a defect in notice or bar a public hearing from occurring as scheduled.

POLICY 17.7.2: The owner or agent of a requested zoning action (planned development, conventional rezoning, special exception, or variance requests) within or adjacent to the Buckingham Planning Community, or with access to Buckingham Road must conduct one public informational session within the Buckingham Community where the agent will provide a general overview of the project for any interested citizens. Lee County encourages zoning staff to participate in such public workshops. This meeting must be conducted before the application can be found sufficient. The applicant is fully responsible for providing the meeting space, providing notice of the meeting, and providing security measures as needed. Subsequent to this meeting, the applicant must provide County staff with a meeting summary document that contains the following information: the date, time, and location of the meeting; a list of attendees; a summary of the concerns or issues that were raised at the meeting; and a proposal for how the applicant will respond to any issues that were raised.

B. STAFF RECOMMENDATION AND FINDINGS OF FACT SUMMARY

1. ORIGINAL RECOMMENDATION:

Staff's recommended language for transmittal is shown below. Language that is not underlined is currently in the Lee Plan. Language that is underlined is proposed new language for Goal 17, Buckingham. Language shown in strike through in this part of the report is language that is currently in the Lee Plan that staff is recommending to be removed.

Staff also recommends transmittal of the Year 2030 Allocation amendment described in Part II of this report.

GOAL 17: BUCKINGHAM. To manage the future growth in the Buckingham area community; to preserve the existing agricultural land use pattern; to diversify the choice of housing for Lee County by maintaining and enhancing the historic rural character; and to protect the unique historical and environmental values of the Buckingham Community. For the purposes of this plan, the precise boundaries of the Buckingham community are indicated on the Future Land Use Map Series, Map 1, Page 2 of 6, Special Treatment Areas.

OBJECTIVE 17.1: LAND USE. The primary land use designation for the Buckingham area community is "Rural Community Preserve." Other land use designations exist within the Buckingham community, such as Public Facilities, Rural, Sub-Outlying Suburban, Conservation Lands, and Wetlands. Public facilities have also been designated as appropriate. ~~After the~~

~~adoption of this amendment n~~No land in the Buckingham community will be changed to a land use category more intense than Rural Community Preserve (including Public Facilities) unless a finding of overriding public necessity is determined by three members of the Board of County Commissioners.

POLICY 17.1.1: No property within the Buckingham community will be rezoned to RVPD.

POLICY 17.1.2: The southeast and northeast quadrants of the intersection of Orange River Boulevard and Buckingham Road is designated as the commercial node for the Buckingham ~~area~~ community. With the exception of uses identified in this policy, Nno new commercial activities development will be located outside of this commercial node. All new commercial developments in the node are required to provide a minimum of 30% open space. This commercial node is described as those lands 300 feet eastward from the easterly right-of-way of Buckingham Road and lying between Cemetery Road and a point 300 feet north of the intersection of Buckingham Road and Orange River Boulevard. In no way may this policy be construed to prohibit commercial uses allowed in agricultural zoning districts. Boarding stables throughout the Rural Community Preserve will be allowed to give lessons and clinics if appropriate zoning approval is granted.

POLICY 17.1.3: Except for those clustered areas approved in accordance with Policy 17.1.5, Aany lot created in the Rural Community Preserve after the adoption of this amendment land use category must have a minimum area of 43,560 square feet. Any residential planned development zoning granted in the Rural Community Preserve land use category will require a minimum size of one acre (43,560 square feet) for every residential lot.

POLICY 17.1.4: New residential lots created in the Rural Community Preserve with agricultural zoning must contain at least one Buildable Acre. The area of a Buildable Acre will exclude any road right of way or easement areas, water management areas, and natural water bodies.

POLICY 17.1.5: Clustering of residential development in the Rural Community Preserve requires residential planned development (RPD) zoning. Density in clustered developments will be based on upland acreage. Dwelling units must be located away from the property boundaries. Clustering of residential development is limited in the following fashion:

- 1) Buildings must be set back 100 feet from the RPD boundary.
- 2) The RPD must have a minimum of 10 acres in order to cluster homesites.

POLICY 17.1.6: When possible, residential development adjacent to the Rural Community Preserve boundary should make appropriate transitions to the community with a graduated increase in density as development moves away from the Rural Community Preserve boundaries.

POLICY 17.1.7: To preserve the shoreline, a 50 feet set back is required from the Orange River. The setback will be measured from the mean high water line or from the top of bank of the Orange River, whichever is further landward.

OBJECTIVE 17.2: TRANSPORTATION AND ROADS. The Lee County Department of Transportation will work with the residents of the Buckingham community to protect the rural character of the Buckingham planning area.

POLICY 17.2.1: The following restrictions will apply to future road plans:

1. The existing publicly maintained Lockett Road segments currently functioning as local roads will be retained. Any proposal to change the functionality of Lockett Road, such as to provide Lehigh Acres with access to I-75 at the Lockett Road interstate interchange, will require an analysis (Alignment Study, including public input) of the impacts to the ~~Buckingham~~ Rural Community Preserve. This analysis will include the review of alignments including diverting the proposed collector or arterial corridor as far south as possible, starting east of Pangola, in order to skirt the Buckingham area community.
2. The extension of State Route 31 south of the Orange River is prohibited;.
3. The extension of Ellis Road is prohibited;.
4. The extension of Staley Road to State Route 82 is prohibited;.
5. No new east/west collector roadways will be planned or built within the ~~Buckingham~~ Rural Community Preserve;.
6. All future rights-of-way in the Buckingham community will be no greater than 100 feet (except for Buckingham Road and Lockett Road extensions).
7. The extension and connection of Long Road to Ellis ~~r~~Road is prohibited. (Amended by Ordinance No. 94-30, 99-15, 00-22)

POLICY 17.2.2: The Lee County Department of Transportation will work with the Buckingham community to identify issues, propose options, and develop a plan directed at improving safety on roads, limiting the negative effects of traffic, and improving the overall functionality of roads within the Buckingham community.

~~OBJECTIVE 17.3: SEWER AND WATER PUBLIC FACILITIES AND UTILITIES.~~ ~~In order to discourage unwanted urban development, central sewer lines will not be extended into the Buckingham Rural Community Preserve, except in the areas identified by Map 7 as Future Sanitary Sewer Service Areas, the existing Resource may be extended along major roads of the Buckingham Rural Preserve upon request of property owners, with extension and connection fees paid by the person(s) requesting the water service. Connection to this expanded water service network will be on a voluntary basis. Under no circumstances will the availability of central water be accepted as justification for a density increase, or reduction of lot size requirements, within the Buckingham Rural Community Preserve. (Amended by Ordinance No. 00-22, 03-19) To protect the rural character of the Buckingham community, public facilities and utilities will be designed to maintain or enhance the overall rural character of the community.~~

POLICY 17.3.1: In order to discourage unwanted urban development, central sewer lines will not be extended into the Rural Community Preserve, except in the areas identified by Lee Plan Map 7 as Future Sanitary Sewer Service Areas, as well as the existing Resource Recovery Facility, the adjacent Lee County Parks and Recreation Facility, and any future public facility.

POLICY 17.3.2: Central water lines may be extended along roads of the Rural Community Preserve upon request of property owners, with extension and connection fees paid by the person(s) receiving the water service. The County may also extend central water lines through the Rural Community Preserve, if necessary. Connection to this expanded water service network will be on a voluntary basis. Under no circumstances will the availability of central water be accepted as justification for a density increase, or reduction of lot size requirements, within the Rural Community Preserve.

POLICY 17.3.3: All new large developments as defined in chapter 10 of the Land Development Code, for which a local development order is required, must install utilities underground. Utilities include, but are not limited to, electricity, telephone, and cable lines.

POLICY 17.3.4: East County Water Control District is encouraged to continue to develop and maintain its infrastructure to minimize flooding, manage flows down the Orange River, and improve water quality. In addition, ECWCD is encouraged to work with the Lee County Emergency Operations Center to develop a system to warn residents in advance of large releases of water.

OBJECTIVE 17.4: LANDSCAPING, BUFFERING, COMMUNITY AESTHETICS, AND QUALITY OF LIFE. As a means of protecting and enhancing the Buckingham community's historic rural character and environmental values, developments, utilities, public services, road, and land use changes or improvements will provide appropriate landscaping, buffering, and community aesthetics to ensure that a rural lifestyle is preserved.

POLICY 17.4.1: Utility infrastructure facilities are required to establish and maintain an appropriate vegetative buffer using native materials. Buffering materials must be designed to enhance and protect the aesthetic values inherent to the Rural Community Preserve. This is to include, electrical facilities, substations, resource recovery facilities, and telephone facilities. Utility companies should install and maintain buffers that obscure unsightly facilities.

