

**CPA 2006-12  
NORTH RIVER VILLAGE  
AMENDMENT  
TO THE**

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**LEE COUNTY COMPREHENSIVE PLAN**

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**THE LEE PLAN**

**Privately Sponsored Application  
and Staff Analysis**

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LPA Public Hearing Document  
for the  
January 26<sup>th</sup>, 2009 Public Hearing

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*Lee County Planning Division  
1500 Monroe Street  
P.O. Box 398  
Fort Myers, FL 33902-0398  
(239) 479-8585*

**January 16, 2009**

**LEE COUNTY  
DIVISION OF PLANNING  
STAFF REPORT FOR  
COMPREHENSIVE PLAN AMENDMENT  
CPA 2006-12**

**Text Amendment**

**Map Amendment**

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

STAFF REPORT PREPARATION DATE: September 26, 2008, and January 16, 2009

**PART I - BACKGROUND AND STAFF RECOMMENDATION**

**A. SUMMARY OF APPLICATION**

**1. APPLICANT/REPRESENTATIVE:**

North River, LLC/Daniel DeLisi, AICP, DeLisi Fitzgerald, Inc.

**2. REQUEST:**

This amendment affects two separate properties. The first request is to amend the Future Land Use Map Series; Map 1 to change 1,232± acres of land (known as North River Village) designated "Rural" and "Outer Islands" to the "River Village," "Inner Islands," and "Conservation Lands" future land use categories. Amend existing Policy 36.1.1 to reflect applicant transportation improvement commitments. Incorporate 2 new Future Land Use categories as well as a new Objective and Policies guiding development in these areas. Add 2 footnotes to Table 1(a). Amend Table 1(b) to incorporate the new Future Land Use Categories. Amend Map 6, Lee County Utilities Future Water Service Areas, by adding the property to the Future Water Service Areas.

The second request is to amend 1,456± acres of land (known as Verandah) designated "Suburban" to the "Sub-Outlying Suburban" future land use category.

The 1,232-acre property in the North River Village request is generally located east of State Road 31 south of North River Road and north of the Caloosahatchee River.

The 1,456-acre property in the Verandah request is in the residential development known as Verandah, bordered by State Road 80 on the north, Buckingham Road on the east and the Orange River on the southwest.

**3. CURRENTLY REQUESTED LEE PLAN TEXT AMENDMENT:**

See Attached proposed applicant language, stamp received December 23, 2008.

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

**1. RECOMMENDATION:**

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

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

- The North River Village property is located within the Rural, Outer Island, and Wetlands Future Land Use Categories. The Verandah property is located in the Suburban and Wetland Future Land Use Categories.
- The proposed amendment promotes urban sprawl.
- Changing the designation of the North River Village property from Rural to an Urban category sets a precedent for the conversion of additional Rural lands.
- The existing Future Land Use Categories provide economically viable uses for the subject site.
- The North River Village identified archaeological sites, wetlands, edge protection areas, habitat areas, flowway restoration area, are located in areas included in the proposed “Preservation Lands, Buffers and Special Treatment Areas.” However the applicant proposed language delays implementation of this map to some unspecified point in the future after a planned development rezoning application is approved for the project, thus not providing any protection thru the plan amendment request.
- The proposed amendment will increase the allowable residential development on the Lee Plan’s Future Land Use Map.
- The reduction of density from the proposed reclassification of the Verandah property is a paper exercise as the existing density in the Verandah has been included in the EAR Population Analysis.
- Multiple National Register eligible sites exist on the North River Village site.

- The proposed amendment will have no affect on the School Board's plans to accommodate growth in the County.
- The proposed amendment will have minimal impacts on parks, recreation and open space.
- The Lee County Solid Waste Disposal System will have sufficient capacity to manage and dispose of the (Class I Municipal Solid Waste) materials anticipated to be generated by the North River Village development.
- The Lee County Utilities system has capacity to provide potable water.
- North Fort Myers Utility has capacity to accommodate the sanitary sewer need of the proposal.
- Large portions of the site are included in the Coastal High Hazard Area as depicted on Lee Plan Map 5. Almost the entire site is located within the "Area Flooded by Tidal Surge (100 Year Storm)" as depicted on Lee Plan Map 9. Large portions of the property are depicted by FEMA on the FIRM maps as being located in a Floodway.

## C. BACKGROUND INFORMATION

### 1. EXISTING CONDITIONS:

**SIZE OF PROPERTY:** North River Village property is 1,232± Acres; Verandah property is 1,456± Acres.

**PROPERTY LOCATION:** The North River Village is generally located north of the Caloosahatchee River, east of S.R. 31, and south of North River Road. The Verandah property is generally located north of the Orange River, south of Palm Beach Boulevard, and west of Buckingham Road.

**EXISTING USE OF LAND:** North River Village contains an active marina facility, a dwelling unit, as well as agricultural uses. Verandah contains a variety of dwelling unit types, amenities, and vacant land

**CURRENT ZONING:** The North River Village property is zoned AG-2 and IM; the Verandah property is zoned MPD.

**CURRENT FUTURE LAND USE CATEGORY:** The North River Village property has three Future Land Use designations: Rural, Outer Islands, and Wetlands. The Verandah property has two Future Land Use designations: Suburban and Wetlands.

### 2. BACKGROUND DISCUSSION:

The applicant, North River, LLC, originally submitted the amendment request on September 29, 2006. The application at that time only dealt with the North River Village property. In August of

2008, the applicant expanded the request to include the Verandah property. The case was scheduled and public hearings were conducted by the LPA in September 2008. On October 6, 2008, the applicant requested that the proposed amendment be continued to the 2008/2009 Comprehensive Plan Amendment Cycle.

The applicant believes that the North River Village is located “in an emerging growth corridor in Lee County.” The applicant justifies this statement by citing the Babcock Ranch property which is located directly north of the subject site. Staff is currently working with representatives of Kitson & Partners to assess the impacts associated with the development of Babcock Ranch. Concerning the location of the North River Village property the application provides the following:

*North River Village encompasses approximately 1,253 acres in Northeast Lee County. The northern boundary of the community is North River Road (CR 78) and then the boundary moves southeast and south along the west side of the North River Oaks subdivision. It reaches eastward almost to North Olga Road. The southern boundary turns west and follows a stairstep fashion along Duke Highway and the north side of the Caloosahatchee until it reaches the southwest corner of the property just south of the Trout Creek connection to the river. The boundary then goes north along an irregular path including along SR 31 for a portion of the west boundary until it reaches North River Road.*

Verandah is located on the south side of SR 80, opposite the Fort Myers Shores community. The application provides the following summary concerning the request:

*Change the Future Land Use Designation of the subject property from Rural to “River Village” and Conservation. Propose a corresponding text amendment, to guide the growth in the River Village land use category. A Simultaneous amendment is being proposed to change the Future Land Use Category for Verandah from Suburban to Sub-Outlying Suburban. Amendments are being proposed to the Capital Improvements Element to provide funding for the road network, to the Utility Service Area maps and to the 2030 Population Allocation Table (1a).*

The applicant is also seeking to amend Map 6, Lee County Utilities Future Water Service Areas, by adding the property to the Future Water Service Areas. The applicant is also seeking to add a map to the Future Land Use Map series that depicts Preservation lands, restoration and special treatment areas, buffers, and gopher tortoise preserve. Proposed Policy 1.10.2, however, states that none of these requirements “may be imposed prior to the approval of a Planned Development.”

## **PART II - STAFF ANALYSIS**

### **A. STAFF DISCUSSION**

#### **INTRODUCTION**

The application provides the following summary concerning the proposed change for the subject property:

*The request of this application is to change the designation of the subject property on the Lee County Future Land Use map from Rural to proposed new category called “River Village”. The proposed amendment would allow for a maximum of 2,500 dwelling units and 150,000 square feet*

*of commercial floor area. It is structured as both a map amendment and a text amendment in order to provide for performance standards on the proposed development. The policies associated with the "River Village" land use category have been crafted to provide for certainty in how this property develops and the structure for how development may occur. The intent of the request is to work with Lee County and the surrounding community to implement county goals through the development of this property - to provide a community that will benefit surrounding areas. The text amendment will also include a change to the Lee County 2030 Overlay to include the River Village land use category and the projection of acres necessary to account for this development.*

Lee County staff recognizes and appreciates the outreach effort that the application has undertaken with this proposed amendment. The application contains a section that documents this "Community Outreach." This section provides that the Bonita Bay Group initiated this "visioning" process in February 2007 as "part of a dedicated effort to seek input from neighbors, community leaders, government officials, environmental organizations and interested stakeholders." This section provides that Bonita Bay has held 38 community meetings involving more than 120 citizens. This section of the application summarizes meetings held with: Duke Highway residents, Olga residents, Alva residents, and the North Fort Myers Community Planning Panel.

#### **COMPREHENSIVE PLAN BACKGROUND**

The North River Village subject property was designated "Rural" by the original Lee County Future Land Use Map, adopted in 1984. "Resource Protection and Transition Zones" were mapped countywide through the late 1980s EAR effort. This category was converted to a new "Wetlands" category through the mid 1990s EAR effort. The Outer Island Future Land Use category was also added to the Lee Plan during this time. Currently the North River Village site is designated with the Rural, Wetlands, and Outer Island Future Land Use Categories. Williams Island is the portion of the subject site that is designated Outer Island.

The Verandah property was designated "Suburban" by the original Lee County Future Land Use Map, adopted in 1984. Subsequently, Wetlands were also designated through the processes noted above.

#### **SURROUNDING ZONING, LAND USES, AND FUTURE LAND USE DESIGNATIONS**

The application materials include an extensive discussion of surrounding zoning and land uses. A portion of this discussion is reproduced below:

*The North River Village property is located in an emerging corridor in Lee County. The property is located near the intersection of two arterial roads, State Road 31 and County Road 78, on the North side of the Caloosahatchee River. To the West of the property is a major destination point for Lee County, the Lee County Civic Center. Residential neighborhoods line County Road 78 going West to I-75. The South side of the river has long been developed with residential uses. The neighborhood of Fort Myers Shores was platted in the early 1970s and has gradually built out over time. Although the Future Land Use Map would allow for up to 6 dwelling units per acre, the area is built out at approximately 3-4 dwelling units per acre.*

*To the East of the North River Village is the Olga Community. Once closely related to the Olga Community on the South side of the River, with the removal of the Old Olga Bridge in the 1960s, the community has been bisected. North Olga contains a series of low density residential*

*neighborhoods along County Road 78 and Duke Highway to the South and East of the North River Village.*

*Last year Lee County entered into a four party agreement with Charlotte County, the State of Florida and Kitson & Partners to entitle portions of the Babcock Ranch property. The development area on Babcock Ranch will be located directly to the North and East of the North River Village. The North River Village property currently contains the Owl Creek Marina, an active marina that is part of the Water Dependant Overlay in the Lee Plan (Map 12, page 3 of 12). The existing marina, in conjunction with the Sweetwater Landing marina (Marina 31 in the Water Dependant Overlay) and the properties owned by the applicant on Williams Island between the two marinas creates an opportunity for water access and use that is unparalleled in Lee County. The proposed North River Village will create a unique destination that will benefit the county's existing and future residents.*

An examination of the surrounding land uses (north of the Caloosahatchee River) of the North River Village property shows that the area surrounding the property is rural in nature, with the exception of the Lee Civic Center. Parcels along the westside of S.R. 31 near the intersection of North River Road have historically been used for community serving uses such as the C & C Feed Store (zoned C-1A), Temple Baptist Church (zoned AG-2), or the convenience gas station (zoned CC). These lands are all designated Rural. North of North River Road, opposite the North River Village subject site, the land is designated Density Reduction/Groundwater Resource (zoned AG-2).

South of the Caloosahatchee River is the Fort Myers Shores community and then the Verandah site. These lands are designated Suburban on the Future Land Use Map. South of the Orange River is land located in the Buckingham Rural Preserve.

