

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

BoCC Adoption Document

Lee County Planning Division
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March 3, 2010

**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
<input checked="" type="checkbox"/>	Staff Response to the DCA Objections, Recommendations, and Comments (ORC) Report
<input checked="" type="checkbox"/>	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 Luckett 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 mandatory 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 ~~C~~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 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 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 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.

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 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 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	NAY
CINDY BUTLER	AYE
CARRIE CALL	NAY
JIM GREEN	AYE
MITCH HUTCHCRAFT	ABSENT
RONALD INGE	AYE
CARLA JOHNSTON	NAY

**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: January 15, 2010

A. DCA OBJECTIONS, RECOMMENDATIONS AND COMMENTS

The Florida Department of Community Affairs provided no objections, recommendations, or comments on the proposed amendment.

B. BOARD DIRECTED ACTIONS SUBSEQUENT TO THE TRANSMITTAL HEARING

The Board of County Commissioners directed staff to continue to work with the Buckingham Planning Panel to try to come to a consensus concerning two “unresolved issues”. These issues are the character of rural roads; and prohibiting the installation of fuel transmission lines.

At the transmittal hearing on October 28, 2009 the Board of County Commissioners 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. In response to this, the Lee County Department of Transportation revised the proposed transportation Objective to read as follows:

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

- ~~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.~~
- ~~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 feet (except for Buckingham Road and Luckett Road extensions);~~
- ~~7. The extension and connection of Long Road to Ellis road is prohibited. (Amended by Ordinance No. 94-30, 99-15, 00-22)~~

Lee County supports the community desire to protect the rural character of the Buckingham Community. Although roadway extensions and expansions do not necessarily alter the rural character per se, Lee County supports the community desire to minimize the allowable roadway extensions and expansions to those necessary for regional transportation purposes, while keeping the majority of the roadways within the boundaries of the rural community at two lanes. For purposes of this objective, improvements related to bicycle, pedestrian and equestrian facilities or safety improvements, including but not limited to intersection and turn lane additions or improvements, will not be deemed an expansion or extension of the roadway.

POLICY 17.2.1: Future multi-lane expansions within the Buckingham Community will be limited to the four-laning of Buckingham Road (except for the portion of Buckingham Road that is encompassed by the Luckett Road Extension). All other existing roadways within the boundaries of the Buckingham Community will remain in their two-lane configuration. This policy does not include bicycle, pedestrian and equestrian facilities or safety improvements on roadways within the boundaries of the Buckingham Community that may be deemed necessary by the Lee County Department of Transportation. As part of any future expansions of Buckingham Road or segments of Buckingham Road within the boundaries of the Buckingham Community, the Lee County Department of Transportation must have at least one public meeting within the community, and the Lee County Board of County Commissioners must have at least one public meeting after 5:00 p.m. regarding the proposed road expansion.

POLICY 17.2.2: Future extensions of roadways into or through the boundaries of the Buckingham Community will be limited to the Luckett Road Extension on the alignment and in the configuration as adopted by the Board of County Commissioners on June 3, 2008. During the June 3rd meeting the Board recognized the potential to avoid bisecting the Heritage Lakes parcel by shifting the alignment to the east, and that this could be accomplished if the Heritage Lakes parcel is ultimately acquired through the Conservation 20/20 program. If the Heritage Lakes parcel is acquired, a revision in the alignment will be coordinated with CLASAC. Any proposal to further change the adopted alignment of the Luckett Road Extension within the Buckingham Community (beyond the one discussed above) will require analysis and public input. The Lee County Department of Transportation must have at least one public meeting within the community, and the Lee County Board of County Commissioners must have at least one public meeting after 5:00 p.m. regarding the proposed road changes. 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. In addition, specific roadway extensions are prohibited as follows:

1. The extension of State Road 31 south of the Orange River is prohibited.
2. The extension of Ellis Road is prohibited.
3. The extension of Staley Road to State Road 82 is prohibited.
4. The extension and connection of Long Road to Ellis Road is prohibited.

POLICY 17.2.3: 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 to the extent practicable and consistent with the balance of applicable policies.

The second “unresolved issue” was concerned with prohibiting the installation of fuel transmission lines within the Buckingham Community. Due to legal concerns by the County Attorney’s Office, a motion was made to not transmit language requested by the Buckingham Planning Panel that would have limited the expansion of fuel transmission lines. The Board directed staff and the Buckingham Planning Panel to continue to work on this issue prior to the adoption hearing.

Subsequent to the transmittal hearing additional research was conducted by the County Attorney’s Office (See attached memo and corresponding research). The County Attorney’s Office found that the County is pre-empted with respect to the siting of Electrical power plants, substations and transmission lines; and Natural Gas transmission lines. See F.S. §§ 403.510; 403.536; and 403.942. Consequently, it is not appropriate to adopt a Lee Plan provision that prohibits the siting of electrical and gas utility facilities in the Buckingham Community. The applicable Florida Statutes, however, allow local governments and the public to provide input concerning the siting of these facilities. Staff finds that the following language is consistent with Florida Statutes §§ 403.510; 403.536; and 403.942. Therefore the language is recommended for adoption within Objective 17.3 as Policy 17.3.8.

POLICY 17.3.8: Lee County Staff will continue to participate in the selection of proper locations and routes for electrical and natural gas transmission lines, and utilities facilities such as electrical substations and power plants by facilitating public input from the affected neighborhoods. However, the final determination of location and transmission line routes is determined by the State of Florida.

C. STAFF RECOMENDATION

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

Staff recommends adoption of the revised Map 16, as shown in attachment 2, to identify the revised Planning Community Boundaries for the Buckingham Planning Community.

Staff’s recommends adoption of the language as transmitted to the Florida Department of Community Affairs, with the exception of the Objectives and Policies discussed above. Complete language for adoption 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.

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 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. 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, N~~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. 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:

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.~~
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 feet (except for Buckingham Road and Luckett Road extensions);~~
7. ~~— The extension and connection of Long Road to Ellis road is prohibited. (Amended by Ordinance No. 94-30, 99-15, 00-22)~~

Lee County supports the community desire to protect the rural character of the Buckingham Community. Although roadway extensions and expansions do not necessarily alter the rural character per se, Lee County supports the community desire to minimize the allowable roadway extensions and expansions to those necessary for regional transportation purposes, while keeping the majority of the roadways within the boundaries of the rural community at two lanes. For purposes of this objective, improvements related to bicycle, pedestrian and equestrian facilities or safety improvements, including but not limited to intersection and turn lane additions or improvements, will not be deemed an expansion or extension of the roadway.

POLICY 17.2.1: Future multi-lane expansions within the Buckingham Community will be limited to the four-laning of Buckingham Road (except for the portion of Buckingham Road that is encompassed by the Lockett Road Extension). All other existing roadways within the boundaries of the Buckingham Community will remain in their two-lane configuration. This policy does not include bicycle, pedestrian and equestrian facilities or safety improvements on roadways within the boundaries of the Buckingham Community that may be deemed necessary by the Lee County Department of Transportation. As part of any future expansions of Buckingham Road or segments of Buckingham Road within the boundaries of the Buckingham Community, the Lee County Department of Transportation must have at least one public meeting within the community, and the Lee County Board of County Commissioners must have at least one public meeting after 5:00 p.m. regarding the proposed road expansion.

POLICY 17.2.2: Future extensions of roadways into or through the boundaries of the Buckingham Community will be limited to the Lockett Road Extension on the alignment and in the configuration as adopted by the Board of County Commissioners on June 3, 2008. During the June 3rd meeting the Board recognized the potential to avoid bisecting the Heritage Lakes parcel by shifting the alignment to the east, and that this could be accomplished if the Heritage Lakes parcel is ultimately acquired through the Conservation 20/20 program. If the Heritage Lakes parcel is acquired, a revision in the alignment will be coordinated with CLASAC. Any proposal to further change the adopted alignment of the Lockett Road Extension within the Buckingham Community (beyond the one discussed above) will require analysis and public input. The Lee County Department of Transportation must have at least one public meeting within the community, and the Lee County Board of County Commissioners must have at least one public meeting after 5:00 p.m. regarding the proposed road changes. 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. In addition, specific roadway extensions are prohibited as follows:

1. The extension of State Road 31 south of the Orange River is prohibited.
2. The extension of Ellis Road is prohibited.
3. The extension of Staley Road to State Road 82 is prohibited.
4. The extension and connection of Long Road to Ellis Road is prohibited.

POLICY 17.2.3: 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 to the extent practicable and consistent with the balance of applicable policies.

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 mandatory 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.

POLICY 17.3.8: Lee County Staff will continue to participate in the selection of proper locations and routes for electrical and natural gas transmission lines, and utilities facilities such as electrical substations and power plants by facilitating public input from the affected communities. However, the final determination of location and transmission line routes is determined by the State of Florida.

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.

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

DATE OF ADOPTION HEARING: March 3, 2010

A. BOARD REVIEW:

Staff made a brief presentation to the Board of County Commissioners. The presentation clarified that there were no objections made by the Florida Department of Community Affairs concerning the proposed amendment, but that changes were made as requested by the Board at the Transmittal Hearing. Two members of the public provided comments in favor of the Buckingham Community Plan. One of citizens who spoke in favor of the amendment requested that the Board of County Commissioners make an additional change to the proposed amendment.

After requesting input from Planning and Transportation staff, a motion was made to accommodate the citizen's request. This motion passed with a 3 - 1 vote, with one Commissioner being absent.

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

1. BOARD ACTION:

The Board of County Commissioners voted to adopt the proposed amendment, as revised by the motion discussed above. The motion passed 5 - 0.

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

The Board accepted the findings of fact as advanced by staff and the Local Planning Agency.

C. VOTE:

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

D. Board of County Commissioners Adopted Language

The Board of County Commissioners adopted the language as presented in the Staff Report for the Adoption Hearing with the following changes as requested by the Buckingham Community Planning Panel at the Adoption Hearing:

Goal 17 to Policy 17.1.7 (As presented in Staff Report)

OBJECTIVE 17.2: TRANSPORTATION: Lee County supports the community desire to protect the rural character of the Buckingham Community. Although roadway extensions and expansions do not necessarily alter the rural character per se, Lee County supports the community desire to minimize the allowable roadway extensions and expansions to those necessary for regional transportation purposes, while by keeping the majority of the roadways within the boundaries of the rural community at to two lanes. For purposes of this objective, improvements related to bicycle, pedestrian and equestrian facilities or safety improvements, including but not limited to intersection and turn lane additions or improvements, will not be deemed an expansion or extension of the roadway.

POLICY 17.2.1 (As presented in Staff Report)

POLICY 17.2.2: Future extensions of roadways into or through the boundaries of the Buckingham Community will be limited to the Luckett Road Extension on the alignment and in the configuration as adopted by the Board of County Commissioners on June 3, 2008. During the June 3rd meeting the Board recognized the potential to avoid bisecting the Heritage Lakes parcel by shifting the alignment to the east, and that this could be accomplished if the Heritage Lakes parcel is ultimately acquired through the Conservation 20/20 program. If the Heritage Lakes parcel is acquired, a revision in the alignment will be coordinated with CLASAC. Any proposal to further change the adopted alignment of the Luckett Road Extension within the Buckingham Community (beyond the one discussed above) will require analysis and public input. The Lee County Department of Transportation must have at least one public meeting within the community, and the Lee County Board of County Commissioners must have at least one public meeting after 5:00 p.m. regarding the proposed road changes. 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. In addition, specific roadway extensions are prohibited as follows:

1. The extension of State Road 31 south of the Orange River is prohibited.
2. The extension of Ellis Road is prohibited.
3. The extension of Staley Road to State Road 82 is prohibited.
4. The extension and connection of Long Road to Ellis Road is prohibited.
5. No new east/west collector roadways will be planned or built within the Rural Community Preserve.

POLICY 17.2.3 to Policy 17.7.2 (As presented in Staff Report)

PROPOSED
TABLE 1(b)
Year 2030 Allocations

Future Land Use Classification	Lee County Totals	Ava	Boca Grande	Bonita Springs	Fort Myers Shores	Burnt Store	Cape Coral	Capri	Fort Myers	Fort Myers Beach	Gateway/ Airport	Daniels Parkway	Jonah/ McGregor
Residential By Future Land Use Category	Intensive Development	1,367	0	0	0	20	0	27	0	250	0	0	0
	Central Urban	14,757	0	0	0	225	0	0	0	230	0	0	375
	Urban Community	18,425	520	465	0	637	0	0	0	0	0	0	850
	Suburban	16,623	0	0	0	1,810	0	0	0	85	0	0	2,498
	Outlying Suburban	4,105	30	0	0	40	0	2	500	0	0	0	377
	Sub-Outlying Suburban	1,548	0	0	0	367	0	0	0	0	0	0	0
	Industrial Development	79	0	0	0	0	0	0	0	39	0	0	5
	Public Facilities	1	0	0	0	0	0	0	1	0	0	0	0
	University Community	850	0	0	0	0	0	0	0	0	0	0	0
	Destination Resort Mixed Use Water Dependent	8	0	0	0	0	0	0	0	0	0	0	8
	Burnt Store Marina Village	4	0	0	0	0	4	0	0	0	0	0	0
	Industrial Interchange	0	0	0	0	0	0	0	0	0	0	0	0
	General Interchange	42	0	0	0	0	0	0	0	0	0	2	0
	General/Commercial Interchange	0	0	0	0	0	0	0	0	0	0	0	0
	Industrial/Commercial Interchange	0	0	0	0	0	0	0	0	0	0	0	0
	University Village Interchange	0	0	0	0	0	0	0	0	0	0	0	0
	New Community	900	0	0	0	0	0	0	0	0	900	0	0
	Airport	0	0	0	0	0	0	0	0	0	0	0	0
	Tradeport	9	0	0	0	0	0	0	0	0	9	0	0
	Rural	8,313	1,948	0	0	1,400	636	0	0	0	0	1,500	0
	Rural Community Preserve	3,100	0	0	0	0	0	0	0	0	0	0	0
	Coastal Rural	1,300	0	0	0	0	0	0	0	0	0	0	0
	Outer Islands	202	5	0	0	1	0	0	150	0	0	0	1
	Open Lands	2,805	250	0	0	590	0	0	0	0	0	120	0
	Density Reduction/Groundwater Resource	6,905	711	0	0	0	0	0	0	0	94	0	0
	Conservation Lands Uplands	0	0	0	0	0	0	0	0	0	0	0	0
	Wetlands	0	0	0	0	0	0	0	0	0	0	0	0
	Conservation Lands Wetlands	0	0	0	0	0	0	0	0	0	0	0	0
Total Residential		81,373	3,464	485	0	4,500	1,250	29	661	604	0	1,023	3,322
Commercial		12,763	57	52	0	400	50	17	125	150	0	1,100	440
Industrial		6,620	26	3	0	400	5	26	0	300	0	3,100	10
Non Regulatory Allocations													
Public		81,853	7,100	421	0	2,000	7,000	20	1,961	350	0	7,500	2,416
Active Agriculture		24,957	5,100	0	0	550	150	0	0	0	0	0	20
Passive Agriculture		45,859	13,549	0	0	2,500	109	0	0	0	0	1,491	20
Conservation (Wetlands)		81,948	2,214	611	0	1,142	3,236	133	1,603	748	0	2,809	1,719
Vacant		21,802	1,953	0	0	226	931	34	0	45	0	300	20
Total		357,175	33,463	1,572	0	11,718	12,731	259	4,340	2,197	0	17,323	7,957
Population Distribution*		495,000	5,090	1,531	0	30,861	3,270	225	530	5,744	0	11,582	16,468
* Population for Unincorporated Area of Lee County													34,538

PROPOSED
TABLE 1(b)
Year 2030 Allocations

Future Land Use Classification	Lehigh Acres										Buckingham		Estero	Bayshore
	San Carlos	Sanibel	South Fort Myers	Pine Island	Adopted	Proposed	Southwest Lee County	North Fort Myers	Adopted	Proposed				
Intensive Development	0	0	660	3	0	42	0	365	0	0	0	0	0	0
Central Urban	17	0	3,140	0	8,299	8,290	0	2,600	0	0	0	0	0	0
Urban Community	1,000	0	863	500	43,268	13,013	0	0	64	110	450	0	0	0
Suburban	1,975	0	1,200	675	0	0	0	6,690	0	0	1,700	0	0	0
Outlying Suburban	0	0	0	600	0	0	0	382	0	0	454	0	0	0
Sub-Outlying Suburban	25	0	0	0	0	0	0	140	48	66	0	950	0	0
Industrial Development	5	0	10	0	0	0	0	0	0	0	0	0	0	0
Public Facilities	0	0	0	0	0	0	0	0	0	0	0	0	0	0
University Community	850	0	0	0	0	0	0	0	0	0	0	0	0	0
Destination Resort Mixed Use Water Dependent	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Burnt Store Marina Village	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Industrial Interchange	0	0	0	0	0	0	0	0	0	0	0	0	0	0
General Interchange	0	0	0	0	0	0	15	7	0	0	6	12	0	0
General/Commercial Interchange	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Industrial/Commercial Interchange	0	0	0	0	0	0	0	0	0	0	0	0	0	0
University Village Interchange	0	0	0	0	0	0	0	0	0	0	0	0	0	0
New Community	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Airport	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Tradeport	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Rural	90	0	0	190	44	14	0	500	67	50	635	1,350	0	0
Rural Community Preserve	0	0	0	0	0	0	0	0	3,046	3,100	0	0	0	0
Coastal Rural	0	0	0	1,300	0	0	0	0	0	0	0	0	0	0
Outer Islands	0	0	0	45	0	0	0	0	0	0	0	0	0	0
Open Lands	0	0	0	0	0	0	0	45	0	0	0	1,800	0	0
Density Reduction/Groundwater Resource	0	0	0	0	0	0	4,000	0	0	0	0	2,100	0	0
Conservation Lands Uplands	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Wetlands	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Conservation Lands Wetlands	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Residential	3,962	0	5,870	3,313	24,483	21,268	4,015	10,728	3,203	3,326	3,245	6,212	139	0
Commercial	1,944	0	2,100	226	4,420	1,420	38	1,687	48	18	1,700	0	0	0
Industrial	450	0	900	64	360	300	65	554	5	5	87	5	0	0
Non Regulatory Allocations	2,660	0	3,500	2,100	45,000	15,289	12,000	4,000	2,444	1,486	7,000	1,500	0	0
Public	0	0	0	2,400	0	0	15,101	200	444	411	125	900	0	0
Active Agriculture	0	0	0	815	0	0	18,000	1,535	3,619	3,619	200	4,000	0	0
Passive Agriculture	2,798	0	188	14,767	4,486	1,541	31,630	1,317	384	336	5,068	882	0	0
Conservation (Wetlands)	244	0	309	3,781	7,374	8,085	500	2,060	4,278	1,000	809	530	0	0
Vacant	12,058	0	12,367	27,466	47,046	47,904	81,249	22,103	44,028	10,201	18,234	14,168	0	0
Total	36,963	0	58,363	13,266	464,702	164,699	1,270	70,659	6,444	6,117	25,395	8,410	0	0
* Population for Unincorporated Area of Lee County														

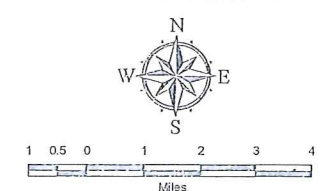
Residential By Future Land Use Category

CPA2007-00049
LEE COUNTY
PLANNING
COMMUNITIES
ADOPTED
Year 2030
Planning Communities

- City Limits
- Areas Proposed to Change
- 1. Alva
 - 2. Boca Grande*
 - 3. Bonita Springs
 - 4. Fort Myers Shores
 - 5. Burnt Store
 - 6. Cape Coral
 - 7. Captiva
 - 8. Fort Myers
 - 9. Fort Myers Beach
 - 10. Gateway/Airport
 - 11. Daniel Parkway
 - 12. Iona/McGregor
 - 13. San Carlos
 - 14. Sanibel
 - 15. South Fort Myers
 - 16. Pine Island*
 - 17. Lehigh Acres
 - 18. Southeast Lee County
 - 19. North Fort Myers
 - 20. Buckingham*
 - 21. Estero*
 - 22. Bayshore*

* Area specific Lee Plan Goals, Objectives, & Policies may apply.