POLICY 17.4.2: Within the Buckingham community, residential walls are prohibited as boundaries for housing subdivisions or large residential developments. Berms are allowed in accordance with the Lee County Land Development Code, but must be designed to be undulating.

POLICY 17.4.3: Residential and commercial lighting must be designed to reduce light pollution and light trespass in the Buckingham community.

OBJECTIVE 17.5: ENVIRONMENT, OPEN SPACE AND PARKS. The Buckingham community values its rural environment and has a goal of protecting open space for the present and future generations.

POLICY 17.5.1: Lee County will work with the Buckingham community to develop a plan for an interconnected system of parks, hiking, and horse riding trails within the Buckingham community.

POLICY 17.5.2: The removal of invasive exotic plants, as defined by the state or county, is required for all new development within the Rural Community Preserve.

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

- The Buckingham Community Plan update has been sponsored and financed as a community service by the Board of County Commissioners.
- The Buckingham community held a series of public meetings to collect information and to determine the community vision for the future of the Buckingham community.
- Two surveys were conducted by the planning panel's consultant to collect additional information from the community.
- The planning panel's consultant interviewed stakeholders in the community and in adjacent areas.
- The Buckingham community has expressed a clear desire to retain their rural character.
- The Buckingham Community Planning Panel submitted the Buckingham Community Plan and proposed plan amendment on September 26, 2007.
- Staff presented the proposed Buckingham plan amendment to the Local Planning Agency on November 19, 2007 and the LPA recommended that the Board transmit the plan amendment as submitted by the planning panel with changes proposed by the LPA and not as staff recommended.
- Staff presented the proposed plan amendment to the Board of County Commissioners at their October 22, 2008 transmittal hearing. Staff explained they had several concerns over the proposed language and the Board voted unanimously to not transmit CPA2007-49 and directed staff to work with the community to resolve the issues and to bring a revised amendment back in the 2008/2009 amendment cycle.
- Staff attended two community meetings in Buckingham to explain their concerns and to try and arrive at an acceptable plan amendment. The first on December 11, 2008 and the second on February 19, 2009.

- Revised amendment language was sent to staff on March 10, 2009 with very few changes to the language that was sent to the Board on October 22, 2008. Most of staff's comments were not addressed.
- CPA 2007-49 was presented to the LPA on April 27, 2009. The LPA made a motion to continue the Buckingham amendment to the June 3, 2009 LPA meeting with the direction for the community and staff to work together to revise the amendment.
- Staff contacted the Buckingham Community Planning Panel president on several occasions requesting a meeting with the planning panel to revise the amendment.
- Staff was informed by the Buckingham Community Planning Panel president that the panel members had not suggested any revisions and since neither the planning panel or staff propose revised language that it did not appear that a community meeting would be productive.
- CPA 2007-49 was presented to the LPA for the second time on June 3, 2009. The LPA made a motion to move three areas that were not in the Buckingham planning area out of the Buckingham Planning Community.

C. BACKGROUND INFORMATION

The Buckingham Preservation Committee submitted the original Sector Plan for the Buckingham community to the County on September 20, 1990. The sector plan provided a description of the history of the community, a description of the then existing land uses, soils, and ground water recharge, vegetation and wildlife, parks and recreation, community facilities and services, housing and transportation. The original Lee Plan Goal specific to the Buckingham community was a direct result of the work conducted by the Buckingham Preservation Committee and was adopted by the Board of County Commissioners on July 9, 1991.

The Buckingham Preservation Committee, working with County staff, updated the Lee Plan Goal specific to the Buckingham community in the late 1990's and an amendment to that Goal was adopted by the Board of County Commissioners on November 22, 1999. A second amendment to the Buckingham Goal was adopted by the Board of County Commissioners on October 23, 2003.

In 2007, residents in the Buckingham community formed the Buckingham Community Planning Panel, Inc. (BCPP) and requested funding from the County to undertake a more comprehensive update to Goal 17 of the Lee Plan specific to the Buckingham community. The County provided \$50,000 to fund the planning effort and the BCPP hired Johnson Engineering, Inc. to assist them in writing an updated Community Plan and Lee Plan amendment. The Community Plan and plan amendment were completed in late summer of 2008 and submitted to the County on September 26, 2008.

Staff prepared the staff report and recommended several changes to the applicant's language. Comments were provided to the planning panel and their consultant. The report was sent to the Local Planning Agency and the Buckingham Community Plan amendment was heard by the LPA on November 19, 2007. Staff gave a presentation and explained the reason for their recommended changes. The LPA did not recommend that the Board transmit any of staff's recommended changes and recommended transmittal of the language submitted by the planning panel with some additional changes recommended by the LPA.

The Buckingham Community Plan amendment was heard by the Board of County Commissioners at the October 22, 2008 Transmittal Hearing. The Board did not transmit the amendment and directed staff to meet with the community and try and arrive at language agreeable to both the community and staff and to bring the amendment back in the next round.

Staff met with the Buckingham planning panel and community members on December 11, 2008 and February 19, 2009 and explained staff's position on the items in contention. Following the February 19, 2009 meeting the planning panel voted on whether to make any changes to their original language. The planning panel made very few changes and did not make any changes to most of the Objectives and Policies that concerned staff. The applicant's last submittal is attached as Exhibit A.

Staff presented CPA 2007-49 to the Local Planning Agency on April 27, 2009 and the LPA passed a motion to continue the amendment to the June 3, 2009 LPA meeting and gave direction for the community and staff to work together to revise the amendment.

Staff contacted the Buckingham Community Planning Panel president on several occasions attempting to set up a meeting with the planning panel and was informed by the planning panel president that the panel members had not suggested any revisions and since neither the planning panel or staff propose revised language that it did not appear that a community meeting would be productive.

CPA 2007-49 was presented to the LPA for the second time on June 3, 2009. The LPA made a motion to move three areas that were not in the Buckingham planning area out of the Buckingham Planning Community.

PART II - STAFF ANALYSIS AND RECOMMENDED REVISIONS

A. STAFF DISCUSSION

BUCKINGHAM YEAR 2030 ALLOCATION AMENDMENT:

During the implementation of the Evaluation and Appraisal Report in 2006 and 2007, the Board of County Commissioners decided not to increase any of the residential or commercial acreage allocations in Lee Plan Table 1(b), Year 2030 Allocation, in the Buckingham Planning Community. At that time the Board

asked that the issue be addressed in the ongoing Buckingham Community Planning process. The Buckingham Community Planning Panel did not address the acreage allocation issue. Staff recommended that the allocations contained in the EAR amendment for Table 1(b), accounting for an additional 10 years of growth in the Buckingham Planning Community, be included.

On April 28, 2008 staff presented the LPA with a memo dated April 21, 2008 and maps of residential uses within the Urban Community portion of the Buckingham Planning Community that are attached to this report. Staff's recommendation included increasing the Urban Community allocation from 51 acres to 150 acres; increasing the Outlying Suburban allocation from 49 acres to 66 acres; increasing the Rural allocation from 57 acres to 100 acres; and increasing the Rural Community Preserve allocation from 3,046 acres to 3,100 acres.

Staff distributed a document to the LPA with some revised numbers for the allocation and reviewed the handout and the basis of the allocations with the LPA and public. At a minimum, staff recommended transmittal of the Urban Community allocation.

A motion was made to recommend that the Board of County Commissioners make the changes to the allocation tables that are set forth in the April 21st, 2008 memo from staff to the LPA. That motion failed 4-2. According to Administrative Code 13-6 that was a recommendation to not transmit the staff recommended changes to Table 1(b).

The Buckingham Community Plan amendment was heard by the Board of County Commissioners at the October 22, 2008 Transmittal Hearing. The Board did not transmit the amendment and directed staff to meet with the community and try and arrive at language agreeable to both the community and staff and to bring the amendment back in the next round.

On June 3, 2009 a motion was made by the LPA that would move three areas out of the Buckingham Planning Community so that the Planning Community would be consistent with the Buckingham planning area.. The LPA recommendation required that the staff recommendation for Table 1(b) in the Lee Plan presented to the LPA on April 28, 2008 was modified to account for the proposed change to the planning community boundaries. Staff's revised recommendation includes decreasing the Urban Community allocation from 51 acres to 0 acres; increasing the Outlying Suburban allocation from 49 acres to 66 acres; decreasing the Rural allocation from 57 acres to 50 acres; and increasing the Rural Community Preserve allocation from 3,046 acres to 3,100 acres. Table 1(b) as proposed is provided in full as an attachment to this staff report.

