

May 1, 2008

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Mr. Matt Noble, Principal Planner
Division of Planning
Lee County Department of Community Development
P.O. Box 398
Fort Myers, Florida 33902-0398

RE: Babcock Ranch Community (CPA2006-08)
Applicant's Response to November 2, 2007 Insufficiency Letter

Dear Mr. Noble:

On behalf of the applicant, Babcock Property Holdings, LLC, we have prepared the following response to the insufficiency letter for the above referenced comprehensive plan amendment application. The response addresses the issues you raised in your letter, dated November 2, 2007, as well as those raised by the Lee County Department of Transportation (LDOT), in its memo dated October 29, 2007. For reference purposes, we have included in our response the associated text from your correspondence (in *italics*).

We would propose a meeting in the near future to discuss these responses and how best to work through any remaining issues and the processing of this application.

Before going into the specific responses to Lee County's sufficiency requests, we would like to describe our proposed process for proceeding with the Lee Plan amendments necessary to mitigate traffic impacts in Lee County from the Babcock Ranch Community to be developed in Charlotte County. This process will comply with governing provisions of the Lee Plan, the Community Road Planning Agreement, state and local regulations for growth management and concurrency, and is consistent with Lee County's standard process for reviewing privately-initiated amendments to the Lee Plan.

As you may be aware, at the time the comprehensive plan amendment was submitted, the applicant was contemplating undertaking the regular DRI process. Ultimately however, the applicant undertook the Master/Incremental DRI process, which will allow for the general identification of transportation improvements that may be necessary upon buildout of the Babcock Ranch Community, and also the specific transportation improvements and/or proportionate share that will be required as mitigation commensurate with an increment.

As part of these proposed amendments to the Lee Plan, we will continue to work with Lee County to develop an agreed-upon master list of potential transportation improvements in Lee County that may be needed to address transportation impacts upon the buildout of the Babcock Ranch Community. This master list will identify roadway improvements that may need to be constructed at buildout of the Babcock Ranch Community, depending upon the rate of vehicle trips captured internally by the Babcock Ranch Community. All of those identified road segments will be shown on a separate map for the Babcock Ranch Community only in the

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Transportation Map series and as a separate chart or listing for the Babcock Ranch Community only in the Capital Improvements Plan. The actual transportation improvements to be constructed and/or proportionate share will be identified as increments are proposed and processed on an incremental basis based upon traffic analyses conducted as a part of the incremental reviews.

As well, the applicant proposes to revise the AMDA Master Traffic Study provided in the original application submittal to be based on the Florida Department of Transportation (FDOT) Regional Travel Demand Model (2008 D1 District-wide Model). The recently approved 2008 D1 District-wide Model is the model required by the approved Babcock Ranch Community Master Development of Regional Impact Master DRI Development Order (MDO) for the applicant to use in revising the AMDA Master Traffic Study and in proceeding with the incremental applications (AIDAs). Therefore, use of the 2008 D1 District-wide Model, as well as subsequent methodology meetings and incremental modeling, will ensure consistency between the proposed Lee Plan amendments and the AMDA/AIDA process. This update of the AMDA Master Traffic Study will result in a master list of transportation improvements that may be needed through buildout, and will also form the basis of the Incremental Traffic Studies for each AIDA.

The list for the first increment will be a part of that overall Master List (consistent with the Master/Increment Development Process) and will be generated utilizing incremental modeling based on the 2008 D1 District-wide Model, as described in the MDO. This first increment list will have an identified funding source(s) and will be fully evaluated to determine the impacts on Lee County.

This process will serve as the basis for the Road Construction Agreements contemplated by the Community Road Planning Agreement, and specifically the form and process for an Incremental Road Construction Agreement to be done with each increment. The Incremental Road Construction Agreement will contain the list of road improvements required within Lee County for each increment of the AMDA, will identify the party(ies) responsible for constructing those improvements, and will identify the proportionate share cost estimate for each increment's road improvements within Lee County and the funding source(s) for the proportionate share of those improvements.

The applicant has provided a more thorough articulation of this process in the following responses to the Division of Planning (DOP) and LDOT sufficiency comments:

DIVISION OF PLANNING (DOP) COVER LETTER (November 2, 2007)

DOP: The Planning Division has reviewed your application for the above-referenced Lee Plan amendment and finds that additional information is needed before the application may be found sufficient for review. No public hearing will be schedule until all sufficiency items are addressed by the applicant.