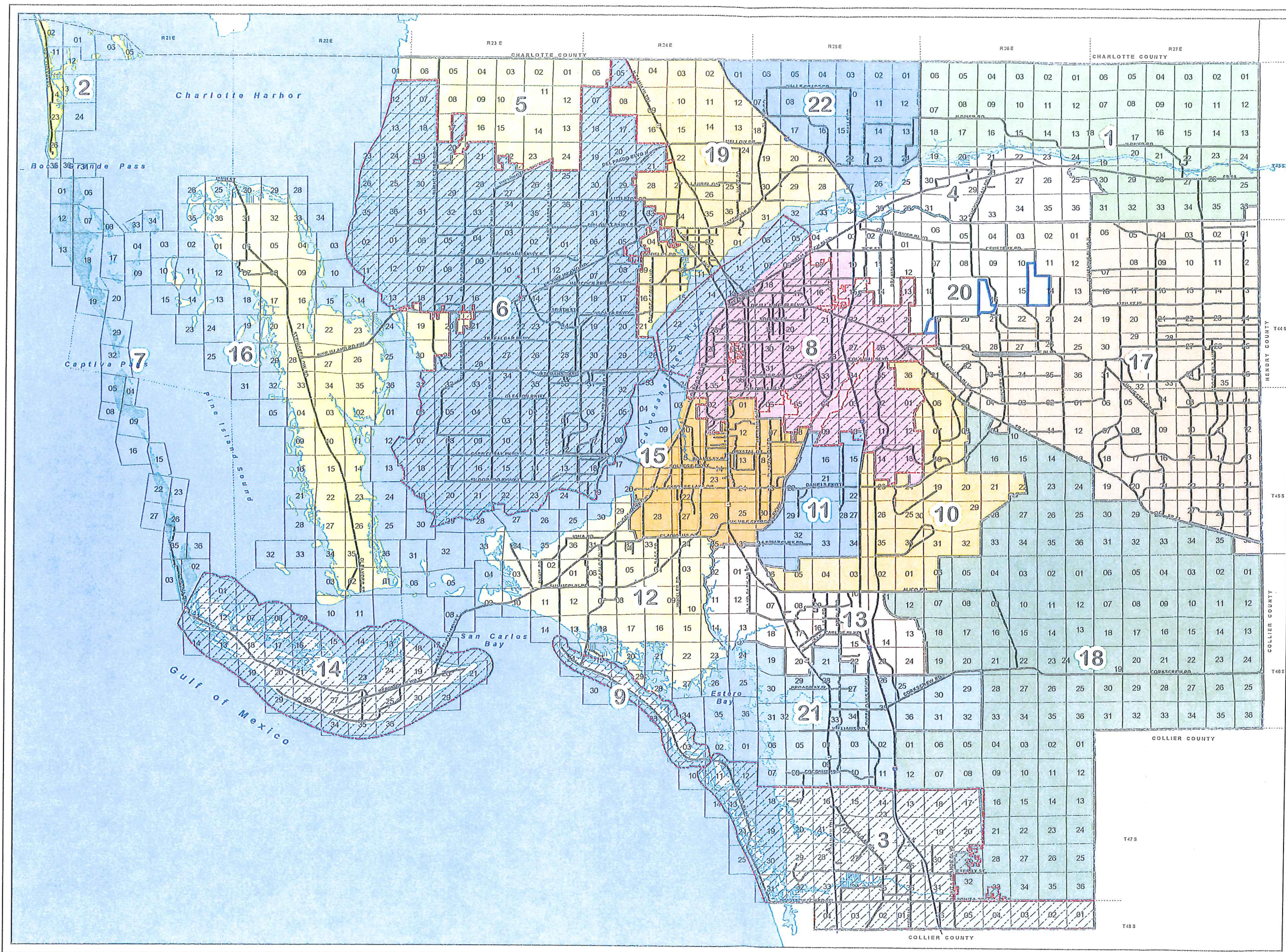
The Planning Communities Map and Acreage Allocation Table (see Table 1(b) and Policies 1.1.1 and 2.2.2) depict the proposed distribution, extent, and location of generalized land uses for the year 2030.

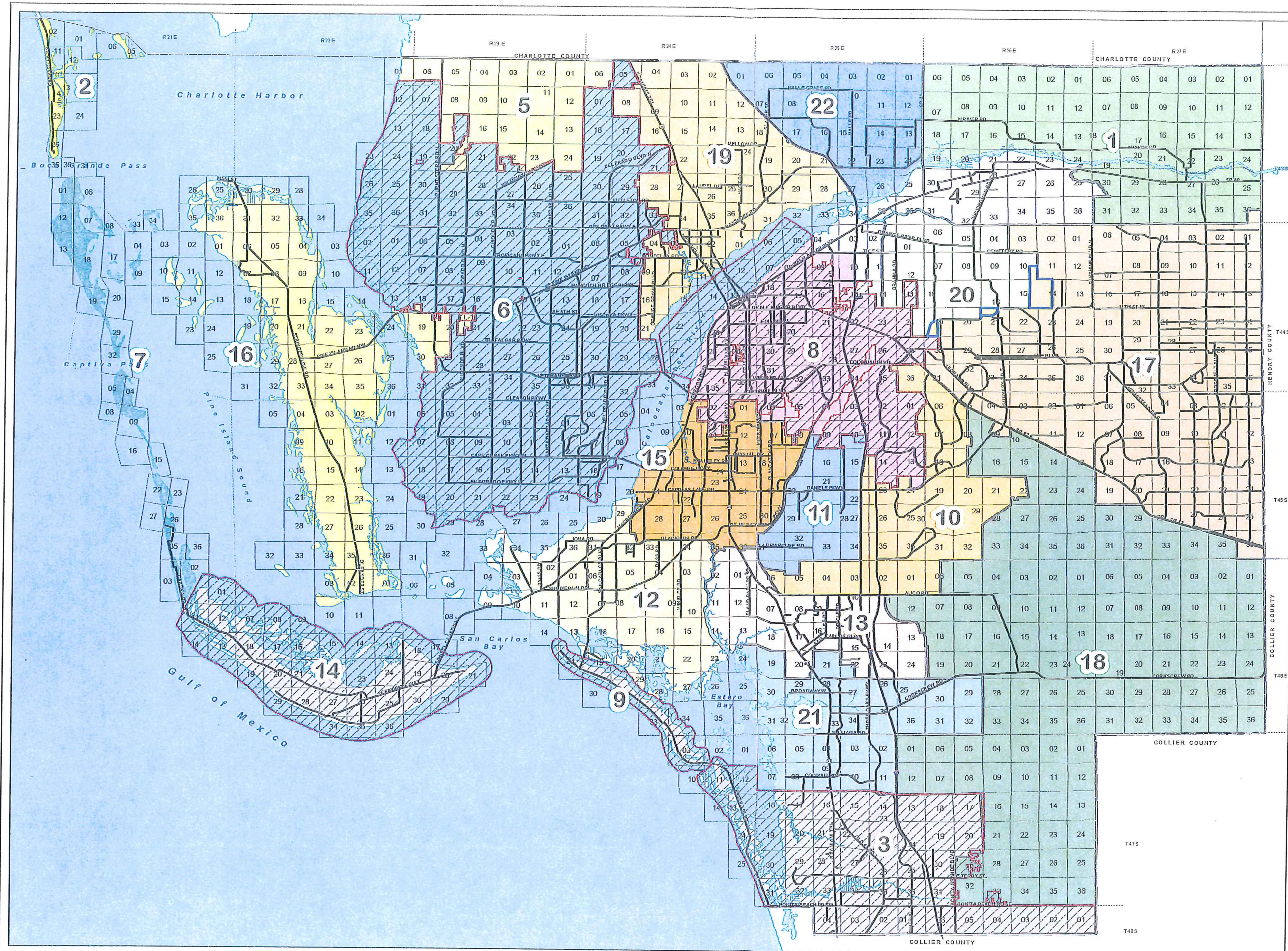


Map Generated: September 2009
City Limits current to date of map generation

Last Amended: August 13, 2007
Adopted by Ordinance No. 98-09
Amended by Ordinance No.
02-02, 03-01, 03-02, 03-04, 03-21, 07-09, 07-13

ADOPTED
Lee Plan Map 16





CPA2007-00049 LEE COUNTY PLANNING COMMUNITIES

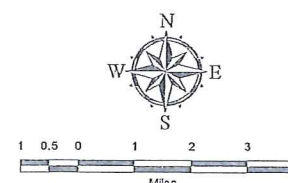
PROPOSED
Year 2030

Planning Communities

- City Limits
- Areas Proposed to Change
- 1. Alva
- 2. Boca Grande*
- 3. Bonita Springs
- 4. Fort Myers Shores
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- 18. Southeast Lee County
- 19. North Fort Myers
- 20. Buckingham*
- 21. Estero*
- 22. Bayshore*

* Area specific Lee Plan Goals, Objectives, & Policies may apply.

The Planning Communities Map and Acreage Allocation Table (see Table 1(b) and Policies 1.1.1 and 2.2.2) depict the proposed distribution, extent, and location of generalized land uses for the year 2030.



Map Generated: October 2009
City Limits current to date of map generation

Last Amended: August 13, 2007
Adopted by Ordinance No. 98-09
Amended by Ordinance No.
02-02, 03-01, 03-02, 03-04, 03-21, 07-09, 07-13

PROPOSED
Lee Plan Map 16



BUCKINGHAM COMMUNITY PLAN

SEPTEMBER 2007

RECEIVED

SEP 26 2007

COMMUNITY DEVELOPMENT

CPA 2007-00049

Buckingham Community Plan

Buckingham Community Planning Panel

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Michael Rippe Vice President

Gordon Brandt, Secretary

Bob Murray Treasurer

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Submitted
September 2007

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Lee County Board of County Commissioners
Department of Community Development
Division of Planning
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Fort Myers, FL 33902-0398
Telephone: (239) 479-8585
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APPLICATION FOR A COMPREHENSIVE PLAN AMENDMENT

(To be completed at time of intake)

DATE REC'D _____ REC'D BY: _____

APPLICATION FEE _____ TIDEMARK NO: _____

THE FOLLOWING VERIFIED:

Zoning ☐

Commissioner District ☐

Designation on FLUM ☐

(To be completed by Planning Staff)

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

Request No: _____

APPLICANT PLEASE NOTE:

Answer all questions completely and accurately. Please print or type responses. If additional space is needed, number and attach additional sheets. The total number of sheets in your application is: 59

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

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

9/24/07

[Signature]

DATE

SIGNATURE OF OWNER OR AUTHORIZED REPRESENTATIVE

I. APPLICANT/AGENT/OWNER INFORMATION

Bill Burdette, Buckingham Community Planning Panel

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ADDRESS

Fort Myers

FL

33905

CITY

STATE

ZIP

239- 936- 1404

TELEPHONE NUMBER

FAX NUMBER

Margaret Banyan, Ph.D., Johnson Engineering

AGENT*

PO Box 1550

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CITY

STATE

ZIP

239- 461- 2450

TELEPHONE NUMBER

239- 334- 3361

FAX NUMBER

OWNER(s) OF RECORD

ADDRESS

CITY

STATE

ZIP

TELEPHONE NUMBER

FAX NUMBER

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

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

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

A. TYPE: (Check appropriate type)

☒ Text Amendment

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

B. SUMMARY OF REQUEST (Brief explanation):

Amending Buckingham Community Plan Goal 17 of the Lee Plan.

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

1. Site Address: Please see Section 6

2. STRAP(s): Please see Section 6

B. Property Information

Total Acreage of Property: Please see Section 6

Total Acreage included in Request: Please see Section 6

Area of each Existing Future Land Use Category: N/A

Total Uplands: N/A

Total Wetlands: N/A

Current Zoning: N/A

Current Future Land Use Designation: N/A

Existing Land Use: N/A

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

Lehigh Acres Commercial Overlay: N/A

Airport Noise Zone 2 or 3: N/A

Acquisition Area: N/A

Joint Planning Agreement Area (adjoining other jurisdictional lands): N/A

Community Redevelopment Area: N/A

- D. Proposed change for the Subject Property:

Please see Section 3

- E. Potential development of the subject property:

1. Calculation of maximum allowable development under existing FLUM:

Residential Units/Density N/A

Commercial intensity N/A

Industrial intensity N/A

2. Calculation of maximum allowable development under proposed FLUM:

Residential Units/Density N/A

Commercial intensity N/A

Industrial intensity N/A

IV. AMENDMENT SUPPORT DOCUMENTATION

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

A. General Information and Maps

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

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

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

B. Public Facilities Impacts

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

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

Long Range – 20-year Horizon: **N/A**

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

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

Short Range – 5-year CIP horizon: **N/A**

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

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

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

- 2. Provide an existing and future conditions analysis for: **N/A**
 - a. Sanitary Sewer
 - b. Potable Water
 - c. Surface Water/Drainage Basins
 - d. Parks, Recreation, and Open Space.

Analysis should include (but is not limited to) the following: **N/A**

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

3. Provide a letter from the appropriate agency determining the adequacy/provision of existing/proposed support facilities, including: **N/A**

- a. Fire protection with adequate response times;
- b. Emergency medical service (EMS) provisions;
- c. Law enforcement;
- c. Solid Waste;
- d. Mass Transit; and
- e. Schools.

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

C. Environmental Impacts **N/A**

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

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

D. Impacts on Historic Resources N/A

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

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

E. Internal Consistency with the Lee Plan N/A

1. Discuss how the proposal affects established Lee County population projections, Table 1(b) (Planning Community Year 2020 Allocations), and the total population capacity of the Lee Plan Future Land Use Map.
2. List all goals and objectives of the Lee Plan that are affected by the proposed amendment. This analysis should include an evaluation of all relevant policies under each goal and objective. **No additional Goals or objectives are affected.**
3. Describe how the proposal affects adjacent local governments and their comprehensive plans.
4. List State Policy Plan and Regional Policy Plan goals and policies which are relevant to this plan amendment.

F. Additional Requirements for Specific Future Land Use Amendments N/A

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

3. Requests involving lands in critical areas for future water supply must be evaluated based on policy 2.4.2.
 4. Requests moving lands from Density Reduction/Groundwater Resource must fully address Policy 2.4.3 of the Lee Plan Future Land Use Element.
- G. Justify the proposed amendment based upon sound planning principles. Be sure to support all conclusions made in this justification with adequate data and analysis.

Item 1: Fee Schedule

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

AFFIDAVIT

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

[Signature]
Signature of owner or owner-authorized agent

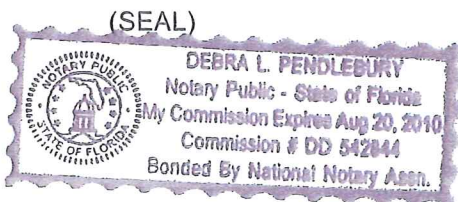
9/24/07
Date

Bill Burdette

Typed or printed name

STATE OF FLORIDA)
COUNTY OF LEE)

The foregoing instrument was certified and subscribed before me this 24th day of September 2007,
by Bill Burdette who is personally known to me or who has produced
as identification.



[Signature]
Signature of notary public
Debra Pendlebury
Printed name of notary public

Panel Member and Consultant Contact Information

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Planning Narrative

Planning History and Background

The Buckingham Community Plan is the product of the Buckingham Community Planning Panel (BCPP). The BCPP and the planning effort were formed in the attempt to carefully study the challenges and opportunities associated with the protection and preservation of a rural community while providing for limited growth and development.

This community plan was funded by the Board of County Commissioners through the Lee County Department of Community Development. Lee County allocates community planning funds through Administrative Code 13-3, which outlines the process by which communities are able to request up to \$50,000 for the purpose of planning. The BCPP requested and was approved for funding in July 2007. The Community Planning Agreement requires, as a deliverable, that the community plan include data and analysis to support recommended amendments to the Lee Plan. As a result, the purpose of this plan is twofold: 1) provide a document that guides future community decisions and 2) provide a document that fulfills the requirements of the Community Planning Agreement between the BCCP and Lee County.

The Buckingham Community Plan aims to guide the future growth, character, and quality of life in the Buckingham Planning Community. The means to guide future growth is through the amendment and adoption of goals, objectives, and policies into the Lee Plan. The Buckingham community is currently designated in the Lee Plan through Goal 17, which defines the area in the future land use map and sets out the vision for the Buckingham Rural Community Preserve and other items designed to preserve the community's rural integrity. The amended Goal 17 will provide the foundation for specific regulations to be adopted in the Lee County Land Development Code. These policies will provide direction on land use and infrastructure, thereby ensuring that future development remains consistent with the stated vision of the community. It encourages approved development to strive toward these goals.

Buckingham Physical and Community Characteristics

Physical Characteristics

The Buckingham community is a 16 square mile section of unincorporated Lee County, located east of the City of Fort Myers and west of unincorporated Lehigh Acres. The Buckingham community is 'sandwiched' between two high growth communities, which creates challenges for maintaining the rural character of the community.

External / Surrounding Neighborhood Characteristics

Development in Lehigh Acres affects the Buckingham community by creating the need for additional infrastructure to support increasing populations. These external pressures include:

- The perceived need to provide transportation routes between Lehigh Acres and major work centers in Fort Myers and Cape Coral
- The need for additional solid waste and waste water treatment facilities
- The need to manage water in Lehigh Acres, which has the effect of flooding the Orange River during the rainy season
- Perceived needs for additional residential development

Population Demographics ¹

Based on statistics from the 2000 Census, the population of Buckingham was 3,742 with 16.8% of individuals below the poverty line (compared with 12.4% in the United States). 64% of the community is in the labor force and travels an average of 25.6 minutes to work (very consistent with national percentages of 63.9% in labor force and 25.5 minutes mean travel time). The median household income in Buckingham was \$51,068 (compared with \$41,994 nationally). Buckingham boasts a high owner occupancy rate of 90.3%, compared to 76.5% in Lee County and 66.2% nationally.

Governance

Currently, Buckingham is part of unincorporated Lee County, meaning that it is formally governed by the Board of County Commissioners for Lee County. The initial development of Goal 17 in the Lee Plan was a product of early community efforts. In 1989 the Buckingham Preservation Committee was formed as a subcommittee of the fifty-year-old Buckingham Community Club. The Buckingham Preservation Committee is credited with the writing of the original community plan amendments (Goal 17), adopted in 1991. The Buckingham Conservancy, Inc. was incorporated as a Florida Non Profit Corporation in 1995. The core group of the Conservancy continues to meet from time to time as needed.²

Tensions and Planning

Underlying this plan and the process of development are some fundamental conflicts that create tensions that must be balanced in the planning process. These are:

- The rights of individuals to develop private property versus the rights of the community character as a whole
- The challenges associated with maintaining rural character in the midst of high growth

Planning Elements

The content of this plan was developed over the course of an eight-month period. Data were collected using the methods outlined in Section 4 of this document. The planning elements that appear below are based on the conclusions of the data collection, public participation, and community planning panel decisions.

Community Vision / Community Character

The Buckingham community shares a set of distinct values that center on its identity as a rural community with a unique history. The policies expressed in this plan are consistent with a rural community, and include the desire to maintain an agricultural land use pattern, maintain a diverse housing style, enhance the rural character, and protect its environmental and historical values.

The Lee Plan recognizes the Buckingham community values in their vision statement,

20. Buckingham - This Community is located between Lehigh Acres and the City of Fort Myers and Buckingham Road and the Orange River. It is considered the

¹ United States Government. 2000. *U.S. Census 2000*. United States Government. Data were accessed for Buckingham as a Census Defined Place.

² Blackburn, Don. 2007. *Personal Communication*. September 20, 2007. The Buckingham Community Club primarily managed the Cemetery and held a Christmas Party every year. It was made up of old family members who were born and raised in Buckingham.

Buckingham Rural Community Preserve. The property in this community is predominantly designated Rural Community Preserve with some pockets of Public Facilities, Rural, and Outlying Suburban. The residents will continue to work to maintain the rural nature of this area of the county. The residents have limited the commercial activity within the community to a node focused around the intersections of Buckingham Road and Cemetery Road and Buckingham Road and Orange River Boulevard. It is their preference that the majority of the communities commercial needs be met outside of their community. They also have concerns with any transportation projects which increase the volume of traffic through their community. The population of Buckingham will not change substantially during the life of this plan. (Added by Ordinance No. 99-15)³

Land Use and Development

One of the ways in which the Buckingham community protects its rural character is through the development of policies that encourage lower-density development. This is a challenge in the community due to its placement within two high density areas. As a result, the community confronts pressures to place utilities, residential development, and commercial operations within the community. The community addresses these pressures in several different ways as outlined below.

The Rural Community Preserve is accompanied by other land use categories that are smaller in size relative to the Rural Community Preserve. These include Public Facilities, Urban Community, and Outlying Suburban. Whereas Goal 17 previously was bound by the Rural Community Preserve, this plan extends those boundaries to meet the community planning boundaries as identified in the Lee Plan. A map of this boundary appears in Section 6 of this document.

Density and Lot Size

The community has used several strategies to limit dense development within its boundaries. The first strategy that limits density involves retaining the “Rural Community Preserve,” which is the primary future land use category within the Buckingham community. The Rural Community Preserve category is defined as,

POLICY 1.4.3: The Rural Community Preserves are established following special studies of Lee County's intact rural communities. Within these areas, special design approaches are to be used to maintain the existing rural character, for example: conservation easements, flexible road design standards (including relocation of future arterials not serving the rural community), special fencing and sign standards, and retention of historic rural uses. These areas are not to be programmed to receive urban-type capital improvements. Lands within this category are not intended to be converted to any Future Urban Areas; rather, they are to remain permanently rural in character and use. These areas are restricted to low density residential uses (with minimum lot size requirements), agricultural uses, and minimal non-residential uses that are needed to serve the rural community. Property in this category may not be rezoned to any RV district. Additional goals, objectives, policies, and standards for these areas may be included in this plan based on the special studies (see for example, Goal 17). Maximum

³ Lee County. 2005. *The Lee Plan*. Fort Myers, FL: Lee County Board of County Commissioners.

density is one dwelling unit per acre (1 du/acre). (Amended by Ordinance No. 91-19, 94-30)⁴

The Buckingham community supports the rural character of the community by mandating that all new lots must have a minimum of 43,560 square feet or 1 acre. Beyond lot size, the community further limits density by constraining residential development to one unit per buildable acre (previously allowed higher densities are excluded). Whereas the Rural Community Preserve land use category in the county is constrained to one dwelling unit per acre, the Buckingham community density is to be based on buildable acres. Buildable acres will include no more than 20% wetlands, and exclude road right of ways, water management areas, or natural water bodies. The community acknowledges that other land use categories in the Buckingham Community may be entitled to higher densities.

Clustered Development

Another mechanism to preserve the rural character of the Buckingham community involves allowing clustered development. The purpose of clustering residential development is to preserve the maximum amount of open space possible within the community. "Clustering is defined as a form of development where the buildings in a project are grouped together into compact arrangements, or clusters, while other portions of the site are preserved as permanent open space."⁵ Clustered developments on larger lots (over 10 acres in size) allow residential housing to be moved closer together and create more open space on the perimeter of the property. The following figures illustrate the differences between non-clustered and clustered developments, where natural areas are preserved.