### **PROPOSED INNER ISLANDS LAND USE CATEGORY**

The applicant is proposing a new land use category, Inner Islands, to accommodate resort type development that includes lodging facilities, restaurants, spas, specialty boutique style retail shops, and recreational uses. This type of facility is permittable in the category depending on intensity. Grady's Lodge is an example of this use that was approved in an Outer Islands setting. Staff is concerned with the proliferation of land use categories and since the desired use could be accommodated, depending on intensity of use and design, staff recommends that the Board of County Commissioners not include this part of the request even if the Board desires to transmit the River Village land use category:

~~Policy 1.4.8: The Inner Islands are located along the Caloosahatchee River, have reasonable access to available utility infrastructure, and are in close proximity to urban development. The intent of the Inner Islands land use category is to provide for a mix of uses that add to the character of the Caloosahatchee River. The primary focus is on resort uses and public access developed as part of an Inner Island development where the primary uses consist of lodging facilities, bed and breakfasts, restaurants, spas, boutique retailers, recreation and similar uses that would be associated with a resort environment. Although residential uses are allowed in the Inner Island land use category primary home ownership is discouraged. The maximum residential density is one dwelling unit per acre (1 du/acre). The maximum Floor Area Ratio for non residential uses is 1.0.~~

### **TRANSPORTATION/TRAFFIC CIRCULATION IMPACTS**

The North River Village property currently has access from S.R. 31 and North River Road. The Lee Plan amendment application requires a traffic circulation analysis to determine the proposed effect of the amendment on Map 3A, the Financially Feasible Transportation Plan Map, and on the Capital Improvements Element. Applicants must identify the traffic analysis zone (TAZ) and the socio-economic forecasts for that zone or zones. The required analysis includes determining whether or not the requested amendment requires modification to the socio-economic data forecasts for the TAZ or zones.

The applicant submitted the required traffic circulation analysis. This analysis was prepared by David Plummer & Associates. This analysis includes an Executive Summary that contains the following conclusions:

- *Under the proposed Comprehensive Plan Amendment (CPA), the CPA would include 2,500 residential units, with 1,500 single-family units and 1,000 multifamily units, 100 hotel rooms, 150,000 sq. ft of commercial space, the existing marina and extensive social and recreational facilities and activities.*
- *The CPA will have direct access to both SR 31 and CR 78.*
- *There are only two scheduled improvements in the study area: (1) bridge repair and rehabilitation is scheduled for the Wilson Pigott Draw Bridge on SR 31 over the Caloosahatchee River in FY 2009; and (2) design and installation of traffic signals at the intersection of SR 31 and SR 78 is scheduled through FY 2009.*
- *Although the MPO 2030 LRTP Highway Element does not include any planned road improvements in the study area that are considered financially feasible, there are two projects in the adopted 2030 Plan that are Contingent Upon Additional Funds: (1) the six-laning of SR 80 between SR 31 and Buckingham Road; and (2) the two-lane extension of Nalle Grade Road east to SR 31.*
- *Projected 2030 Traffic Conditions Without the CPA indicate that the four-lane segments of SR 80 between SR 31 and Tropic Avenue are expected to exceed the adopted LOS standard in 2030. This deficiency has been addressed in the 2030 Plan through the inclusion of the widening of SR 80 between SR 31 and Buckingham Road as a needed project that is Contingent Upon Additional Funding.*
- *Only one additional road segment is expected to exceed the adopted LOS standard under 2030 Traffic Conditions With the CPA. That is the segment of SR 31 between SR 78 (Bayshore Road) and the CPA entrance, which will need to be widened to four lanes. (sic)*
- *The CPA's off-site traffic impacts will be mitigated, in part, through the payment of road impact fees adopted by Lee County. Based on the current road impact fee schedule, the development associated with the proposed CPA is expected to pay approximately \$22.8 million in road impact fees. These fees can be used by the County to make whatever improvements are necessary on SR 31, SR 80, CR 78 and other roads in the area.*
- *In addition to the payment of road impact fees, the Applicant has agreed to fund (without credit against road impact fees) the widening of SR 31 to four lanes between the CPA*



*Entrance and SR 78 (Bayshore Road) and the construction of major intersection improvements at the SR 80/SR 31 and SR 80/Buckingham Road intersections. The details of this agreement will be set forth in a Development Agreement between the Applicant and Lee County.*

The Lee County Department of Transportation (LCDOT) has reviewed the request and has provided written comments dated September 17, 2008. These comments are reproduced below:

*The Department of Transportation has reviewed the above-referenced privately-initiated future land use map and text plan amendment, to change the land use designation of approximately 1,232.5 acres east of SR 31, south of CR 78/North River Road, and north of the Caloosahatchee River, from a combination of Rural/Wetlands land use categories to a newly-created category called "River Village". The applicant indicates that the proposed change would allow approximately 1,500 single family dwelling units, 1,000 multi-family units, 150,000 square feet of commercial space, and 100 hotel rooms on the site. The property is within Traffic Analysis Zone (TAZ) 1289 in the Lee County MPO's 2030 Financially Feasible Plan FSUTMS travel demand model. For this analysis, a new TAZ (#316) was created to encompass the new development parameters which were converted to the model inputs, with the dwelling and hotel units added to the zdata 1 parameters and 375 commercial and 110 service employees added to the zdata 2 parameters, and the 2030 Financially Feasible Plan model was rerun.*

*In examining the three-mile radius around the project, the model indicated that the addition of the CPA caused the section of SR 31 between SR 78 and the proposed project entrance to exceed its adopted level of service standard. In addition, the two sections of SR 80 from SR 31 to Davis Boulevard and from Davis Boulevard to Tropic Avenue were projected to fail both with and without the CPA. The six-laning of SR 80 from SR 31 to Buckingham Road is identified in the MPO's Plan as needed by 2030, but contingent upon additional revenues beyond the standard projected sources. Absent the commitment of funding for the infrastructure improvements needed to support this development proposal and other growth in the area through the plan horizon of 2030, DOT staff would normally recommend against an intensification of use.*

*To address staff's concern, the applicant has indicated that he is willing to pay for the widening of SR 31 from SR 78 to his project entrance, and to pay for two intersection improvements on SR 80 that had previously been identified as improving the level of service condition of the road, through the River Hall plan amendment review. These payments would be over and above road impact fees, and not creditable against road impact fees. This will require execution of a development agreement, in addition to some plan text changes, and the applicant has offered to limit his development to the rural densities currently allowed on the site until the development agreement and subsequent road funding commitments are in place. The text additions proposed by the applicant in his latest submittal received on September 8, 2008 follow in underline format, with some additional changes proposed by DOT staff in double-underline/strike-through format. The rationale for the DOT staff changes are discussed below.*

**Footnote to Table 1A:**

*The property that is the subject of CPA 2006-12 must enter into a development agreement prior to developing the 1,001st of 2,500 units. The development agreement will address the payment of the funds necessary to program the construction of four lanes on SR 31 from the project entrance*

to the intersection of SR 78, as specified in Policy 36.1.1, and any related right-of-way acquisition (including costs of condemnation if necessary). The development agreement must also include payment of the funds necessary to make the intersection improvements listed below in Policy 36.1.1 at the SR 80/SR 31 intersection and the SR 80/Buckingham Road intersection plus any additional right-of-way needed to construct these intersection improvements (including costs of condemnation if necessary). The cost of these improvements (all phases) will not be eligible for road impact fee credits. Lee County agrees that, once this development agreement is executed, the County will consider the four-laning of this section of SR 31 and the identified SR 80 intersection improvements financially-feasible improvements that are part of Map 3A.

**Addition to Policy 36.1.1:**

**POLICY 36.1.1:** The Lee County Metropolitan Planning Organization’s 2030 Financially Feasible Plan Map series is hereby incorporated as part of the Transportation Map series for this Lee Plan comprehensive plan element. The MPO 2030 Financially Feasible Highway Plan Map, as adopted December 7, 2005 and as amended through March 17, 2006, is incorporated as Map 3A of the Transportation Map series. Also, the comprehensive plan amendment analysis for the Simon Suncoast (Coconut Point) DRI identified the need for improvements at key intersections on US 41 from Estero Parkway to Alico Road to address the added impacts from the project for the year 2020, and a mitigation payment has been required as part of the DRI development order. Lee County considers the following intersection improvements to be part of Map 3A and will program the necessary funds to make these improvements at the point they are required to maintain adopted level of service standards on US 41 if they have not been addressed by FDOT:

<i>Intersection</i>	<i>Improvements</i>
<i>US 41/Constitution Boulevard</i>	<i>Southbound Dual Left Turn Lanes</i>
<i>US 41/B &amp; F Parcel</i>	<i>Northbound, Southbound, Eastbound and Westbound Dual Left Turn Lanes</i>
<i>US 41/Sanibel Parkway</i>	<i>Southbound Dual Left Turn Lanes</i>
<i>US 41/Estero Parkway</i>	<i>Southbound and Westbound Dual Left Turn Lanes</i>

Also, the comprehensive plan amendment analysis for the Simon Suncoast (Coconut Point) DRI identified the need for improvements at key intersections on US 41 from Koreshan Boulevard to Alico Road to address the added impacts from the project for the year 2020, and a mitigation payment has been required as part of the DRI development order. The comprehensive plan amendment traffic analysis for the North River Village that includes 2,500 dwelling units and 150,000 square feet of commercial area, identified the need for four lanes on SR 31 from Bayshore Road (SR 78) to the North River Village entrance and a set of intersection improvements on SR 80. The Developer for North River Village will provide right-of-way and fund the design and construct four lanes on SR 31 from the North River Village entrance to SR 78 (not creditable toward road impact fees). The owner Developer of the North River Village property must also fund the construction of the intersection improvements listed below at the SR 80/SR 31 and SR 80/Buckingham Road intersections and any additional right-of-way needed to construct the identified intersection improvements for SR 80. The full cost of the intersection improvements,

including right-of-way if necessary, will not be eligible for road impact credits. Once this funding is committed through an executed development agreement, Lee County will consider the SR 31 widening and the following intersection improvements to be financially feasible and part of Map 3A and will program the necessary funds to make these improvements at the point they are required to maintain the adopted level of service standards on SR 80:

Intersection

1- SR 80/Buckingham Road

Improvement

Add 2nd Northbound to Westbound Left Turn Lane

Add 2nd Westbound to Southbound Left Turn Lane

Add Northbound Right Turn Lane

Add Southbound Right Turn Lane

Add 2,500 foot 3rd Eastbound Through Lane

Add 2,500 foot 3rd Westbound Through Lane

2- SR 80/SR 31

Add 2nd Southbound to Eastbound Left Turn Lane

Add 2nd Eastbound to Northbound Left Turn Lane

Add a third through lane Westbound in advance of the SR 31 intersection

Regarding the DOT staff changes to the applicant's proposed addition to Table 1A, the first change is to clarify where the intersection improvement description will be found. Table 1A is in a completely different part of the Lee Plan than Policy 36.1.1, so the intersection improvements would not be "below". The reference to the policy makes more sense. We've also added language that makes clear the right-of-way costs for the SR 80 intersection improvements include the costs of condemnation, the same as for the SR 31 widening, and to make clear that the costs for all phases of these improvements will not be eligible for road impact fee credits, so it is clear these improvements are over and above the impact fees the project will be paying. Finally, we've added back in language that was in a June version provided by the applicant but now missing, which says the improvements to SR 31 and to SR 80 can't be considered financially feasible, and therefore part of Map 3A, until the development agreement is executed. This is especially critical since the applicant has revised the date the development agreement is required, previously saying it would be done at the time of the plan amendment but now putting it off until the 1,001st unit is built.

Regarding the changes to Policy 36.1.1, the repeat of the Simon Suncoast language in the added language is unnecessary and can be removed. The applicant also left off "dwelling units" and the reference to the intersection improvements in addition to the SR 31 widening. Again, staff is also clarifying that the improvements aren't eligible for road impact fee credits and won't be considered financially feasible and therefore part of Map 3A until the development agreement is executed. Finally, the applicant left out the specific intersection improvements that are to be done on SR 80, which should be specified in the plan. These were the specific improvements that were evaluated as part of the River Hall amendment and determined to improve the level of service condition on SR 80 (short of six-laning), and they were specified in the June version of the applicant's language.