The following revised Goal for Buckingham is intended to express the community's desire to protect and maintain the existing character of the Buckingham community. This revised Goal, and new and revised Objectives, and Policies are shown as submitted by the applicant; followed by a brief staff discussion and analysis in *italic*; and, if revised by staff, the revisions are shown following the discussion/analysis. The recommended revisions to the language submitted by the Buckingham Community Planning Panel are based on comments received from Planning, Environmental Sciences, Utilities, Solid Waste, Public Works, Human Services, and the County Attorney's office.

The Buckingham Community Planning Panel proposed the following language:

GOAL 17: BUCKINGHAM. To manage the future growth in the Buckingham area to preserve the existing agricultural land use pattern; to diversify the choice of housing for Lee County by maintaining and enhancing the historic rural character; and to protect the unique historical and environmental values of the Buckingham Community. The boundaries of the Buckingham community shall be extended to the Buckingham Planning Community boundaries. For the purposes of this plan, the precise boundaries of Buckingham are indicated on ~~the Future Land Use Map~~ Lee Plan Map 16, as amended August 13, 2007.

The Buckingham community desires to expand the boundaries of the planning area to match the Buckingham Planning Community. The community's proposed text seems to make the whole Buckingham Planning Community subject to the Rural Community Preserve—this has Bert Harris implications. In addition, the property owners in the area proposed for inclusion do not consent to participate in the restrictions proposed by this plan. Staff does not recommend expanding the Buckingham planning area to match the Buckingham Planning Community. Without the expansion of the Buckingham planning area, staff recommends transmittal of the revised Goal 17 below.

GOAL 17: BUCKINGHAM. To manage the future growth in the Buckingham area community; to preserve the existing agricultural land use pattern; to diversify the choice of housing for Lee County by maintaining and enhancing the historic rural character; and to protect the unique historical and environmental values of the Buckingham Community. For the purposes of this plan, the precise boundaries of the Buckingham community are indicated on the Future Land Use Map Series, Map 1, Page 2 of 6, Special Treatment Areas.

The Buckingham Community Planning Panel proposed the following language:

OBJECTIVE 17.1: LAND USE. The primary land use designation for the Buckingham area is “Rural Community Preserve.” Other smaller land use designations exist in the boundaries, such as public facilities, urban community, outlying suburban. Existing public facilities have also been designated as appropriate. After the adoption of this amendment, no land in Buckingham will be changed to a land use category more intense than Rural Community Preserve (including Public Facilities) unless property is within a pre-existing higher density or a finding of overriding public necessity is determined by three members of the Board of County Commissioners.

Staff is concerned that the applicant's proposed addition of the language “unless property is within a pre-existing higher density” would be used by potential developers to achieve an even higher density than they currently have. This does not seem to be consistent with the vision of the Buckingham community. Staff has no objection to this objective as amended below.

OBJECTIVE 17.1: LAND USE. The primary land use designation for the Buckingham area community is “Rural Community Preserve.” Other land use designations exist within the Buckingham community, such as Public Facilities, Rural, Sub-Outlying Suburban, Conservation Lands, and Wetlands. Public facilities have also been designated as appropriate. ~~After the adoption of this amendment n~~No land in the Buckingham community will be changed to a land use category more intense than Rural Community Preserve (including Public Facilities) unless a finding of overriding public necessity is determined by three members of the Board of County Commissioners.

The Buckingham Community Planning Panel proposed the following language:

POLICY 17.1.1: No property within the Buckingham community will be rezoned to RVPD.

The applicant is proposing to add additional areas to the Buckingham Community planning area to be consistent with the Buckingham Planning Community. If those areas are added there is a potential Burt J. Harris liability for those areas because an existing potential to rezone those areas to RVPD will be taken away. In addition, the property owners in the area proposed for inclusion do not consent to participate in the restrictions proposed by this plan. Staff's recommendation is to move these three areas between the Buckingham planning area and the Lehigh Acres Planning Community out of Buckingham Planning Community to be consistent with Map 1 page 2 of 6 of the Lee Plan. If staff's recommendation is followed for the change to the Planning Community staff has no objection to the proposed policy.

The Buckingham Community Planning Panel proposed the following language:

POLICY 17.1.2: The southeast and northeast quadrants of the intersection of Orange River Boulevard and Buckingham Road is designated as the commercial node for the Buckingham area. No new commercial ~~activities~~ development (as defined by F.S 380.04) will be located outside of this commercial node. All new commercial developments in the node are required to provide a minimum of 30% open space. This commercial node is described as those lands 300 feet eastward from the easterly right-of-way of Buckingham Road and lying between Cemetery Road and a point 300 feet north of the intersection of Buckingham Road and Orange River Boulevard. In no way should this policy be construed to prohibit the designation of or commercial uses allowed in agricultural zoning districts.

The recommended changes to the Policy are intended to make it clear that this Policy only applies to the Rural Community Preserve and that commercial uses that are currently allowed in agricultural zoning districts will not be affected. Also, Boarding stables throughout the Rural Community Preserve will be allowed to give lessons and clinics with appropriate zoning approval.

The reference to the definition of development in F.S. 380 is already in the Glossary of the Lee Plan. Staff recommends transmittal of the revised policy below.

POLICY 17.1.2: The southeast and northeast quadrants of the intersection of Orange River Boulevard and Buckingham Road is designated as the commercial node for the Buckingham area community. With the exception of uses identified in this policy, No new commercial ~~activities~~ development will be located outside of this commercial node. All new commercial developments in the node are required to provide a minimum of 30% open space. This commercial node is described as those lands 300 feet eastward from the easterly right-of-way of Buckingham Road and lying between Cemetery Road and a point 300 feet north of the intersection of Buckingham Road and Orange River Boulevard. In no way may this policy be construed to prohibit commercial uses allowed in agricultural zoning districts. Boarding stables throughout the Rural Community Preserve will be allowed to give lessons and clinics if appropriate zoning approval is granted.

The Buckingham Community Planning Panel proposed the following language:

POLICY 17.1.3: Except for those clustered areas as approved by Policy 17.1.5, Any lot created in the Rural Community Preserve land use category after the adoption of this amendment must have a minimum area of 43,560 square feet. Existing lots are excluded. Any residential planned development zoning

~~granted in the Rural Community Preserve land use category will require a minimum size of one acre (43,560 square feet) for every residential lot.~~

Although the phrase “after the adoption of this amendment” is currently in the Lee Plan in Policy 17.1.3, it is not necessary and staff recommends deleting that phrase. Because the policy states “any lot created in the Rural Community Preserve” it is understood that existing lots are not affected by Policy 17.1.3 so the reference to existing lots is not necessary. Staff recommends transmittal of the revised policy below.

POLICY 17.1.3: ~~Except for those clustered areas approved in accordance with Policy 17.1.5, Any lot created in the Rural Community Preserve after the adoption of this amendment land use category must have a minimum area of 43,560 square feet. Any residential planned development zoning granted in the Rural Community Preserve land use category will require a minimum size of one acre (43,560 square feet) for every residential lot. (Amended by Ordinance No. 00-22)~~

The Buckingham Community Planning Panel proposed the following language:

POLICY 17.1.4: Density within the Rural Community Preserve will be no more than one unit per buildable acre. A buildable acre will not include more than 20% wetlands and will exclude road right of ways, water management areas, or natural water bodies. Bonus density is prohibited within the Rural Community Preserve. The community strongly recommends density of no more than one unit per acre throughout the remainder of the Buckingham Community and bonus density to be disallowed.

Bonus Density is not allowed in the Rural Community Preserve; restating this fact adds nothing to the Lee Plan. The last sentence of the applicant’s proposed Policy 17.1.4 directly impacts one 95 acre tract of land currently classified as Urban Community on the Future Land Use Map. This property designated Urban Community is located outside the Rural Community Preserve, but within the current Buckingham Planning Community. The Urban Community Future Land Use category allows a range of 1 to 6 dwelling units per acre and up to 10 dwelling units per acre with Bonus Density. This plan amendment proposes to extend the boundaries of the planning area to match the Planning Community Boundaries causing the 95 acre tract of land to be directly impacted by this policy.

The last sentence of applicant’s proposed policy 17.1.4 has Bert J. Harris implications. Staff does not recommend transmitting that sentence. If the community does not want density of over one dwelling unit per acre on that site the proper way to express that is through a Future Land Use Map change, however given the property owners desire to maintain the existing classification of Urban Community, it is unlikely there will be support for such an amendment to the Future Land Use Map..