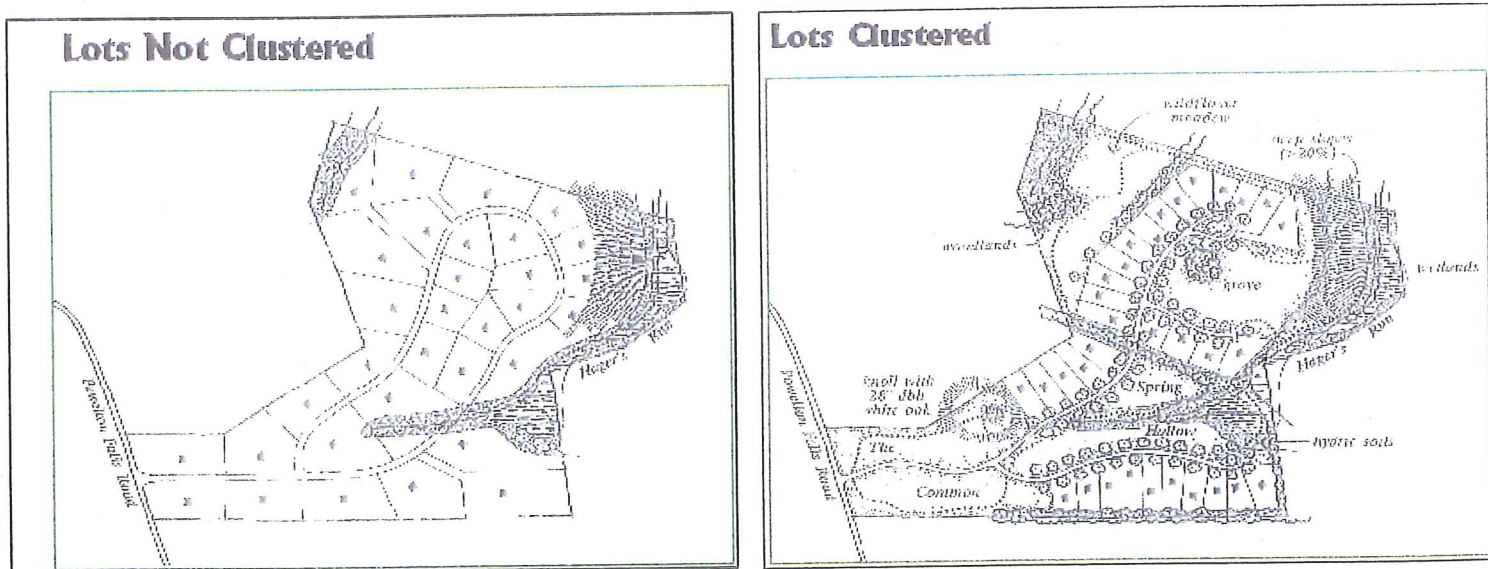


Figure 1 Source: Randall G. Arendt, *Conservation Design for Subdivisions: A Practical Guide to Creating Open Space Networks*, Island Press, 1996.

⁴ Ibid.

⁵ Bass, Beverly. 2006. *A Citizen's Guide to the Forest Conservation Act in Maryland*. Chesapeake Bay, MD: Chesapeake Bay Foundation. Website publication retrieved September 7, 2007 from http://www.cbf.org/citizenguides/final_forest_conserv_site/4fc_clustering.htm.

Transitional Densities and Development

Other efforts to preserve the rural character of the community involve the way in which surrounding developments transition to the Buckingham Rural Community Preserve and to the Buckingham community. These developments should be appropriately designed as to gradually decrease density (or the appearance of density) as they approach the boundaries of the community and the preserve. In addition, those developments that buttress the preserve should be single-family. This will provide a graduated aesthetic appropriate for the community and its surrounding areas.

Other Land Uses: Commercial and RVPD

Additional means to limit density and preserve the rural character in the Buckingham community involve limiting commercial development and prohibiting recreational vehicle developments. Consistent with the Lee Plan vision for the Buckingham community (see above), commercial properties, unless already zoned, are confined to the intersection of Orange River Boulevard and Buckingham Road. While commercial development should be limited, the community supports commercial activity as it relates to agricultural operations. For example, commercial nurseries should be allowed, as it supports the rural and agricultural character of the community. For this reason, the community supports commercial uses allowed in agricultural zoning districts. For a listing of these uses, see the Use Regulations Table in the Lee County Land Development Code Sec. 34-653.

In the spirit of retaining a historically rural community, Recreation Vehicle Planned Developments (RVPD) are also excluded within the Buckingham boundaries.⁶

Roads and Traffic

As a result of its physical location between the City of Fort Myers and the unincorporated area of Lehigh Acres, the Buckingham community experiences the pressure of traffic and roads. Many residents of Lehigh Acres travel west and southwest to work in other areas of Lee County, which requires travel through the Buckingham community. 63.1% of respondents to the May 2007 survey stated that traffic was their greatest safety concern. When asked to rank their concerns about specific roads, respondents ranked Buckingham Road as being their first concern, followed by Orange River Boulevard, Tice Street, Neal Road, Staley Road, and Cemetery Road (in rank order).

Road Development

In response to these community concerns, several restrictions on road development have been in place to limit traffic impacts. These are limitation on road extensions for: State Route 31 south of the Orange River, Ellis Road, Long Road, and Staley Road. There are also limitations on the planning and building of east/west collector roadways and constraining right-of-ways to no more than 80 feet on all roads except for Buckingham and Luckett Roads.

Recognizing that roads and traffic will continue to be an area of concern for the Buckingham community well into the future, the impacts from traffic must be minimized. The means for doing this

⁶ The Lee County Land Development Code Sec. 34-931 (c)(3) defines the principle use of a RVPD district as, "the principal use of a recreational vehicle planned development is recreational vehicle emplacement, although some ancillary commercial uses for the convenience of the development guests may also be permitted."

includes restricting collector roads and analyzing alternative routes. These traffic impacts should be accompanied by efforts to minimize light pollution and install landscaping that is consistent with the rural character of the community. At the same time, new institutional developments must be accompanied by road improvements designed to improve safety and accommodate increases in traffic.

Traffic Safety

External traffic from other areas outside the Buckingham community have a large impact on the safety of the roads within the community. Buckingham roads must be improved to increase safety for travelers. However, in no way should the community desire for increased road safety serve as a justification for increasing traffic volume from other areas outside the community.

Public Facilities and Utilities

The Buckingham community, as one of the less developed areas of the county, is often targeted for the placement of public facilities and utilities. An overuse of the community in this way, however, will ultimately diminish its rural character. At the same time, certain facilities are part of the community's history. Public facilities and utilities within the Buckingham community should be appropriately balanced to preserve the rural character of the community while providing only the appropriate infrastructure to other parts of the county. This section addresses the limitations on utility provision, outlines the appropriate facilities for the community, and recognizes the value of historic public facilities in the community.

Utility Placement and Management

As a means to limit urban development, the Buckingham community limits central sewer and commercial natural gas lines. These limitations exclude central sewer in those areas that have previously been identified in Map 7 (see Section 6) or are within the existing Resource Recovery Facility and the Lee County Parks and Recreation facility. Central water is allowable, but only if paid for and requested by private property owner(s). Natural gas lines that serve residential purposes are also allowed within the community. In addition, utilities that accompany new developments must consider the preservation of the rural character by ensuring that all developments for which a development order are required to install utilities (e.g., electricity, gas, telephone, and cable lines) underground.

In addition to utility placement, the management of utilities has significant impacts on the community. Of particular concern is the need for management of water in the surrounding areas. The East County Water Control District (ECWCD) is responsible for water management in the Lehigh Acres community. During the rainy season the district will release large quantities of water into the Orange River. These large water releases tend to cause flooding and water quality impacts downriver. The ECWCD should consider the impacts of water management outside its district and is encouraged to develop storm water retention and control systems and take steps to improve water quality.

Appropriate Facilities and Utilities

As noted above, the Buckingham community is one of the few locations in the county that offers opportunities to place large scale facilities. The placement of any new public facilities and utilities in the community must consider the rural character of the community. There is a range of appropriate

public facilities and utilities that may be considered in the community. Those that are inappropriate are detention and correctional facilities, water treatment, sewage treatment, reclamation facilities, landfills, industrial facilities, and resource recovery facilities, FEMA trailers, and immediate emergency aftermath facilities.

Of particular concern is Gulf Coast Center (previously known as Sunland Training Center), a large tract of land located at 5820 Buckingham Road. Gulf Coast Center currently operates as a vocational service under the Agency for Persons with Disabilities through the State of Florida. Gulf Coast Center is scheduled to close December 31, 2010. The site upon which the center is located is a large tract of land. As with all public facilities, the Buckingham community supports the conversion of the center to be consistent with the community character. In no way should those facilities and utilities noted above as inappropriate be located at the Gulf Coast Center site.

Public Service Facilities

Of particular importance to the community are those public facilities that provide a historically important service. These facilities include the Buckingham Army Airfield, the Buckingham airparks, the Mosquito Control District headquarters, and the Lee County Gun Range (operated by the Lee County Sheriff's Office). The Buckingham Army Airfield and the Buckingham airfields have historic importance to the community. The airfield was instituted in the community by the U.S. Army 1942 as a gunnery school. The airfield was previously intended to be the Buckingham Air Base, and was to house 3000 men.⁷ The Lee County Mosquito Control currently operates the airfield. The Lee County Gun Range sits on property owned by Lee County, bordering the Mosquito Control facilities and the Lee County Sheriff's Office Aviation unit uses the airfield. Also of significance are the airparks in the community, with many residents owning and operating planes. Residents expressed that these facilities are highly valued and should be protected. New developments should not put at risk any historically or otherwise valued public service facility that is recognized in this planning document.

Landscaping, Buffering, Community Aesthetics, and Quality of Life

Maintaining a rural character for the community depends in part on its appearance. The community is not interested in defining the appearance of 'rural', but could more practically identify what is not rural in character. Given that there are a variety of uses within the Buckingham community, mitigating these 'non rural' uses through buffering, landscaping, and other regulations is important.

For example, several facilities in Buckingham, such as electrical substations and resource recovery facilities are not consistent with 'rural character'. These facilities must be buffered to enhance the aesthetic in the community using native planting materials. Similarly, the waste-to-energy incinerator that operates in the Buckingham community was installed in the community with the understanding that there would be no trash or otherwise unsightly affects outside the facility boundaries. Regular trash pickup on those roads affected by the incinerator as well as vegetative buffers to minimize the industrial appearance of this facility must be maintained.

To maintain the rural aesthetic, residential developments must not install walls as boundaries, but may build berms that provide the appropriate buffering as might be required by Lee County. Light pollution

⁷ Southwest Florida Online. 2007. *Florida Aviation and Southwest Florida - 1910 to 1996*. Website retrieved 9/5/07 from: <http://members.aol.com/browne/aviation.html>.

also causes a negative impact on the rural character of the community and must be minimized in residential developments, commercial developments, and roads.

Finally, the quality of life in the Buckingham community is tied to the Orange River. To the extent possible, the Orange River should be maintained in its natural state. Residential uses should minimize their impacts and build no new residential buildings or screen enclosures closer than 50 feet from the top of the bank of the river.

Environment, Open Space and Parks

The maintenance of the natural environment, open spaces, and parks is an essential feature of the Buckingham community. The community is one of the few areas in Lee County that provides the extent of open space and diversity of opportunities for enjoyment. However, the community maintains a strong desire to ensure that recreational and environmental uses are directed towards its historic roots in agriculture.

Recreational uses therefore, should focus on naturalized parks, hiking, and horse riding trails that ultimately will form an interconnected system. Property acquisition in the future therefore, should be directed towards developing this interconnected system.

Additionally, in the spirit of a rural community, the recreational uses in the area should be carefully managed to ensure that commercial recreational uses are not allowed on the Orange River.

The June 2007 Community Survey showed that residents are concerned about eradication of invasive exotic plant species. 88.7 percent of survey respondents strongly agreed or agreed that invasive exotic plants should be eradicated. Through the planning process, the panel and community members agreed that it is up to the Lee County code and individual residents to pursue eradication.

Agriculture

Agriculture and small family farms are important to this history and culture of Buckingham. This plan identifies two primary elements important of preserving the rural character of the community.

Agricultural Uses

The Buckingham community, in encouraging agricultural uses, wishes to allow small scale commercial and non-commercial agricultural operations. Several agricultural uses are noteworthy:

- 1) Absent clear guidelines that define small-scale commercial agricultural uses, those uses that are approved in agricultural zoning districts should be allowed. For example, allowable uses would include both nursery growing operations as well as retail nurseries operated in the community.
- 2) Small family farms are important activities in Buckingham and serve to expand the lifestyle options available in Lee County. However, some small family farms may not desire a commercial agricultural operation or match criteria for commercial agricultural operations. Thus, the community agrees that owner-occupied farms of no more than ten acres should be regarded as viable agricultural activity.
- 3) The community is interested in encouraging equestrian related activities in Buckingham. Currently, stables are allowed only to give lessons and clinics to boarders. This plan seeks to

support equestrian related activities by allowing stables to provide lessons and clinics to non-boarders as well.

Tax exemptions

While the Buckingham community is interested in encouraging small family farms, taxing policies affect individual property owners ability to sustain operations. The Lee County Property Appraiser plays an important role in maintaining the rural character of the community. The Buckingham community encourages the Lee County Property Appraiser to develop policies that continue to encourage small family farms through favorable interpretations of the agricultural tax exemptions. Specifically, the Property Appraiser is encouraged to give full consideration to Goal 17 in assessing land value and granting agricultural exemptions. There should also be recognition and full consideration given to property that is in an agricultural or conservation easement. The Property Appraiser is encouraged to establish a tax classification that specifically meets the criteria of small family farms and equestrian facilities in Buckingham. Furthermore, should a family farm lose or relinquish its agricultural exemption, the affected property would be assessed and taxed under the Save Our Homes cap rate, with the same base year as the homestead application. Finally, crops grown for research and education purposes should be considered legitimate agricultural activity.

Conclusions

As demonstrated in Section 4 of this document, there is widespread support for the Lee Plan Amendments the accompany this plan. The process was transparent, enjoyed considerable public participation, and incorporated many items generated from community members. This plan represents the central goal of the community to maintain its rural nature while being a good steward of land and community resources.

Lee Plan Amendments

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~~ Map 16 of the Lee Plan. (Added by Ordinance No. 91-19, Amended by Ordinance No. 93-25, 94-30)

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, and 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. (Amended by Ordinance No. 00-22)

POLICY 17.1.1: No property within ~~the Buckingham~~ Buckingham community will be rezoned to RVPD. (Amended by Ordinance No. 00-22)

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. (Amended by Ordinance No. 94-30, 98-09, 00-22)

POLICY 17.1.3: 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. (Amended by Ordinance No. 00-22).

Policy 17.1.4: Density within the Buckingham community will be no more than one unit per buildable acre. Densities allowable prior to the adoption of this amendment are excluded. 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 Buckingham community.

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.

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.

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.

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

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~~ Buckingham community. 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~~ Buckingham community;
6. All ~~future~~ rights-of-way in Buckingham will be no greater than ~~100~~ 80 feet (except for Buckingham Road and Luckett Road extensions);
7. The extension and connection of Long Road to Ellis ~~road~~ Road is prohibited. (Amended by Ordinance No. 94-30, 99-15, 00-22)

Policy 17.2.1: Lee County will make every effort to design and construct roads that support traffic routes around, and not through, Buckingham. Lee County will also make every effort to reduce traffic and its affects through the Buckingham community. This includes, but is not limited to, restricting the number of collector roads, analyzing alternative routes, limiting light

pollution, and installing landscaping compatible with the rural character of the Buckingham community.

Policy 17.2.2: Any future institutional or school sites affecting the Buckingham community will be accompanied by road improvements, including sidewalks, to accommodate increased traffic and improve safety.

OBJECTIVE 17.3: PUBLIC FACILITIES AND UTILITIES. To protect the rural character of the Buckingham community, public facilities and utilities that detract or diminish the overall community character are prohibited.

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 Map 7 as Future Sanitary Sewer Service Areas, the existing Resource Recovery Facility, and the adjacent Lee County Parks and Recreation Facility.

Policy 17.3.2: Central water lines 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~~Buckingham community. (Amended by Ordinance No. 00-22, 03-19)

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.

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.

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.

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.

Policy 17.3.7: Detention and correctional facilities are prohibited within the Buckingham community boundaries.

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

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.

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.

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.

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.

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.

Policy 17.4.4: Residential and commercial lighting should 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 develop a plan for an interconnected system of parks, hiking, and horse riding trails within the Buckingham community.

Policy 17.5.2: Any access to the Orange River within the Buckingham community that is to be developed by Lee County will be limited to non-commercial residential use.

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

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 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 farm 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.

Policy 17.6.6: Boarding stables will be allowed to give lessons and clinics to non-boarders by right if the owner or operator resides on site, if no clinics are held after 7PM, and the operation does not create a use, road access or drainage nuisance to its neighbors.

Data Collection Methods and Public Participation

Several methods were used to collect data in preparation of this plan and amendments. These included data and document(s) research, interviews, surveys, and meeting

Community and Subcommittee Meetings

The Buckingham Community Planning Panel collected information from community members over a series of community meetings in which participants identified the main issues facing the Buckingham community. Community meetings were publicly advertised through a series of email lists and public notices in the Lehigh News Star (copies of the advertisements appear later in this Section 4).

The issues identified in earlier meetings were researched and developed through a series of subcommittee meetings. Subcommittees focused on the following:

Infrastructure, Land Use, and Development Meetings

- Tuesday April 17th at 5pm at the Riverdale Library Branch
- Tuesday April 24th at 5pm at the Buckingham Community Center

Agriculture, Open Space, Environmental, Quality of Life Meetings

- Thursday April 19th at 5pm Location Tice Fire Station 1
- Wednesday April 25th at 5pm Location Tice Fire Station 1

Traffic and Roads Meetings

- Monday April 16th at 6pm at Kelly Tractor
- Monday April 23rd at 6pm at Kelly Tractor

Subcommittees were charged with developing preliminary policies that were needed above and beyond the previously existing Goal 17. These items were again presented at the May 2007 Community Planning meeting where citizens gave comments and feedback on the policies.

Each of the meetings had substantial attendance, as documented later in this Section 4.

Interviews

Interviews and representation by experts and stakeholders were also conducted to further understand existing policies and issues in the community.

- Lehigh Acres President Bo Turbeville (review proposed boundaries, transition areas, and common interests)
- Lee County Mosquito Control (Carmen McKinney)
- Tice Fire Department (represented by Gordon Brandt)
- Lee County Sheriff's Office Training Division (Capt. Stephan Pierce)
- Lee County Port Authority (Bill Horner)
- State of Florida Department of Transportation (Jeffrey R. Leopold, Aaron Smith)
- Lee County Department of Transportation (Sarah Clarke)
- Florida Power and Light (Karl Kauffman)

- University of Florida IFAS (Institute of Food and Agricultural Sciences)
- 20/20 Conservation Program (represented by Bill Burdette)
- Regional Planning Council (David Burr)
- Lehigh Villages developer (Max Lummis)
- Waterman Development Group (Sean Martin)
- Heidt and Associates, Inc. (Walter Fluegel)
- Community members and residents

Surveys

Two surveys were conducted within the community. Each survey was designed to collect unique information from the community. The first was to identify problems and issues, the second was to identify support (or lack of support) for proposed amendments.

- June 2007 Buckingham Community Survey. Letters were mailed to all property owners in the Buckingham planning area inviting them to participate in an on-line survey. Participants visited the www.PlanBuckingham.org website to access the survey. Those who did not have access were mailed a copy of the survey. Consultant entered paper surveys, analyzed all results, and presented survey findings. The June 2007 survey had 365 respondents. The results from the June 2007 survey appears in later in this Section 4.
- August / September 2007 Lee Plan Amendment Survey. Letters were mailed to all property owners in the Buckingham planning area inviting them to participate in a second on-line survey. This survey posted the Lee Plan Amendments as drafted by the Buckingham Community Planning Panel and asked participants to give feedback on specific areas of the plan that they favored. In order to take part, participants visited the www.PlanBuckingham.org website to access the survey link. Those who did not have access were mailed a copy of the survey. Consultant entered paper surveys, analyzed all results, and presented survey findings. 78 respondents provided feedback. The results from the August / September 2007 survey appears later in this Section 4.

Public Notice(s)

SATURDAY, JULY 7, 2007

Local History

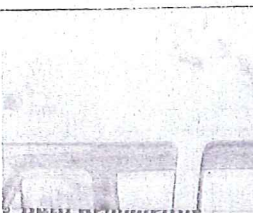
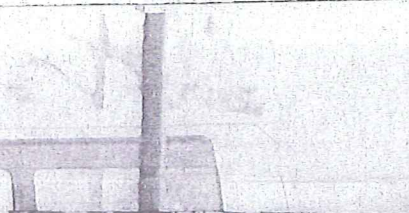
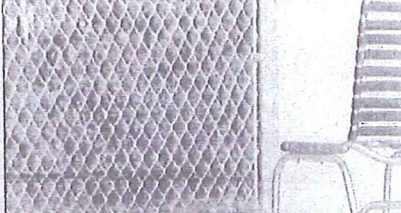
<p>AMATEUR RADIO CLUB</p>  <p>For Free Estimates 3580 • Call: (239) 424-0141</p>	<p>GRILLHOUSE</p>  <p>IN FRONT OF THE NEW HOLIDAY INN, FORT MYERS 2431 CLEVELAND AVENUE (US41) - 239.337.CHAR RESERVATIONS ACCEPTED FOR PARTIES OF 7 OR MORE *VEGETARIAN & GLUTEN-FREE FRIENDLY*</p>	<p>IN THE SWIM</p>  <p>Buckingham Community Planning Panel Meetings</p> <p>July 12, 2007 at 6 PM Riverdale Library, 14561 State Road 80 239-461-3130</p> <p>July 26, 2007 & Sept. 13, 2007 at 7 PM Buckingham Community Center 4940 Buckingham Road</p>
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Figure 2: July 7 2007 Meeting Notice

Buckingham Community Planning Panel Meetings

July 26, 2007 at 7 PM
Buckingham Community Center
4940 Buckingham Road

September 13, 2007 at 7 PM
Buckingham Community Center
4940 Buckingham Road

NEWS STAR, A SECTION, WEDNESDAY, JULY 18, 2007

OBITUARIES

Emma Jean Lee

Our Lord and Savior, Jesus Christ, reached down from Heaven to take Emma Jean Lee, 78, of Lehigh Acres, Fla., home to be with him on July 3, 2007, at her daughter's residence.