DOT staff is not fully comfortable with the trend to condition plan amendment requests and include site-specific policies in the plan, but it is a trend nevertheless, and it is the only way to address the specific concerns related to this amendment. Should Planning staff ultimately recommend

*approval of the amendment request, the recommended language should include the addition to Table 1A and the revision to Policy 36.1.1 as noted above with the DOT-recommended changes.*

Planning staff concludes that the Department of Transportation staff modifications will require the developer to mitigate the traffic impacts from the proposed amendment. Planning staff believes that no zoning or local Development Order approvals for more than one dwelling unit per acre should be approved until the referred to development agreement has been executed. In the event that the Board of County Commissioners is desirous of transmitting the proposed amendment, Planning staff recommends that the above mentioned modifications be included.

## **SPRAWL**

The applicant has made several arguments in their application and resubmittals that the proposed land use change does not equate to sprawl. The following are excerpts from these materials.

### **On page 18 of 19 of the Applicants opening letter:**

*It is also our understanding that staff continues to be concerned with the idea of changing property from a "rural" designation to an "urban" designation. While the applicant understands this concern, it is also important to understand that this property has better access to urban infrastructure than many properties within "urban" land use designations in the Lee Plan. The property is also already designated for 1 dwelling unit per acre, a distinctly suburban density, not a rural density, similar to River Hall and Verandah. Two dwelling units per acre is also a suburban density similar to The Brooks and Bonita Bay. The idea that going from 1 to 2 dwelling units per acre changes the development pattern of the property from a rural style to an urban style is simply not accurate. Finally, similar to Downtown Alva, it is common to have nodes or centers of higher density within rural areas to create a sense of place and a community destination point. Our neighbors in North Olga have expressed an interest in and support for locating that destination point on this property, a property at the intersection of two state roads with an existing industrial marina. Please see Section 1, Tab 7 for previously submitted narrative on this issue. Creating a destination and sense of place is an aspect of this proposed development that the applicant feels strongly about.*

### **Page 2 of 6 in Tab 7:**

*The North River Village property is currently designated as Rural, Wetland and Outer Islands [sic] on the Lee County Future Land Use Map. Policy 1.4.1 describes the Rural Land Use Designation and Policy 1.4.2 describes the Outer islands designation:*

***POLICY 1.4.1:*** *The Rural areas are to remain predominantly rural--that is, low density residential, agricultural uses, and minimal non-residential land uses that are needed to serve the rural community. These areas are not to be programmed to receive urban-type capital improvements, and they can anticipate a continued level of public services below that of the urban areas. Maximum density in the Rural area is one dwelling unit per acre (1 du/acre). (Added by Ordinance No. 97-17, Amended by Ordinance No. 98-09, 00-22, 07-12)*

*The subject property is in an area that no longer fits the rural character described in Policy 1.4.1. With SR31, CR 78, the Lee County Civic Center and now the development of Babcock Ranch the property is in an area that is transitioning from a rural to a suburban character. The category that*

is being proposed provides for more innovative planning techniques to better utilize the land as the area transitions.

*POLICY 1.4.2: The Outer Islands are sparsely settled, have minimal existing or planned infrastructure, and are very distant from major shopping and employment centers. They are not expected to be programmed to receive urban-type capital improvements in the time frame of this plan, and as such can anticipate a continued level of public services below that of other land use categories. The continuation of the Outer Islands essentially in their present character is intended to provide for a rural character and lifestyle, and conserve open space and important natural upland resources. Maximum density is one dwelling unit per acre (1 du/acre). (Amended by Ordinance No. 98-09)*

*Policy 1.4.2 seems to be written more for properties on barrier islands, not for properties like Williams Island that are in the midst of development. Utilities are available in the area and could potentially be provided to Williams Island by directional bore under the Caloosahatchee River oxbow. The island is in between two historic marinas- Marina 31 and the Owl Creek marina, as well as significant development in Fort Myers Shores and Olga. While the proposed amendment to the Lee Plan is not requesting a significant change from this policy, setting up a performance standard that is more applicable to the Williams Island property would serve the community well.*

**Page 5 of 6, Tab 7**

*Designating large areas of land for low density development is necessary for mid-range planning in areas with slow growth patterns. However, as areas begin to urbanize, as is the case with the area in Lee County North of the Caloosahatchee River, East of SR 31, then planning needs to occur in order to channel the growth pressures toward development that will enhance the quality of life for the area, not detract from the quality of life. If a change in the Lee Plan does not occur for this area, development at 1 du/acre spread over North Olga and Alva, with no commercial opportunities, will significantly detract from the quality of life in the area. This type of development pattern is classic urban sprawl. This type of single use low density development is an inefficient use of land and greatly diminished our ability to preserve contiguous areas of open space. Through the proportionately high costs of extending services, low density residential development also encourages the use of septic tanks a known [sic] contributor to pollutants in the Caloosahatchee river and the County's red tide problem.*

**Near the end of Tab 7**

**SUMMARY OF REMAINING ISSUES**

**(Originally submitted March 2008)**

***Bottom of page***

*It is important to reemphasize the need for the increase in density. There is a misperception among the general community that increasing density will lead to sprawl, when all the planning literature and experience points to the opposite conclusion. It is clear from the proposed text amendment and the attached diagrams that allowing for additional units will not decrease the open space and preserve area on the property. We are proposing a requirement to increase open space and preserve on site.*

**STAFF RESPONSE**

The applicant has stated that the Lee Plan encourages high infrastructure costs through the current future land use category. The applicant states that the low density residential uses force an increase in the provision of potable water and sanitary sewer and that the proposed North River Village will solve these issues through the use of improved design. However, this argument is based on the faulty premise that the rural areas of Lee County will be receiving potable water and sanitary sewer service. The rural areas of Lee County are intended to mainly utilize well water and septic fields in place of these services. This will have no adverse results in areas with rural residential densities. The proposed design of the North River Village will create residential densities that require the installation of potable water and sanitary sewer service. Unless these services are provided on site, this will require that potable water and sanitary sewer lines be extended to the subject property. This is urban sprawl.

The applicant also states that the Rural future land use category will result in a development pattern similar to the Golden Gate area of Collier County. This is simply not possible under the Lee Plan and the Lee County Land Development Code (LDC). In order to create such a pattern of development, the developer would have to acquire vast tracts of land and subdivide it. The provision and regulations of the LDC would require that the developer use the Planned Development rezoning process and submit a master concept plan. This process would prevent such a land development pattern from occurring.

The applicant states that the mixed use design of the North River Village precludes it from being sprawl. Their argument is partially that the mixed uses do not meet the "single use" definition of sprawl in FAC 9J-5.006(5). Apart from this, the applicant provides insufficient explanation of why a mixed-use development is not sprawl.

The applicant also states that the proposed North River Village meets Lee Plan Objective 2.1 by encouraging contiguous and compact growth patterns. This is true in regards to the North River Village internal design, however the project does not intergrate into the surrounding neighborhood. Although the uses within the development may be compact and contiguous, the site as a whole is remote and not well integrated with surrounding uses. The site is cut off on the south side by the Caloosahatchee River. To the north and west are State and County Roads that act as barriers to integration with abutting land. In addition, land to the east and west of the subject property is designated as Rural. The land to the north, across County Road 78, is in the Density Reduction Groundwater Resource future land use category. Neither of these future land use categories would permit development intensities or residential density similar to that proposed for the North River Village.

The applicant claims that the North River Village is not leapfrog development because of the presence of surrounding developments such as Fort Myers Shores to the south. The applicant claims that the North River Village property is a natural extension of surrounding urban uses including Fort Myers Shores and the Lee County Civic Center. Fort Myers Shores is across the Intra-coastal Waterway, however and in no way interacts with the subject property. The Civic Center is a unique land use that is not integrated with any significant urban use. In addition, state Road 31 separates the Civic Center from the subject property and prevents any functional integration of the two properties.

The applicant claims that this area of Lee County is faced with enormous growth pressure. Table 1(b) already allocates sufficient residential acreage to Lee County. Growth should be guided to those areas where sufficient facilities and services exist rather than create the need for such services and facilities in new areas.

The applicant states that the North River Village would draw from a different market than infill development and would not discourage or inhibit infill development for existing neighborhoods. But by allowing an increase in density in the outer, rural portions of the County, the proposed amendment reduces the economic incentive for infill development and redevelopment in those areas that are already urban.

## **POPULATION ACCOMMODATION**

The impacts of this amendment on the accommodated population are covered throughout the application in the original submittal, responses to staff comments, and various sections of the latest submittal. Staff has attempted to consolidate the population accommodation discussion into 3 topics, the Alva Planning Community population accommodation, the total county population accommodation, and the location of projected growth.

### **Alva Population Accommodation**

The estimated buildout population of the Alva Planning Community, based on existing development patterns is 31,222. The acreage allocated for residential development through the year 2030 will accommodate a population of 5,090. Beyond 2030, the Alva Planning Community is anticipated to accommodate more than 26,000 additional residents before reaching "Buildout" with no changes to the Future Land Use Map.

The applicant's analysis also states that Alva's population accommodation should be higher to at least maintain the community's current proportional share of total county population. However, Lee County will more than double in population before reaching the estimated buildout population and there are vast areas of higher density urban areas remaining for development, it is expected that the population of rural areas will continue to be out paced by growth in the existing urban areas of the county. The percent of Lee County's population residing in Alva has steadily decreased over time. In 1995 Alva was .71% of the total county population and in 2005 it had decreased to .62%. Other rural areas like Buckingham, Pine Island, and Bayshore have followed the same trend. The urban areas of the county that have/had large amounts of vacant lands have experienced the reverse trend. Lehigh, Gateway, Daniels Parkway, Iona/McGregor, and Estero have all increased as a percent of the total county population.

The 2030 Acreage Allocation study projects more than half of the units in the Alva Planning Community to be within the Rural Land Use Category. If current development trends continue through buildout, the "Rural" area will contain nearly two thirds of all the dwelling units in the Alva Planning Community. The proposed amendment will increase the buildout population by 3,578 residents. In section 7 of the "North River Village CPA – Residential Needs Analysis" by Fishkind and Associates, the claim is made that there is a deficit in accommodated dwelling units to meet the population growth in the Alva Planning Community and the additional population capacity created by the North River Village amendment will satisfy this deficit.

The Alva Planning Community has 1,418 dwelling units (as reported in the CPA2006-00026 staff report – the revision of the Lee Plan Table 1(b) Year 2030 Allocations). Alva's remaining "Rural" residential allocation of 639 acres is estimated to accommodate 448 new units based on the .7 dwelling units per acre assumption used in the allocation methodology. This is slightly higher than the density currently built in the 'Rural' portion of the Alva Planning Community. Including all areas of Alva, a total of 716 new units are assumed to be added through the current time horizon of the Lee Plan. It is not anticipated that the Alva Planning Community will reach buildout by 2030. The conclusion from the submitted Residential Need Analysis claims that the current Alva residential allocations are insufficient to accommodate the

projected population. This analysis uses different density assumptions than used in the allocation methodology thereby estimating 132 fewer dwelling units to be accommodated than what has been projected by the county in the last update to Table 1(b). For example, the application analysis uses a density of 1.2 dwelling units per acre within the Urban Community land use category. The Lee Plan acreage allocation methodology used an assumption of 2 dwelling units per acre for the Urban Community lands. This is the area of Alva that the proposed community plan identifies as the “historic core” of Alva where it is appropriate to concentrate the more intense development while still retraining the historic rural character. The countywide Lee Plan assumption of density in the Urban Community category is 3.5 dwelling units per acre. Additionally, the Table 1(b) allocation assumptions do not impose new density maximums for each planning community. Development proposals in the Alva Planning Community are entitled to request the maximum density allowed by the corresponding future land use map designation. If development patterns change and the actual densities are higher than the assumptions, then the accommodated population will be higher than what is projected in the allocation table. If the assumptions that were originally used to estimate the population accommodation of the 1989 Lee Plan Future Land Use Map are applied to the available residential acreage in the Alva community, 46 more units are accommodated by the current allocations. Likewise, if the maximum density is used, the accommodated units increase by 252 units. Therefore, without redevelopment, the potential population of the Alva Planning Community is almost 5,700 people. Table one calculates the accommodated population based on changing density assumptions applied only to the vacant lands in the Alva Planning Community. The calculated safety factor for the maximum density scenario is 69%. Staff maintains that the current allocation of for the Alva Planning Community does accommodate the projected population and allows for substantial market flexibility.

