

**CPA2010-01  
TRADEPORT FUTURE  
LAND USE CATEGORY  
(fka FLORIDA GULF COAST  
RESEARCH AND  
TECHNOLOGY PARK)  
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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**BoCC Public Hearing Document  
for the  
October 20<sup>th</sup>, 2010 Adoption Hearing**

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**October 6, 2010**

**LEE COUNTY  
DIVISION OF PLANNING  
STAFF REPORT FOR  
COMPREHENSIVE PLAN AMENDMENT  
CPA2010-01**

**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: June 14, 2010

**PART I - BACKGROUND AND STAFF RECOMMENDATION**

**A. SUMMARY OF APPLICATION**

**1. APPLICANT/REPRESENTATIVES:**

The Benderson Development Corporation, LLC/Represented by Neale Montgomery of Pavese Law Firm and Wayne Arnold of Q. Grady Minor and Assoc, P.A.

**2. REQUEST:**

Amend Policy 1.2.2 to limit retail commercial land uses in the Tradeport Future Land Use Category.

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

**1. RECOMMENDATION:**

Planning staff recommends that the Board of County Commissioners *adopt* the proposed amendment to Policy 1.2.2 of the Lee Plan, as identified below:

**POLICY 1.2.2:** The Tradeport areas are commercial and industrial lands adjacent to the airport needed to accommodate projected growth through the year 2030. These areas will include developments consisting of light manufacturing or assembly, warehousing, and distribution facilities; research and development activities; laboratories; ground transportation and airport-related terminals or transfer facilities; hotels/motels, meeting facilities; and office uses. Stand alone retail commercial uses intended to support and compliment the surrounding business and

industrial land uses are permitted if they are approved as part of a Development of Regional Impact (DRI) or Planned Development rezoning. Stand alone retail commercial uses are limited to 1 acre out of every 10 Tradeport and preserved wetland acres within the project. To provide an incentive to preserve upland habitat, Developments of Regional Impact or Planned Developments may also receive additional stand alone retail acres at the rate of 1 additional acre out of every 10 acres of preserved and enhanced uplands within the project that protect wetlands, flowways or occupied listed species habitat. Ancillary retail ~~and Corner Store~~ commercial uses, related directly to the sale of products manufactured or services provided in the Tradeport intended to support the surrounding business and industrial land uses, are allowed if they are part of a Planned Development. Future development in this category is encouraged to include a mixture of land uses as described in Policy 2.12.2. Residential uses, other than bona fide caretaker residences, are not permitted in this category except to the extent provided in Chapter XIII of the Plan. Caretaker residences are not permitted in the Airport Noise Zone B. Because this area is located within the Six Mile Cypress Basin and is also a primary point of entry into Lee County, special environmental and design review guidelines will be applied to its development to maintain the appearance of this area as a primary point of entry into Lee County. Property in Section 1 and the east ½ of Section 2, Township 46 South, Range 25 East, and in Section 6, Township 46 South, Range 26 East, must be rezoned to a planned development zoning category prior to any development other than the construction of essential public services. During the rezoning process, the best environmental management practices identified on pages 43 and 44 of the July 28, 1993 Henigar & Ray study entitled, “Groundwater Resource Protection Study” will be rebuttably presumed to be necessary to protect potential groundwater resources in the area.

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

- The subject site is located within the Tradeport and Wetlands future land use categories.
- The existing language of the Tradeport Future Land Use Category provides economically viable uses of the site.
- Tradeport permitted uses include light manufacturing or assembly, warehousing, and distribution facilities, research and development activities, laboratories, ground transportation and airport-related terminals or transfer facilities, hotels/motels, meeting facilities, and office uses.
- If approved through the Planned Development process, ancillary retail and corner store commercial uses are permitted within the Tradeport Future Land Use Category.
- Ancillary retail and corner store commercial uses are not well defined within the Tradeport future land use category.
- Approximately 4.5 million square feet of retail commercial uses currently exist or have the required zoning approvals within one mile of the subject site.
- Approximately 1.9 million square feet of commercial office uses currently exist or have the required zoning approvals within one mile of the subject site.