In lieu of flowers consider a donation in memory of Jean Lee Baptist Church of 1102 Leeland Heights Lehigh Acres, FL 33901 to your local chapter American Cancer Society.

Figure 3: July 18, 2007 Meeting Notice

Buckingham Community Planning Panel Meeting

Aug. 23rd & Sept. 17th, 2007 at 7 PM
Buckingham Community Center
4940 Buckingham Road

Obituaries

Orva C. Valenze

Orva M. Valenze, 84, beloved wife of William A. Valenze, joined our Lord on July 13, 2007. She was born Aug. 23, 1922, to Goldwin G. Clark and

Point/Champlain, N.Y., area. Lehigh Acres.

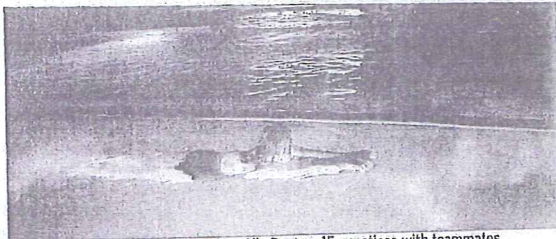
Orva was employed at Miner Institute as the executive assistant to the president for 26 years before retiring on Jan. 7, 1983. Following her retirement, Prior to her husband Willie's death, both were active members of the North Country Golf Club in Rouses Point, N.Y., and the Elk's Club in Plattsburgh, N.Y., and

Lehigh Acres.

Donations may be made to the American Cancer Society P.O. Box 22718 Oklahoma City, Okla. 73123-4718. Funeral arrangements by Anderson Funeral Home in

Figure 4: August 18 2007 Meeting Notice

C2 | NEWS STAR, A SECTION, WEDNESDAY, SEPTEMBER 5, 2007



Gateway Charter swim team member, Ally Benton, 15, practices with teammates.

Dedicated swimmers up before dawn each school day

By Annabelle Tometich

through Friday. The girls' team is composed of two members, and the boys' squad has three.

"I love swimming, and I've been swimming for a long time just regular at home, so I thought it would be cool to come try it out," a towel-wrapped Benton said after practice.

"The first day it was hard. It's so early and I was so tired in the morning, but at

down the street from the campus, which was only available from 5 to 7 a.m.

Wagner never worried that the early practice time might keep potential swimmers away — he actually thinks of it as an advantage.

"Any kids that would come out, but that don't have an interest in being here at 5 a.m. probably have no interest in being here in the long run anyway," Wagner said

meers we want."

get showered, get dressed and then leave for school. ... The bell rings at 7:40."

Wagner said spirits are pretty glum when his squad first arrives on deck, but once they hit the water, they're ready to go.

"How you guys feeling?" Wagner yelled to his team.

"Super," junior Jonathan Ponce said from the far lane.

"Really, come on!" ques-

WEEK TWO FOOTBALL GAMES

Lehigh (0-1) vs. Cape Coral (1-0)

Quick facts: The Lightning suffered a tough loss at the hands of Fort Myers last week.

The 42-19 loss was the 11th consecutive time the Lightning have fallen to the Green Wave.

Cape Coral should prove to be another difficult test for the Lightning, but if Lehigh's offense can continue to improve, the team could pull off the upset and get it's first win of the season.

News Star picks: Lehigh 14, Cape Coral 28

Riverdale (1-0) at Ida Baker (1-0)

Quick facts: Ida Baker is coming off its first varsity win yard run.

But turnovers — three interceptions by senior quarterback Jose Vidal — allowed Fort Myers to maintain all of the game's momentum.

"We gave up the big plays," Lehigh coach Matt Perkowski said. "We weren't physical, and we made too many mistakes. That's it."

Fort Myers senior running back Kai Oliveira rushed for 88

0 are slim as the Raiders are coming to town.

Riverdale had an impressive 21-13 outing against Cypress Lake last week and will likely improve to 2-0 this week.

Look for the Raiders to have this game in hand by half time. News Star picks: Riverdale 45, Ida Baker 10

East Lee County (0-1) vs. Mariner (1-0)

Quick facts: The Jaguars opened up the season with a poor showing against Ida Baker.

The Jaguars lost their first varsity game 42-0.

Unfortunately for East Lee County, things are bound to get a bit tougher from here on

the Jaguars' best chance of getting a win this season.

News Star picks: East Lee Mariner 35

Gateway (1-0) vs. Moore Haven (0-0)

Quick facts: Gateway has already beaten Moore Haven this year in a scrimmage game in which the Griffins won by score of 40-6.

This game probably won't be as big a blowout, but Gateway still will come out it with a win.

The Griffins are coming off a huge 51-6 win on the road against Academy at the Lake.

If the Griffins can continue to put big numbers on offense they could end up having very successful season.

Buckingham Community Planning Panel Meeting

September 13, 2007 at 7 PM
Buckingham Community Center
4940 Buckingham Road

Figure 5: September 5 2007 Meeting Notice

Notifications to Residents

Buckingham Community Planning Panel, Inc. A FLORIDA NOT FOR PROFIT CORPORATION

Buckingham Community Planning Panel

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Gloria Vernay
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May 11, 2007

Dear Neighbor:

In order to plan for the future, the members of Buckingham have organized a planning panel. With your input, the panel will identify common issues and identify strategies to resolve community concerns.

The Planning Process

The Buckingham Community Planning Panel has requested funding from the Lee County Board of County Commissioners to update the existing community plan to be incorporated into the Lee County Comprehensive Plan. This plan will identify goals, objectives, and policies that will guide the future decisions.

We are working with Johnson Engineering who will collect information and draft the community plan documents. The community plan must be submitted to Lee County government by September 2007.

What We Need

Fill out the Survey. Because this plan will affect all homeowners, residents, investors, businesses, and other stakeholders, the Planning Panel needs your input. Please visit the link to the Buckingham Community Planning Panel survey located at www.planbuckingham.org. In order to meet the deadline, it is important for you to fill out the survey no later than **midnight, May 23, 2007**.

If you do not have access to the internet, or would prefer to fill the survey out by hand, please contact Margaret Banyan at 239-461-2450 or mbanyan@johnsoneng.com for a paper copy.

Attend Meetings. In addition, the Planning Panel would like your input at meetings. The Planning Panel meets at 7pm every fourth Thursday at the Buckingham Community Center located at 4940 Buckingham Road. If you have questions about the survey, the planning process, or involvement opportunities, please contact any one of our members.

Sincerely,

The Buckingham Community Planning Panel

8/13/07

Dear Neighbor:

The Buckingham Community Planning Panel has been working on developing a community plan and amendments to the Lee Plan. The purpose of the plan will be to identify goals, objectives, and policies that will guide the community future.

After numerous subcommittee and full panel meetings, the Planning Panel has developed draft amendments to the Lee Plan. At this point, we need your input, recommendations, or comments on that draft.

Please go to the Buckingham Community Planning Panel website at:
www.planbuckingham.org to view the draft document and give us feedback through a link to the Survey Monkey website.

In order for the Planning Panel to make fully informed decisions, the deadline for comments is no later than August 31, 2007 at midnight.

Consistent with the earlier survey process, if you do not have access to the internet, or would prefer to fill the survey out by hand, please contact Tammy Peacock 239-461-3339 or tpeacock@johnsoneng.com for a paper copy that can be faxed or mailed back.

The Planning Panel will meet to discuss community feedback and revisions on August 23 at 7pm at the Buckingham Community Center at 4930 Buckingham Road. Please join us if you are available.

Sincerely,

Buckingham Community Planning Panel

Meeting Attendance

Feb 22 Meeting

Name	Email	Phone
Terry Sanders	TSanders43@earthlink.net	694-8220
Gordon L. Draudt		694-6680
Karl Kauffman	KARL KAUFFMAN FR. 804 KARL.GUMP@AOL.COM	693-2696
Rennie Kauffman	BESCHUTZEN@AOL.COM	693-2696
Chris Bundschu	chris.bundschu@bundschu.com	694-8991
JAMES L. HAGEN	JHAGEN@HAGEN-PALEN.COM	694-539X
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Billy Zetsch Burdette		694-4738
Mike Rippe	rippemj@earthlink.net	694-0451
Kimberly Simpson	Rksimpson@comcast.net	337-1764
Helen Simmons		694-5946
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Tim Barrett	tbarrett@samli-fire.com	694-0419
Kristine Barrett	BT1212@comcast.net	694-0419
Tom FEMINELLA	TOMCAT05@COMCAST.NET	693-8971
Paul + Sarah Cox	MUSTANG2PC@Excite.com	694-8482
Peep Stevens	Peepstevens@earthlink.net	481-6504
Michael Borko	MEBorko@GATE.net	693-0909
Rose Caskey		693-1165
Carol Scherrer		694-6006
Glen Scherrer		694-6006
Don Caskey		693-1165
Tom DelMay	tdelday55@aol.com	690-5861
Corey Seiler	BFE43@aol.com	694-4124
William Caracci	14041@comcast.net	694-6015
Robert Teddlertendin	11101 Long Rd	694-3111
Brandy Evans	brandyevans@earthlink.net	898-0299
Don Blackburn	donblackburn@verizon.com	850-0214
Ellie Boyer	geboyad64@earthlink.net	693-2521
Susan Clarke	gheplinski@yahoo.com	694-6261
Dave Buvi	dyb51@earthlink.net	694-2107
Tom + Sue Loscy	skloscy@comcast.net	694-1631

2/22/07 Sign In (p. 2)

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Bridie and Sawyer Smith	debride@aol.com	464-7155
Cindy Cooper	C.COOPER05@comcast.net	694-4322
Richard & Peggy Schmidt	SCHMIDT_RICH@EARTHLINK.NET	239-694-2245
Jim McKeever	mcKeever@LCMED.ORG	879-694-2174

NAME	EMAIL	TELEPHONE #
KEN & MARLEE PUTMAN	Shortsbros@aol.com	694-1858
LAURA J. HAGREN		694-5394

SIGN IN

3/22/07

2.1.1000
3/22/07

Name	Email
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Tim Barrett	
Kristine Barrett	
Steven Hebert	LeeCountyHomes@AOL.com
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JANET HAGEN	
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MARY POVIA	Flucks@comcast.net
MIKE ROEDER	MFreder@Knott-law.com

20076761 Buckingham

4/17/07

Sign-In Infrastructure / Land Use Subcommittee
Sanger C. Smith
Bill Burdette

Jim McKeever mckeever@lcmcd.org

Chris Bundschu

Bruce Strayhorn

Don Blackburn

ORIGINAL

Buckingham Planning Panel May 24, 2007

<u>NAME</u>	<u>PHONE</u>	<u>EMAIL</u>
Karl & Darin Kitzberger	694-6795	KARLK445
JAY JAMES	872-0079	
MAMIE McLEAN	694-9199	
Joan Brown	694-4577	Paramountchen@earthlink.net
JoAnne A Wolszky	693-0734	BubbWool2@earthlink.net
Judy MEROLA	694-2836	JULI-33905@YAHOO.COM
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JOHN MEROLA	694-2836	SMNTICE@YAHOO.COM
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K.C. McLeod	810-6036	
Celia Hill	461-7510	hillcb@lee.gov.com
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Bill & Betsy Burdette		
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GRAIG & KAREN MEYER	278-4030	CRAIGLMYER@EARTHLINK.NET
Nick & Nancy Breeze	694-6270	NICKRB@Comcast.net
Jim McKeever	694-2174	McKeever@hcm.edu
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Jessica Canaway	693-9210	
DONALD WATERS	334-1811	
RICH & SHARI GARCIA	690-1634	Richardgarcia@comcast.net
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CARL ALLEN	694-0524	mb.spearing@earthlink.net
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		15291 bill@earthlink.net

May 24 2007 (p. 2)

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Karen Wheley	694-1001	
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Tony Pellicer	694-0244	pellicer@leegov.com
Michael Borko	693-6333	
Tern Lodge	989-5690	+lodge@carisunbelt.com

June 28, 2007 Buckingham Mtg.
Attendance

NAME	Phone	Email
✓ Tony Pellicer	694-0266	pellicia@leegov.com
✓ EGGY Schmidt	694-2245	Schmidt_rich@ig
✓ Richard Schmidt	"	@earthlink.net
added ✓ Jeff Gerberik	694-5230	surfgerber@aol.com
✓ Carol & Amber Tricke	694-5278	CATF4344@msn.com
✓ Martha & Jim Scott	644-6409	Gordon@gkhardware.net
added ✓ Gabriel Pracht	694-6680	Gordon@gkhardware.net
added ✓ Sue & Lenny Barshinger	693-3821	SUE4SIMPLE @sue4simple.com
Fred & Charlotte Stump	"	
✓ Don Blackburn		donblackburn@yahoo.com
added ✓ Dick Workman		Coastplan@earthlink.net

Buckingham Community Planning Panel

7-12-2007

<u>NAME</u>	<u>PHONE</u>	<u>EMAIL</u>
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Joan Brown	694-4577	BROWNJE@LEEGOV.CON
George Kepiurski	694-6261	
Sarah Clarke	694-6261	
RICHARD SCHMIDT	694 2245	SCHMIDT_RICH@earthlink.net
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Buckingham Community Planning Panel 7/26/2007

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Carmen McKinney	694-2174	mcKinney@lcmcd.org
Jessica Cavanaugh	693-9210	



Updated in
e-mail list
8/2/07

8/23/07

PLANNING PANEL MEETING

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L. J. Hager		
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George Keflinski	694-6261	
BOB MURPHY	8985-1200	

BUCKINGHAM COMMUNITY PLANNING PANEL SEPT. 13, 2007 MEETING

<u>NAME</u>	<u>PHONE NO.</u>	<u>EMAIL</u>
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Dan Caskey	693-1165	
MATT STEELE	340-1969	MSTEEL14@SPRINTPCS.COM
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Bill Burdette	936 1404	bill@burdetteinc.com
Tommy Cook	565 5657	TommyCook@4IL.com
MIKE ROEDER		

Page 2 of 2

Buckingham Planning Panel Mtg 9/13/07

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George Kopinski		gKopinski
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Helen Louise Mosley	694-1064	HL
Michael Borko		
Richard Schaudt	694-2295	SCHAUDT@faircast.net
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Tommy Cook	565-5877	TommyL.Cook@ac.com

June 2007 Community Survey Results

Q1. Do you presently live in Buckingham?

answer options	Response Percent	Response Count
Year-round	82.70%	302
Part time	2.70%	10
I do not live in Buckingham	15.10%	55
	answered question	365
	skipped question	0

Q2. What is the approximate size of your property?

answer options	Response Percent	Response Count
Less than one acre	23.20%	84
1-2 acres	29.00%	105
3-5 acres	25.70%	93
More than 5 acres	23.20%	84
	answered question	362
	skipped question	3

Q3. What are the primary uses of your property? (Please check all that apply)

answer options	Response Percent	Response Count
Vacant	8.80%	32
Residential	84.90%	308
Farm	6.30%	23
Horse Ranch/boarding stables .	10.50%	38
Other livestock/Ranch	14.10%	51
Plant growers/ nursery sales	3.90%	14
Trucking, tractor service	0.80%	3
Retail or business	1.40%	5
Home office	9.40%	34
Other (please specify)	7.70%	28
	answered question	363
	skipped question	2

Q4. Commercial buildings should be regulated to have uniform architectural styles.

answer options	Response Percent	Response Count
Strongly agree	34.30%	119
Agree	39.80%	138
Disagree	19.60%	68
Strongly disagree	6.30%	22
	answered question	347
	skipped question	18

Q6. I would support a policy to eradicate invasive exotic plant species.

answer options	Response Percent	Response Count
Strongly agree	38.10%	134
Agree	50.60%	178
Disagree	8.20%	29
Strongly disagree	3.10%	11
	answered question	352

skipped question

13

Q7. Please rank/prioritize the need for the following open space improvements (please rank, with #1 being the greatest concern).

answer options	1	2	3	4	
Greenways and trails	56	136	81	34	307
Recreation parks	41	70	118	73	302
Equestrian trails	26	47	64	171	308
Preserve areas	214	51	39	23	327
			answered question		349
			skipped question		16

Q8. I am most concerned about traffic on the following roads (please rank, with #1 being the greatest concern).

answer options	1	2	3	4	5	6	Response Count
Cemetery Road	51	59	57	35	35	60	297
Buckingham Road	160	101	30	22	14	1	328
Staley Road	17	28	36	86	86	39	292
Tice Street	12	21	28	57	77	94	289
Orange River Boulevard	83	90	116	14	14	2	319
Neal Road	23	13	37	74	58	88	293
					answered question		349
					skipped question		16

Q9. There are sufficient stores and businesses to serve the Buckingham Community.

answer options	Response Percent	Response Count
Strongly agree	34.40%	118
Agree	38.50%	132
Disagree	19.00%	65
Strongly Disagree	8.20%	28
	answered question	343
	skipped question	22

Q10. I am most concerned about the following public safety problems (please rank, with #1 being the greatest concern).

answer options	1	2	3	4	5	6	Response Count
Personal security	61	52	85	60	21	1	280
Property security	43	134	72	28	14	1	292
Traffic	202	37	62	12	6	1	320
ATV/off-road vehicles	14	42	27	94	80	17	274
Code enforcement	19	29	30	62	118	19	277
None	5	2	3	6	5	75	96
					answered question		346
					skipped question		19

Q11. The density of development outside of Buckingham should gradually decrease as it gets closer to Buckingham.

answer options	Response Percent	Response Count
Strongly agree	58.90%	205
Agree	27.90%	97
Disagree	5.50%	19
Strongly disagree	2.60%	9
Don't know	5.20%	18
	answered question	348
	skipped question	17

Q12. I think new developments in Buckingham should be able to cluster homes on smaller lots in order to preserve larger areas of undeveloped land, as long as total density is not more than 1 home per acre.

answer options	Response Percent	Response Count
Strongly agree	20.40%	70
Agree	40.70%	140
Disagree	15.10%	52
Strongly disagree	23.80%	82
	answered question	344
	skipped question	21

Q13. It's okay to extend municipal water service in Buckingham, as long as connecting is voluntary.

answer options	Response Percent	Response Count
Strongly agree	22.40%	78
Agree	51.00%	178
Disagree	11.20%	39
Strongly disagree	15.50%	54
	answered question	349
	skipped question	16

Q14. It's okay to extend municipal sewer service in Buckingham, as long as connecting is voluntary.

answer options	Response Percent	Response Count
Strongly agree	20.10%	70
Agree	50.10%	175
Disagree	12.90%	45
Strongly disagree	16.90%	59
	answered question	349
	skipped question	16

Q15. Homes and businesses should not be built within 50 feet of the Orange River.

answer options	Response Percent	Response Count
Strongly agree	55.90%	195
Agree	36.70%	128
Disagree	3.20%	11
Strongly disagree	4.30%	15
	answered question	349
	skipped question	16

Q16. Lee County should acquire Gulf Coast Center for the following purposes (select as many as appropriate).

	Response Percent	Response Count
answer options		
Conservation/ nature preserve	68.60%	218
Community center	48.40%	154
Recreation park	54.10%	172
IFAS agricultural research	35.50%	113
Schools	21.40%	68
Emergency Operations Center	34.30%	109
Other (please specify)	8.80%	28
	answered question	318
	skipped question	47

Q17. I am concerned about Lehigh Acres traffic being routed through Buckingham.

	Response Percent	Response Count
answer options		
Strongly agree	85.00%	294
Agree	11.30%	39
Disagree	2.00%	7
Strongly disagree	1.70%	6
	answered question	346
	skipped question	19

Q18. Development should be discouraged if it interferes with Buckingham Airport or Mosquito Control Operations

	Response Percent	Response Count
answer options		
Strongly agree	54.40%	185
Agree	39.10%	133
Disagree	4.10%	14
Strongly disagree	2.40%	8
	answered question	340
	skipped question	25

Lee Plan Amendment Survey Results

Q1. GOAL 17: BUCKINGHAM.

	Response Percent	Response Count
answer options		
I support this Goal as stated	85.90%	67
I support this Goal with changes	11.50%	9
I do not support this Goal	2.60%	2
Comments		7
answered question		78
skipped question		5

Q2. OBJECTIVE 17.1: POLICY 17.1.1-Policy 17.1.4:

	Response Percent	Response Count
answer options		
I support Objective 17.1 and Policies 17.1.1 through 17.1.4	76.70%	56
I support Objective 17.1 and Policies 17.1.1 -- 17.1.4 with revisions	16.40%	12
I do not support Objective 17.1 and Policies 17.1.1 through 17.1.4	6.90%	5
answered question		73
skipped question		10

Q3. Policy 17.1.5: -- Policy 17.1.8.