Table 1

Future Land Use Category	Existing Units	Available Acres	Assumed Density		Maximum Density	Units/Population		
			1989 Lee Plan	Alva		Lee Plan Assumption	Alva Assumption	Maximum Density
Urban Community	597	26	3.5	2.0	6.0	687/1,638	648/1,546	751/1,790
Outlying Suburban	10	25	2.5	1.0	3.0	72/171	35/83	84/200
Rural	771	639	0.8	0.7	1.0	1,282/3,059	1,219/2,906	1,410/3,364
Outer Islands	1	4	0.3	0.3	1.0	2/5	2/5	5/11
Open Lands	25	157	0.2	0.25 (due to clustering)	0.2	56/135	64/153	56/135
DRGR	14	662	0.1	0.23 (due to clustering)	0.1	80/191	166/397	80/191
Total	1,418					2,180/5,199	2,134/5,090	2,386/5,692

Occupancy Rate = .89



Persons Per Household = 2.68

The approval of the requests in this application would reduce the flexibility of Table 1(b) but creating an additional Future Land Use Category that applies specifically to this project thereby reserving the allocated acreage to one project. The proposal being considered is to reduce the residential allocation for the “Rural” component by 600 acres and add 600 acres to the new “North River Village” category. This will add 5,963 residents in the new future land use category and reduce the estimated population accommodation of the “Rural” area by 1,001 residents for an increase in population of 4,962. If market conditions stall the development of this project, the needed units to meet the projected population demand could not be built without an amendment to the Lee Plan. Table 2 recalculates the accommodated population based on the changes to the allocations proposed in this application.

**Table 2**

Future Land Use Category	Existing Units	Available Acres	Assumed Density		Maximum Density	Units/Population		
			1989 Lee Plan	Alva		Lee Plan Assumption	Alva Assumption	Maximum Density
Urban Community	597	26	3.5	2.0	6.0	687/1,638	648/1,546	751/1,790
Outlying Suburban	10	25	2.5	1.0	3.0	72/171	35/83	84/200
North River Village	0	600	4.17	4.17	4.17	2,500/5,963	2,500/5,963	2,500/5,963
Rural	771	39	0.8	0.7	1.0	802/1,914	799/1,905	810/1,933
Outer Islands	1	4	0.3	0.3	1.0	2/5	2/5	5/11
Open Lands	25	157	0.2	0.25 (due to clustering)	0.2	56/135	64/153	56/135
DRGR	14	662	0.1	.23 (due to clustering)	0.1	80/191	166/397	80/191
Total	1,418					4,200/10,017	4,214/10,052	4,286/10,224
Occupancy Rate = .89								
Persons Per Household = 2.68								

**Lee County Population Accommodation**

The application also implies the county wide population projection used for Table 1(b) is too low (Residential needs and Population Analysis, pg 6). Increasing the county wide population projection for the year 2030 would necessitate the acreage allocations in most of the planning communities be revised to accommodate a greater population. Currently Table 1(b) provides for sufficient residential acreage to accommodate the population projection from the University of Florida Bureau of Business Research (BEBR) February 2006 Florida Population Studies. The 2007 study projects a larger population for 2030 than the 2006 study. However, the 2008 study projects a lower population than the 2007 study, but a

higher population than the 2006 study. Since population studies are not an exact science, the Lee Plan is based on the latest available population at the time of the Evaluation and Appraisal Report or subsequent amendments intended to update the accommodated population and or plan horizon. The safety factor applied to the BEBR projection published in the 2006 report increases the accommodated population higher than the 2030 population projected in the 2007 BEBR study.

Section 5 of the Residential needs analysis concludes that the “safety factor” used in the population accommodation study is inaccurate on three counts. The first argument is that the “safety factor” should be applied to the land area and not the population. Staff disagrees with this argument for a number of reasons. Staff experimented with this methodology for the Alva Planning Community and calculated the acreage allocation that is currently in Table 1(b). The conclusion was that this methodology merely added steps to the equation with no change in population accommodation. Second, the safety factor should be applied to the entire need, not the increment of growth. Thirdly, the safety factor applied is too low. This analysis suggests up to a factor of 3. The second and third issues would obviously increase the total population accommodated by the Lee Plan Future Land Use Map. Increasing the safety factor to 3 raises the accommodated population to nearly 1.8 million with an unincorporated county share of 1.16 million. Rule 9J-5.005(5) of the Florida Statutes requires the comprehensive plan to be internally consistent. Therefore, the population projection used for the Future Land Use Element (ie Table 1(b)) must also be used for the Capital Improvements Element. This requires the comprehensive plan to show funding sources for infrastructure needed to support the accommodated population. Raising the safety factor and ultimately the accommodated population requires the county to identify infrastructure and facilities in excess of the actual need by the year 2030. This may not appear to cause a problem; however, once the needs are identified, the planning process requires the demonstration of how these needs will be funded.

A second population analysis is included in the application which claims that the BEBR mid-range population series was not the appropriate projections to use for the basis of the Lee Plan. The updated Table 1(b) was based on the data source recommended by the Florida Department of Community Affairs (DCA).

#### ***9J-5.005 General Requirements.***

##### *(2) Data and Analyses Requirements.*

*(e) The comprehensive plan shall be based on resident and seasonal population estimates and projections. Resident and seasonal population estimates and projections shall be either those provided by the University of Florida, Bureau of Economic and Business Research, those provided by the Executive Office of the Governor, or shall be generated by the local government. If the local government chooses to base its plan on the figures provided by the University of Florida or the Executive Office of the Governor, medium range projections should be utilized. If the local government chooses to base its plan on either low or high range projections provided by the University of Florida or the Executive Office of the Governor, a detailed description of the rationale for such a choice shall be included with such projections.* Staff did compare the data from the Planning Department Land Use inventory with the BEBR annual population estimates. Using the dwelling unit counts from the inventory, and the occupancy assumptions used for the allocation methodology, the unincorporated population estimates were consistent with those issued by BEBR. A review of data compiled since the EAR data was collected reinforces this conclusion. The population analysis included with the comprehensive plan amendment application list 3 problems with using the DCA recommended BEBR mid-range population projections.

1. *The first problem is there is a greater downside to under projecting development pressure and being forced into dealing with growth not adequately planned for than there is with over projecting population and over planning for an area that does not have the development pressure anticipated.*

Staff acknowledges that under estimating future population is problematic, but not necessarily more so than over estimating future population. As stated above, Rule 9J-5.005(5) of the Florida Statutes requires the comprehensive plan to be internally consistent and higher population projection will require the county to plan capital projects to accommodate an elevated population.

2. *The second problem with using the Mid-Range BEBR projections is historically they have greatly underrepresented Lee County's growth. Tables 2 and 3 shows the BEBR projections released in the year 2000 and then in 2003 respectively. It is clear that although Lee County has been relying to some extent on the Mid-Range population projects, growth is actually occurring above even the High range projections. Creating a situation where there is an undersupply of housing will simply lead to rapid increases in residential home process.*

The BEBR projections are issued annually. Generally the projections have increased from year to year. However, the most recent projections issued in March of 2008 were lower than those issued in March of 2007. Considering the current market climate, staff expects the 2009 projections for 2030 to be lowered again. The projections currently adopted in the Lee Plan project a 2010 population of 648,400. The 2008 estimate for Lee County was 623,725. It appears reasonable that the 2010 population will be close to the currently adopted BEBR projection. The population projections used as the basis for the Lee Plan are revised during every Evaluation and Appraisal Report as required by state statute. Lee County will be evaluating these projections for the next EAR which is due after the 2010 Census.

3. *The BEBR population projections do not reflect seasonal populations. Although the future land use map is based on units, population allocations are based on permanent population. Lee County's 2030 Overlay Map makes assumptions about the percent distribution of seasonal vs. permanent population, but in coastal and resort communities the seasonal population is very significant, yet not reflected in growth projections.*

The allocations on Table 1(b) do account for seasonal populations. Using the US Census occupied unit information, each Planning Community was assigned a ratio for the percent of units that are occupied year round (either owner or renter occupied). An assumption was made that a small amount of the total inventory of units would be vacant due to structure conditions or owner's preference. The remaining units are assumed to be occupied by seasonal residents. For the coastal communities like the Iona/McGregor area the assumption (based on the census data) is that a smaller percentage of the total dwelling unit supply will be occupied by permanent residents. The permanently occupied unit percentages range from 17% in the Captiva Planning Community to 94% in the Buckingham Planning Community. Therefore, the methodology used for Table 1(b) does account for a substantial amount of residential development that will be accommodating seasonal residents. If 100% of all units accommodated by the acreage allocations in Table 1(b) were occupied by year round residents, the population of the unincorporated area of Lee County would be 596,188. Since the actual population projected for the unincorporated areas of Lee County is 437,944, the allocations adopted into the Lee Plan will accommodate approximately 150,000 seasonal residents in the year 2030.

## **City of Bonita Springs**

In response to staff's review comments, the application was supplemented with additional information. The response letter dated August 14, 2008 (updated September 3, 2008) includes a short discussion concerning the accommodation of the City of Bonita Springs population (see page 15 of 19). The city is currently reviewing changes to its EAR which could reduce the 2019 population projection from 98,217 to 75,700. The response concludes that this reduction in population should be accommodated by the unincorporated areas of the county. However, when staff was gathering data for the amendment "CPA2005-00026", the City of Bonita Springs had not adopted the EAR. The draft EAR available for review did not include the 2019 population projection. The information available went through 2014. Planning staff did not consider this not adopted information as the "best available data". Instead staff used the BEBR 2005 population estimates that were available through the year 2025. With no additional information to base the 2030 projection on, staff used the 2025 projection of 95,551 as the 2030 projection. That data series was from the same source as the data used for the unincorporated portions of the county and were made in the same time period. When a trend is applied to the projection used for 2030, the estimate for 2020 is actually 73,871 which is less than the 2019 projection stated in the applicant's response. Therefore, planning staff has concluded that the possible change in the City of Bonita Springs population does not warrant a re-allocation of residential acreage to accommodate additional growth no longer anticipated to occur in the city.

## **The Verandah/Development Location**

The final justification made for this amendment is the applicant is willing to re-designate the Verandah to "Sub-Outlying Suburban" "...so long as the population can be used at the North River Village" (page 15 of 19 August, 14/September 3, 2008 response letter). This change would not address the allocation table issues only map allocation and location of future population issues. The allocation table acreages for residential uses are based on net density, in other words, only the portion of development used for the residential component is counted when inventorying residential uses. Generally, roads, golf courses, and open space are not included in the residential inventory although they are used when calculating the allowable number of units. The net density of the Verandah is calculated at 3.82 units per acre which is slightly higher than the net density of the other existing development in the "Suburban" land use category in the Fort Myers Shores Planning Community. The density assumption used to calculate the required residential acreage was 3.6 du/acre. In 2005 when the data for existing development was calculated for CPA2005-00026 only 171 units existed in the Verandah development. Newer development will substantially draw down the remaining residential acreage. The Sub-Outlying Suburban area of this community consists of properties with existing approvals. The projects are approved a density that meets the gross density allowed by the Sub-Outlying Suburban designation. The net density which is used to calculate needed acres is 5.15 units per acre. Sufficient acreage has been allocated for these projects to be built by 2030. The remaining areas of the Fort Myers Shores Planning Community are not expected build out by 2030. There is remaining capacity to accommodate over 20,000 new residents between 2030 and buildout. The buildout population is based on the same density assumptions as used in the Lee Plan Table 1(b) methodology. Staff has not calculated the buildout accommodation of the Future Land Use map based on maximum density. The rationale used by in this applicant proposal is assuming that amendments to the Verandah development would be approved a much higher densities than exist today. These amendments would require a rezoning case that would be subject to staff review which would consider compatibility, neighborhood comments at public hearings, and finally Lee County Board of County Commissioner approval. Currently the approved 1,700 units is approved at a gross density less than 1.5 units per acre. Originally the development was approved at closer to 1.25 units per acre. The proposed change in land use category to Sub-Outlying Suburban would still allow a potential request to

be considered that would increase the gross density double what the previous amendment increased the gross density.