Staff recommends transmitting Policy 17.1.4 as revised below. Staff is also recommends moving the three areas in question to the Lehigh Acres Planning Community, as defined by Map 16, as suggested by the LPA.

POLICY 17.1.4: New residential lots created in the Rural Community Preserve with agricultural zoning must contain at least one Buildable Acre. The area of a Buildable Acre will exclude any road right of way or easement areas, water management areas, and natural water bodies.

The Buckingham Community Planning Panel proposed the following language:

POLICY 17.1.5: Clustering of residential development is allowed in the Buckingham Community only with residential planned development (RPD) zoning. In no case will clustered developments exceed the

overall density of 1 unit per buildable acre. Density in clustered developments will be based on buildable acreage and be moved away from the property boundaries. No additional commercial space will be granted, regardless of clustered development. Clustering of residential development is achieved by limiting the areas of property available for residential homesites in the following fashion:

- 1) Homesites must be no less than 100 feet away from the RPD boundary.
- 2) The RPD must have a minimum of 10 acres in order to cluster homesites.

This policy directly affects one 95 acre tract of land, and has Bert J. Harris implications as proposed by the applicant. Policy 17.1.2 restricts commercial uses to specific areas in the Rural Community Preserve and Policy 17.1.3 requires a minimum lot size of 43,560 square feet (one acre). The language that staff struck through does not affect the Rural Community Preserve. The struck through language only affects the areas that are outside of the Rural Community Preserve, but are currently located in the Buckingham Planning Community and with the adoption of this amendment, as proposed, will be located in the Buckingham Planning area. Staff does not recommend expanding the Buckingham planning area. Staff recommends transmittal of the revised policy below.

POLICY 17.1.5: Clustering of residential development in the Rural Community Preserve requires residential planned development (RPD) zoning. Density in clustered developments will be based on upland acreage. Dwelling units must be located away from the property boundaries. Clustering of residential development is limited in the following fashion:

- 1) Buildings must be set back 100 feet from the RPD boundary.
- 2) The RPD must have a minimum of 10 acres in order to cluster homesites.

The Buckingham Community Planning Panel proposed the following language:

POLICY 17.1.6: Residential development along the Buckingham Community boundary should make appropriate transitions to the community by allowing only single-family homes with a graduated density as development moves away from the planning community boundaries.

The Buckingham Rural Community Preserve is adjacent to Lehigh Acres on part of its southern boundary across Buckingham Road. It will not be possible to transition density at this location because the Lehigh lots are already platted at approximately 4 dwelling units/acre. Similarly, Buckingham Park is surrounded on three sides by the Rural Community Preserve and it will not be possible to transition density at that location either. Staff recommends transmittal of the revised policy below:

POLICY 17.1.6: When possible, residential development adjacent to the Rural Community Preserve boundary should make appropriate transitions to the community with a graduated increase in density as development moves away from the Rural Community Preserve boundaries.

The Buckingham Community Planning Panel proposed the following language:

POLICY 17.1.7: To preserve the shoreline, all new residential buildings, including attached screen enclosures will be no closer than 50 feet from the top of bank of the Orange River.

The County Attorney's office noted that increasing the riverbank set back from 25 to 50 feet raises the potential for claims under the Bert J. Harris Act.

The Land Development Code has recently been amended to require the 50 foot buffer for commercial developments from natural waterways. It should also be noted that the Board of County Commissioners has routinely required 50 foot set backs from natural water bodies during the rezoning process.

Staff reviewed the dimensions of existing lots adjacent to the river. Through this review staff determined that because of the depth of the lots, the 50 foot set back would not preclude the construction of a single family home on each of those lots adjacent to the Orange River.

The recently adopted FIRM maps now include a provision that floodways must be kept free of encroachment so that the 1% annual chance flood can be carried without substantial increases in flood height. The floodway south of the Orange River in Buckingham exceeds 50 feet on most, if not all of the lots adjacent to the Orange River in Buckingham. Staff recommends transmittal of Policy 17.1.7 as revised.

POLICY 17.1.7: To preserve the shoreline, a 50 feet set back is required from the Orange River. The setback will be measured from the mean high water line or from the top of bank of the Orange River, whichever is further landward.

The Buckingham Community Planning Panel proposed the following language:

OBJECTIVE 17.2: TRANSPORTATION AND ROADS. To protect the rural character of the Buckingham area, the following restrictions apply:

1. The existing publicly maintained Lockett Road segments currently functioning as local roads will be retained. Any proposal to change the functionality of Lockett Road, such as to provide Lehigh Acres with access to I-75 at the Lockett Road interstate interchange, will require an analysis (Alignment Study, including public input) of the impacts to the Buckingham ~~Rural~~ community Preserve. This analysis will include the review of alignments including diverting the proposed collector or arterial corridor as far south as possible, starting east of Pangola, in order to skirt the Buckingham area.
2. The extension of State Route 31 south of the Orange River is prohibited;
3. The extension of Ellis Road is prohibited;
4. The extension of Staley Road to State Route 82 is prohibited;
5. No new east/west collector roadways will be planned or built within the Buckingham Rural Community Preserve;
6. All ~~future~~ rights-of-way in Buckingham will be no greater than ~~100~~ 80 feet (except for Buckingham Road and Lockett Road extensions);
7. The extension and connection of Long Road to Ellis ~~r~~Road is prohibited.

This policy serves to expand the boundaries from the Rural Community Preserve to the whole planning community which is a concern for DOT because of the road limitations of the applicant's proposed Objective 17.2. The Lockett Road alignment study is already underway and based on the objective as currently written. A change to the wording could cause problems.

The changes to number 6 under the objective are a concern. There is no data and analysis to support the change from “future rights-of way” to “rights-of way”. There may be existing rights-of-way in excess of 80 feet in the Rural Community Preserve. The change from 100 feet to 80 feet would prohibit collector roads, which is not good transportation planning. Buckingham is positioned between Lehigh Acres and Fort Myers and traffic is going to come through their community. Additional collector roads may be necessary in the future. Staff only recommends changing the existing policy language to be consistent with references to the Buckingham community.

In addition to the above mentioned substantive concerns staff would also like to revise the structure of this objective to be more consistent with the structure typically found in the Lee Plan. It is typical for an objective to be a more general statement with the subsequent policies being specific strategies that will help to accomplish the objective. The revised objective and policy that follows are consistent with the Lee Plan and are recommended for transmittal:

OBJECTIVE 17.2: TRANSPORTATION AND ROADS. The Lee County Department of Transportation will work with the residents of the Buckingham community to protect the rural character of the Buckingham planning area.

POLICY 17.2.1: The following restrictions will apply to future road plans:

1. The existing publicly maintained Lockett Road segments currently functioning as local roads will be retained. Any proposal to change the functionality of Lockett Road, such as to provide Lehigh Acres with access to I-75 at the Lockett Road interstate interchange, will require an analysis (Alignment Study, including public input) of the impacts to the ~~Buckingham~~ Rural Community Preserve. This analysis will include the review of alignments including diverting the proposed collector or arterial corridor as far south as possible, starting east of Pangola, in order to skirt the Buckingham ~~area~~ community.
 2. The extension of State Route 31 south of the Orange River is prohibited;.
 3. The extension of Ellis Road is prohibited;.
 4. The extension of Staley Road to State Route 82 is prohibited;.
 5. No new east/west collector roadways will be planned or built within the ~~Buckingham~~ Rural Community Preserve;.
 6. All future rights-of-way in the Buckingham community will be no greater than 100 feet (except for Buckingham Road and Lockett Road extensions).
 7. The extension and connection of Long Road to Ellis ~~r~~Road is prohibited.
- The Buckingham Community Planning Panel proposed the following language:

POLICY 17.2.1: The Lee County Department of Transportation will work with the Buckingham Community to identify issues, propose options, and develop a plan directed at improving safety on roads, limiting the negative effects of traffic, and improving the overall functionality of roads within the Buckingham Community.

Staff has no objections to this policy, and recommends transmittal as provided by the Buckingham Community Planning Panel.

The Buckingham Community Planning Panel proposed the following language:

POLICY 17.2.2: The Director of Development Services shall have the authority under Section 10-104 of the LDC to grant administrative variances to Section 10-174(4)(c) for minor subdivisions of at least 2.5 acre lots when, in the Director's sole discretion, it is determined that such a variance would be consistent with the road network in the area and not cause any other negative impacts or jeopardize the health, safety, and welfare of the general public.