	Response Percent	Response Count
answer options		
I support Policies 17.1.5 through 17.1.8	64.90%	48
I support Policies 17.1.5 through 17.1.8 with revisions	24.30%	18
I do not support Policies 17.1.5 through 17.1.8	10.80%	8
answered question		74
skipped question		9

Q4. OBJECTIVE 17.2 and POLICIES

	Response Percent	Response Count
answer options		
I support Objective 17.2 and Policies	74.00%	54
I support Objective 17.2 and Policies with revisions	16.40%	12
I do not support Objective 17.2 and Policies	9.60%	7
answered question		73
skipped question		10

Q5. OBJECTIVE 17.3 and Policies

	Response Percent	Response Count
answer options		
I support Objective 17.3 and Policies	76.40%	55
I support Objective 17.3 and Policies with revisions	18.10%	13
I do not support Objective 17.3 and Policies	5.60%	4
answered question		72
skipped question		11

Q6. OBJECTIVE 17.4 and POLICIES

	Response Percent	Response Count
answer options		

I support Objective 17.4 and Policies	85.50%	59
I support Objective 17.4 and Policies with revisions	11.60%	8
I do not support Objective 17.4 and Policies	2.90%	2
answered question		69
skipped question		14

Q7. OBJECTIVE 17.5 AND POLICIES

answer options	Response Percent	Response Count
I support Objective 17.5 and Policies	88.40%	61
I support Objective 17.5 and Policies with revisions	10.10%	7
I do not support Objective 17.5 and Policies	1.50%	1
answered question		69
skipped question		14

Q8. OBJECTIVE 17.6. AND POLICIES

answer options	Response Percent	Response Count
I support Objective 17.6 and Policies	75.40%	52
I support Objective 17.6 and Policies with revisions	17.40%	12
I do not support Objective 17.6 and Policies	7.30%	5
answered question		69
skipped question		14



September 21, 2007

Mr. Fredrick Gaske, Director
Florida Division of Historical Resources
Florida Department of State Division of Historical Resources
500 S. Bronough Street
Tallahassee, FL 32399

Re: Buckingham Community Plan Comprehensive Plan Amendment

Dear Mr. Gaske:

We are in the process of preparing an application for a Comprehensive Plan Amendment for the Buckingham Community. The community has drafted text amendments to the Lee County Comprehensive Plan to amend the existing Buckingham Community plan.

The Comprehensive Plan Amendment application requires that we provide letters for the various providers of service to this area establishing the adequacy/provision of existing and proposed support facilities to this site. Johnson Engineering will file this application on Monday September 24, 2007 after which Jim Mudd, County Planner, will receive comments. Please provide comments regarding this plan amendment to:

Jim Mudd
Lee County Community Development
1500 Monroe Street
Fort Myers, FL 33901

We appreciate your attention to this matter. If you have any questions, or require additional information, please contact Jim Mudd (239) 533-8180 or myself at: (239) 334-0046.

Very truly yours,

JOHNSON ENGINEERING, INC.

Margaret Banyan, Ph.D
Community Planner

MEB:tem:20076761



September 21, 2007

Mr. Lindsey Sampson, Director
Lee County Solid Waste Department
10500 Buckingham Road
Fort Myers, Florida 33905

Re: **Buckingham Community Plan Comprehensive Plan Amendment**

Dear Mr. Sampson:

We are in the process of preparing an application for a Comprehensive Plan Amendment for the Buckingham Community. The community has drafted text amendments to the Lee County Comprehensive Plan to amend the existing Buckingham Community Plan.

The Comprehensive Plan Amendment application requires that we provide letters for the various providers of service to this area establishing the adequacy/provision of existing and proposed support facilities to this site. Johnson Engineering will file this application on Monday September 24, 2007 after which Jim Mudd, County Planner, will receive comments. Please provide comments regarding this plan amendment to:

Jim Mudd
Lee County Community Development
1500 Monroe Street
Fort Myers, Florida 33901

We appreciate your attention to this matter. If you have any questions, or require additional information, please contact Jim Mudd (239) 533-8180 or myself at: (239) 334-0046.

Very truly yours,

JOHNSON ENGINEERING, INC.

Margaret Banyan, Ph.D
Community Planner

MEB:tem:20076760

September 21, 2007

Ms. Derek C.S. Burr, AICP, Long Range Planner
Lee County School District
Planning, Growth and School Capacity Department
3308 Canal Street
Fort Myers, Florida 33916

Re: **Buckingham Community Plan Comprehensive Plan Amendment**

Dear Ms. Burr:

We are in the process of preparing an application for a Comprehensive Plan Amendment for the Buckingham Community. The community has drafted text amendments to the Lee County Comprehensive Plan to amend the existing Buckingham Community Plan.

The Comprehensive Plan Amendment application requires that we provide letters for the various providers of service to this area establishing the adequacy/provision of existing and proposed support facilities to this site. Johnson Engineering will file this application on Monday September 24, 2007 after which Jim Mudd, County Planner, will receive comments. Please provide comments regarding this plan amendment to:

Jim Mudd
Lee County Community Development
1500 Monroe Street
Fort Myers, Florida 33901

We appreciate your attention to this matter. If you have any questions, or require additional information, please contact Jim Mudd (239) 533-8180 or myself at: (239) 334-0046.

Very truly yours,

JOHNSON ENGINEERING, INC.



Margaret Banyan, Ph.D
Community Planner

MEB:tem:20076760

September 21, 2007

Mr. Wayne Gale, Director
Lee County Mosquito Control District
15191 Homestead Road
Lehigh Acres, Florida 33971

Re: **Buckingham Community Plan Comprehensive Plan Amendment**

Dear Mr. Gale:

We are in the process of preparing an application for a Comprehensive Plan Amendment for the Buckingham Community. The community has drafted text amendments to the Lee County Comprehensive Plan to amend the existing Buckingham Community Plan.

The Comprehensive Plan Amendment application requires that we provide letters for the various providers of service to this area establishing the adequacy/provision of existing and proposed support facilities to this site. Johnson Engineering will file this application on Monday September 24, 2007 after which Jim Mudd, County Planner, will receive comments. Please provide comments regarding this plan amendment to:

Jim Mudd
Lee County Community Development
1500 Monroe Street
Fort Myers, Florida 33901

We appreciate your attention to this matter. If you have any questions, or require additional information, please contact Jim Mudd (239) 533-8180 or myself at: (239) 334-0046.

Very truly yours,

JOHNSON ENGINEERING, INC.



Margaret Banyan, Ph.D
Community Planner

MEB:tem:20076760



September 21, 2007

Mr. S. Ivan Velez, P.E.
Deputy Director
Lee County Utilities
1500 Monroe Street
Fort Myers, Florida 33901

Re: Buckingham Community Plan Comprehensive Plan Amendment

Dear Mr. Velez:

We are in the process of preparing an application for a Comprehensive Plan Amendment for the Buckingham Community. The community has drafted text amendments to the Lee County Comprehensive Plan to amend the existing Buckingham Community Plan.

The Comprehensive Plan Amendment application requires that we provide letters for the various providers of service to this area establishing the adequacy/provision of existing and proposed support facilities to this site. Johnson Engineering will file this application on Monday September 24, 2007 after which Jim Mudd, County Planner, will receive comments. Please provide comments regarding this plan amendment to:

Jim Mudd
Lee County Community Development
1500 Monroe Street
Fort Myers, Florida 33901

We appreciate your attention to this matter. If you have any questions, or require additional information, please contact Jim Mudd (239) 533-8180 or myself at: (239) 334-0046.

Very truly yours,

JOHNSON ENGINEERING, INC.

Margaret Banyan, Ph.D
Community Planner

MEB:tem:20076760



September 21, 2007

Captain Mike Clifton
Commander of Facilities and Project Development
Lee County Sheriff's Office
14750 Six Mile Cypress Parkway
Fort Myers, Florida 33912

Re: **Buckingham Community Plan Comprehensive Plan Amendment**

Dear Captain Clifton:

We are in the process of preparing an application for a Comprehensive Plan Amendment for the Buckingham Community. The community has drafted text amendments to the Lee County Comprehensive Plan to amend the existing Buckingham Community Plan.

The Comprehensive Plan Amendment application requires that we provide letters for the various providers of service to this area establishing the adequacy/provision of existing and proposed support facilities to this site. Johnson Engineering will file this application on Monday September 24, 2007 after which Jim Mudd, County Planner, will receive comments. Please provide comments regarding this plan amendment to:

Jim Mudd
Lee County Community Development
1500 Monroe Street
Fort Myers, Florida 33901

We appreciate your attention to this matter. If you have any questions, or require additional information, please contact Jim Mudd (239) 533-8180 or myself at: (239) 334-0046.

Very truly yours,

JOHNSON ENGINEERING, INC.

Margaret Banyan, Ph.D
Community Planner

MEB:tem:20076760



September 21, 2007

Chief Gregory A. Bradley
Tice Fire & Rescue District
9351 Workmen Way
Fort Myers, FL 33905

Re: **Buckingham Community Plan Comprehensive Plan Amendment**

Dear Chief Bradley:

We are in the process of preparing an application for a Comprehensive Plan Amendment for the Buckingham Community. The community has drafted text amendments to the Lee County Comprehensive Plan to amend the existing Buckingham Community Plan.

The Comprehensive Plan Amendment application requires that we provide letters for the various providers of service to this area establishing the adequacy/provision of existing and proposed support facilities to this site. Johnson Engineering will file this application on Monday September 24, 2007 after which Jim Mudd, County Planner, will receive comments. Please provide comments regarding this plan amendment to:

Jim Mudd
Lee County Community Development
1500 Monroe Street
Fort Myers, FL 33901

We appreciate your attention to this matter. If you have any questions, or require additional information, please contact Jim Mudd (239) 533-8180 or myself at: (239) 334-0046.

Very truly yours,

JOHNSON ENGINEERING, INC.

Margaret Banyan, Ph.D
Community Planner

MEB:tem:20076761



September 21, 2007

Deputy Chief Kim Dickerson, EMS Ground Operations Manager
Lee County Emergency Medical Services
Lee County Division of Public Safety
14752 Six Mile Cypress Parkway
Fort Myers, FL 33912

Re: Buckingham Community Plan Comprehensive Plan Amendment

Dear Deputy Chief Dickerson:

We are in the process of preparing an application for a Comprehensive Plan Amendment for the Buckingham Community. The community has drafted text amendments to the Lee County Comprehensive Plan to amend the existing Buckingham Community Plan.

The Comprehensive Plan Amendment application requires that we provide letters for the various providers of service to this area establishing the adequacy/provision of existing and proposed support facilities to this site. Johnson Engineering will file this application on Monday September 24, 2007 after which Jim Mudd, County Planner, will receive comments. Please provide comments regarding this plan amendment to:

Jim Mudd
Lee County Community Development
1500 Monroe Street
Fort Myers, FL 33901

We appreciate your attention to this matter. If you have any questions, or require additional information, please contact Jim Mudd (239) 533-8180 or myself at: (239) 334-0046.

Very truly yours,

JOHNSON ENGINEERING, INC.

Margaret Banyan, Ph.D
Community Planner

MEB:tem:20076761



September 21, 2007

Mr. Terry Kelly
Emergency Management Coordinator
Lee County Emergency Management
2665 Ortiz Ave.
Fort Myers, FL 33905

Re: Buckingham Community Plan Comprehensive Plan Amendment

Dear Mr. Kelly:

We are in the process of preparing an application for a Comprehensive Plan Amendment for the Buckingham Community. The community has drafted text amendments to the Lee County Comprehensive Plan to amend the existing Buckingham Community Plan.

The Comprehensive Plan Amendment application requires that we provide letters for the various providers of service to this area establishing the adequacy/provision of existing and proposed support facilities to this site. Johnson Engineering will file this application on Monday September 24, 2007 after which Jim Mudd, County Planner, will receive comments. Please provide comments regarding this plan amendment to:

Jim Mudd
Lee County Community Development
1500 Monroe Street
Fort Myers, FL 33901

We appreciate your attention to this matter. If you have any questions, or require additional information, please contact Jim Mudd (239) 533-8180 or myself at: (239) 334-0046.

Very truly yours,

JOHNSON ENGINEERING, INC.

Margaret Banyan, Ph.D
Community Planner

MEB:tem:20076761



September 21, 2007

Mr. Mike Horsting, AICP
Transit Planner
Lee County Transit Division
6035 Landing View Road
Fort Myers, FL 33907

Re: Buckingham Community Plan Comprehensive Plan Amendment

Dear Mr. Horsting:

We are in the process of preparing an application for a Comprehensive Plan Amendment for the Buckingham Community. The community has drafted text amendments to the Lee County Comprehensive Plan to amend the existing Buckingham Community plan.

The Comprehensive Plan Amendment application requires that we provide letters for the various providers of service to this area establishing the adequacy/provision of existing and proposed support facilities to this site. Johnson Engineering will file this application on Monday September 24, 2007 after which Jim Mudd, County Planner, will receive comments. Please provide comments regarding this plan amendment to:

Jim Mudd
Lee County Community Development
1500 Monroe Street
Fort Myers, FL 33901

We appreciate your attention to this matter. If you have any questions, or require additional information, please contact Jim Mudd (239) 533-8180 or myself at: (239) 334-0046.

Very truly yours,

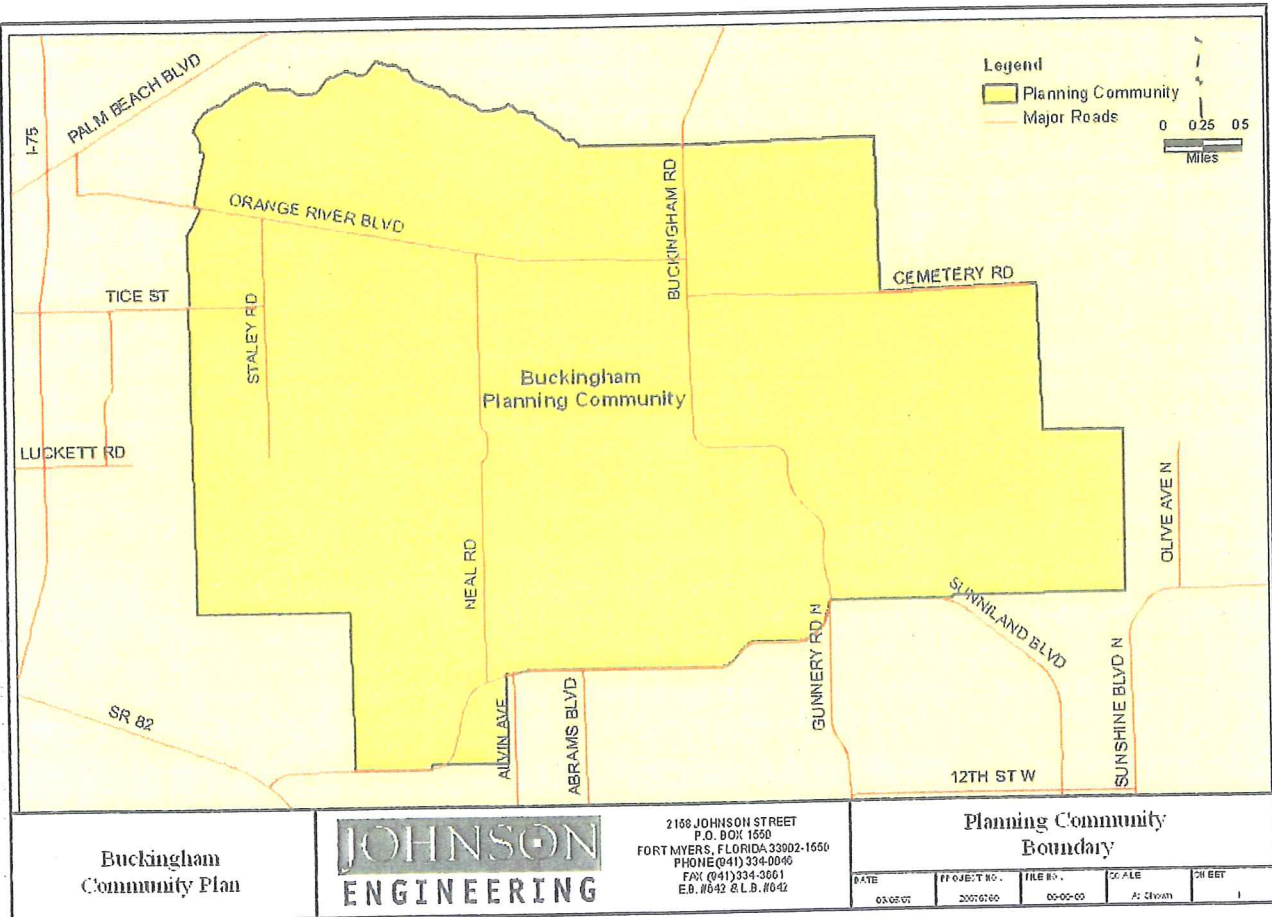
JOHNSON ENGINEERING, INC.

Margaret Banyan, Ph.D
Community Planner

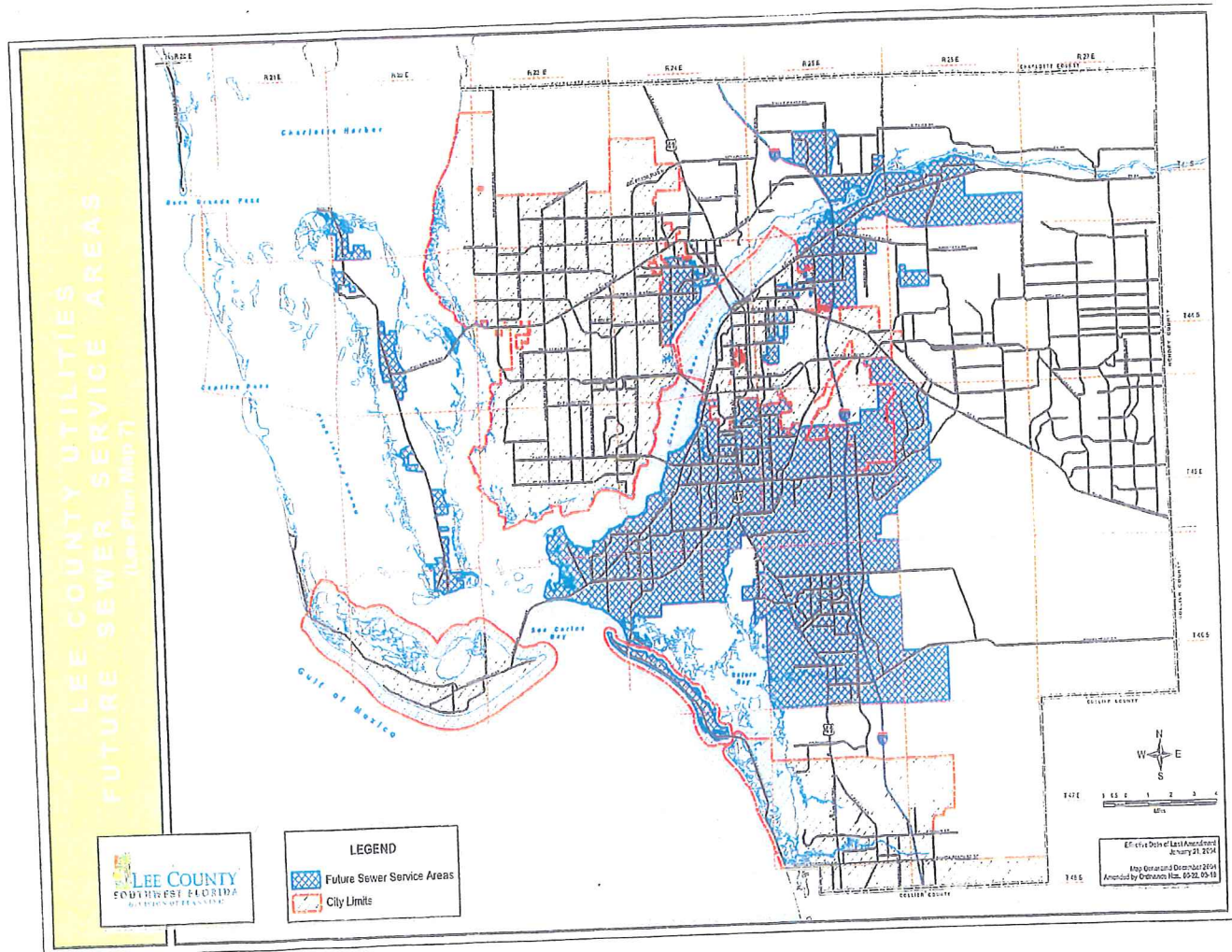
MEB:tem:20076761

Maps

Community Planning and Planning Community Boundary Map



Map 7



Dunn, Brandon

From: Banyan, Dr. Margaret [mbanyan@fgcu.edu]
Sent: Wednesday, September 02, 2009 9:13 AM
To: Noble, Matthew; Bill Burdette
Cc: Dunn, Brandon
Subject: RE: Buckingham Plan Amendment

Attachments: Buckingham Proposed Language April 24 Revision.doc



Buckingham
Proposed Language A

Hi Matt:

Attached is the last revision to the Buckingham Goal 17 that was approved by the planning panel. Because there were conversion problems with word perfect, this is not in MS word's 'track changes' but is underlined instead.

Let me know if you need any more back up information.

Thanks ~~

Margaret

***** Confidentiality Notice *****

Florida has a very broad public records law. As a result, any written communication created or received by Florida Gulf Coast University employees is subject to disclosure to the public and the media, upon request, unless otherwise exempt. Under Florida law, e-mail addresses are public records. If you do not want your email address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.

From: Noble, Matthew [NOBLEMA@leegov.com]
Sent: Tuesday, September 01, 2009 11:23 AM
To: Bill Burdette; Banyan, Dr. Margaret
Cc: Dunn, Brandon
Subject: Buckingham Plan Amendment

Bill & Margaret,

Would you be able to send us an electronic copy of the policy changes that the community is seeking. We are trying to get back up to speed on this proposed amendment, and any help you can give us would be appreciated.