The density trade off proposed is unclear on the actual number of units removed from the Fort Myers Shores Planning Community. It is clear that the Alva Planning Community would increase by 1,500 units. The requested amendment is clear that the applicant is seeking “entitlements” to develop 2,500 units on the North River Village property. Information from the application indicates that the subject property contains 988.9 upland acres and 232 wetland acres which will allow approximately 1,000 ( $988.9 \times 1 + 232 \times 1/20$ ) dwelling units. If the subject property is developed similarly to the assumptions used in the allocation methodology, the entire 1,000 units could not be approved at this time. However, this methodology works as an incentive for clustered higher density development with more of the site left undeveloped in conservation, agriculture, or undisturbed acreage. This situation occurs because the regulatory figure is the acreage allocation and not the number of dwelling units. There are no Lee Plan policies that will preclude the developer from proposing a development for the entire 1,000 units (maximum allowed on this site based on the CPA application acreage data) on a smaller amount of land (639 acres or less) with the remaining acreage left undisturbed, in agriculture, or another public use that does not reduce the dwelling unit calculation. In fact, if the applicant were to assemble enough additional land in the Rural Land Use designation, they could cluster all of the requested units within the remaining acreage of the current “Rural” allocation.

The application narrative states that this site is the most appropriate location for future development in the Alva Planning Community. However, there is no explanation how approving this application will prevent the remaining areas of Alva to develop in the, as they call it, “developments with suburban character”. The feasibility of this method has not been evaluated, however, there is no policy prohibiting this form of development. The development pattern that is precluded by the current Lee Plan is one where the entire upland portion of the site is divided into 1 acre lots. This development pattern would be subject to the allocation table restriction of only 639 acres (per the last inventory status report). This would still allow for more units than are currently projected for this area of Lee County. Also, a proposal for a subdivision of 450 units (the number of units projected for 2030) on large lots of 2 or more acres is also in consistent with the adopted Table 1(b) allocation. These scenarios demonstrate how the Table 1(b) allocations do not promote low density residential sprawl but actually encourage clustered developments and open space preservation.

## **ENVIRONMENTAL CONSIDERATIONS**

Lee County Environmental Sciences staff have reviewed the request and provided comments dated January 14, 2009. The review memo provides recommended modifications to the applicant proposed policy language. For example, concerning proposed Policy 1.10.2 the memo provides the following:

*ES Staff recommends deletion of the last sentence of Policy 1.10.2, Staff does not agree with this sentence. The applicant is proposing that the designation of Conservation Lands be delayed until the approval of a planned development rezoning. By delaying the adoption of the conservation lands, the applicant’s effort to preserve environmentally sensitive lands will be unnecessarily delayed, potentially resulting in conflicts during the rezoning process. The Conservation Lands land use category should be done during the comprehensive land use amendment process and not delayed to a date uncertain. Staff and the applicant are in agreement with the areas designated for conservation as originally agreed upon but not with the timing of the conservation lands*

*designation. These conservation areas are critical components to the project and subsequent policies. Delaying the designation of conservation lands affects other commitments and proposed policies. For example, in Policy 1.10.11, the applicant proposes increased building heights in order to preserve areas of environmental sensitivity. Withholding the designation of Conservation Lands until the approval of the planned development could impede the progress of the project, placing undo restraints on both the County and the applicant. Amending these lands into Conservation Lands category at this time will provide assurances to the public as well as the County as to what lands will be preserved at a minimum in subsequent development processes. If the BoCC recommends transmitting the NRV land use category then ES staff recommends the simultaneous designation of Conservation Lands and the supporting maps.*

The memo provides further modifications to Policy 1.10.6, 1.10.7, 1.10.13, 1.10.16, 1.10.20, 1.10.23. The memo also concludes that ES Staff can no longer support a recommendation of approval for the project. This conclusion is reproduced below:

*With the applicant's revision to Policy 1.10.2, ES Staff can no longer support a recommendation of approval for the project. The applicants' proposal to withhold the conservation lands until approval of the planned development jeopardizes the entire comprehensive plan amendment. The applicant is proposing increased height, density and commercial uses based on the argument that unique features and environmentally sensitive areas will be preserved. However, the designation to Conservation Lands is absent and no binding assurance is given. The Comprehensive Plan Amendment, if approved, will grant the increased height, density and commercial development. Comprehensive Plan Amendments are designed to change the designation of the future land use map and cannot be designated at a later stage of the project. To ensure that the conservation lands are placed on the future land use map, ES Staff recommends that the Conservation Lands Buffers and Special Treatment Area Map be designated on the future land use map at the time of the Comprehensive Plan Amendment.*

If the North River Village Comprehensive Plan Amendment is adopted, Staff recommends the above changes to the applicant's proposed text language and revision to the FLUM map to include the additional southern flow-way on the south side of Duke Highway.

Environmental Sciences staff have also provided comments related to the proposed Verandah amendment. These comments are reproduced below:

*The Division of Environmental Sciences (ES) staff has reviewed the proposed Verandah Comprehensive Plan amendment from suburban and wetlands to out-lying suburban/wetlands and offer the following analysis and recommended conditions:*

*The Verandah is approximately 1,450 acres and is predominately development. The property was rezoned to MPD in August 2002 (Z-01-057) and amended in December 2005 (Z-05-081). The property has obtained development orders to construct the commercial areas, residential dwelling units and golf course areas including amenities. The property is predominately cleared and the infrastructure is in place to support future development. As part of the rezoning process, the applicant was required to preserve, enhance or restore indigenous preserves and flow-ways. The preserves in the Verandah were designed to incorporate historic flow-ways, protect listed species such as gopher tortoises, and meet the indigenous open space required by the MPD. If the land*

*use category is amended, ES staff recommends that the applicant work with County Staff to designate Conservation Lands over preserves within the Verandah MPD. The utilization of the conservation land use category would also serve to protect the indigenous habitat while providing a wildlife corridor within the project boundaries. This would also ensure the long term protection of the natural flow-ways.*

**CONSERVATION LANDS:**

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

*The Conservation Lands Future Land Use category is to provide the following public benefits:*

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

*The following Comprehensive Plan Goals, Objectives and Policies support ES Staff's recommendation for the conservation land use category.*

***Policy 1.4.6:*** *The Conservation Lands include uplands and wetlands that are owned and used for long-range conservation purposes. Upland and wetland conservation lands will be shown as separate categories on the Future Land Use map. Conservation Lands may include such uses as wildlife preserves; wetland and upland mitigation areas and banks; ancillary uses for environmental research and education, historic and cultural preservation, and natural resource based parks, and water conservation lands such as aquifer recharge areas, flow-ways, flood prone areas and well fields.*

*The Board of County Commissioners has provided policy guidance to staff to maintain wildlife corridors and green space connections to ensure the preservation of indigenous plant and animal habitat throughout the County.*

*The following Comprehensive Plan Goals, Objectives and Policies further support ES Staff's recommendation for the conservation land use category for this project:*

***Policy 1.4.6:*** *Conservation Lands land use category was created to accurately depict the use of lands for conservation purposes. Conservation Lands include uplands and wetlands that are owned and used for long range conservation purposes. The Conservation Lands FLUM category is for lands that are primarily used to conserve important natural resources, environmentally sensitive areas, significant archeological or historical*

*resources, or other conservation uses. Conservation Lands typically include such uses as wildlife preserves; large wetland and upland mitigation areas; natural resource based parks; and water conservation lands such as aquifer recharge areas, flow-ways, flood prone areas and well fields.*

***By utilizing the conservation land use category over the high quality indigenous areas, flow-ways and other natural resource areas will assist to preserve flow-ways and wildlife habitat.***

***Standard 11.4: Environmental Review Factors.*** *In any case where there exists or there is the probability of environmentally sensitive areas the developer must propose means to protect, conserve, or preserve the environmental and natural resources.*

***The project site contains high quality indigenous habitat as well as natural flow-ways that connect to the Orange River. ES Staff recommends the use of conservation lands category to preserve these environmentally sensitive habitats and flow-ways.***

***Objective 60.5: Incorporation of Green Infrastructure into the Surface Water Management Plan.*** *The long-term benefits of green infrastructure as part of the surface water management system includes improved water quality, improved infiltration, wild life habitat and recreational opportunities. Policy 60.5.3: states that the County encourages the preservation of existing natural flow-ways and restoration of historic natural flow-ways.*

***The two main flow-ways should be placed in the conservation lands future land use category to provide a wildlife corridor and protect drainage flow in the area.***

***Objective 61.2: Mimicking the function of natural systems.*** *Support a surface water management strategy that relies on natural features (flow-ways, sloughs, creeks, etc.) to help manage storm and surface water. Objective 61.3: Lee County will continue to provide design standards for development protective of the function of natural drainage systems.*

***The flow-ways should be incorporated into the surface water management system to help maintain the historic flow-way.***

***Objective 77.3: New developments must use innovative open space design to preserve existing native vegetation and buffer adjacent uses. Policy 77.3.3: The County encourages new developments to incorporate large contiguous open space areas in their development design.***

***Goal 107: Resource Management Plan.*** *The county will continue to implement a resource management program that ensures the long-term protection and enhancement of the natural upland and wetland habitats through the retention of interconnected, functioning, and maintainable hydro ecological systems where the remaining wetlands and uplands function as a productive unit resembling the original landscape.*

***The flow-ways onsite are an important wildlife link between lands to the north and the Orange River.***



*Utilizing the conservation lands future land use category for the high quality indigenous habitat and maintaining flow-ways on site will provide an indigenous high quality wildlife habitat; the preserve of the natural flow-ways onsite; and allow for a wildlife connection through the wetlands to the Orange River.*

Planning staff recommends that the applicant work with staff to establish Conservation Lands on the Verandah site.

## **SOILS**

The applicant has provided soils information in the background materials. The brief descriptions associated with the soil types depicted on the table prepared by the applicant are based on information provided in the Soil Survey of Lee County, Florida (U.S. Department of Agriculture, Soil Conservation Service, 1984).

## **HISTORIC RESOURCES**

The application includes a map that depicts the North River Village boundary on the County's Archeological Sensitivity Map. This map indicates that the majority of the subject site is located in area that is depicted as "Archeological Sensitivity."

The application includes a letter, dated October 6, 2006, from the Florida Department of State, Division of Historical Resources. This letter provides the following:

*According to this agency's responsibilities under Sections 163.3177 and 163.3178, Florida Statutes, Chapter 9J-5, Florida Administrative Code, and any appropriate local ordinances, we reviewed the proposed comprehensive plan amendment consisting of 1,262± acres.*

*A review of our records indicates that while most of this large tract falls within a high archaeological site probability zone, a systematic, professional survey to locate and evaluate cultural resources has never been conducted. It is the opinion of this office that there is a reasonable probability of proposed project activities impacting archaeological and historic sites and properties potentially eligible for listing in the National Register of Historic Places, or otherwise of historical or archaeological significance.*

*Since potentially significant archaeological and historic sites may be present, it is our recommendation that, prior to initiating any project related land clearing or ground disturbing activities within the project area, it should be subjected to a systematic, professional archaeological and historical survey. The purpose of this survey will be to locate and assess the significance of any historic properties present. The resultant survey report must conform to the specifications set forth in Chapter 1A-46, Florida Administrative Code, and be forwarded to this agency for comment in order to complete the process of reviewing the impact of this proposed project on historic properties.*

The application includes 2 Phase 1 Cultural Resource Assessments. One for Williams Island, and one for the balance of the North River Village property. The Williams Island Assessment includes the following Summary:

*In September 2007, the Archaeological and Historical Conservancy, Inc. (AHC) conducted a Phase I cultural resource assessment for Bonita Bay Properties, Inc., of the Williams (Havens) Island Parcels located in western Lee County. The combined (three)  $\pm 7$  hectare ( $\pm 20$  acre) subject parcels on a 58-acre island were surveyed to locate sites of archaeological and/or historical significance.*

*This assessment was conducted to fulfill historic resource requirements in response to Florida's Chapters 267 and 373. This assessment was conducted in accordance with Section 106 of the National Historic Preservation Act of 1966 (Public Law 89-665), as amended in 1992, and 36 C.F.R., Part 800: Protection of Historic Properties. The work and the report conform to the specifications set forth in Chapter IA-46, Florida Administrative Code.*