- Approximately 2,300 hotel/motel rooms currently exist or have the required zoning approvals within one mile of the subject site.
- The original proposed text change, to allow regional and community retail commercial uses on approximately 103 acres within the Gulf Coast Technology Center, would displace the traditional Tradeport uses and may be viewed as a precedent by other property owners in the Tradeport area. The amendment currently proposed would treat all land owners in the Tradeport future land use category equitably and will clarify appropriate commercial uses within Tradeport lands.
- Industrial and research and development uses are typically more difficult than retail commercial uses to locate in a manner that is consistent with the Lee Plan.
- The current location and intent of the future land use categories that allow industrial, research and development uses should be protected for future industrial and research and development activities.

**C. PROJECT SUMMARY DISCUSSION:**

Staff and the applicant have worked together to arrive at an appropriate amendment to Policy 1.2.2, the Tradeport descriptor policy, that would allow limited “stand alone” retail uses within the Tradeport future land use category. The goal of the updated proposed amendment is to provide a catalyst for industrial and research and development uses. The stand alone retail uses will be limited to ten percent of a projects Tradeport lands, as well as ten percent of preserved wetlands and uplands.

The following is the project summary that was developed for the applicant’s original proposal, which appeared in earlier versions of this staff report:

*The Gulf Coast Technology Center Comprehensive Plan Amendment was filed by the Benderson Development Corporation on January 11, 2010. The amendment proposes to change Policy 1.2.2, the Tradeport descriptor policy, to allow community and regional retail commercial development on approximately 103 acres at the northeast corner of Alico Road and Ben Hill Griffin Parkway. The applicant is also proposing to amend Policy 2.12.2 to allow public and quasi-public community facilities and recreational uses within the Tradeport Future Land Use Category as part of a Planned Development zoning approval. The 103 acres that is affected by the proposed amendment is part of a larger Development of Regional Impact (DRI) that consists of approximately 727 acres that the applicant is proposing to be used predominantly for light industrial and research and development uses. The DRI’s northern boundary is the boundary of the Southwest Florida International Airport.*

*Under the provisions of the existing Tradeport descriptor language found in Policy 1.2.2, the applicant would be permitted to build the desired industrial and research and development components of the DRI. However, the commercial uses would be limited to those that are ancillary to the uses currently allowed within the Tradeport Future Land Use Category. The applicant has proposed that under the existing Lee Plan provisions they could develop 550,000 square feet of industrial uses, and 100,000 square feet of office uses.*

*The applicant is proposing, as part of the proposed amendment, to include 700,000 square feet of retail commercial and a 240 room hotel, on the 103 acres, that would be in addition to the permitted ancillary and cornerstore uses that are allowed in the Tradeport future land use category.*

Since the above discussion was written the DRI project parameters have been modified. The applicant has modified the request to include 650,000 square feet of retail commercial floor area; 400,000 square feet of office, 50,000 square feet of medical office; 3,897,000 square feet of industrial and research and development uses; and 240 hotel/motel units.

#### **D. BACKGROUND INFORMATION**

##### **COMPREHENSIVE PLAN BACKGROUND DISCUSSION:**

The subject property was designated Open Lands and Wetlands by the original Lee County Future Land Use Map, adopted in 1984. Open Lands was established as a non-urban future land use category with a density range of 1 dwelling unit per 5 acres to 1 dwelling unit per acre. The Open Lands land use category was to be sparsely developed and provide viable agricultural areas for Lee County. Existing and planned infrastructure was far below that which the urban areas could expect. The Open Lands designation was retired by the County in 1990, when the Density Reduction/Groundwater Resource (DR/GR) designation was introduced. The category name was utilized again in 1994 applying only to land north of the Caloosahatchee River.

The property was changed to DR/GR and Wetlands in 1990. The DR/GR was a new category that was applied to all uplands that were currently designated Rural or Open Lands that lie north of the future urban areas of Bonita Springs, east of I-75, southeast of the Southwest Florida International Airport, and south of State Route 82. The land use designation was also applied to other specific areas of Lee County. In addition to reducing the countywide density, the DR/GR land use designation's intent was to protect and restrict development on areas that provide substantial recharge to aquifers most suitable for future wellfield development.