Matthew A. Noble, Principal Planner
Lee County Division of Planning
P.O. Box 398
Fort Myers, Florida 33902-0398
Phone: 239-533-8548
Fax: 239-533-8319

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 Lee Plan Map 16, as amended August 13, 2007. (Adopted by Ordinance No. 98-09; Amended by Ordinance No. 02-02, 07-09, 07-13)

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. (Amended by Ordinance No. 00-22)

POLICY 17.1.1: No property within the Buckingham community will be rezoned to RVPD. (Amended by Ordinance No. 00-22)

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. (Amended by Ordinance No. 94-30, 98-09, 00-22)

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.~~ (Amended by Ordinance No. 00-22)

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.

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.

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.

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.

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

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.
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 400 80 feet (except for Buckingham Road and Luckett Road extensions);

7. The extension and connection of Long Road to Ellis ~~R~~oad is prohibited. (Amended by Ordinance No. 94-30, 99-15, 00-22)

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.

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.

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.~~

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.

POLICY 17.3.2: Central water lines 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~~ Buckingham Community. (Amended by Ordinance No. 00-22, 03-19)

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.

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.

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.

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.

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

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

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.

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.

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.

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.

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.

POLICY 17.4.4: Residential and commercial lighting should 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: Any access to the Orange River within the Buckingham Community will be limited to non-commercial residential use.

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

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.

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.

DIVISION OF PLANNING
MEMORANDUM



LEE COUNTY
SOUTHWEST FLORIDA

to: Board of County Commissioners
from: Paul O'Connor, AICP, Director
subject: October 28, 2009 Comprehensive Plan Transmittal Hearing
Status of Three Remaining Comp Plan Amendments
date: October 23, 2009

The continuation of three proposed amendments, **Babcock, Buckingham, and the DR/GR**, and final action to officially transmit the 2008/2009 amendment package are scheduled for the October 28th public hearing, with October 29th as a backup day. Attached to this memo are the agenda and three documents with information regarding each amendment.

The first attachment is the latest draft of the staff recommended language for the new transportation policies addressing the impacts from the **Babcock Ranch Community** in Charlotte County. Through meetings between the developer, affected parties and county staff, revised policy language has been developed for the Board's consideration. In an attempt to reduce the concern that the amendment is in fact adopting specific roadway improvements, the tables that identified possible road way additions and improvements have been removed. Additional language has been added to emphasize the County's support of the proposed East-West connector as a priority and to stress transportation/mobility improvements as alternatives to simply widening roadways. This new language has also been attached to this memo.

Regarding the **Buckingham Community**, staff has exchanged language drafts and conducted several meetings with the Buckingham Community's representative to try to resolve the outstanding issues. Several areas of compromise have been identified and they have been incorporated in the second attached document as the Staff Recommended Language. Unfortunately, the community's latest proposal expanded rather than narrowed the list of issues. The community is proposing additional policies and continuing to propose policies that staff is not comfortable with transmitting. The remaining issues have been identified and the list is included in the second attached document. A revised Map 16, with an agreed upon revised Buckingham Community boundary, and staff recommended revisions to Table 1(b) the Year 2030 Allocation Table are also included.

The third amendment on the agenda will be the **Implementation of the DR/GR Study**. On October 26th at a Board Workshop, the consultants will present the components of the proposal and respond to Board questions. The third attachment to this memo is a revised DR/GR Map 17, the proposed "Rural Residential" overlay showing revised Mixed-Use Communities for the Fountains and the Ginn properties.

As always, I will adjust my schedule to meet with you to discuss any or all of the proposed amendments prior to the public hearings at your convenience.

CONTINUED
2008/2009 REGULAR LEE PLAN AMENDMENTS
TRANSMITTAL HEARING

OCTOBER 28, 2009, 9:30 A.M.

COMMISSION CHAMBERS
2120 MAIN STREET

AGENDA

1. Call to order
2. Administrative Agenda
 - A. CPA2006-08 – Babcock Ranch Community
 - B. CPA2007-49 – Buckingham Community Plan Update
 - C. CPA2008-06 – Implement DR/GR Study
3. Motion to Transmit 2008-2009 Round of Comprehensive Plan Amendments to the Florida Department of Community Affairs
4. Motion to Adjourn

BUCKINGHAM

**BUCKINGHAM COMMUNITY PLAN UPDATE
STAFF RECOMMENDED LEE PLAN LANGUAGE
CHANGES ARE SHOWN FROM THE EXISTING LEE PLAN TEXT
IN STRIKE-THRU UNDERLINED FORMAT**

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 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. 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, N~~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. 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 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.~~

Any proposal to change the adopted alignment of Lockett 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.

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: If the Gulf Coast Center is acquired by Lee County, the 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 or 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.

Unresolved Issues with the Buckingham Planning Panel:

The following is a list of issues that the Buckingham Panel wants included in the transmittal. Staff does not recommend transmittal of these proposed issues for a variety of reasons.

LAND USE:

Expansion of the land area controlled by the provisions of Goal 17.

Requiring a finding of overriding public necessity by a **super majority** of the Board for land use changes, versus the current requirement of three members of the Board.

A new definition of "Legal Lots" versus the current process of obtaining a Minimum Use Determinations that is already included in the Administrative Chapter of the Lee Plan.

Requiring Planned Development zoning for projects located **adjacent to** the Buckingham Community.

Requiring a 100 foot setback for projects located **adjacent to** the Buckingham Community.

Delegate the authority to the Development Services Director to administratively approve minor subdivisions consisting of minimum 2.5 acre lots located on substandard roads (less than category D).

TRANSPORTATION:

Requiring Board of County Commission to schedule and hold meetings in the Buckingham Community after 5:30 p.m. concerning any proposed road expansion or extension into the Buckingham planning area. *Staff is recommending staff attended meetings in the community with Board meetings downtown after 5:00 P.M.*

Requiring that no future rights of way in the Buckingham Community will be greater than 80 feet versus the current restriction of 100 feet.

PUBLIC FACILITIES AND UTILITIES:

Public facilities and utilities will not impose an **economic burden** on residents within the Rural Community Preserve and the community is requesting **connection waivers** from state mandated connection requirements. *Staff notes that this process is already addressed in State Statutes on a case by case basis.*

New petroleum, methane, or fuel transmission lines are presumed to be incompatible with the Buckingham Community and require notification and a public meeting in the Community. A public hearing would also be required and the Board of County Commissioners would have to make a finding that the presumption of incompatibility has been overcome. Notice of the public hearing shall be provided to all landowners within 2,000 feet of the proposed fuel transmission line. Any transmission line must be located in a manner that does not bisect existing residential and agricultural uses and does not adversely impact the Rural Community Preserve. *Staff notes that no data or analysis has been submitted to support this proposed policy.*

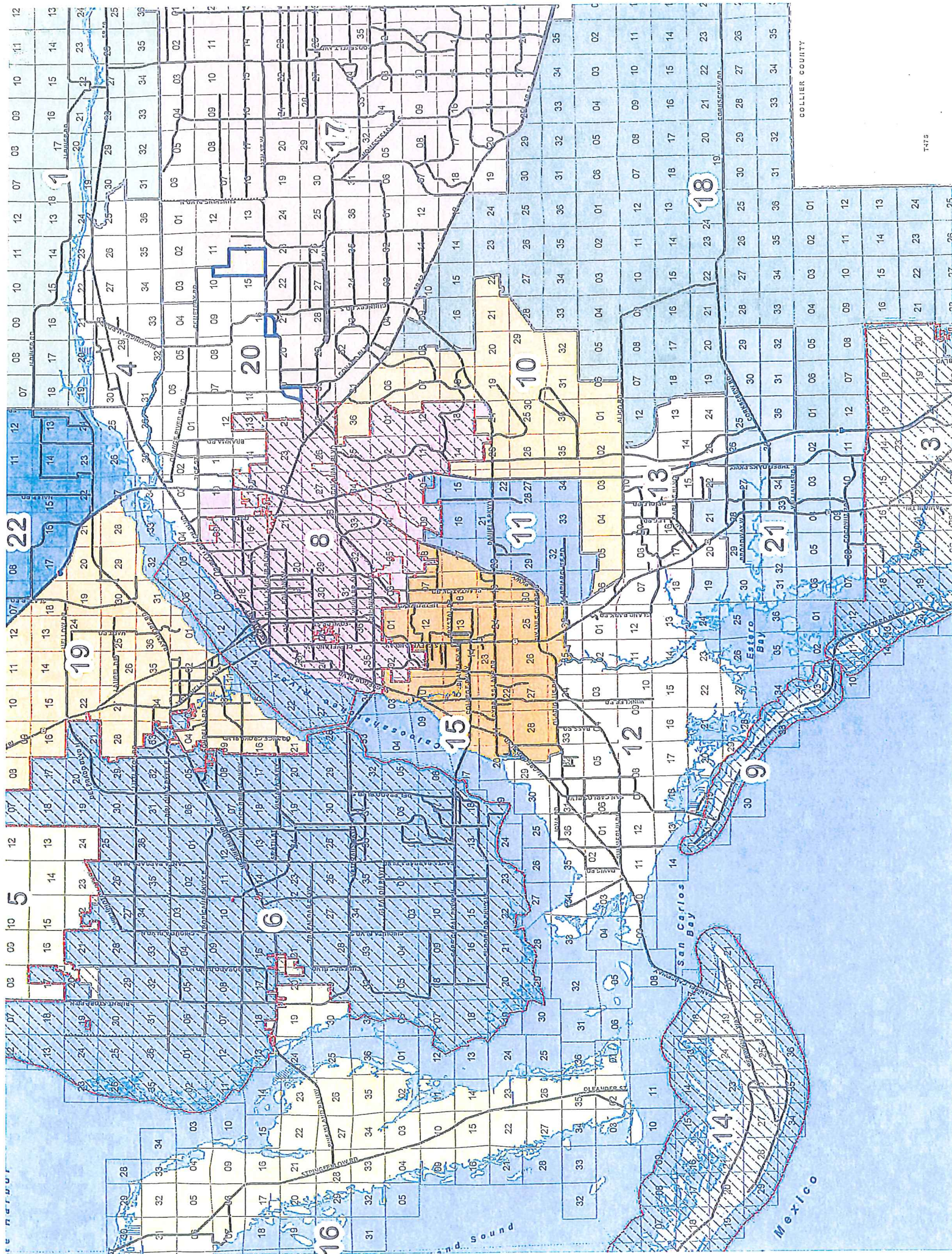
The panel desires to maintain the **historic uses** of the Buckingham Army Airfield and any new uses must be approved through the planned development zoning process with a public meeting with the community prior to the application being found sufficient. Minutes of the meeting must be taken and made part of the record. *Staff is concerned that the historic use was an Army training facility and the use of the field has evolved over time. Future uses will continue to evolve and staff does not want to limit the field to past uses.*

No uses on the Gulf Coast Center parcels will be permitted that will increase the **ambient** noise levels or allow **industrial uses** within five hundred (500) feet of the Buckingham Community.

Expanded water treatment, sewage treatment or reclamation facility must be reviewed and approved as a planned development and located a minimum of three hundred (300) feet from the property boundary.

New requirement for essential services and community facilities to be approved utilizing the **Planned Development** zoning process and located underground, when possible.

The panel wants the County to provide direction to the Property Appraiser regarding: small family farms; community farms; and, agricultural or conservation easements when assessing property in Buckingham.



PROPOSED
TABLE 1(b)
Year 2030 Allocations

Future Land Use Classification	Lee County Totals	Alva	Boca Grande	Bonita Springs	Fort Myers Shores	Burnt Store	Cape Coral	Captiva	Fort Myers	Fort Myers Beach	Gateway/ Airport	Daniels Parkway	Iona/ McGregor
Intensive Development	1,367	0	0	0	20	0	27	0	250	0	0	0	0
Central Urban	14,787	0	0	0	225	0	0	0	230	0	0	0	375
Urban Community	18,425	520	485	0	637	0	0	0	0	0	0	0	850
Suburban	16,623	0	0	0	1,810	0	0	0	85	0	0	0	2,488
Outlying Suburban	4,105	30	0	0	40	20	2	500	0	0	0	1,700	377
Sub-Outlying Suburban	1,548	0	0	0	367	0	0	0	0	0	0	0	0
Industrial Development	79	0	0	0	0	0	0	0	39	0	20	0	5
Public Facilities	1	0	0	0	0	0	0	1	0	0	0	0	0
University Community	850	0	0	0	0	0	0	0	0	0	0	0	0
Destination Resort Mixed Use Water-Dependent	8	0	0	0	0	0	0	0	0	0	0	0	8
Burnt Store Marina Village	4	0	0	0	0	4	0	0	0	0	0	0	0
Industrial Interchange	0	0	0	0	0	0	0	0	0	0	0	0	0
General Interchange	42	0	0	0	0	0	0	0	0	0	0	0	0
General/Commercial Interchange	0	0	0	0	0	0	0	0	0	0	0	2	0
Industrial/Commercial Interchange	0	0	0	0	0	0	0	0	0	0	0	0	0
University Village Interchange	0	0	0	0	0	0	0	0	0	0	0	0	0
New Community	900	0	0	0	0	0	0	0	0	0	900	0	0
Airport	0	0	0	0	0	0	0	0	0	0	0	0	0
Tradeport	9	0	0	0	0	0	0	0	0	0	9	0	0
Rural	8,313	1,948	0	0	1,400	636	0	0	0	0	0	1,500	0
Rural Community Preserve	3,100	0	0	0	0	0	0	0	0	0	0	0	0
Coastal Rural	1,300	0	0	0	0	0	0	0	0	0	0	0	0
Outer Islands	202	5	0	0	1	0	0	150	0	0	0	0	1
Open Lands	2,805	250	0	0	0	590	0	0	0	0	0	120	0
Density Reduction/Groundwater Resource	6,905	711	0	0	0	0	0	0	0	0	94	0	0
Conservation Lands Uplands	0	0	0	0	0	0	0	0	0	0	0	0	0
Wetlands	0	0	0	0	0	0	0	0	0	0	0	0	0
Conservation Lands Wetlands	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Residential	81,373	3,464	485	0	4,500	1,250	29	651	604	0	1,023	3,322	4,104
Commercial	12,763	57	52	0	400	50	17	125	150	0	1,100	440	1,100
Industrial	6,620	26	3	0	400	5	26	0	300	0	3,100	10	320
Non-Regulatory Allocations													
Public	81,853	7,100	421	0	2,000	7,000	20	1,961	350	0	7,500	2,416	3,550
Active Agriculture	24,957	5,100	0	0	550	150	0	0	0	0	0	20	0
Passive Agriculture	45,859	13,549	0	0	2,500	109	0	0	0	0	1,491	20	0
Conservation (wetlands)	81,948	2,214	611	0	1,142	3,236	133	1,603	748	0	2,809	1,719	9,306
Vacant	21,802	1,953	0	0	226	931	34	0	45	0	300	20	975
Total	357,175	33,463	1,572	0	11,718	12,731	259	4,340	2,197	0	17,323	7,967	19,555
Population Distribution*	495,000	5,090	1,531	0	30,861	3,270	225	530	5,744	0	11,562	16,488	34,538
* Population for Unincorporated Area of Lee County													

Residential By Future Land Use Category

PROPOSED
TABLE 1(b)

Year 2030 Allocations

Future Land Use Classification	San Carlos		Sanibel		South Fort Myers		Pine Island		Lehigh Acres		Southeast Lee County		North Fort Myers		Buckingham			Bayshore
															Adopted	Proposed	Estero	
Residential By Future Land Use Category	Intensive Development	0	0	0	660	3	0	0	42	0	0	365	0	0	0	0	0	0
	Central Urban	17	0	0	3,140	0	8,200	8,200	0	0	2,600	0	0	0	0	0	0	0
	Urban Community	1,000	0	0	860	500	43,269	13,013	0	0	54	0	110	450	0	0	0	0
	Suburban	1,975	0	0	1,200	675	0	0	0	0	6,690	0	0	1,700	0	0	0	0
	Outlying Suburban	0	0	0	0	600	0	0	0	0	382	0	0	454	0	0	0	0
	Sub-Outlying Suburban	25	0	0	0	0	0	0	0	0	140	49	66	0	950	0	0	0
	Industrial Development	5	0	0	10	0	0	0	0	0	0	0	0	0	0	0	0	0
	Public Facilities	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
	University Community	850	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
	Destination Resort Mixed Use Water Dependent	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
	Burnt Store Marina Village	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
	Industrial Interchange	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
	General Interchange	0	0	0	0	0	0	0	15	7	0	0	0	6	12	0	0	0
	General/Commercial Interchange	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
	Industrial/Commercial Interchange	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
	University Village Interchange	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
	New Community	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
	Airport	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
	Tradeport	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
	Rural	90	0	0	0	190	44	14	0	500	57	50	635	1,350	0	0	0	0
	Rural Community Preserve	0	0	0	0	0	0	0	0	0	3,046	3,100	0	0	0	0	0	0
	Coastal Rural	0	0	0	0	1,300	0	0	0	0	0	0	0	0	0	0	0	0
	Outer Islands	0	0	0	0	45	0	0	0	0	0	0	0	0	0	0	0	0
	Open Lands	0	0	0	0	0	0	0	0	45	0	0	0	0	0	0	0	0
	Density Reduction/Groundwater Resource	0	0	0	0	0	0	0	0	4,000	0	0	0	0	0	0	0	0
	Conservation Lands Uplands	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
	Wetlands	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Conservation Lands Wetlands	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Total Residential	3,982	0	5,870	3,313	21,483	21,269	4,015	10,729	3,293	3,326	3,245	6,212						
Commercial	1,944	0	2,100	226	4,420	1,420	38	1,687	48	18	1,700	139						
Industrial	450	0	900	64	300	300	65	554	5	5	87	5						
Non-Regulatory Allocations																		
Public	2,660	0	3,500	2,100	45,000	15,289	12,000	4,000	2,444	1,486	7,000	1,500						
Active Agriculture	0	0	0	2,400	0	0	15,101	200	444	411	125	900						
Passive Agriculture	0	0	0	815	0	0	18,000	1,556	3,649	3,619	200	4,000						
Conservation (wetlands)	2,798	0	188	14,767	4,406	1,541	31,530	1,317	384	336	5,068	882						
Vacant	244	0	309	3,781	7,377	8,085	500	2,060	4,273	1,000	809	530						
Total	12,058	0	12,867	27,466	47,046	47,904	81,249	22,103	44,929	10,201	18,234	14,168						
Population Distribution*	36,963	0	58,363	13,265	464,702	164,699	1,270	70,659	6,444	5,117	25,393	8,410						
* Population for Unincorporated Area of Lee County																		

CORRESPONDENCE

October 27, 2009

Mr. Paul O'Connor
Mr. Matt Noble
Lee County Planning Department
1500 Monroe Street
Fort Myers, FL 33901

RECEIVED
OCT 29 2009

COMMUNITY DEVELOPMENT

RE: Buckingham Plan Amendments

Dear Mr. O'Connor and Mr. Noble:

I want to say how much I appreciate the time and effort expended by Brandon Dunn, Matt Noble, Dawn Lehnert and Donna Marie Collins. Brandon and Matt worked especially hard on verbiage changes to the policies to address the concerns of the staff and the community. A lot of progress was made at our meetings. I am dismayed that the information provided to the Board of County Commissioners belies the tremendous progress. The list of unresolved issues includes issues that are resolved. Please allow me to respond to the staff memorandum.

1. Object 17.1 - Super Majority Vote to change the FLUM

The objective provides, in part:

"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 staff accurately notes that the Community requested a super majority instead of three members. The community would prefer the super majority language, but the staff made a valid point that if a super majority requirement were included in the Buckingham Community Plan then other communities would want a similar provision in their community plan. The concern about creating a precedent is understandable, and if the Board of County Commissioners (BOCC) determines that it would not establish a precedent then the community would favor the change.

2. Policy 17.1.3 – MUD versus Vested Rights

There is no disagreement.

The community and the staff understand the need to protect those parties that have a pre-existing legal right. The staff preference was to use the minimum use determination process. This process addresses the legal concern and it provides the opportunity to address vested rights situations in a way that is fair to the community and the landowners.

3. Policy 17.1.6.

There is no disagreement.

This policy requires appropriate buffers and an appropriate transition of uses. The policy as worded by the staff provides a framework for addressing the community concerns. If a setback is necessary to protect the community, the staff will be able to rely on this policy to provide for an appropriate buffer and transition of uses instead of relying on an automatic 100 foot setback. If the standard buffers and setbacks in a standard zoning district don't meet the requirements of this policy, the community assumes that the staff will encourage someone seeking a rezoning to proceed with a planned development zoning application as the staff often does.

4. Objective 17.2.

There is no disagreement.

The community language originally included a 5:30 meeting time since most of residents in the community work. The staff was persuasive in noting that the 5:05 time frame is consistent with normal County practice. The community would love for it to be at 5:30, but 5:05 is acceptable.

5. Policy 17.2.1.6. – Future Right of Way Widths

This is an unresolved issue.

"All future rights-of-way in the Buckingham Community will be no greater than 400-80 feet (except for Buckingham Road and Luckett Road extensions)."

The staff is correct, the community disagrees with the increase in roadway width. The community wants to retain the rural character. The Buckingham Community is the home of families, dogs, and an array of large animals in a bucolic setting. The community wants roads designed for slower speeds to reduce high speeds, cut through traffic, and pedestrian and animal conflicts with speeding vehicles.

6. Policy 17.3.1. – Acknowledging the Ability to Have a Waiver from Sewer Connection

This is an unresolved issue.

The community does not want sewer lines extended into the area in a manner that compels residents to connect, especially when the residents are located on small family farms. The community is keenly aware of the negative fiscal impact on residents in Cape Coral when they were compelled to connect at a high cost. The staff has submitted that it may be necessary to extend sewer lines to provide relief for projects such as The Hut. The community doesn't want to prevent properties on failing systems from connecting to a central system, but the community doesn't want to be compelled to assist in the funding of The Hut's connection especially when it would cause an economic hardship that could result in the loss of the family farm. The BOCC was previously advised that the statute mandated a connection. The current staff memorandum accurately notes that the BOCC has the ability to waive the obligation to connect. Section 381.00655(2)(b), F.S. provides, "A publically owned or investor-owned sewerage system may, with the approval of the department, waive the requirements of mandatory onsite sewage disposal connection if it

determines that such connection is not required in the public interest due to public health considerations." An Attorney General Opinion is attached hereto which confirms the ability to grant a waiver. The Community would recommend an amendment to the staff policy 17.3.1.