*The parcels are within Section 19 in Township 43S, Range 26E (Figure 1). The island encompasses areas that have been cleared and covered with fill (Figure 3). Prior to development the parcel area was hydric and mesic woodlands vegetated in slash pine/saw palmetto flatwoods and riverine mangrove swamp. The parcel area prior to the turn of the 20<sup>th</sup> century and the dredging of the Caloosahatchee River was a point or promontory of the south bank of the Caloosahatchee River opposite the confluence of Trout and Owl Creeks.*

*The subject parcel was investigated with a pedestrian survey and subsurface testing. It was determined that the areas closest to the historic bank of the Caloosahatchee River were Moderate to High Probability Zones (MPZ/HPZ) for archaeological sites. Many of the higher probability zones on the parcel were covered with 1 to 5 meters of fill making shovel testing impossible. However an effort was made to test all three parcels on the island. Overall, 17 shovel tests (50 cm<sup>2</sup>) were dug systematically and judgmentally (sic) across the parcel. No archaeological or historical artifacts, features, or sites were observed but two prehistoric sites were documented outside the project parcels. No historic structures occur on the parcel. A modern house and out building constructed in the 1980's are the only structures on the parcel. If future development uncovers archaeological or historic resources than an archaeologist should document those discoveries.*

The North River Village "Assemblage" Assessment contains the following Summary:

*In April - July 2006 and September 2007, the Archaeological and Historical Conservancy, Inc. (AHC) conducted a Phase I cultural resource assessment for Bonita Bay Properties, Inc. Of the North River Assemblage Parcel located in western Lee County. The combined  $\pm 520$  hectare ( $\pm 1300$  acre) subject parcel was surveyed to locate sites of archaeological and/or historical significance.*

*This assessment was conducted to fulfill historic resource requirements in response to Florida's Chapters 267 and 373. This assessment was conducted in accordance with Section 106 of the National Historic Preservation Act of 1966 (Public Law 89-665), as amended in 1992, and 36 C.F.R., Part 800: Protection of Historic Properties. The work and the report conform to the specifications set forth in Chapter IA-46, Florida Administrative Code.*

*The parcel encompasses parts of Sections 16, 17, 18, 19, and 20 in Township 43 South, Range 26 East (Figure 1). The parcel encompasses citrus groves, improved pasture, woodlands, and*

wetlands. Much of the parcel has been previously farmed and covered with fill (Figure 3). Prior to development the parcel area was hydric and mesic woodlands vegetated in slash pine/saw palmetto flatwoods, wetlands were characterized as cypress sloughs and grass marshes. The Trout and Owl Creeks exhibit a mangrove fringe near their confluence with the Caloosahatchee River.

The subject parcel was investigated with a pedestrian survey and subsurface testing. It was determined that the areas closest to the Caloosahatchee River as well as creeks, ponds, sloughs were Moderate to High Probability Zones (MPZ/HPZ) for archaeological sites. Ten higher probability areas were identified on the project parcel. Overall, 602 shovel test (50 cm<sup>2</sup>) were dug systematically and judgmentally across the parcel. Five previously unrecorded archaeological sites were documented: 8LL2395, 8LL2396, 8LL2397, 8LL2398, and 8LL2399. Four of the sites are small prehistoric middens or camps, and one, 8LL2399, is a possible burial mound. No historic buildings occur on the subject parcel although there are six modern buildings on the parcel.

It is the consultant's opinion that four of the archaeological sites on the North River Assemblage Parcels are potentially eligible for listing on the National Register of Historic Places and should be preserved or subject to Phase II investigations if preservation is not feasible. One site, 8LL2396, is small and although available data does not indicate National Register significance, other site components are possible and if the site area is proposed for development, then Phase II testing is recommended.

As previously noted, there are areas on the North River Village property designated in the "Area of archaeological sensitivity, Sensitivity Level 2." Chapter 22 of the Lee County Land Development Code defines the Sensitivity Level 2 as follows:

*Those areas containing known archaeological sites that have not been assessed for significance but are likely to conform to the criteria for local designation, or **areas where there is a high likelihood that unrecorded sites of potential significance are present.*** (Bolding added for emphasis)

The developer will be required to obtain a "Certificate to dig" from Lee County prior to or in conjunction with the issuance of a final development order for activity within areas designated as being within the "Sensitivity Level 2" areas. "Activity" in this context means new construction, filling, digging, removal of trees or any other activity that may alter or reveal an interred archaeological site. However, the fact that there are resources located on the subject site and that the Owl Creek Boat Works was not evaluated warrants further Lee Plan guidance. The Housing and Historic Preservation section of the Lee County Planning Division has reviewed the request and provided comments dated September 24, 2008. These comments are reproduced below:

*Recommendation #1: Per the findings of the above referenced study, archaeological sites identified as 8LL2395, 8LL2397, 8LL2398 and 8LL2399 are eligible for listing on the National Register of Historic Places. Staff recommends that in conjunction with the rezoning process these sites be designated under Chapter 22 of the LDC Historic Preservation. As part of this designation process, a professional archaeologist will identify the boundaries of the archaeological site and recommend appropriate buffers. The applicant will provide an accurate legal description of the site and buffer area so these can be accurately identified and mapped.*

*Recommendation #2: Per the findings of the above referenced study archaeological site 8LL2396 "...is a small artifact scatter and based on available data, does not appear to be eligible for listing on the National Register of Historic Places. However other site components are possible and if the site area is proposed for development, then Phase II testing is recommended." Staff recommends that in conjunction with the rezoning process this site be designated under Chapter 22 of the LDC Historic Preservation in order to assure prior to any disturbance of this site Phase II testing is conducted by a professional archaeologist. As part of the designation process a professional archaeologist will identify the boundaries of the archaeological site and recommend appropriate buffers. The applicant will provide an accurate legal description of the site and buffer area so it can be accurately identified and mapped.*

*Recommendation #3: The actual marina area and the associated buildings and structures were not evaluated as part of the above referenced cultural assessment. Because 1958 aerials show buildings and structures in the marina area, staff recommends that as a condition of approval of this comprehensive plan amendment, a cultural resource assessment of the marina area, including associated buildings and structures, be conducted. The consultant should provide appropriate recommendations for preservation. This assessment should be provided as part of the zoning application so that staff may evaluate it in conjunction with the zoning application.*

Given these recommendations, Staff recommends that if the amendment is transmitted, the following language be included in the Lee Plan to provide policy guidance concerning these issues:

**POLICY 1.10.27:** Prior to rezoning approval archaeological sites identified as 8LL2395, 8LL2396, 8LL2397, 8LL2398, and 8LL2399 must be designated under the provisions of Chapter 22 of the Land Development Code. As part of this designation process, a professional archaeologist will identify the boundaries of the archaeological site and recommend appropriate buffers. The applicant will provide an accurate legal description of the site and buffer area so these can be accurately identified and mapped.

**POLICY 1.10.28:** Prior to rezoning approval the Developer must conduct a cultural resource assessment of the Owl Creek Boat Works marina area, including associated buildings and structures. The assessment consultant should provide appropriate recommendations for preservation. The results of this assessment must be provided as part of the rezoning application so that staff may evaluate the assessment in conjunction with the rezoning application.

Staff does not support the applicant proposed modifications to these policies.

## **SCHOOL IMPACTS**

The applicant has provided a school impact analysis under Tab 10 of the application back up. The analysis provides a break down of the student generation rate by school type, based on the 2005 School Impact Fee Study, concluding that the proposed amendment will generate 319 elementary school students, 134 middle school students, and 178 high schools students. The applicant's analysis provides the following conclusions based on their analysis:

*"Several of the schools in this district have available capacity. Therefore the timing of development will be more in line with the availability of public services. It is important to note*

*that given the characteristics of the property - the waterfront and location, it is likely that any development occurring on this property will have a higher distribution of seasonal residents and retirees. It is expected that student generation would be lower than the average assumed in the Impact Fee Study.”*

*“The Impact Fee ordinance was adopted requiring that all new units pay for their proportionate impact on the school system. Therefore there will be no impact on the school system through this plan amendment. Any students generated will have been mitigated for through the payment of impact fees.”*

The applicant’s representative has provided through recent correspondence that with the drop in enrollment over the last two years since the plan amendment submittal there is now sufficient capacity in the school choice zone according to recent student population numbers. The representative has indicated that the School Board is no longer actively looking for sites and the School Board is looking at a drop in their impact fees. Staff concurs that the impact fees were recently lowered by the Board of County Commissioners on September 23, 2008.

Lee County School District staff has reviewed the proposal and provided the following written comments to the applicant dated September 29, 2006:

*“The proposed maximum total of 2,013 dwelling units which was specified in the letter, did not state whether these are single family or multi-family units. At this time I will use the generation rate for single family units because it is the higher of the two rates. The School District of Lee County is estimating that the proposal could generate up to 636 additional school-aged children. This uses the single family generation rate of 0.316 students per dwelling unit (if you need the multi-family generation rate it is 0.125). Based on the impact of this project to the school system, the School District of Lee County is requesting donation of land suitable for a school site, either within the project itself or within the same Choice Zone.”*

*“The Lee County Board of County Commissioners adopted a School Impact Fee Ordinance on November 27, 2001, which was revised in November 2005. This letter uses the revised generation rate. The developers will be expected to pay the impact fee at the appropriate time if a school site is not donated.”*

Lee County School District staff has provided the following additional comments to Lee County staff dated September 5, 2008:

*“The Developers request states that there is a possibility of 2,500 dwelling units without specifying the type. The calculation will be based on the maximum amount. 2,500 units would generate 790 additional school-aged children utilizing a generation rate of .316 per unit.”*

Therefore, this amendment would increase the total need for school facilities by 790 additional school age children, ultimately resulting in a need for additional facilities.

## **PARKS, RECREATION AND OPEN SPACE**

To date we have not received comments from Public Works staff.

## **EMERGENCY MEDICAL SERVICES (EMS)**

Lee County EMS staff reviewed the request and provided written comments. This letter provides the following:

*Lee County Emergency Medical Services (LCEMS) has performed a preliminary review of the project referenced herein. Based upon the limited amount of information provided, LCEMS has no initial concerns with the ability to provide service to this project...*

*...This current location is served by LCEMS Station 11, located at 10941 Palm Beach Blvd., which is approximately 2.5 miles away, and LCEMS Station 19, located at 17350 Nalle Road which is approximately 3 miles away.*

*This statement does not indicate that any plans have been received, it just identifies that Lee County EMS has no initial concerns with the ability to provide service to this area.*

## **SOLID WASTE**

The subject property is within Lee County Solid Waste District #4. The collection company for District #4 is Waste Management. With the existing Gulf Coast Landfill, the Waste-to-Energy facility, and the Lee/Hendry Disposal facility all online, staff anticipates that there will be adequate capacity in the County's solid waste system to accommodate the additional waste that will likely accompany the expansion of the airport.

Lee County Solid Waste Division staff reviewed the request and provided written comments dated September 20, 2007. This letter, in part, provides the following:

*The Lee County Solid Waste Division is capable of providing solid waste collection service for the project known as North River Village through our franchised hauling contractors. Disposal of the solid waste from this development will be accomplished at the Lee County Resource Recovery Facility and the Lee-Hendry Regional Landfill. Plans have been made, allowing for growth, to maintain long-term disposal capacity at these facilities.*

## **MASS TRANSIT**

Lee Tran staff reviewed the request and provided comments:

*We currently do not provide transit service to this area north of the Caloosahatchee River, nor have we identified the capacity with which to do so in the future. The nearest transit service is approximately 2 miles south on Palm Beach Boulevard, SR 80.*

*Transit service on SR 31 north of the river has not been identified as a need in either the Lee County Transit Development Plan or in the Lee County Long Range Transportation Plan. However, with the pace of growth projected for Lee County and the potential the SR 31 corridor has for becoming a transit corridor in the future, we request the design and development of North River Village to include "transit ready" features. Such features should include pedestrian walkways and bike ways internal to the project that will connect with the SR 31 corridor for future access to a transit system, as well as ROW and land preservation for future transit passenger amenities. Such items will facilitate easier access to public transportation and will allow for ease of implementation of such service in the future.*

## **POLICE**

The Sheriff's Office has reviewed the request and provided written comments dated September 9, 2008. These comments are reproduced below:

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

The Office of the Sheriff would also like the applicant to notify their office "upon application to Lee County for a development order or building permit. Staff believes that if the request is approved the CPTED study and the desired notification should be included in policy language for the Lee Plan:

**POLICY 1.10.29:** The Developer of the North River Village project will coordinate with the Office of the Sheriff throughout the development process. The Developer will conduct a Crime Prevention through Environmental Design study and submit this study for review and approval of the Office of the Sheriff. This study must be completed prior to zoning approval and a copy provided to Lee County. The Developer will notify the Office of the Sheriff upon application to Lee County for a development order and also for building permits.