Following an Administrative Hearing and a Final Order by the Governor and Cabinet, the subject site's future land use category was changed from Density Reduction / Groundwater Recharge and Wetlands to the Airport Commerce and Wetlands on July 25, 1996 (effective date). The Airport Commerce Future Land Use Category was subsequently renamed the Tradeport Future Land Use Category on December 10, 2004 (effective date) following a request of the Lee County Port Authority.

The Benderson Development Corporation originally submitted an application to amend the Lee Plan to allow regional commercial development within the Tradeport land use category on a specific parcel located at the northeast quadrant of the Alico Road and Ben Hill Griffin Parkway intersection. Following initial review by staff, the proposed amendment has been revised to amend the Policy 1.2.2, the Tradeport descriptor policy. The amendment better defines the appropriate commercial intensities and uses within the Tradeport future land use category and affects all properties with the Tradeport future land use category.

## PART II - STAFF ANALYSIS

### A. STAFF DISCUSSION

Please note that the nature of this proposed amendment to the Lee County Comprehensive Plan has changed. The application and requests has been revised to allow limited “stand alone” retail uses within the Tradeport future land use category. The stand alone retail uses would be limited to ten percent of a projects Tradeport lands, as well as ten percent of preserved wetlands and uplands.

The specific development being pursued by the applicant, which is the subject of substantial portions of the Staff Analysis, is no longer applicable to this Amendment. The proposed development continues to be reviewed by Lee County staff through the Development of Regional Impact (DRI) and Development of County Impact (DCI) processes.

The applicant, “Benderson Development Corporation, LLC,” on January 11, 2010, filed a Lee Plan text amendment to accommodate “community and regional” retail commercial uses that would be limited to the subject 103 acre site. The applicant proposes, at build-out, 700,000 square feet of non-ancillary retail commercial uses (*applicant has reduced the request to 650,000 square feet retail commercial uses*) and 240 hotel rooms. The application materials provide a brief summary of the type of development that is being proposed:

*The applicant is submitting this privately initiated Lee Plan amendment in conjunction with a Development of Regional Impact (DRI) application. The DRI encompasses approximately 727+/- acres of property located at the northeast quadrant of the intersection of Ben Hill Griffin Parkway and Alico Road. The property which is the subject of the Lee Plan amendment is approximately 103+/- and is depicted on the attached general location exhibit. The amendment proposes to modify the Tradeport Land Use category, Policy 1.2.2 by establishing criteria under which community and regional retail commercial development may occur in conjunction with industrial, office and research and development if developed as a single project which provides for economic development opportunities. The regional and community commercial uses would be in addition to the cornerstore commercial land uses currently permitted in this land use category.*

Although not stated within the request summary provided above, it should be noted that the applicant was also proposing an amendment to Policy 2.12.2 that would accommodate public and quasi-public community facilities and recreational uses within the Tradeport Future Land Use Category as part of a Planned Development zoning approval. This amendment is not limited to the subject site, but would be applicable to all lands within the Tradeport Future Land Use Category.

The amendments originally proposed by the applicant to Policy 1.2.2 are as follows:

**POLICY 1.2.2:** The Tradeport areas are commercial and industrial lands adjacent to the airport needed to accommodate projected growth through the year 2030. These areas will include developments consisting of light manufacturing or assembly, warehousing, and distribution facilities; research and development activities; laboratories; ground transportation and airport-related terminals or transfer facilities; hotels/motels, meeting facilities; and office uses. Ancillary retail and Corner Store commercial uses, intended to support the surrounding business and industrial land uses, are allowed if they are part of a Planned Development. Future development in this category is encouraged to include a mixture of land uses as described in Policy 2.12.2.

Residential uses, other than bona fide caretaker residences, are not permitted in this category except to the extent provided in Chapter XIII of the Plan. Caretaker residences are not permitted in the Airport Noise Zone B. Because this area is located within the Six Mile Cypress Basin and is also a primary point of entry into Lee County, special environmental and design review guidelines will be applied to its development to maintain the appearance of this area as a primary point of entry into Lee County. Property in Section 1 and the east ½ of Section 2, Township 46 South, Range 25 East, and in Section 6, Township 46 South, Range 26 East, must be rezoned to a planned development zoning category prior to any development other than the construction of essential public services. During the rezoning process, the best environmental management practices identified on pages 43 and 44 of the July 28, 1993 Henigar & Ray study entitled, “Groundwater Resource Protection Study” will be rebuttably presumed to be necessary to protect potential groundwater resources in the area.