Staff recommendation:

In order to discourage unwanted urban development, central sewer lines will not be extended in 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.

Proposed Addition:

The Board of County Commissioners will consider waivers to the County's central sewer mandatory connection requirement in the Buckingham Community. A waiver cannot be granted unless the landowner has the approval of the Health Department and the request is in accordance with the Section 381.00655(2)(b), F.S.

The community has been advised and some Board members have been advised that waivers cannot be granted, and the community wants to be assured that everyone knows that the Board can and will consider waivers. The primary concern is an economic one.

7. Policy 17.3.3. – Limit or Preclude New Fuel/Chemical Transmission Lines

The staff expressed a need for more information.

The staff advised the applicant that they were not certain the policy as originally proposed could be implemented due to concerns about pre-emption.

Original Proposed Language:

Residential natural gas lines and the existing TECO natural gas line are allowed within the Buckingham Community. New petroleum, methane, or fuel transmission lines are presumed to be incompatible with the Buckingham Community. No new petroleum, methane or other fuel transmission lines, including commercial natural gas lines are permitted without a public meeting in the Community. A public hearing would also be required and the Board of County Commissioners would have to make a finding that the presumption of incompatibility has been overcome. Notice of the public hearing shall be provided to all landowners within 2,000 feet of the proposed fuel transmission line. Any transmission line must be located in a manner that does not bisect existing residential and agricultural uses and does not adversely impact the Rural Community Preserve.

The state requirements for the siting of transmission lines, petroleum lines, and natural gas lines include provisions for comments from the local community. The Community would suggest the following change:

Proposed change:

The Board of County Commissioners will hold a public meeting after 5:00 to obtain input from the Buckingham Community before commenting to any state agency on the appropriateness of a new or expanded natural gas, petroleum, methane or other chemical or fuel transmission line proposed to pass into or through the Buckingham Community. If the County is permitted by law to restrict the location of a petroleum, methane or other fuel transmission line, including commercial natural gas lines, the Board of County Commissioners will evaluate the impacts of said line on the Buckingham Community at a noticed public hearing. The Board will evaluate the impact on the Rural Community Preserve, and the potential adverse impacts on the Rural Community Preserve.

8. The Buckingham Army Airfield.

This is an unresolved issue.

The community proposed the following as Policy 17.3.5:

The historic value and historic uses of the Buckingham Army Airfield, and the residential airparks should be protected. Any new uses of the Buckingham Army Airfield must be approved through the planned development zoning process. A public meeting with the community must be held in the community prior to completion of the sufficiency process for the planned development. Minutes of the meeting must be taken and made part of the record. Any new uses must be developed in a manner that is consistent with the rural community.

The staff has noted that the property is already zoned CF-3. CF-3 permits uses that do not currently exist and which are incompatible with the surrounding community. It is understood that the Board does not want to be in a position of taking away legally permitted uses. Thus, the community would recommend the following revised recommendation:

Any use of the Buckingham Army Airfield that is not permitted by the zoning in place on [Date of Plan Amendment Adoption] 2010, must be rezoned to a planned development in accordance with all pertinent provisions of the Buckingham Community Plan.

9. Gulf Coast Center

This is no disagreement with the staff on Gulf Coast Center.

The Community concerns will be addressed if the staff language is accepted. The policy should be written to include any owner.

Any development or redevelopment of the property must be accomplished 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.

I appreciate the opportunity to respond to the staff memorandum. I am hopeful that the hard work of the community and the staff will be reflected in the final product.

Messrs. O'Connor and Noble
October 27, 2009
Page 5 of 5

Your consideration of this matter is greatly appreciated.

Sincerely,

Neale Montgomery

Signed in absentia
to avoid delay

Neale Montgomery

NM/kc

cc: Lee County Board of County Commissioners
Mr. Charles Basinait
Mr. Bruce Strayhorn
Mr. Chris Bundschu
Mr. Bob Murray
Mr. Bill Burdette

Attachment

Florida Attorney General Advisory Legal Opinion

1. Number: AGO 2000-71

Date: December 14, 2000

Subject: Sewers--mandatory connection sewerage system

Mr. Michael S. Mullin
Nassau County Attorney
Post Office Box 1010
Fernandina Beach, Florida 32035-1010

RE: COUNTIES--SEWER SYSTEMS--residential owners whose property is served by onsite septic system required to connect with an investor-owned sewerage system after written notification of system's availability. s. 381.00655, Fla. Stat.

Dear Mr. Mullin:

On behalf of the Nassau County Board of County Commissioners, you ask substantially the following question:

Does section 381.00655, Florida Statutes, mandate that residential property owners whose property is currently served by an onsite septic system connect to an investor-owned sewerage system, and may the costs of such sewerage line be assessed to the property owners that do not hook up to the system?

In sum:

The Legislature, through the enactment of section 381.00655, Florida Statutes, has required residential owners whose property is served by an onsite septic system to connect with an investor-owned sewerage system after written notification by the owner of the investor-owned sewerage system that the system is available for connection. The statute, however, permits the investor-owned sewerage system to waive the connection with the consent of the Department of Health.

The Legislature has enacted section 381.00655, Florida Statutes, which requires property owners who currently have onsite sewage

treatment and disposal systems to connect to available central sewerage systems. An onsite sewage treatment system includes such things as septic systems.[1] Pursuant to the statute:

"The owner of a properly functioning onsite sewage treatment and disposal system . . . must connect the system or the building's plumbing to an available publicly owned or investor-owned sewerage system within 365 days after written notification by the owner of the publicly owned or investor-owned sewerage system that the system is available for connection. The publicly owned or investor-owned sewerage system must notify the owner of the onsite sewage treatment and disposal system of the availability of the central sewerage system. No less than 1 year prior to the date the sewerage system will become available, the publicly owned or investor-owned sewerage system shall notify the affected owner of the onsite sewage treatment and disposal system of the anticipated availability of the sewerage system and shall also notify the owner that the owner will be required to connect to the sewerage system within 1 year of the actual availability. . . ."[2] (e.s.)

If an onsite sewage treatment and disposal system must be repaired in order to function or to comply with the requirements of sections 381.0065-381.0067, Florida Statutes, or rules adopted thereunder, the owner of such system must connect to an available publicly owned or investor-owned sewerage system within 90 days after written notification from the department.[3] In hardship cases, upon request of the owner the department may approve one extension of not more than 90 days for sewerage connection.

The statute recognizes that there may be instances where the requirement of mandatory sewer hookup may be waived. Section 381.00655(2)(b), Florida Statutes, provides:

"A publicly owned or investor-owned sewerage system may, with the approval of the [Department of Health], waive the requirement of mandatory onsite sewage disposal connection if it determines that such connection is not required in the public interest due to public health considerations."

It is, however, the publicly owned or investor-owned system that determines, with the approval of the Department of Health, whether the mandatory hookup provisions of section 381.00655, Florida Statutes, may be waived. The statute makes no provision for the property owner to decline to connect to the system.

Section 381.00655(1)(a), Florida Statutes, grants the property

owner the option of prepaying the amortized value of required connection charges in equal monthly installments over a period not to exceed 2 years from the date of the initial notification of anticipated availability. In addition, the local governing body of the jurisdiction in which the owner of the onsite sewage treatment and disposal system resides may provide that any connection fee charged under this section by an investor-owned sewerage system may be paid without interest in monthly installments, over a period of time not to exceed 5 years from the date the sewerage system becomes available, if it determines that the owner has demonstrated a financial hardship.[4]

Although the statute requires sewer hookup and makes provision for payment of hookup fees, there are no statutorily prescribed penalties for failure to connect to the system within the designated time period. A companion bill in the House of Representatives to Committee Substitute for Senate Bill 158 provided:

"If the owner of an onsite sewage treatment and disposal system has not connected to an available publicly owned or investor-owned sewerage system within the time required by this subsection, the publicly owned or investor-owned sewerage system may charge the owner any connection fees, customer charges, or minimum billing charges as if the owner had connected to the available sewerage system on the last day of the notification period. Such charges may be collected or enforced as permitted by applicable tariffs or rules and regulations of the sewerage system or as otherwise permitted by law." [5]

No such provisions are contained in the Senate Bill that passed as Chapter 93-151, Laws of Florida, creating section 381.00655, Florida Statutes. Nor does section 381.00655, Florida Statutes, specifically grant enforcement authority to any agency or entity.

This office, however, has stated that a county or a municipality may take local legislative action providing for the enforcement of section 381.00655, Florida Statutes, under home rule powers.[6] The statute itself clearly recognizes the authority of counties and municipalities to "enforce other laws for the protection of the public health and safety." [7] Moreover, section 381.0065(5)(b)1., Florida Statutes, provides that the Department of Health may issue citations containing an order of correction or an order to pay a fine, or both, for violations of sections 381.0065-381.0067 or the rules adopted by the department, when a violation of these sections or rules is enforceable by an

administrative or civil remedy, or when a violation of these sections or rules is a misdemeanor of the second degree.[8] A citation issued under sections 381.0065-381.0067, Part I of Chapter 386, or Part III of Chapter 489, Florida Statutes, constitutes a notice of proposed agency action.

Accordingly, I am of the view that the Legislature, through the enactment of section 381.00655, Florida Statutes, requires residential owners whose property is served by an onsite septic system to connect with an investor-owned sewerage system after written notification by the owner of the investor-owned sewerage system that the system is available for connection, unless the investor-owned sewerage system waives the connection with the consent of the Department of Health.

Sincerely,

Robert A. Butterworth
Attorney General

RAB/tjw

[1] See, s. 381.0065(2)(j), Fla. Stat., as amended by s. 10, Ch. 2000-242, Laws of Florida, defining an "Onsite sewage treatment and disposal system" as used in ss. 381.0065-381.0067, Fla. Stat., to mean

"a system that contains a standard subsurface, filled, or mound drainfield system; an aerobic treatment unit; a graywater system tank; a laundry wastewater system tank; a *septic* tank; a grease interceptor; a pump tank; a solids or effluent pump; a waterless, incinerating, or organic waste-composting toilet; or a sanitary pit privy that is installed or proposed to be installed beyond the building sewer on land of the owner or on other land to which the owner has the legal right to install a system. The term includes any item placed within, or intended to be used as a part of or in conjunction with, the system. This term does not include package sewage treatment facilities and other treatment works regulated under chapter 403." (e.s.)

[2] Section 381.00655(1)(a), Fla. Stat.

[3] Section 381.00655(1)(b), Fla. Stat.

[4] Section 381.00655(2)(a), Fla. Stat. The statute requires the local governing body to establish criteria for making the determination that the owner has demonstrated a financial hardship, taking into account the owner's net worth, income, and financial needs.

[5] Section 2, HB 2133, 1993 legislative session.

[6] See, Op. Att'y Gen Fla. 96-09 (1996), and Inf. Op. to Alan C. Jensen, dated August 27, 1999.

[7] Section 381.00655(1)(a), Fla. Stat.

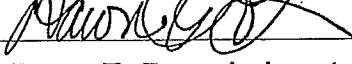
[8] *Cf.*, Rule 64E-6.022(1)(p), Fla.Admin.C., establishing disciplinary guidelines for the installation, modification, or repair of an onsite sewage treatment and disposal system in violation of the standards of s. 381.0065 or s. 381.00655, Fla. Stat., or chapter 64E-6, Fla.Admin.C.: First violation, \$500 per specific standard violated; repeat violation, 90 day suspension or revocation.

MEMORANDUM
FROM THE
OFFICE OF COUNTY ATTORNEY

VIA EMAIL ONLY

DATE: February 12, 2010

TO: Brandon Dunn
Development Review
Representative

FROM: 
Dawn E. Perry-Lehnert
Assistant County Attorney

RE: **Buckingham Planning Community (CPA2007-49)**
Transmission Line Siting Acts
LU-2090.N

As part of its Community Planning effort the Buckingham Community Planning Panel raised an issue with respect to utility transmission lines running through the community planning area. The Community's main concern appears to be the extension of fuel transmission lines through the community, though other utility facilities also present a concern.

The attempt to locally control the siting and construction of electrical transmission lines (including power plant transmission lines that may include pipelines and fuel-up loading facilities) or natural gas transmission lines raises a legal concern. Under the Florida Statutes, the County is pre-empted with respect to the siting of Electrical power plants, substations and transmission lines; and Natural Gas transmission lines. See F.S. §§ 403.510; 403.536; and 403.942. Consequently, it does not appear appropriate to adopt a Lee Plan provision that prohibits the siting of electrical and gas utility facilities in the Buckingham Community.

Although local governments do not have the authority to certify/approve the location of transmission lines and related facilities, the statutes do afford the local government an opportunity to hold informational public meetings and provide input for consideration by an Administrative Law Judge in the Department of Administrative Hearings (DOAH) process. There may also be a limited opportunity for a directly affected private property owner to provide additional input or alternatives for consideration in the DOAH process. An overview of the processes involved are set forth in Attachment A.

In light of the above, please consider recommending adoption of a policy that reads as follows:

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

Brandon Dunn
February 12, 2010
Page 2

Re: Buckingham Planning Community (CPA2007-49)
Transmission Line Siting Acts
LU-2090.N

With respect to the siting of electrical transmission lines, electrical power plants, natural gas transmission lines and the related facilities, the County will hold a public informational meeting in accord with the appropriate provision as set forth in Florida States Chapter 403.

Should you have any questions concerning the above, please do not hesitate to contact me.

DPL:tlb
Attachment

cc via email only: David M. Owen, County Attorney
Mary Gibbs, Director, DCD
Paul O'Connor, Director, Planning Division
Donna Marie Collins, Chief Assistant County Attorney
Gregory S. Hagen, Chief Assistant County Attorney
Matt Noble, Principal Planner, DCD

ATTACHMENT A

To follow is an overview of the statutes applicable to Natural Gas and Electrical Transmission Line and Power Plant Siting Acts. The overview is intended to provide a general understanding of the process involved. Please be sure to review the Acts in their entirety.

Natural Gas Transmission Pipeline Siting Act (FS §§403.9401-403.9425)

- 403.9402** The legislative intent of the act is to
1. Establish a centralized and coordinated permitting process for the location of natural gas transmission pipeline corridors and the construction and maintenance of the pipelines.
 2. Further the goal of ensuring, through available and reasonable methods, that the location of natural gas transmission pipelines produce minimal adverse affect on the environment and public health, safety and welfare.
 3. To fully balance the need for natural gas supplies with the broad interest of the public in order to affect a reasonable balance between the need for the transmission pipeline, the impact on the public and the environment.
- 403.9403** Certification means the approval by the Governor and Cabinet of a corridor, and of the construction and maintenance of a pipeline within that corridor, along with any changes or conditions the Governor and Cabinet considers appropriate. Certification is evidenced by a written order of the Governor and Cabinet.
- 403.9405** Applicability, exemptions...
- 403.94055** Application filed with the Department of Environmental Protection (DEP). Must include the beginning and ending point of a pipelining/corridor along with all structures and maintenance and access roads required to be constructed. As proposed the width of the corridor is limited to 1/3 of a mile wide. The corridor is narrowed after the property acquisition process to include only land within pipeline right-of-way.
- 403.9406.** An Administrative Law Judge (ALJ) is selected within 7 days after application filing.
- 403.9407** A list of those affected or agencies entitled to notice and copies of application is prepared. 7 days after DEP determines the application is complete a schedule for submissions by agencies and affected parties is established and copies of application and supporting documents are distributed.

403.9408 DEP determines whether the application is complete within 15 days of receipt. If not complete, then a request is made to the applicant for information. This process continues until a determination of completeness is rendered or the application is withdrawn.

403.9409 Within 45 days after the completeness determination is issued, DEP files a statement with DOAH regarding sufficiency of the application. This continues until the application is found sufficient or is withdrawn.

403.941 Reports

1. The affected agencies have 60 days after the application is first received to issue a preliminary statement regarding issues. This statement is made available to local governments for use in the informational meeting under 403.9424.
2. 60 days after application is deemed sufficient, affected agencies must provide a report to DEP regarding:
 - a. *DEP report*: impact on matters under its jurisdiction;
 - b. *Water Management (WMD) District report*: impact on water resources and other matters under their jurisdiction;
 - c. *DCA report*: recommendations addressing impact upon the public; consistency with the state comprehensive plan; consistency with strategic regional policy/plans, local comprehensive plans and land development regulations (LDRs).
 - d. *Fish and Wildlife Conservation (FWC) report*: impact on fish and wildlife resources.
 - e. *Local Government report*: consistency with local ordinances, regulations, standards, criteria, including local comprehensive plans, zoning regulations, LDRs, environmental regulations. [Local government can not amend its regulations applicable to the certification area after the report is filed, unless certification is denied or application is withdrawn.]
 - f. *Regional Planning Council (RPC) report*: impacts on the public, degree of consistency with strategic regional policy
 - g. Florida Department of Transportation report: matters within its jurisdiction, including roadway crossingsAll reports must include information regarding variance and proposed conditions of certification.
3. DEP prepares written analysis summarizing and compiling agency reports; including variances, exemptions, exceptions and conditions. DEP report due to ALJ 115 days after app sufficient.
4. Issues not raised by an agency in their report will be precluded at the DOAH hearing and are deemed waived.

403.9411 Notice Requirements; Parties.

1. Notices

- a. Within 15 days after application is complete, applicant publishes notice of the application.
- b. Applicant publishes notice of hearing date at least 80 days before date set by ALJ. Notice includes deadline for filing notice of intent to be a party.
- c. Applicant publishes reminder notice 10 days before certification hearing.
- d. Specific newspaper publication criteria required.
- e. DEP publishes notice in Florida Administrative Weekly.

2. DOAH hearing required to be conducted no later than 215 days after application complete [unless the hearing is rescheduled due to alternate corridor proposals]. Hearing located in central proximity of proposed corridor.

3. Optional local public hearing.

- a. Local government has until 50 days after application is complete to notify ALJ they want to hold a local public hearing. (This is different than the informational public meeting.)
- b. Within 5 days after request, ALJ determines date of local government hearing. County chooses location, unless 2 or more local governments in same county notify ALJ requesting a hearing. Then ALJ consolidates the public hearings and chooses a central location.
- c. Local public hearing is for members of the public that are not parties to the certification hearing to testify.
- d. If the County (local government) does not request a hearing, people residing in the County may testify during the public hearing portion of certification hearing. (This testimony is not sworn.)

4. ALJ Recommendation to Governor and Cabinet: issued no later than 60 days after the transcripts of certification and public hearings are filed with DOAH. Order must include findings of fact and conclusions of law.

5. Parties

- a. Includes all person/entities with right to file a report to DEP.
- b. However, County must file notice of intent to be a party at least 30 days before certification hearing, or the County will be deemed to have waived its right to be a party.
- c. Additional potential parties:
 1. Agency not required to file a report, if notice is filed.
 2. Domestic nonprofit corporation/associations formed for a variety of listed purposes and operating within the area encompassed by the proposed corridor. This includes community planning panels and homeowners associations. Notice of intent to be a party is required.

3. Persons with substantial interests affected. Petition for intervention required to be filed at least 30 days before certification hearing.
- d. ALJ provides opportunity for public comment during hearing by non-parties. Statements provided whether written or oral are unsworn.

403.9412. Alternate Corridors

1. Any party can propose an alternate corridor. Proposals must be filed 50 days before the originally scheduled certification hearing. Proposals must be accompanied by certain supporting documentation.
2. Within 7 days after receipt of notice as to alternate corridor, applicant and DEP file, with ALJ and parties, a notice of acceptance or rejection of proposed alternate corridor.
 - a. If rejected by either DEP or Applicant, the certification hearing is held on date originally scheduled.
 - b. If accepted, the certification hearing is rescheduled and held no later than 135 days after original hearing to allow a review of alternate corridors. [No additional alternate corridor proposals are permitted during this time, unless the applicant amends the application and the proposed corridor alignment.]
 - c. Within 25 days after proposed alternate corridor accepted, proposing party must provide supplementary data to support alternate. If data is not sufficient, then additional time is provided. Agencies file reports regarding alternative corridors no later than 45 days after data submitted is sufficient.
 - d. DEP prepares supplemental written analysis to ALJ at least 40 days before certification hearing.
3. During certification hearing, any party can discuss proposed alternate corridors, whether rejected or not, and present testimony showing the corridor does or does not meet the statutory criteria in 403.9415.

403.9415 Final Disposition by Governor and Cabinet ("Board")

1. Board considers and acts on ALJ recommendation within 60 days after receipt by accepting, rejecting or modifying recommendation.
2. Board may hold a hearing. Issues at hearing a limited to those raised in certification proceedings or ALJ recommended order.
3. If denied, Board must state action necessary to secure approval.
4. Board must consider whether, and to what extent the location, construction and maintenance of the corridor will effect a reasonable balance between the need for the natural gas transmission pipeline as a means of providing natural gas energy, and the impact upon the public and environment resulting from the proposed location of the corridor. This balance is based upon whether and the extent to which the project will:

- a. Ensure natural gas delivery reliability and integrity;
 - b. Meet the natural gas energy needs of the state in an orderly and timely fashion;
 - c. Comply with the nonprocedural requirements of agencies;
 - d. Adversely affect historical sites and natural environment;
 - e. Adversely affect health, safety and welfare of the residents of the affected local government;
 - f. Be consistent with applicable local government comprehensive plans and LDRs; and
 - g. Avoid densely populated areas to the maximum extent feasible. If densely populated areas cannot be avoided, locate, to the maximum extent feasible, within existing utility corridors or rights-of-way.
5. The Board will certify the corridor that meets the criteria and has the least adverse impact regarding the criteria, including costs. The Board can chose to certify a rejected corridor if it meets the criteria and has the least adverse impact. If two or more corridors meet the criteria and area is substantially equal with respect to adverse impacts, the Board will certify the corridor preferred by the applicant.