## **FIRE**

The North River Village site is located in the Bayshore Fire Protection and Rescue Service District. The District has reviewed the request and provided comments dated September 16, 2008. These comments are reproduced below:

*In regards to the discussion I have had with you and Bonita Bay Group, as Fire Chief I wish to address my support for this project. As stated earlier, the Bayshore Fire Protection and Rescue Service District is committed to insuring that services will be provided to all areas within our jurisdiction.*

*I have also met with Bonita Bay, and I have found them to be receptive to fire service delivery needs. Through discussions they have stated their intent to assure easy access of our emergency vehicles to all interior locations, as well as shortened response time access through North River Village to reach existing response areas on Dukes Highway. The Expansion of the water main and hydrant system will also positively affect North River Village and the surrounding residents.*

*With the increased population it would be conceivable that an increase in call volume could accompany the project and cause the district to move up plans for a second station along the Highway 31 corridor and Highway 78.*

*Bayshore Fire Rescue is committed to working with Lee County, and the Bonita Bay Group in addressing service delivery needs not only for North River Village but to the Community as a whole. This project would provide for additional revenue that would enhance and expand the level of current services provided by the district, while permitting us to look at lowering our taxable millage rate. If I can provide any additional information or statistics, please feel free to contact this office.*

## **UTILITIES**

The applicant has provided that currently the subject area could be developed with 997 units which would generate an approximate water and wastewater demand of 249,250 gallons per day (GPD). The analysis provides that the proposed amendment would allow a maximum of 2,500 residential units and 150,000 square feet of commercial uses, increasing the demand by 475,750 GPD for a total demand of 725,000 GPD.

### Wastewater

The subject property is not currently located within a service area for wastewater. Planning staff has confirmed that an application for an extension of the North Fort Myers Utility (NFMU) service area has been submitted to the Florida Public Service Commission for an extension of the wastewater service area that will include the subject area. The applicant's utility analysis states that wastewater service will be provided by North Fort Myers Utility, Inc. Per the applicant's analysis and back up materials, NFMU currently has a plant capacity of 3.5 million gallons per day (MGD). The utility has recently permitted an additional 4.0 MGD of capacity resulting in a total 7.5 MGD capacity. Based on NFMU's capacity analysis, the projected demand on the system in 2018 will be 5.34 MGD. The application states that this figure includes the sanitary sewer demand of the subject project. The application provides that NFMU maintains a 16" force main along Bayshore Road which is located within a mile of the subject area and the utility has a permit to extend the force main along Bayshore Road to SR 31.

NFMU has provided a letter to the applicant dated May 30, 2008 stating that *"North Fort Myers Utility, Inc. has the capacity to provide 725,000 gallons per day from its wastewater treatment plant."*

### Potable Water

The subject property is not located within a service area for potable water. The proposed amendment includes adding the property into the Lee County Utilities future water service area by amending Map 6 of the Lee Plan, the Future Water Service Areas Map. The Utility analysis provided by the applicant states that potable water service will be provided by Lee County Utilities (LCU) which is permitted for 33.5 MGD. Per the applicant's analysis the current demand is 25.6 MGD. The capacity will be increased by 5.0 MGD when the Corkscrew Wellfield Expansion is completed. The projected demand for LCU in 2018 is 40.4 MGD and the projected capacity is 60.13 MGD. The application materials state LCU maintains transmission lines within a mile of the proposed amendment area. The applicant has verified the current demand and projected demands through Lee County Utilities staff. Lee County Utilities staff have noted that while LCU will have the capacity to serve the project, the Board of County Commissioners will make the final decision as to whether the area should be added to the County's future service area.

The application concludes that *"based on current capacities and planned expansions of the utilities, there will be excess capacity for each utility serving the demand of the proposed development. For NFMU, there will be nearly 2.2 MGD of permitted excess capacity available for wastewater service when including this project. For LCU, there will be as much as 19.0 MGD of excess capacity for potable water service when including this project."*

## **DRAINAGE/SURFACE WATER MANAGEMENT ISSUES**

### **Topography**



The application back up materials states that the topography of the area ranges in height from 19-ft NGVD north of Duke Highway (consisting of little or no wetlands) to about 2-ft along tidally influenced Trout Creek to the west (containing most of the areas wetlands, creeks, ponds and sloughs).

### **Land Use**

Gravity discharge is the areas only drainage system supporting the current land uses (groves, pasture, cattle grazing, agricultural operation) The application back up material states:

*“The majority of the fields operate without an operation permit issued by SFWMD. The fields can be farmed in a multitude of ways so long as a discharge pump is not used to remove stormwater during the wet season, or any other time of the year. Irrigation pumps and wells are allowed in this area. The only prohibition on the management of water is to remove the water by pumps.”*

### **Hydrology**

The area falls into three main watershed areas. The Trout Creek watershed being the largest runs north-southwest dividing the property into two main areas. The smaller Owl Creek watershed runs north-south and drains into the lower portion of Trout Creek before reaching the Caloosahatchee River. The site also falls within part of the Otter Creek watershed to the east. The application back up material states:

*“The allowable peak rate of runoff from this property from the LCSWMP is 32 cubic feet per second per square mile (csm) for the Owl Creek portion of the site, 39 csm for Trout Creek, and 39 csm for Otter Creek.”*

Most the North River Community falls below the current FEMA 100-year floodplain (areas of the Owl and Trout Creek watersheds). New FIRM maps were effective on August 28, 2008 and they confirm that large areas of the site are in the 100-year floodplain. The NOAA SLOSH model shows a section of the area to be inundated in a Tropical Storm. The Area also has sections, most of which are wetlands that fall within Lee County’s Coastal High Hazard Zone. Some of these wetland areas will be recommended for a land use change. Fill will be added to upland areas to meet regulated minimum road and building elevations.

### **Existing Facilities**

The application back up materials states.

*“There are few existing manmade facilities on the property. Owl Creek has a small weir at the downstream end. Trout Creek has two private one-lane timber bridges between the Caloosahatchee and North River Road.”*

### **Proposed Facilities**

The applicant is proposing outfall structures, and a combination of lakes and wetlands allowing the needed detention required to satisfy the intensity and type of development in the proposal. The application back up materials states:

*“The total-peak runoff rate from the site will not exceed the summation of the allowable rates times of the respective area from each watershed....It is not anticipated that pumps will be used for this CPA to discharge storm water from within the developed areas to a detention area,*

*although not planned at the time, a pumped system might be considered for wetland restoration if a gravity source of water is deemed not practical”*

## **REGIONAL POLICY PLAN AND FLORIDA STATE COMPREHENSIVE PLAN**

### **Applicant provided analysis:**

*The proposed North river Village amendment to the Lee Plan aims to create a land use category that guides development toward the creation of a mixed use river oriented district. Development within th North River Village will have an emphasis on allowing for recreational usage of the waterfront and adding to Lee County’s inventory of water dependant uses, while raising the bar for development to occur in an environmentally sustainable manner through requiring increased standards for energy and water conservation as well as environmental preservation. Specifically, the propose amendment implements the following Goals and Policies of the Regional Policy Plan:*

### **Regional Policy Plan**

#### *Housing - Goal 2 - Livable Communities*

The proposed amendment implements Goal 2 of the Regional Policy Plan by creating a mixed use development that will act as a waterfront destination. The proposed amendment allows for housing opportunities in close proximity to retail and office uses (Action 2).

### **Regional Policy Plan**

**Goal 2: Southwest Florida will develop (or redevelop) communities that are livable and offer residents a wide range of housing and employment opportunities.**

By locating new housing in areas where services already exist, local governments can reduce the strain on their resources and promote the cost effective use of their services. Doing so can also promote livable communities that offer residents a variety of amenities and opportunities. Encouragement of infill development, mixed land uses, and neighborhood revitalization are among the steps local governments can take to promote new affordable housing without sacrificing other planning goals.

**Strategy: Develop livable, integrated communities that offer residents a high quality of life.**

#### Actions:

1. Encourage programs that promote infill development in urban areas to maximize the efficient use of existing infrastructure.
2. Work with local governments to promote structures and developments that combine commercial and residential uses as a means of providing housing that is affordable and near employment opportunities.
3. Encourage communities that are pedestrian friendly or offer alternative modes of transportation to overcome transportation problems many low-income families face.

4. Encourage new housing to be built in higher areas to reduce the need for costly flood insurance.
5. Promote the mix of affordable and non-affordable housing to create integrated communities.

**Applicant provided analysis:**

*Economic Development - Goal 1, Strategy 3 - Maintain the physical infrastructure to meet growth demands*

The proposed development is in an area where infrastructure and services are available and/or will be extended in conjunction with the development of the North River Village. The property is surrounded on the West and South by urban uses and on the North is the proposed Babcock development. The proposed North River Village will help make the needed infrastructure in this area financially feasible for the existing and future residents. This development will be required to pay impact fees for new development. For example, extending central water and sewer into this area under the current low density plan would not be practical. This land use change would make it feasible for many existing residents to access utility infrastructure.

**Regional Policy Plan**

Actions:

1. Review plan amendments, development proposals, and clearinghouse items for public facility deficits and encourage mitigation of those deficits.
2. Assist local governments and state agencies in planning for future support service facilities, before the need arises.
3. Review proposed public facilities to ensure their location in urban areas that have in place, or are covered by binding agreements to provide, the resources and facilities for desired growth in an environmentally acceptable manner.
4. Study alternatives and assist other entities to study alternatives to encourage land development that maximizes the use, rehabilitation, and re-use of existing facilities, structures, and buildings as an alternative to new construction and development.
5. Review proposed public facilities and services to ensure that costs are allocated on the basis of benefits received by existing and future residents.
6. Review proposed development to require the developer to install or finance the necessary infrastructure and to provide land for the needed support services.
7. Assist local governments to obtain funding to maintain, improve, or expand their infrastructure.

**Applicant provided analysis:**

*Economic Development - goal 1, Strategy 4 - Ensure adequacy of lands for commercial and industrial centers, with suitable service provided.*

The proposed North River Village is for a residential/commercial mixed-use center that will promote the goal of economic development in Lee County. The location of the North River Village is a “suitable

urban area” based on the surrounding uses and existing infrastructure. Commercial uses will be provided as part of any future development plans.

### **Regional Policy Plan**

#### Actions:

1. Map or assist in mapping the appropriate distribution of urban uses for growth.
2. Identify existing urban lands and transportation corridors for development or redevelopment, and ensure adequate access and services are provided.
3. Include in planning efforts the recognition of lands with natural capacity, accessibility, previous preparation for urban purposes, and adequate public facilities.
4. Participate, coordinate, or promote intergovernmental coordination for siting unpopular land uses.
5. Review proposed development for increased densities and infill in suitable urban areas.

#### **Applicant provided analysis:**

*Economic Development - Goal 3, Strategy 1 - Maintain and improve the natural, historic, cultural, and tourist-related resources as primary regional economic assets.*

As demonstrated in the planning narrative, creating a water oriented mixed use destination center provides very significant economic benefits to Lee County. According to a 2004 report published by the Florida Senate’s Community Affairs Committee, the loss of public access to the waterfront for recreational purposes has a staggering effect on the economy. The current plan would allow for and has resulted in the total privatization of the waterfront in this area. The North River Village would create a tourist and community amenity that will serve to promote economic development in Lee County.

### **Regional Policy Plan**

#### Actions:

1. Assist in the identification and acquisition of potential park and recreational sites and other resources in future growth areas.
2. Participate in studies, plans, and programs for public access to beaches and other resources.
3. Review proposed development to require that natural and other resources of regional significance are maintained, enhanced, restored, or re-created, as appropriate.