If appropriate the intent of this policy would be better achieved by an amendment to the Land Development Code. Staff does not recommend transmittal of this policy

~~**POLICY 17.2.2:** The Director of Development Services shall have the authority under Section 10-104 of the LDC to grant administrative variances to Section 10-174(4)(c) for minor subdivisions of at least 2.5 acre lots when, in the Director's sole discretion, it is determined that such a variance would be consistent with the road network in the area and not cause any other negative impacts or jeopardize the health, safety, and welfare of the general public.~~

The Buckingham Community Planning Panel proposed the following language:

~~**OBJECTIVE 17.3: SEWER AND WATER PUBLIC FACILITIES AND UTILITIES.** In order to discourage unwanted urban development, central sewer lines will not be extended into the Buckingham Rural Community Preserve, except in the areas identified by Map 7 as Future Sanitary Sewer Service Areas, the existing Resource may be extended along major roads of the Buckingham Rural Preserve upon request of property owners, with extension and connection fees paid by the person(s) requesting the water service. Connection to this expanded water service network will be on a voluntary basis. Under no circumstances will the availability of central water be accepted as justification for a density increase, or reduction of lot size requirements, within the Buckingham Rural Community Preserve. (Amended by Ordinance No. 00-22, 03-19) To protect the rural character of the Buckingham community, public facilities and utilities that detract or diminish the overall community character are prohibited.~~

This objective as proposed is not measurable. Whether a public facility would detract or diminish the overall community character is subjective. Staff believes this objective, as revised, is consistent with the intent of the subsequent policies under the objective.

~~**OBJECTIVE 17.3: SEWER AND WATER PUBLIC FACILITIES AND UTILITIES.** In order to discourage unwanted urban development, central sewer lines will not be extended into the Buckingham Rural Community Preserve, except in the areas identified by Map 7 as Future Sanitary Sewer Service Areas, the existing Resource may be extended along major roads of the Buckingham Rural Preserve upon request of property owners, with extension and connection fees paid by the person(s) requesting the water service. Connection to this expanded water service network will be on a voluntary basis. Under no circumstances will the availability of central water be accepted as justification for a density increase, or reduction of lot size requirements, within the Buckingham Rural Community Preserve. (Amended by Ordinance No. 00-22, 03-19) To protect the rural character of the Buckingham community, public facilities and utilities will be designed to maintain or enhance the overall rural character of the community.~~

The Buckingham Community Planning Panel proposed the following language:

POLICY 17.3.1: SEWER AND WATER. In order to discourage unwanted urban development, central sewer lines will not be extended into ~~the Buckingham Rural Community Preserve~~ Buckingham Community, except in the areas identified by Lee Plan Map 7 (effective January 21, 2004) as Future Sanitary Sewer Service Areas, the existing Resource Recovery Facility, and the adjacent Lee County Parks and Recreation Facility.

This policy has the potential to affect public facilities that may be needed in the future. The policy will also limit the ability of others to tie into this line, thus burdening the County with a larger portion of the cost.

It may be necessary to extend central sewer lines in the future to serve existing development such as The Hut restaurant. The HUT has a failing wastewater treatment facility and are under a FDEP consent order to either replace the wastewater treatment facility or connect to the County's force main. In order for The Hut to connect to the County's force main, Map 7, Future Sewer Service Areas, will need to be amended. The Hut is not currently in the Sewer Service Area, and as proposed this policy would prevent The Hut from connecting to County sewer lines. Staff recommends transmittal of the policy as revised.

POLICY 17.3.1: In order to discourage unwanted urban development, central sewer lines will not be extended into the Rural Community Preserve, except in the areas identified by Lee Plan Map 7 as Future Sanitary Sewer Service Areas, as well as the existing Resource Recovery Facility, the adjacent Lee County Parks and Recreation Facility, and any future public facility.

The Buckingham Community Planning Panel proposed the following language:

POLICY 17.3.2: Central water lines may be extended along roads of the Buckingham Rural Preserve upon request of property owners, with extension and connection fees paid by the person(s) requesting the water service. Connection to this expanded water service network will be on a voluntary basis. Under no circumstances will the availability of central water be accepted as justification for a density increase, or reduction of lot size requirements, within the Buckingham Community.

Staff does not object to this policy as revised. Similar language is already in the Lee Plan in Objective 17.3.

POLICY 17.3.2: Central water lines may be extended along roads of the Rural Community Preserve upon request of property owners, with extension and connection fees paid by the person(s) receiving the water service. The County may also extend central water lines through the Rural Community Preserve, if necessary. Connection to this expanded water service network will be on a voluntary basis. Under no circumstances will the availability of central water be accepted as justification for a density increase, or reduction of lot size requirements, within the Rural Community Preserve.

The Buckingham Community Planning Panel proposed the following language:

POLICY 17.3.3: Residential natural gas lines are allowed within the Buckingham Community. All other fuel transmission lines, including commercial natural gas lines are prohibited. An exception should be made for a methane gas line to the Resource Recovery Facility that does not encroach on any other property within the Buckingham Community.

A Teco Peoples gas line is in place along Buckingham Road, and this policy would make that gas line non-conforming. If other fuel transmission lines are needed to be installed in the Buckingham community, they will be installed underground and will have no visible affect on the community. Staff does not recommend transmittal of this policy.

POLICY 17.3.3: Residential natural gas lines are allowed within the Buckingham Community. All other fuel transmission lines, including commercial natural gas lines are prohibited. An exception should be made for a methane gas line to the Resource Recovery Facility that does not encroach on any other property within the Buckingham Community.

The Buckingham Community Planning Panel proposed the following language:

POLICY 17.3.4: All new large developments for which a local development order is required, shall install utilities underground. Utilities include, but not limited to, electricity, telephone, and cable lines.

Large development is defined as a project of ten acres or more in land area or two acres or more in impervious surface. This requirement to install utilities under ground could increase the cost of construction, however the ability to cluster development as described in a subsequent proposed policy should help to offset those costs. Staff does not object to this policy as revised below.

POLICY 17.3.4: All new large developments as defined in chapter 10 of the Land Development Code, for which a local development order is required, must install utilities underground. Utilities include, but are not limited to, electricity, telephone, and cable lines.

The Buckingham Community Planning Panel proposed the following language:

POLICY 17.3.5: The Buckingham community recognizes the historic value of the Buckingham Army Airfield, the residential airparks, and the public service contributions of the Mosquito Control District and other public safety uses of the airfield. The Buckingham Community supports the Mosquito Control District in limiting its activities to those consistent with its purpose and the provision of other public services.

The first sentence of this policy does not add anything meaningful to the Lee Plan. The second sentence is confusing. On one hand it states that the community supports the Mosquito Control District in limiting its activities to those consistent with its purpose (eradicating mosquitos) and then allows the provision of other public services. Staff does not recommend transmittal of this policy.

POLICY 17.3.5: The Buckingham community recognizes the historic value of the Buckingham Army Airfield, the residential airparks, and the public service contributions of the Mosquito Control District and other public safety uses of the airfield. The Buckingham Community supports the Mosquito Control District in limiting its activities to those consistent with its purpose and the provision of other public services.

The Buckingham Community Planning Panel proposed the following language:

POLICY 17.3.6: The Buckingham community encourages Lee County to acquire Gulf Coast Center for uses consistent with and appropriate to those values of historic rural character and environmental protection expressed in Goal 17 of the Lee Plan. No temporary or emergency operation disaster aftermath facilities will be allowed, including FEMA trailers.

Lee County Public Safety and Lee County Human Services have objections to this policy. In the event of a natural disaster providing temporary housing in the Buckingham community may be a necessity. The Gulf Coast Center is one of only two publicly owned sites available in Lee County that meet the minimum criteria as an emergency group site for temporary housing. This language not only prohibits the County from this option, but also other facilities that might assist disaster survivors following a major or catastrophic disaster impacting our community. This site could be a critical resource needed in implementing the County's Disaster Housing Plan. Staff does not recommend transmittal of this policy.

POLICY 17.3.6: ~~The Buckingham community encourages Lee County to acquire Gulf Coast Center for uses consistent with and appropriate to those values of historic rural character and environmental protection expressed in Goal 17 of the Lee Plan. No temporary or emergency operation disaster aftermath facilities will be allowed, including FEMA trailers.~~

The Buckingham Community Planning Panel proposed the following language:

POLICY 17.3.7: ~~Detention and correctional facilities are prohibited within the Buckingham Community boundaries.~~

Staff has concerns about precluding any future need for a detention or correctional facility in any part of Lee County. Although the County has no plans to locate such a facility in Buckingham, the Gulf Coast Center in Buckingham is State owned land, and if they chose to place a correctional facility on that site they could do so with or without this policy. Staff does not recommend transmittal of this policy.