403.9416 Effect of Certification

1. Certification constitutes the sole license of the state and any agency as to the approval of the corridor location and construction. Certification is valid for the life of the transmission pipeline. But certification is void if construction is not commenced within 5 years after certification is issued, unless otherwise authorized by Board.
2. Certification authorizes location, construction and maintenance, subject only to stated conditions.
3. Certification may include conditions that constitute variances and exemption from nonprocedural standards/regulations expressly considered in the proceeding. Each party has an obligation to notify the applicant of any nonprocedural requirements that are not listed in the application from which a variance, exemption, exception or other relief is necessary in order for the Board to certify the proposed corridor (as part of report to DEP regarding the application or a proposed alternate corridor).
4. Certification is in lieu of any other permits, certificates, licenses etc.

403.9417 The applicant has 60 days after the certification is issued to file a notice of the certified route.

403.9418 Modification of certification is possible in accord with the specified process.

403.942

Superseded Laws, Regulations and Certification Power.

1. *Act controls.* Any provision limitation, restriction, regulation, rule, or ordinance of the state or any political subdivision, municipality or agency that conflicts Act is deemed superseded.
2. The state preempts the certification and regulations of natural gas transmission pipelines and corridors subject to the Act.

403.9424

Local Government; Informational Meetings

1. Local government (County) may hold informational public meetings in addition to the hearings authorized by the ALJ. Informational meetings should be held no later than 80 days after the complete application is filed. The purpose of the meeting is to inform the public about the proposed natural gas pipeline, obtain comments and formulate a recommendation. Neither the meetings nor the recommendation may address the need for the pipeline.
2. Informational meetings are optional.

Florida Electrical Power Plant Siting Act

FS §§403.501-403.518

403.502

It is the intent of the legislature to seek courses of action that will fully balance the increasing demand for electrical power plant location and operation with the broad interests of the public and to

1. Assure Florida citizens that the operation safeguards are technically sufficient for their welfare and protection.
2. Effect a reasonable balance between the need for the facility and the environmental impact resulting from construction and operation of the facility, including air and water quality, fish and wildlife, and the water resources and other natural resources of the state.
3. Meet the need for electrical energy established in 403.519.
4. Assure citizens that renewable energy sources and technologies, as well as conservation measures, are used to the extent reasonably available.

Policy of the state: ensure through available and reasonable methods that the location and operation of electrical power plants will produce minimal adverse impacts on human health, the environment, the ecology of the land, wildlife, state waters, and aquatic life, and not unduly conflict with the goals established by the applicable local comprehensive plans.

403.506

Applicability. The Act basically applies to any electrical power plant except a power plant of less than 75 megawatts in gross capacity, unless the applicant chooses to request certification.

Certification is not required under the Act if the proposed/expanded electrical plant will use nuclear materials as fuel. This exemption applies to the related transmission lines, among other things.

Any facilities necessary for the construction of the electrical power plant become part of the certified power plant upon completion of construction.

403.5064 Application filing.

1. Application filed with DEP.
2. Alternate corridor option. If the applicant exercises its option to allow alternate corridor considerations, the transmission line corridors are processed in accord with electrical transmission line siting act provisions.
3. Within 7 days after application filed.
 - a. DEP provides notice/list to DOAH regarding agencies and persons entitled to notice of application. Applicant has 5 days to provide copies to those on list.
 - b. DEP establishes a schedule for filings etc. related to processing the application. This schedule is sent to DOAH and an order regarding the schedule is issued.
 - c. Administrative Law Judge (ALJ) is appointed (403.5065)
4. Notice of filing application is published in accord with public notice provisions (403.5115).

403.5066 Application Completeness Determination

1. 30 days after filing application affected agencies file statement with DEP regarding completeness.
2. 40 days after app filed, DEP files statement with DOAH regarding completeness. If application not complete, applicant has 15 days to take action. Applicant can withdraw application; file additional information within 30 days after statement filed with DOAH; contest determination; or request more time. This continues until application is complete.

403.50663 Informational Public Meeting

1. Within 70 days after application filed, local government may hold a public informational meeting, which is in addition to any hearings required by the Act. If the local government does not hold a meeting, the Regional Planning Council may chose to do so.
2. The purpose of the meeting is to inform the public about the proposed electrical power plant and associated facilities, and obtain comments to assist in preparing the required recommendation.
3. The applicant may, but is not required, to attend the meeting.
4. 5 days before meeting, published notice is required in accord with 403.5115(5).
5. Failure to hold a meeting is not a basis for denial of certificate.

403.50665 Land Use Consistency

1. The application must include a statement regarding consistency of the site and facilities with existing land use plan and zoning regulations in

effect on the date the application was filed. The application must also identify the facilities that are exempt from land use and zoning requirements under FS ch 163 and 380.04(3).

2. 45 days after application is filed, County must file statement with DEP and all other parties regarding consistency of the site and associated facilities that are not exempt from land use and zoning regulations in effect on date of application.
3. Notice of consistency determination must be published.
4. Applicant may file for local approval to address inconsistencies identified by County. County must commence proceedings to consider application within 45 days after receipt and issue a revised determination 30 days following conclusion of local proceeding. Filing of application with County tolls time for certification hearings.
5. A substantially affected person can dispute the County determination by filing a petition with the ALJ 21 days after notice of consistency published.
6. If the County determines a proposed site or nonexempt facility conforms to the land use plan and zoning regulations, the County can not take action to change regulations to prevent construction or operation of the facilities unless certification is withdrawn or denied.

403.507

Reports

1. 40 days after application is determined complete all agencies (includes County) are to submit a preliminary statement.
2. 100 days after application is determined complete, the following agencies must submit a report to DEP and applicant regarding:
 - a. *DCA report*: recommendations to address impact on public; degree proposed plant is consistent with state comprehensive plan and other matters within its jurisdiction; may also comment on consistency with local comp plan and LDRs.
 - b. *WMD report*: impact on water resources, regional water supply and district-owned lands/works.
 - c. *County report*: consistency of proposed plant with applicable local regulations that apply to the proposed electrical power plant, including environmental regulations.
 - d. *FWC report*: matters under FWC jurisdiction.
 - e. *RPC report*: recommendation to address impact of plant on the public; consistency of plant with strategic regional plan.
 - f. *FDOT report*: matters under its jurisdiction.
3. Each report must contain:
 - a. Notice of nonprocedural requirements from which a variance, exemption, exception or other relief is necessary to certify the plant. Failure to notify DEP as to these items constitutes a waiver.
 - b. Recommendation to approve or deny.

- c. Proposed conditions of certification on matters under agency jurisdiction.
- 4. 150 days after application filed, Public Service Commission (PSC) prepares a report regarding present and future need for the electrical generating capacity to be supplied by the proposed plant.
- 5. 130 days after application deemed complete DEP files analysis including
 - a. Statement whether the proposed plant will be in compliance/consistent with DEP standards as well as nonprocedural requirements of affected agencies.
 - b. Copies of required reports and studies.
 - c. Comments from other agencies.
 - d. Recommendation as to disposition of application, variances, exemptions, and other relief; proposed conditions on certification.

403.508

Land Use and Certification Hearings: Parties.

- 1. If a petition is filed under 403.50665 disputing the local government determination with respect to consistency of proposed plant with land use plan and LDRS, the ALJ has 5 days to schedule a hearing, which must occur no later than 30 days after the petition is received. Notice must be published in accord with 403.5115.
- 2. The sole issue for determination at the hearing on the land use petition is whether or not the proposed site or non exempt associated facility is consistent and in compliance with existing land use plans and zoning ordinances.
If the ALJ concludes the plant or facilities are not consistent with the land use plan or zoning regulations, then the ALJ receives evidence during the course of this hearing and, includes in the recommended order any changes to or approvals or variances under, the applicable land use plans or zoning regulations that will render the proposed site/facilities consistent and in compliance with local regulations.
- 3. ALJ has 30 days after hearing concludes to issue recommended order; Board (Governor and Cabinet) have 60 days after receipt of ALJ recommendation to review it.
- 4. If Board determines plant/facilities in compliance with local regulations, then County can't changes regulations to create inconsistency or prevent construction.
- 5. If Board determines plant/facilities not consistent with local regulations, then Board may authorize a variance or other necessary approval to the adopted land use plan or zoning regulations required to render the site/facilities consistent with local regulations (based upon a determination after notice, hearing and consideration of recommended order that the plant/facilities are in the public interest).

The Board action is not controlled by any other procedural requirements of law.

If the Board denies the variance or other approvals, the applicant must seek the necessary approvals (as determined by the Board) to make the proposed site/facilities consistent/compliant with local land use plan and zoning regulations before the application can move forward.

6. Within 265 days after the application is filed, the certification hearing must be held. The hearing must be located in proximity to the proposed site.
7. Required parties to the proceeding include: Applicant, PSC, DCA, FWC, WMD, RPC, County, FDOT. But parties can waive right to participate if they fail to file notice of intent to be a party 90 days before certification hearing.
8. Others can become a party by filing a notice of intent with ALJ no later than 75 days after application is filed.
9. ALJ may give any person an opportunity to present oral or written communications at the hearing. If considered by ALJ, then the communication must be subject to cross-examination.
10. ALJ has 45 days after transcript is filed to issue a recommended order.
11. DEP can request that the ALJ cancel the hearing if all parties agree to application. If granted, DEP issues the final order on the application.

403.509

Final Disposition by Governor and Cabinet ("Board")

1. Board considers and acts on ALJ recommendation within 60 days after receipt by accepting, rejecting or modifying recommendation.
2. Board may hold a hearing. Issues at hearing are limited to those raised in certification proceedings or ALJ recommended order.
3. If denied, Board must state action necessary to secure approval.
4. Board must consider whether, and to what extent the location, construction and operation of the plant will:
 - a. Provide reasonable assurance that operational safeguards are technically sufficient for public welfare and protection;
 - b. Comply with the nonprocedural requirements of agencies;
 - c. Be consistent with applicable local government comprehensive plans and LDRs;
 - d. Meet electrical energy needs of the state in an orderly, reliable, and timely fashion;
 - e. Effect a reasonable balance between the need for the facility and the impacts upon air and water quality, fish and wild life, water resources, and other natural resources;
 - f. Minimize through reasonable and available methods, the adverse effects on human health, the environment and the ecology of the land, wildlife, state waters and aquatic life; and

- g. Serve and protect the broad interests of the public.
5. The Board will certify the corridor that meets the criteria and has the least adverse impact regarding the criteria, including costs. If the board finds that a rejected alternate corridor meets the criteria and has the least adverse impact, the Board may deny the certification or allow the applicant to submit and amend application to include the corridor. If two or more corridors meet the criteria and area is substantially equal with respect to adverse impacts, the Board will certify the corridor preferred by the applicant.

403.510 Superseded Laws, Regulations and Certification Power.

1. *The Act controls.* Any provision limitation, restriction, regulation, rule, or ordinance of the state or any political subdivision, municipality or agency that conflicts with the Act is deemed superseded.
2. The state preempts the certification and regulations of natural gas transmission pipelines and corridors subject to the Act.

403.511 Effect of Certification.

1. Certification constitutes the sole license of the state and any agency as to the approval of the site/facility location and construction.
2. Certification authorizes location, construction and maintenance, subject only to stated conditions.
3. Certification may include conditions that constitute variances and exemption from nonprocedural standards/regulations expressly considered in the proceeding.
4. Certification is in lieu of any other permits, certificates, licenses etc.
5. Act does not affect PSC ratemaking power; or ability of County to charge fees or require construction in compliance with building code.

403.5185 Applicable law

Any application for electrical power plant certification filed pursuant to §§403.501-403.518 "shall" be processed under the provisions of the law applicable at the time the application was filed.

Florida Electric Transmission Line Siting Act
§§403.52-403.5365

403.521 Intent

1. Establish a centralized and coordinated licensing process for the location, construction, operation and maintenance of electric transmission lines.
2. Ensure through available and reasonable methods that location, construction, operation and maintenance of electric transmission corridors and lines produce minimal adverse effects on environment, public health, safety and welfare.

3. Fully balance the need for transmission lines with broad interest of the public to effect reasonable balance between need for facility and impact on the public and environment.

403.524 Applicability

1. Act applies to each transmission line, except a line certified under the Florida Electrical Power Plant Siting Act.
2. Exemptions: for lines approved under FS ch. 380; lines in established rights-of-way for roads, railroads, gas, water, oil, electricity, sewage or any other public purpose; transmission lines that are less than 15 miles in length or located in a single county within the state.
3. Exemption of transmission line under this Act does not constitute an exemption from applicable permitting processes or local government regulations.

403.525 Within 7 days after application received, DEP request DOAH to designate ALJ.

403.5251 Application

1. Formal application filing date established when copies of application filed and fee paid.
2. DEP identifies additional agencies to receive notice of application and provides copies to these entities within 7 days of application filing.
3. Application must identify starting and ending points for transmission lines.
4. Within 15 days of application filing DEP determines schedule for completeness, reports, etc.

403.5252 Completeness Determination

1. Within 30 days of application filing, affected agencies must file statement with DEP containing recommendations as to completeness.
2. Within 37 days of application filing, DEP files statement with DOAH, applicant and parties regarding completeness based upon input from affected agencies.
3. If DEP declares application incomplete, the applicant must take action within 14 days. Actions include withdrawing application; providing additional information; contest the DEP's determination, request additional time to respond.
4. If applicant contests determination, ALJ sets a hearing not later than 21 days after DEP files statement. ALJ renders a decision within 7 days after hearing.
 - a. If deemed incomplete, applicant must withdraw application or make necessary submittals to reach completeness.
 - b. If application deemed complete, the time schedule commences.

- c. If additional information needed applicant has 14 days to submit, and the process continues until completeness is reached.

403.526

Reports

1. Each affected agency files a preliminary statement of issues to DEP.
2. No later than 90 days after application filed, agencies must submit report to DEP regarding:
 - a. *DEP report*: impact of each proposed line/corridor as it relates to matters within its jurisdiction.
 - b. *Water Management District report*: impact on water resources and other matters within jurisdiction.
 - c. *DCA report*: recommendation to address the impact of the proposed line/corridor on the public based upon degree to which the line/corridor is consistent with state comprehensive plan, emergency management; consistency with applicable strategic regional policy plans or local comprehensive plans and LDRs.
 - d. *FWC report*: impact on fish and wildlife.
 - e. *County report*: impact of each line/corridor on matters within County jurisdiction including consistency with local regulations, standards, criteria that apply to transmission lines/corridor, local comp plan, zoning, environmental and land development regulations. Regulation amendments accomplished after transmission line application filed do not affect the application.
 - f. *RPS report*: impact on public based upon degree line/corridor is consistent with strategic regional policy plan and other matters under its jurisdiction.
 - g. *PSC report*: determination under 403.537 and other matters within jurisdiction.
3. Reports must contain:
 - a. Notice of any nonprocedural requirements from which a variance, exemption, exception or other relief is necessary in order for the proposed corridor to be certified. Failure to provide notice constitutes a waiver from the nonprocedural requirement.
 - b. Recommendation of approval or denial.
 - c. Proposed conditions, including reference to regulations upon which condition is based.
4. 115 days after application filed, DEP provides analysis to ALJ based upon reports from agencies and includes:
 - a. Statement of compliance with rules of DEP and other agencies.
 - b. Comments received.

- c. Recommendation as to disposition of application, variances, exemptions, exceptions, and other proposed relief; conditions of certification.

403.527

Certification Hearing; Parties

1. No later than 145 days after application filed, ALJ must conduct certification hearing at a central location in proximity to proposed lines/corridor.
2. Notice of certification hearing must be published in accord with 403.5363.
3. Hearing parties include: Applicant, DEP, PSC, DCA, FWC, FDOT, WMD, County, RPC.
4. 30 days before certification hearing, parties must file a notice of intent to participate. Failure to file notice constitutes waiver of the right to participate.
5. A notice of intent to be a party or a petition for intervention may be filed with ALJ no later than 30 days before hearing to achieve recognition as a party by agencies not listed above or certain nonprofit corporations or associations; or any person whose substantial interests are effected or determined by the proceedings.
6. The ALJ may give any person an opportunity to present oral or written communications. If considered by the ALJ, the communications must be subject to cross-examination, challenge and rebuttal.
7. One Public hearing where nonparty members of the public may testify "shall" be held in conjunction with the certification hearing.
 - a. Local government (County) requests right to hold public hearing for non-parties who reside within the County
 - b. County must notify ALJ and all parties no later than 50 days after application filing regarding intent to hold a meeting. County is responsible for providing the location if the meeting is held separately from the certification hearing.
 - c. Within 5 days after notice, ALJ determines the date of the public hearing. If 2 or more local governments in the same county request a public hearing, the ALJ will consolidate the hearings and the locations is determined by the ALJ.
 - d. If County does not request public hearing in 50 days, nonparty members of the public who reside in the County may testify during certification hearing.
8. No later than 45 days after receipt of transcripts for public hearing and certification hearing, ALJ must issue recommendation.
9. No later than 29 days before certification hearing, DEP may request ALJ to relinquish jurisdiction because there are no disputed issues of material fact or law.
If ALJ grants DEPs request, then DEP prepares and issues the final order.

403.5271**Alternate Corridors**

1. No later than 45 days before the originally scheduled certification hearing any party may propose an alternative corridor.
2. Notice of the proposed alternative must be filed with ALJ, all parties and affected local government. Filing must include maps etc and statement why alternate corridor should be certified.
3. Within 7 days after notice of alternative filed, applicant and DEP file notice of acceptance or rejection of proposed alternate.
If rejected, certification hearing goes on as scheduled.
If accepted, certification hearing is rescheduled.
Rescheduled certification hearing must be held no more than 90 days after the previously scheduled hearing date, unless the data supporting the alternative is not complete. Then the proposer gets additional time to provide the information.
4. Proponent of alternate corridor is responsible to publish notice of alternative. If notice is not timely published, the alternative is deemed withdrawn.
5. Within 21 days after acceptance of proposed alternate, proposing party must provide data to all agencies; agencies must issue supplemental report to DEP within 15 days after submittal. DEP issues determination of completeness 22 days after receipt of data. If deemed not complete the proposing party gets additional time to submit data to reach completeness.
6. 24 days after alternative deemed complete, supplementary reports must be submitted to DEP.
7. 16 days after DEP receives reports, DEP files report with ALJ.
8. Evidence may be presented at certification hearing on any corridor, whether accepted or rejected, provided the alternate corridor was proposed at least 45 days before the originally scheduled certification hearing date.
9. Party proposing alternative has burden to prove corridor can be certified.
10. If an alternate corridor is accepted by the applicant and DEP based upon a notice of acceptance and the corridor is ultimately determined to be the corridor meeting the criteria set forth in 403.529(4) and (5), the Board "shall" certify the corridor.

403.5272**Informational Public Hearing**

1. Within 55 days after application filed, local government may hold a public informational meeting, which is in addition to any hearings required by the Act. If the local government does not hold a meeting, the Regional Planning Council may chose to do so. (The meetings are optional.)
2. The purpose of the meeting is to inform the public about the proposed transmission line and obtain comments to assist in preparing the require recommendation.

3. Informational meetings are held solely at the local government or RPC's option. No party, other than the applicant and DEP, is required to attend.
4. Not less than 15 days before meeting, the County/RPC is required to publish notice in accord with 403.527(2)(a) and 403.5363(4).
5. Failure to hold a meeting is not a basis for denial of certificate.

403.529

Final Disposition by Governor and Cabinet ("Board")

1. Board considers and acts on ALJ recommendation within 60 days after receipt by accepting, rejecting or modifying recommendation.
2. Board may hold a hearing. Issues at hearing are limited to those raised in certification proceedings or ALJ recommended order.
3. If denied, Board must state action necessary to secure approval.
4. Board must consider whether, and to what extent the location, construction, operation and maintenance of the line/corridor will:
 - a. Ensure electrical power system reliability and integrity;
 - b. Meet electrical energy needs of the state in an orderly, economical and timely fashion;
 - c. Comply with the nonprocedural requirements of agencies;
 - d. Be consistent with applicable local government comprehensive plans; and
 - e. Effect a reasonable balance between the need for the lines and the impacts upon the public and environment resulting from location, construction, operation and maintenance of the lines.
5. The Board will certify the corridor that meets the criteria and has the least adverse impact regarding the criteria, including costs.
If the board finds that a rejected alternate corridor meets the criteria and has the least adverse impact, the Board may deny the certification or allow the applicant to submit and amend application to include the corridor.
If two or more corridors meet the criteria and area is substantially equal with respect to adverse impacts, the Board will certify the corridor preferred by the applicant.

403.531

Effect of Certification.

1. Certification constitutes the sole license of the state and any agency as to the approval of the line/corridor location, construction, operation and maintenance.
Certification is valid for the life of the transmission line if action to construction or acquire the right-of-way occurs within 5 years after the date of the certification.
2. Certification authorizes location, construction and maintenance, subject only to stated conditions.

3. Certification may include conditions that constitute variances and exemptions from nonprocedural standards/regulations expressly considered in the proceeding.
4. Certification is in lieu of any other permits, certificates, licenses etc.
5. Act does not affect PSC ratemaking power; or ability of County to charge fees or require construction in compliance with the National Electrical Safety Code.

403.536 Superseded Laws, Regulations and Certification Power.

1. *The Act controls.* Any provision limitation, restriction, regulation, rule, or ordinance of the state or any political subdivision, municipality or agency that conflicts with the Act is deemed superseded.
2. The state preempts the certification and regulations of transmission lines and corridors.