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RESPONSE: The applicant recognizes that there are issues to be addressed prior to the public hearing process.

DOP: Staff from the Lee County Department of Transportation have reviewed the above mentioned application and provided comments dated October 29, 2007. These comments are attached to this letter and need to be addressed in order to be found sufficient for review.

RESPONSE: The applicant has reviewed the LDOT memo and has responded to its comments below in this letter.

DOP: Planning staff believes that Lee Plan Table 4 must also be amended as part of this amendment package. This change will reflect the committed revenues to cover the cost of the mutually agreed transportation system improvements.

RESPONSE: The applicant acknowledges that Lee Plan Table 4 will need to be amended as part of this amendment package. The amount to be shown in the Impact Fees & Development Agreements column will depend upon the Lee County road improvements required for each increment and the proportionate share costs associated with those improvements. A list of Master Traffic Study road improvements for the Master AMDA and then a proposed list of improvements for each increment (AIDA) will be generated utilizing the approved 2008 D1 District-wide Model and the incremental modeling process outlined in the MDO. Based on each increment list, the applicant will coordinate with LDOT to reach an agreement on the party(ies) responsible for constructing those improvements and the proportionate share costs associated with those road improvements. As contemplated by the Community Road Planning Agreement, the list of road improvements for each increment, the party(ies) responsible for constructing those improvements, and the proportionate share cost estimate will then be included in each Incremental Road Construction Agreement to be negotiated between the applicant and Lee County.

DOP: Also, a Developers Agreement will be necessary to identify and guarantee the funding source for the improvements that will be added to Lee Plan Table 3.

RESPONSE: The applicant acknowledges that an Incremental Road Construction Agreement, as contemplated by the Community Road Planning Agreement, will be necessary to identify and guarantee a funding source for those road improvements actually needed as determined through each incremental traffic study. This agreement will be negotiated utilizing the approved 2008 D1 District-wide Model and the incremental modeling process outlined in the MDO to generate a list of road improvements and/or proportionate share payments required for each AIDA.

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LDOT MEMORANDUM (October 29, 2007)

LDOT: The language acknowledges Lee County's unresolved concerns with the preliminary results of the BROD analysis, and reflects that the County would rely heavily on a modified list from the AMDA/DRI analysis based on an agreeable methodology.

RESPONSE: The applicant expects that the updated AMDA Master Traffic Study will result in a modified list based upon an agreeable methodology using the approved 2008 D1 FDOT District-wide Model.

LDOT: To date, there remains no agreement on the AMDA/DRI methodology, despite two sufficiency rounds. Even at this preliminary stage of evaluation of the AMDA/DRI results, it is worth noting that there are significant differences in the list of needed road improvements estimated in the AMDA/DRI analysis and the BROD analysis. One clear example of the difference that would greatly affect the number of lanes needed on SR 31: the BROD list assumes a 6-lane road internal to the development running parallel to SR 31 north from CR 78; no such internal road is included in the AMDA/DRI analysis. It is not reasonable to assume Lee County would agree to amend a critical component of the Lee Plan based on the preliminary list of road improvements developed using a methodology that Lee County was not a part of and never agreed to. Moreover, the expectation that the County would amend the Lee Plan on an incomplete list of improvements is contradictory to the provisions of the Community Road Planning Agreement.


RESPONSE: The applicant expects that the updated AMDA Master Traffic Study will result in a modified list based upon an agreeable methodology using the approved 2008 D1 FDOT District-wide Model.

LDOT: It is also worth noting that the request to amend the Lee Plan does not specify whether the proposed revision is to be based on the list of improvements in the Community Road Planning Agreement determined by the 22% internal capture assumption or the list based on the 50% internal capture assumption.

RESPONSE: The applicant expects that the updated AMDA Master Traffic Study will reflect the methodology and outputs resulting from the approved 2008 D1 FDOT District-wide Model.

LDOT: Map 3A reflects the Lee County MPO's 2030 Financially Feasible Highway Element map. Map 3A identifies the improvements toward which the limited transportation revenues expected through 2030 will be applied. Adding improvements reflected on Map 3A requires: (1) either deleting other projects off the Map; or (2) a full funding commitment from a non-projected revenue source for all the added improvements.