Community and Regional retail commercial uses are permitted in the Tradeport Future Land Use Category, in addition to the Corner Store commercial, under limited circumstances. Non-ancillary community and regional retail commercial are permitted in those instances when there is an adequate transportation network, an adequate market, and where the retail is part of a larger mixed use development that is capable of meeting the economic diversification needs of the county. The community and regional commercial is permitted in the Tradeport Future Land Use Category on approximately 103 acres of property located at the northeast quadrant of the intersection of Ben Hill Griffin Parkway and Alico Road, in Sections 1 and 2, Township 46 South, Range 25 East. The community and regional commercial will be permitted in accordance with the following criteria:

1. The regional and community retail commercial uses must be approved as part of a Development of Regional Impact.
2. The regional and community retail commercial uses must be approved as part of Mixed Planned Development or as a Commercial Planned Development/Industrial Planned Development.
3. The regional and community retail commercial uses may not exceed 15% of the total retail, office, and Industrial square footage of the Development of Regional Impact.
4. The office, industrial, hotel, or other uses within the Development of Regional Impact must be able to access the community and regional retail commercial without the need to utilize the external road network.
5. The community and regional retail commercial uses will not exceed an FAR of 0.16.

The amendments proposed by the applicants to Policy 2.12.2 are as follows:

**Policy 2.12.2:** Future development within the Tradeport and Industrial Development future land use categories is strongly encouraged to be designed to include a mixture of research and development, industrial, and related offices uses, where appropriate. Public and quasi-public, community facilities and recreational uses shall also be permitted where appropriate and reviewed as part of a planned development.

## **COMMON GOAL**

Staff has met with the Benderson development team several times while preparing this staff report. Staff notes that there is a common goal of both the Lee County Department of Community Development and the Benderson Development Corporation. Both parties want the Tradeport to be a vibrant area, and see it as essential to diversifying Lee County's economy. County staff appreciates that the Benderson Development Corporation is a nationally recognized company with a home base on Florida's west coast. Staff also appreciates that the Benderson development corporation is very enthusiastic about their vision for the subject site and how it will help to achieve the desired goals. Staff will continue meetings and negotiations with the developer.

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

The application materials include a discussion of surrounding zoning and land uses. The surrounding Future Land Use categories consist of Airport, Tradeport, Density Reduction/Groundwater Resource (DR/GR), and University Community. Airport designated lands occur to the north of the 727 acre DRI, and are not directly adjacent to the subject site. The Tradeport designation is directly adjacent to the subject site on the north and east and is also located west across the Alico Road right-of-way. Density Reduction/Groundwater Resource and University Community lands are located south of the proposal.

The application materials and staff review reveal a variety of DRIs, Developments of County Impacts, and planned developments in close proximity to the subject site.

South of the subject property are lands within the Density Reduction/Groundwater Resource Future Land Use Category. The property directly south of the site is a former aggregate mine site with AG-2 and IL zoning. The old mine site is the subject of a separate proposed Lee Plan Amendment known as Alico West. The applicant in this case is proposing to redesignate DR/GR lands to University Community. Also south of the subject site are lands that are currently in the University Community future land use category and are a commercial component of the Miromar Lakes DRI with approval for up to 250,000 square feet of retail uses, 340,000 square feet of office uses, and 450 hotel rooms.

Southwest of the subject site, on the opposite corner of the Alico Road and Ben Hill Griffin Parkway intersection is a large regional retail shopping center known as Gulf Coast Town Center. This property was zoned as a Commercial Planned Development. The Gulf Coast Town Center has approvals for 1,916,000 square feet of retail uses and 250 hotel rooms, and is nearing buildout.

West of the subject site is the Jetway Tradeport Mixed Use Planned Development, which is currently under construction and has approvals for 120,000 square feet of commercial retail space, 75,000 square feet of commercial office space and 300 hotel rooms. This development is located in the Tradeport and Industrial Commercial Interchange future land use categories.

North of the subject site is the Southwest Florida International Airport. The Airport approvals include 225,000 square feet of office uses and 300 hotel rooms. The County is hoping to foster research and development activities within this "Madden Research Loop" on the Airport property.