POLICY 17.3.7: ~~Detention and correctional facilities are prohibited within the Buckingham Community boundaries.~~

The Buckingham Community Planning Panel proposed the following language:

POLICY 17.3.8: ~~Additional water treatment, sewage treatment, reclamation facilities, landfills, industrial facilities, and resource recovery facilities are prohibited in the Buckingham Community.~~

Lee County may need to place one or more of the facilities listed in Policy 17.3.8 in the Buckingham community at some future time to serve the area. This policy would prevent such a facility from being constructed. Staff does not recommend transmittal of this policy.

POLICY 17.3.8: ~~Additional water treatment, sewage treatment, reclamation facilities, landfills, industrial facilities, and resource recovery facilities are prohibited in the Buckingham Community.~~

The Buckingham Community Planning Panel proposed the following language:

POLICY 17.3.9: ~~East County Water Control District is encouraged to continue to develop and maintain its infrastructure to minimize flooding and manage flows down the Orange River. In addition, ECWCD is encouraged to develop a system to warn residents in advance of large releases of water. ECWCD is also encouraged to develop means to improve water quality.~~

The East County Water Control District and Lee County EOC do not object to Policy 17.3.9, as revised, and staff recommends transmittal of the policy.

POLICY 17.3.9: East County Water Control District is encouraged to continue to develop and maintain its infrastructure to minimize flooding, manage flows down the Orange River, and improve water quality. In addition, ECWCD is encouraged to work with the Lee County Emergency Operations Center to develop a system to warn residents in advance of large releases of water.

The Buckingham Community Planning Panel proposed the following language:

OBJECTIVE 17.4: LANDSCAPING, BUFFERING, AND COMMUNITY AESTHETICS, AND QUALITY OF LIFE. As a means for protecting and enhancing the Buckingham community's historic rural character and environmental values, developments, utilities, public services, road, and land use changes or improvements shall provide appropriate landscaping, buffering, and community aesthetics to ensure that a rural lifestyle is preserved.

Buffer requirements are located in Chapters 10 and 34 of the Land Development Code. The Buckingham community has no buffering requirements in excess of those found in the LDC. If the community would like buffering requirements specific to Buckingham then new land development regulations will need to be adopted. Staff has no objection to this objective.

The Buckingham Community Planning Panel proposed the following language:

POLICY 17.4.1: Public facilities are required to establish and maintain an appropriate vegetative buffer using native materials. Buffering materials must be designed to enhance and protect the aesthetic values inherent to the Buckingham community. This is to include, electrical facilities, substations, distribution and transmission lines; resource recovery facilities; and telephone facilities should install and maintain buffers that obscure unsightly facilities.

Staff does not know how the County could effectively buffer distribution and transmission lines. Buffering requirements are regulated by Section 10-416 and Section 34-1616 of the Land Development Code. The buffering requirement for public facilities are the same as those required for commercial uses. There are no buffering requirements for public facilities that are specific to the Buckingham community. If the Buckingham community would like to increase the current buffer requirements and require all native plant material for public facilities then the Land Development Code will have to be amended. Staff recommends transmittal of the revised policy below.

POLICY 17.4.1: Utility infrastructure facilities are required to establish and maintain an appropriate vegetative buffer using native materials. Buffering materials must be designed to enhance and protect the aesthetic values inherent to the Rural Community Preserve. This is to include, electrical facilities, substations, resource recovery facilities, and telephone facilities. Utility companies should install and maintain buffers that obscure unsightly facilities.

The Buckingham Community Planning Panel proposed the following language:

POLICY 17.4.2: Lee County will mitigate the negative aesthetic effects of the waste-to-energy incinerator in the Buckingham Community by regularly providing trash pick up on affected roads and establishing and maintaining an appropriate vegetative buffer.

The Department of Solid Waste objects to Policy 17.4.2. Solid Waste staff notes that they are currently providing roadway cleanup on Buckingham Road in the vicinity of the Resource Recovery Facility. Any

additional “affected” roads would need to be defined, as all the roads in Lee County are affected by trash pickup. Staff does not recommend transmittal of this policy.

~~**POLICY 17.4.2:** Lee County will mitigate the negative aesthetic effects of the waste-to-energy incinerator in the Buckingham Community by regularly providing trash pick up on affected roads and establishing and maintaining an appropriate vegetative buffer.~~

The Buckingham Community Planning Panel proposed the following language:

POLICY 17.4.3: Within the Buckingham Community, residential walls are prohibited as boundaries for housing subdivisions or large residential developments. Berms are allowed in accordance with the Lee County Land Development Code, but should be designed to be undulating.

The Lee Plan and Land Development Code (LDC) have precedent for prohibiting walls. Policy 14.3.5 of the Lee Plan and Sec. 33-1086 of the LDC address, and in some cases prohibit walls on Pine Island. The Land Development Code will need to be amended to implement this policy within the Buckingham community. Staff does not have any objection to the proposed language of this policy and recommends transmittal.

The Buckingham Community Planning Panel proposed the following language:

POLICY 17.4.4: Residential and commercial lighting should be designed to reduce light pollution and light trespass in the Buckingham Community.

Outdoor Lighting Standards are addressed in Section 34-625 of the Land Development Code. This policy is consistent with those standards. Staff does not have any objection to the proposed language of this policy and recommends transmittal.

The Buckingham Community Planning Panel proposed the following language:

OBJECTIVE 17.5: ENVIRONMENT, OPEN SPACE AND PARKS. The Buckingham community values its rural environment and has a goal of protecting open space for the present and future generations.

The Land Development Code will need to be amended to increase the required open space within the Buckingham community. Staff does not have any objection to the proposed language of this policy and recommends transmittal.

The Buckingham Community Planning Panel proposed the following language:

POLICY 17.5.1: Lee County will work with the Buckingham community to develop a plan for an interconnected system of parks, hiking, and horse riding trails within the Buckingham Community.

The County adopted the Greenways Master Plan on May 16, 2007. The Greenways Master Plan establishes the location of future multi-use trails throughout Lee County. Staff does not have any objection to the proposed language of this policy and recommends transmittal.

The Buckingham Community Planning Panel proposed the following language:

POLICY 17.5.2: Any access to the Orange River within the Buckingham Community will be limited to non-commercial residential use.

Staff can envision the benefit of a limited commercial use, such as a boat rental facility, at locations that access the Orange River. This policy would prevent such a facility in the future. The Buckingham community does not want any commercial facilities, such as boat rentals, near the Orange River. Residents are concerned about protecting that resource and believe that an attraction such as a boat rental operation would cause too much impact to the river. These issues can be addressed on a case by case basis as any proposals come forward from the County or private sector and the community will have the opportunity to express their concerns and opinions.

The proposed policy is not consistent with the intent of Lee Plan Objective 82.1, Policy 82.1.1, Objective 82.2, Policy 82.2.1, and Objective 82.3, which address the provision of public water access. Staff does not recommend transmittal of this policy.

POLICY 17.5.2: Any access to the Orange River within the Buckingham Community will be limited to non-commercial residential use.

The Buckingham Community Planning Panel proposed the following language:

POLICY 17.5.3: The removal of invasive exotic plants, as defined by the state or county, is encouraged within the Buckingham Community.

Staff does not object to the removal of invasive exotic plants. The removal of these plant species is required in the Land Development Code (LDC). Staff proposes transmittal of the following revised policy, which is consistent with the LDC.

POLICY 17.5.3: The removal of invasive exotic plants, as defined by the state or county, is required for all new development within the Rural Community Preserve.

The Buckingham Community Planning Panel proposed the following language:

OBJECTIVE 17.6: AGRICULTURE. In order to preserve and promote the existing agricultural land use pattern in the Buckingham Community, all policies in the Buckingham Plan shall consider and under this objective will be applied in a manner that will protect agricultural activity and small family farms.

POLICY 17.6.1: Lee County will work closely with the Property Appraiser to insure that the Goal, Objectives and Policies of the Buckingham Plan are given full consideration in assessing the value of land in Buckingham and in the granting of agricultural exemptions.

POLICY 17.6.2: The Buckingham Community Plan recognizes the land use of small family farms of no more than ten acres, where the owner resides on the property, and stipulates that it can be a viable commercial activity.

POLICY 17.6.3: If a small family farm loses its agricultural exemption, the Property Appraiser will utilize appropriate formulas for applying the homestead exemption to the former agricultural land.

POLICY 17.6.4: The Property Appraiser will give full consideration to any agricultural or conservation easements when assessing property in Buckingham.

POLICY 17.6.5: Crops grown for alternative energy sources on an experimental basis, such as *Jatropha curcas*, shall be considered as a commercial agricultural activity by the Property Appraiser.