RESPONSE: The applicant proposes separate Transportation Maps and separate charts, listings and/or figures as needed, specifically addressing the Babcock Ranch Community

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only and the Master/Incremental process, to identify and guarantee a funding source(s) for the road improvements that will be constructed. Pursuant to the Community Road Planning Agreement, the applicant may use any funding mechanism and sources to meet its obligations which are, may be, or may become, available under either Florida or federal law. The terms of the Incremental Road Construction Agreements will be based on governing state and local concurrency requirements. Under those requirements, it is not necessary for the applicant to provide 100% of the funding for the improvements, only to provide a guarantee for its proportionate share of the funding for the improvements to actually be constructed to mitigate impacts from an increment. An Incremental Road Construction Agreement form will be finalized as part of the first AIDA.

LDOT: The list of improvements generated by the BROD analysis and attached as Exhibit B of the Community Road Planning Agreement does not show Kitson providing 100% of the funding for every improvement. As noted above, only those improvements with a 100% funding commitment can even be considered for addition to Map 3A.

RESPONSE: The applicant proposes separate Transportation Maps and separate charts, listings and/or figures as needed, specifically addressing the Babcock Ranch Community only and the Master/Incremental process, to identify and guarantee a funding source(s) for the road improvements that will be constructed. Pursuant to the Community Road Planning Agreement, the applicant may use any funding mechanism and sources to meet its obligations which are, may be, or may become, available under either Florida or federal law. The terms of the Incremental Road Construction Agreements will be based on governing state and local concurrency requirements. Under those requirements, it is not necessary for the applicant to provide 100% of the funding for the improvements, only to provide a guarantee for its proportionate share of the funding for the improvements to actually be constructed to mitigate impacts from an increment. A form Incremental Road Construction Agreement will be finalized as part of the first AIDA.

Furthermore, the applicant also has not made a clear funding commitment for the improvements requested in the proposed plan amendment; instead noting in an October 19, 2007 letter that "we anticipate that these improvements will be funded through the Babcock Ranch Community Independent Special District (Charlotte County) as determined by the DRI mitigation." This statement is contrary to Section C.2 of the Community Road Planning Agreement, which states: "(t)he implementing details of this commitment, including but not limited to design and turnover, will be the subject of a separate road construction agreement between Lee County and Kitson to be entered into on or before the time the DRI development order in Charlotte County is entered" (Emphasis supplied)

RESPONSE: The Incremental Road Construction Agreements, as contemplated by the Community Road Planning Agreement, will identify the party(ies) responsible for constructing those improvements and will identify and guarantee a funding source(s) for the road improvements actually needed, which are determined to be for each increment.

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LDOT: One final concern - the proposed text amendment to Policy 36.1.1 indicates that appropriate amendments will be made to the MPO's 2030 Financially Feasible Highway Plan Map in the next update cycle. Lee County is not able to bind the actions of an independent agency such as the Lee County MPO.

RESPONSE: The applicant will work with Lee County and the Lee County MPO, and other regulating agencies, as needed, to reach agreements to support any proposed amendments to the MPO Plans and Maps. We would expect that Lee County will support agreed upon amendments as part of the Lee County MPO process.

LDOT: The applicant's October 19th letter stated that they are assuming we now have sufficient information to finalize the review of this application to amend the Lee Plan. This is not the case. There is insufficient data and analysis to support the requested amendment, and there will not be sufficient data until the AMDA/DRI transportation analysis is complete, using a methodology acceptable to Lee County. There cannot be an adequate estimate of the costs of the needed improvements and analysis of the effect of adding them to the Financially Feasible Plan, without an agreed-upon list of needed road improvements based on an acceptable methodology. The statement that the applicant is anticipating that any necessary improvements in Lee County will be funded by the Independent Special District does not represent a sufficiently detailed commitment to justify the addition of projects to the Financially Feasible Plan. More importantly, it is contrary to the Community Road Planning Agreement with Lee County.

RESPONSE: We look forward to working with Lee County to resolve all concerns.

We believe that the response presented here provides a framework within which we can continue to work on the current Lee Plan amendment application and continue with the sufficiency process. Once you have had an opportunity to review this response, we would like to meet with you and the LDOT staff to discuss these matters in more detail. We will contact you within the coming weeks to arrange such a meeting. Please contact me with any questions.

Thank you for your consideration.

Sincerely,



Joseph W. Grubbs, Ph.D., AICP
Principal Planner

Cc: Babcock Property Holdings, LLC
David Plummer & Associates, Inc.
James R. Brindell, Esq., Gunster, Yoakley & Stewart, PA

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