#### **Applicant provided analysis:**

*Transportation - Goal 1, Strategy 3 - Promote Smart Growth where residential communities are linked with job centers.*

The mixed-use nature of this proposed development implements this smart growth idea. Residential areas are being proposed as either adjacent to or integrated with job centers such as the Civic center and the

commercial area, where a mix of uses is being requested. A system of pedestrian and bicycle ways will be developed, linking the residential with the commercial areas and creating a multi-modal environment.

### **Regional Policy Plan**

Promote Smart growth where residential communities are linked with job centers through transit, carpooling, or other high occupancy vehicle transportation.

#### Actions:

1. Annually, provide a report in conjunction with regional transit agencies on the use of mass transit where development densities or population support such transit.
2. In cooperation with transit providers and other governmental and private entities, seek long term, dedicated funding sources for use for improving and expanding the transit system.
3. Report on the overall effect of regional land use policies and pricing policies on urban sustainability.

*Transportation - Goal 2, Strategy 1 - Promote a good environment for driving, walking, bicycling, and public transit using a highly connected network of public streets, green space, and community centers.*

The proposed North River village Policies require the preservation and enhancement of the natural features on site. Pedestrian linkages will be made so that these natural areas are linked with public spaces, private amenities, public amenities, the commercial area and the Caloosahatchee River.

## **State Policy Plan**

The proposed North River Village is consistent with the State Comprehensive Plan. Below are specific policies as they relate to this proposed development.

### **(3) The Elderly**

Policy (b) 10. Improve and expand transportation services to increase mobility of the elderly.

The goal of the North River Village is to create a mixed use environment where residential is integrated with and adjacent to civic and commercial uses. Mobility through the project is a key component of the project's design and functionality. The mixed use environment is especially important for those with constraints on mobility such as the elderly.

### ***(9) Natural Systems and Recreational Lands***

The proposed Comprehensive Plan Amendment does not impact any natural resources or species on or off-site. The River Village land use category contains policies that aim to enhance the environment and create new recreational lands or access to recreational features, such as the Caloosahatchee River. Furthermore, this amendment proposes a series of policies to protect the natural environment and a simultaneous change to the FLUM for the environmentally sensitive portions of the property to the "Preservation" land use category.

### **(15) Land Use**

*(a) Goal. In recognition of the importance of preserving the natural resources and enhancing the quality of life of the state, development shall be directed to those areas which have in place, or have agreements to provide, the land and water resources, fiscal abilities, and service capacity to accommodate growth in an environmentally acceptable manner.*

*Policy (b) (1) - Promote state programs, investments, development and redevelopment activities which encourage efficient development and occur in areas which will have the capacity to service new population and commerce.*

The proposed development is in an area where infrastructure and services are available and/or will be extended in conjunction with the development of the North River Village. The property is surrounded on the West and South by urban uses and on the North is the proposed Babcock development. The proposed North River Village will help make the needed infrastructure in this area financially feasible for the existing and future residents. This development will be required to pay impact fees for new public facilities based on the impact of this project.

*Policy (b) (3) - Enhance the livability and character of urban areas through the encouragement of an attractive and functional mix of living, working, shopping, and recreational activities.*

The proposed amendment creates a mixed use district and as such will "enhance the livability and character of urban areas through the encouragement of attractive and functional mix of living, working, shopping, and recreational activities." The North River Village is being planned to include residential,

commercial and recreational uses all mixed together with a strong emphasis on pedestrian connections and access to the river. The application provides a discussion concerning consistency of the proposal with the Florida State Comprehensive Plan as contained in F.S. 187.201. The discussion highlights various areas in which the plan amendment furthers and advances the State Comprehensive Plan. Staff concurs that the proposal is consistent with the State Comprehensive Plan.

#### **AFFECT ON ADJACENT LOCAL GOVERNMENTS**

The application provides that the proposed amendment “will not affect adjacent local governments and their comprehensive plans. Staff concurs that the amendment will not affect adjacent local governments and their comprehensive plans.

#### **FEMA FLOODWAY ISSUE**

Planning staff notes that the subject site is significantly impacted by areas that are designated on the FIRM maps as being floodways. The plans that staff have reviewed include development within these areas. Floodways are areas where a No Rise Certification is required for any construction. This is an engineering study that demonstrates that there will be no rise in the floodway due to the proposed development. The developer is currently seeking a Letter of Map Revision (LOMR) from FEMA. This is the second attempt to appeal the boundaries of the floodway. Staff can not predict the outcome of this LOMR process. Staff is uncomfortable with approving intensification of the property’s density when staff is unsure as to the develop-ability of these areas.

#### **B. CONCLUSIONS**

The proposal results in an enlargement of the Future Urban Areas of the Lee Plan’s Future Land Use Map. There is no demonstrated need for expanding the Lee Plan’s Future Urban Areas. The Verandah site is located in area with all urban services available. Conversely, the North River Village property is located in one of the last truly rural areas of Lee County. Staff has long maintained that the approved Verandah density represents an under utilization of the property. The approval of the Verandah aspect of the request would continue the under utilization of the property as the Sub-Outlying Suburban category is limited to 2 dwelling units per acre. The applicant proposed development for Williams Island, depending on design and intensity, would be permitted in the Outer Islands Future Land Use category, which is the designation for Williams Island. Therefore, the proposed Inner Island amendment is not necessary.

The applicant is proposing to delay implementation of the Preservation Lands, Buffers, and Special Treatment areas map until some unspecified period in time in the future, thereby providing no protection to onsite wetlands, creek systems, habitat for endangered species, and heritage trees thru the plan amendment request.

#### **C. STAFF RECOMMENDATION**

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

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

DATE OF PUBLIC HEARING: September 29, 2008

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

Planning staff provided a brief summary of the plan amendment request. Staff provided that the applicant has not demonstrated a need for additional urban lands in Lee County. One LPA member questioned the the lateness of the staff report. One member asked for staff to elaborate on the proposed development on Williams Island with consistency with the Outer Island Future Land Use category. Staff responded that the proposed development is for a resort type of a development on the island, including such uses as a hotel, bed and breakfast with recreational amenities. Staff stated that this proposed development is approveable in the Outer Island land use category and has been approved in the Outer Island land use category.

One LPA member asked about the status of the proposed Babcock development. Staff provided a brief summary of discussions that have occurred concerning the Babcock transportation amendment. It was stated that the County has not agreed to the level of impacts associated with the proposed development.

The applicant's representatives next addressed the LPA and provided an overview of the proposed amendment. The representative highlighted the areas of disagreement in the staff analysis as contained in the staff report. These included urban sprawl, precedential nature of the request, and population accommodation. The representative stated that the project will be served by central water and sewer, which is a major benefit over individual wells and septic systems. The representative questioned "whether or not the rural land use category of one unit an acre in the current comprehensive plan is the best form of development to implement the County goals." The representative discussed the location of the project , north of the Fort Myers Shores Community, south of the proposed Babcock village, and near the Lee County Civic Center.

The representative provided that the applicant had conducted several meetings with the North Olga community to learn what issues the community had with the proposal. These issues included: compatibility with existing residential uses; provide community gathering places; preservation of the character of C.R. 78; incorporate green building practices; ensure water quality; provide central water and sewer; no berms, and no gates; and the treatment of development along Duke Highway. The representative stated that the amendment proposes to preserve the character C.R. 78 through proposed Policy 1.10.4 that requires a 100-foot edge protection area. It was stated that this edge protection area will include an equestrian path, a multi-use bicycle and pedestrian path. Duke Highway was explained as another edge protection area in which the proposed homes will face the homes along Duke Highway.

The representative addressed open space and preservation that would occur as a result of the proposal. The request includes designating land with the Conservation Lands designation. It was stated that more units provide the incentive to preserve more land. The representative also stated that incorporating the proposed special treatment areas are an additional benefit as a result of the proposed amendment.

The applicant's representative addressed transportation and stated that the development is projected to pay up to \$23 million in transportation impact fees and by definition, transportation impact fees mitigate for every unit's impact on the road network. The representative stated that the applicant is going above



and beyond impact fees. Several examples were given such as: donating 300 feet of right-of-way along the property adjacent to State Road 31; widening a section of State Road 31 from the project's main entrance to State Road 78; and, two intersection improvements. These intersections are the intersection of Buckingham Road and State Road 80, and the intersection at State Road 31 and State Road 80.

The applicant's representative stated that several environmental techniques will be utilized in the proposed development. Mentioned were green building for all single-family homes; low impact design criteria that consists of decreasing impervious surfaces, reducing roadway runoff, adding permeable pavement surfaces, increasing natural areas and xeriscaping in the community.

A second applicant representative addressed Smart Growth and urban sprawl concerns. This representative concluded that the amendment represented Smart Growth and discouraged sprawl. This representative also addressed population accommodation, and stated that the applicant does not propose an increase in the overall County population projection. It was stated that the applicant has identified systemic difficulties including: restrictions on Pine Island; density restrictions with regard to Verandah; municipal recalculations; extensive public acquisition of land; unanticipated new growth areas, such as the Babcock new town; and, additional wetlands. The representative then discussed the concept of precedent and concluded that the request does not represent a precedent. This representative also provided that the applicant "has no argument with the staff modifications" to the proposed text amendment.

The Local Planning Agency opened up the public hearing for public comments. A total of 36 members of the public addressed the LPA, 25 members opposed the request, 10 members supported the request, and one member was neutral. The members in opposition expressed concerns relating to: the density increase; increased traffic; urban sprawl; impacts to wildlife; impacts to surface water management and area flooding; loss of rural character; precedential nature of the request; building heights; and, proposal represents an inefficient use of energy resources. The members in support cited: Bonita Bay's previous developments as good examples; will provide jobs; will provide amenities for the whole community, such as public access to the water; will provide needed infrastructure, such as potable water and sewer systems; and Bonita Bay will protect the wildlife.

The LPA closed the public comment portion of the public hearing and invited the developer's representative an opportunity to provide rebuttal comments. The developer's representative stated that some of the expressed concerns were actually reasons why the proposal should be approved. He gave the example that a golf course could be developed with very little extra protection. He stated that the density trade-off, increased density, will result in a net positive environmental benefit to the community. He also discussed the level of impact fees the project will generate, and the other improvements committed to by the developer.

The members of the LPA then had a discussion concerning the proposed amendment. One LPA member expressed concern that she needed more time to weigh everything. One LPA member stated that the developer had "effectively constructed a strong man argument, giving some indication that if this doesn't happen in some way, that somebody else is going to do something bad with 1,000 units." The LPA member stated that is was a fact that the developed owned the property and was in control whether 1,00 units of 2,500 units were built. This LPA member recognized the staff position that additional urban areas were not needed.

Another LPA member discussed the history of community planning in Alva from the failed past attempts to the current Alva proposal. He also provided the he had a problem with 2,500 units. He also thought they needed more time to make this decision. Another LPA member expressed concern about the height of 85 feet, and that more time was needed. The LPA passed a motion that continued the request to October 9<sup>th</sup>, 2008.

On October 6, 2008, the applicant requested that the proposed amendment be continued to the 2008/2009 Comprehensive Plan Amendment Cycle.

DATE OF PUBLIC HEARING: January 26, 2009

**A. LOCAL PLANNING AGENCY REVIEW**

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

**1. RECOMMENDATION:**

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

**C. VOTE:**

<b>NOEL ANDRESS</b>	_____
<b>CINDY BUTLER</b>	_____
<b>CARIE CALL</b>	_____
<b>JIM GREEN</b>	_____
<b>MITCH HUTCHCRAFT</b>	_____
<b>RONALD INGE</b>	_____
<b>CARLA JOHNSTON</b>	_____

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

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

**A. BOARD REVIEW:**

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

**1. BOARD ACTION:**

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

**C. VOTE:**

**A. BRIAN BIGELOW**

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**TAMMARA HALL**

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**ROBERT P. JANES**

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**RAY JUDAH**

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**FRANKLIN B. MANN**

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

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

- A. DCA OBJECTIONS, RECOMMENDATIONS AND COMMENTS**
  
- B. STAFF RESPONSE**

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

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

**A. BOARD REVIEW:**

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

**1. BOARD ACTION:**

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

**C. VOTE:**

**A. BRIAN BIGELOW**

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**TAMMARA HALL**

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**ROBERT P. JANES**

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**RAY JUDAH**

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**FRANKLIN B. MANN**

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