The County does not have control over what the Property Appraiser does or how land is valued. Direction to the Property Appraiser is not appropriate in the Lee Plan. Staff does not recommend transmittal of this objective or subsequent policies.

OBJECTIVE 17.6: AGRICULTURE. In order to preserve and promote the existing agricultural land use pattern in the Buckingham Community, all policies in the Buckingham Plan shall consider and under this objective will be applied in a manner that will protect agricultural activity and small family farms.

POLICY 17.6.1: Lee County will work closely with the Property Appraiser to insure that the Goal, Objectives and Policies of the Buckingham Plan are given full consideration in assessing the value of land in Buckingham and in the granting of agricultural exemptions.

POLICY 17.6.2: The Buckingham Community Plan recognizes the land use of small family farms of no more than ten acres, where the owner resides on the property, and stipulates that it can be a viable commercial activity.

POLICY 17.6.3: If a small family farm loses its agricultural exemption, the Property Appraiser will utilize appropriate formulas for applying the homestead exemption to the former agricultural land.

POLICY 17.6.4: The Property Appraiser will give full consideration to any agricultural or conservation easements when assessing property in Buckingham.

POLICY 17.6.5: Crops grown for alternative energy sources on an experimental basis, such as *Jatropha curcas*, shall be considered as a commercial agricultural activity by the Property Appraiser.

The Buckingham Community Planning Panel proposed the following language:

POLICY 17.6.6: Boarding stables will be allowed to give lessons and clinics if the operation does not create a use, road access, or drainage nuisance to its neighbors.

Staff is concerned that this policy is too subjective. The provision of such uses is clarified in Policy 17.1.2 of Part I of this Staff Report. Policy 17.1.2 requires “appropriate zoning approval” which will analyze the uses’ impact to neighboring properties and allow for mitigation of impacts which are deemed to be negative. Staff does not recommend transmittal of this policy.

POLICY 17.6.6: Boarding stables will be allowed to give lessons and clinics if the operation does not create a use, road access, or drainage nuisance to its neighbors.

PART III - LOCAL PLANNING AGENCY REVIEW AND RECOMMENDATION

DATE OF FIRST PUBLIC HEARING: April 27, 2009

A. LOCAL PLANNING AGENCY REVIEW:

Staff provided brief presentation covering the proposed changes and recommendations outlined in CPA2007-49. This was followed by general questions and answers between the LPA members and staff. There was discussion about expanding the boundaries and including a 95 acre tract of land located south of Buckingham Park.

One LPA member expressed concerns with including the 95 acre tract of land if this has not been discussed with the property owners. The LPA chairman asked if anyone from the public wished to comment on this item.

The Buckingham Community Planning Panel president, two Buckingham residents and their planning consultant, who spoke in favor of the Buckingham plan amendment as submitted by the Buckingham Community Planning Panel asked that the LPA recommend transmittal of the amendment as submitted by the planning panel.

Two representatives of the owner of the 95 acre tract of land located south of Buckingham Park spoke generally in favor of the staff recommendation, but asked that the reference to the Buckingham community be made consistent throughout the amendment. One of the representatives noted that his client did not wish to be made part of the Buckingham community planning area.

Suggestions/Comments by the Local Planning Agency:

One LPA member felt the document is confusing as to the language that needs to be redrafted in order to implement the wishes of the community. He asked that the community continue to work with staff and come forward with a draft that answers all concerns that have been raised during today's proceedings because they are valid concerns. He also felt the community needed to recognize existing property rights on properties they want included in their area. The language needs to be drafted so those rights are protected. He asked that this item be continued to the June 3, 2009 Local Planning Agency meeting and that a new draft be provided.

Another LPA member stated he was not against what the community was trying to do, but he was concerned about using the Comprehensive Plan Amendment process to erode the rights of a piece of property without the property owner's permission by putting provisions into the Comprehensive Plan. If the community has a problem with development plans for the site, they can address those concerns during the zoning process.

Several LPA members asked that the community attempt to work with staff further to come up with something that is easier to understand and takes into account concerns expressed at this meeting.

One LPA member agreed the community should have an opportunity to establish a vision for their community and set out some guidelines, but he was concerned with some components such as NIMBYism

(Not In My Backyard). He did not want to see a proliferation of that across the County. He also expressed concerns about the connection to water and sewer. If there is a water quality issue out there and the community is prohibited from connecting to central water and sewer, it could be a problem for the community.

A motion was made and seconded to continue CPA2007-49 Buckingham Community Plan to the June 3, 2009 Local Planning Agency meeting with direction for the community and staff to work together to revise the amendment prior to the June meeting. The motion passed unanimously.

DATE OF SECOND PUBLIC HEARING: June 3, 2009

B. LOCAL PLANNING AGENCY REVIEW CONTINUED:

Staff presented this item. It was brought before the LPA on April 27th and the LPA continued the item to today's meeting and directed staff and the community to work together to revise the amendment. Staff noted that several attempts were made to schedule a meeting with the Planning Panel, but were told the Planning Panel felt the meeting would not be productive and that the Panel was not recommending any changes to what they originally submitted. Mr. Mudd noted he had revised the staff report and he reviewed the changes. He also reviewed two maps with the LPA on PowerPoint.

Lengthy discussion, questions, and answers ensued between the LPA and staff, particularly regarding 95 acres of property outside the boundary recommended by staff.

One member of the LPA asked if anyone from the public wished to comment on this item. Public comment was received from:

Two members of the public representing owners of the property which are outside of the Buckingham Planning area, but within the Buckingham Planning Community. These members did not consent to the restrictions placed on their property if they were to be included in the planning area. Also speaking were four members of the public supporting the Buckingham community plan as submitted by the Buckingham Community Planning Panel.

Suggestions/Concerns of the Local Planning Agency:

One member of the LPA commended staff for their multiple outreaches to the Buckingham community in an effort to work through the issues. He was unclear as to why the community chose not to work with staff. Regarding the boundary issues, LPA members stated they were in favor of preserving areas such as Buckingham, Alva, East Lee County, etc., but it should be done within the rights of the property owners. The people outside the boundary had a certain land use when they purchased their property and the LPA did not feel it was appropriate to compromise those rights. The LPA members did not see how this amendment could be moved forward with the boundary lines where they are today.

Other members of the LPA agreed and asked for more information on the parcels outside the boundary as far as what the difference is in terms of the rights that might be lost and Bert Harris issues.

One member of the LPA agreed with the earlier comments on the boundary, and recommended the Planning boundary be the same as the Community Planning Area boundary.

Other members of the LPA agreed and felt it was clear there was no support in incorporating the three parcels that are outside into the boundary.

On a separate issue, LPA members stated they were a strong proponent of community plans and felt communities should have the right for self determination. When the LPA previously reviewed this amendment and made recommendations, those recommendations were with certain language in place. He was not in favor of striking language from Policy 17.3.6, 17.5.2, and 17.6. He recommended that as part of the LPA's motion, these sections should be included, but the LPA could accept the rest of staff's recommendations.

Planning staff clarified that even though the LPA made recommendations previously, they were never officially adopted. At the Board's transmittal hearing, the amendment was sent back to staff so these policies are not currently in the plan.

A motion was made to change the boundary lines and that Policies 17.3.5, 17.3.6 (minus the last sentence), 17.5.2, and Objective 17.6 (in its entirety) remain. It was clarified that the motion would be to change the Planning Community Boundary to be the same as the Community Planning Area boundary so those parcels will be outside as they are now. They will not be included.

After further discussion, it was decided that the motion would be changed to recommend the 95 acres be added into the Lehigh Acres boundary.

Other members agreed with the map change, but felt staff outlined why Policies 17.3.5, 17.3.6, 17.5.2, and Objective 17.6 are not needed, and stated they were not prepared to support the motion with the inclusion of adding those back in.

Discussion ensued as to whether the allocation table would need to be changed because there is no residential/rural allocation currently in the Lehigh Planning Community. Now that this change is being made, there should be some rural/residential allocation added into the Lehigh portion of the table. It was decided that a separate motion would be made for that.

One member of the LPA asked if there would be any legal ramifications to keeping these policies/objective in the document and whether there would be any Bert Harris implications.

The Assistant County Attorney stated that Policy 17.3.5 would restrict the array of uses that the County could make of property that is within its ownership and control. Once the last sentence is stricken from Policy 17.3.6, it is less objectionable. The Attorney's office did not recommend adding Policy 17.5.2 because there are property owners along the Orange River that currently have the ability to have some non-residential use on the banks of the river. This Policy would preclude that and it would result in a loss of use to those property owners. It also directly affects the County as they are a property owner with property along the river in Buckingham.

One member of the LPA requested that the language in Policy 17.1.6 should be clarified because it seemed to be confusing.

There being no further discussion. The motion failed 3-3.

A motion was made to approve staff's recommendation for CPA2007-49. The motion failed 3-3.

Ms. Call made a motion to change the boundaries. The Planning Community boundary would now match the Buckingham Community as depicted on the Future Land Use Map, Map 1 (2 of 6). It would exclude the Harns Marsh area, the Lehigh Urban Reserve area, and the Rural area that is south of Buckingham Road. The motion passed unanimously.

Another motion was made to recommend that staff look into the allocation tables and bring that back to the next meeting. This motion passed unanimously.

C. LOCAL PLANNING AGENCY RECOMMENDATION AND FINDINGS OF FACT SUMMARY

1. RECOMMENDATION:

A motion was made to accept the staffs recommendation. The motion resulted in a 3-3 tie, which according to Administrative Code 13-6 Part D(3) “the recommendation of the LPA will be conclusively presumed to be a recommendation not to transmit”. Therefore the LPA does not recommend transmittal of CPA2007-49.

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

The LPA action did not accept the Findings of Fact as advanced by staff.

D. VOTE:

NOEL ANDRESS	<u>NAY</u>
CINDY BUTLER	<u>AYE</u>
CARRIE CALL	<u>NAY</u>
JIM GREEN	<u>AYE</u>
MITCH HUTCHCRAFT	<u>ABSENT</u>
RONALD INGE	<u>AYE</u>
CARLA JOHNSTON	<u>NAY</u>

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

DATE OF TRANSMITTAL HEARING: September 24, 2009

A. BOARD REVIEW:

Staff briefly presented the Comprehensive Plan Amendment by identifying the unresolved issues between the Goals, Policies, and Objectives of the Buckingham Planning Panel's recommendation and staff's recommendations.

Eleven members of the public spoke about the proposed amendment. Nine of the members of the public spoke in favor of transmitting the Buckingham Community Plan as proposed by the Buckingham Planning Panel. A representative of the 95 acres known as Lehigh Village stated his clients desire not to be included in the purview of Goal 17, the Buckingham Community Plan, and recommended transmittal of County staff's recommendation, which does not include this property.

Public comments were followed by questions and discussion by the Board of County Commissioners and County staff. A commissioner asked for identification of the three properties that are in contention to either be added to the Buckingham Community or added to another planning community, and clarification and explanation of the staff recommendation concerning these areas. Staff identified the three areas in question and offered further explanation of the recommendation, including implications that some of the proposed policies of the Buckingham Community Plan would have with the Burt J. Harris Act. It was suggested by two Commissioners that, as a compromise, perhaps one of these areas could be split. With some to be added to the Buckingham Community and the remainder of this area to be added to the Lehigh Acres Planning Community.

One Commissioner suggested that the proposed amendment not be transmitted at this time, but be moved to the following month to give County staff and the Buckingham Community additional time to work on these unresolved issues. The commissioners directed staff on several of the unresolved issues. One commissioner gave direction to staff concerning uses that would be, and would not be appropriate at the Gulf Coast Center, and explained to the community that some of the exclusions of uses that they were seeking may not be possible. On the issue of public access to the Orange River one commissioner expressed desire to enhance the public's connection with the environment, and saw this as a good opportunity to facilitate that connection. The other commissioners agreed but felt that access to the Orange River should be done in a way that is consistent with the community's vision. Two commissioners directed staff to meet with the property owner(s) of the 95 acre property that was part of the old Fort Myers landfill to see if they would be interested in staying in the County as opposed to annexed into the City of Fort Myers.

Following the direction to staff a commissioner moved to give the County staff and the Buckingham Planning Community an additional month to work on the unresolved issues. The Board of County Commissioners approved this motion 4-0, with Commissioner Janes being absent.

B. ACTIONS SUBSEQUENT TO THE SEPTEMBER 24, 2009 TRANSMITTAL HEARING:

Following Board direction, staff met several times with the legal representative of the Buckingham Planning Panel. In addition there were several iterations of proposed goals, policies, and objectives that were exchanged between Lee County staff and the Buckingham Planning Panel representative. On October 23, 2009 staff's final version of proposed Goal 17 language was provided to the Board of County Commissioners and the Buckingham Planning Panel in a memo from staff (attached). On October 27, 2009 the Buckingham Planning Panel responded to the October 23, 2009 staff memo with a letter from their representative (attached) that outlined the remaining issues between the Buckingham Community Planning Panel and County staff and suggested additional changes. Staff internally reviewed this letter and agreed to some of the suggested changes, however, there were still differences that could not be resolved on some of the issues.

DATE OF TRANSMITTAL HEARING: October 28, 2009

C. BOARD REVIEW:

Staff presented the revised amendment to the Buckingham Community Plan to the Board of County Commissioners, as outlined in the Buckingham Planning Panel's letter dated October 27, 2008. Most of the items had been resolved, and staff stated that there was agreement on these issues. There were two items that staff in general agreed with the suggested language from the Planning Panel. These issues were the ability to provide waivers for connection to Lee County Utility's central sewer lines, and amended language that would affect future development at the Gulf Coast Center. Staff suggested that the Buckingham Planning Panel's language from this letter, with amendments from the County Attorney's Office for consistency with the Lee Plan, should be used for those items. Staff also identified the few issues that remained unresolved.

Following staff presentation seven members of the public provided public comment. Members of the public acknowledged the work and compromises that had been made in the previous month between staff and the Community and encouraged the Commissioners to vote to transmit the proposed amendment. Some members of the public still did not feel that the proposed plan provided sufficient protection to the "rural" character of the community and felt that the County should not be concerned or afraid of liability from the Burt J. Harris Act.

One commissioner stated that they did not want to require a super majority vote of the Board to make land use changes in Buckingham and the other commissioners agreed with that. A commissioner suggested that the goal of retaining roads with rural character may be able to be accomplished without limiting right-of-way widths, and that maybe we should be focusing on pavement widths. Another commissioner pointed out that this would allow more room for facilities such as equestrian trails and open drainage which would add to the rural character of the community. This was followed by a more in depth discussion of road pavement and right-of-way widths.

The Commissioners agreed that they should go down the list of issues and make a motion on each of them individually and then make a motion to transmit the proposed amendment, as amended by their motions. The motions were as follows:

A motion was made to support the staff recommendation that does not require a super majority of the Board to make land use changes. Motion passed 4-0.

A motion was made to support staff's recommendation concerning the Minimum Use Determination versus the vested rights issue. Motion Passed 4-0.

A motion was made to support staff's recommendation to require transition and buffers adjacent to the Rural Community Preserve. Motion passed 4-0. Reference proposed Policy 17.1.6.

A motion was made to require a Board of County Commissioners meeting after 5:00 pm for extensions and expansion to roads within the community. Motion passed 4-0. Reference proposed Objective 17.2.

A motion was made to retain the current maximum road right-of-way width requirement of 100 feet instead of 80 feet. The motion passed 4-0. Reference proposed Policy 17.2.1 #6. The Board also directed staff to explore other ways to preserve the "rural character" of the roads other than limiting right-of-way width, such as pavement widths.

A motion was made to support staff's recommended language with an addition of language that clarified the process to obtain waivers from connecting to Lee County Utility's central sewer lines. The addition was proposed by the Buckingham Planning Panel, but received minor amendments from the County Attorney's Office. The motion passed 4-0. Reference proposed Policy 17.3.1.

A motion was made to not transmit language requested by the Buckingham Planning Panel that would limit the expansion of fuel transmission lines. The Board directed staff and the Buckingham Planning Panel representative to work on this issue prior to the adoption hearing. The motion passed 4-0

A motion was made to not transmit language from the Buckingham Planning Panel that would limit additional uses at the Buckingham Air Field. Motion passed 4-0.

A motion was made to not transmit language from the Buckingham Planning Panel that would require development at the Gulf Coast Center to not adversely impact the rural community. The motion passed 4-0.

D. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

1. BOARD ACTION:

The Board of County Commissioners transmitted the proposed amendment, as revised by the motions discussed above, including the allocation table and the planning community map.

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

The Board of County Commissioners accepted the findings of fact as advanced by Staff.

E. VOTE:

BRIAN BIGELOW	AYE
TAMMARA HALL	AYE
ROBERT P. JANES	ABSENT
RAY JUDAH	AYE
FRANK MANN	AYE

**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**

- C. STAFF RECOMMENDATION**

**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:

BRIAN BIGELOW

TAMMARA HALL

ROBERT P. JANES

RAY JUDAH

FRANK MANN