East of the subject site is the Premier Airport Park and other vacant Tradeport properties.

## **INTERNAL CONSISTENCY WITH THE LEE PLAN**



Policy 1.2.2 of the Lee Plan , the descriptor policy of the Tradeport future land use category was previously shown along with the applicant’s proposed changes.

There are also additional provisions that are applicable to the Tradeport future land use category found in Policy 2.12.2. The existing text of Policy 2.12.2 was also shown with the applicant’s proposed changes.

The proposed Lee Plan amendment is requesting to make revisions to the policies identified above that would allow for community and regional retail commercial development in addition to the corner store and ancillary commercial land uses that are currently permitted within the future land use category. This change is necessary to accommodate the development that is being proposed in a companion Development of Regional Impact (DRI) application because the proposed development is inconsistent with the existing language of Policies 1.2.2 and 2.12.2. The development that the applicant is seeking to accommodate includes 700,000 square feet of retail commercial uses (*applicant has reduced the request to 650,000 square feet retail commercial uses*), which is clearly within the range of a Regional Commercial Center as specified by Policy 6.1.2 of the Lee Plan. The Tradeport future land use category is seen as an important asset as Lee County strives to diversify its economy to be less reliant on service industries and retail commercial uses. Staff finds that the proposed development is not consistent with the Policies 1.2.2 and 2.12.2 of the Lee Plan.

Planning staff strongly believes that Lee County should protect the integrity of the Tradeport future land use category.

The proposed text amendments to Policy 2.12.2 would allow public and quasi-public community facilities and recreational uses. However, public and quasi-public community facilities and recreational uses are allowed in the Tradeport category, as it is currently allowed in all land use categories by Policy 2.1.3 of the Lee Plan. Staff finds that the proposed amendment to Policy 2.12.2 is not needed, and not recommended.

The intent of the Tradeport category as stated in Policy 1.2.2 is to provide for “developments consisting of light manufacturing or assembly, warehousing, and distribution facilities; research and development activities; laboratories; ground transportation and airport-related terminals or transfer facilities; hotels/motels, meeting facilities; and office uses.” Also allowed with in the Tradeport future land use category is corner-store retail and ancillary commercial uses that are intended to support the surrounding business and industrial land uses. The intent of the applicant: to allow for community and regional retail commercial development would allow for an intense level of retail commercial development that is not ancillary to the intended Tradeport Uses. This is inconsistent with the intent of the Tradeport future land use category. During the formation and amendment of the Tradeport future land use category, then known as the Airport Commerce future land use category, Lee County found that these lands were well suited for industrial development. The following is an except from the “Response to the ORC, Airport Commerce Land Use Category”, dated October 21, 1994, (Attached) that favored placing these lands within the Tradeport future land use category:

*“In their studies, both the property owner, Alico, Inc., and the Port Authority looked to the experience of the older airports for guidance. Activities such as shipping and freight forwarding are often located on property adjacent to airports. Spin-off operations including warehouse and delivery services, transfer facilities, office complexes, high-tech electronics and communications companies and a variety of other business services are often located on property identically located as the subject property. Other business that are (sic) do not necessarily rely directly on*

*the airport for their operation, located near an airport because they value the prestige, services and/or the accessibility of a location near an airport for their customers and workers. Table 1 presents the different type of land uses attracted to airports (Please see attached “Response to ORC”, page 22 for Table 1). Providing for these uses on suitably located property is consistent with the requirements of the industrial needs study completed by Tom Roberts for Lee County.*

*Lee County needs to ensure that whatever development occurs on the subject property is compatible with the airport and that additional Airport Commerce acreage in the appropriate location is not precluded in the future. It would not be in anyone's best interest to have this area develop into incompatible high end residential uses, such as happened with the Lake Nona development adjacent to the Orlando Airport.”*

The above passage specifically discusses that areas that are suitable for industrial development next to airports should not be developed with “incompatible high end residential uses.” There are two reasons for this. The first is the inherent conflicts that are created when siting uses next to an airport or industrial area such as noise and air quality. The second reason which is equally important, is the limited lands that are appropriate for industrial development. During the creation of the Tradeport (Airport Commerce) future land use category staff found that “Lee County needs to ensure that whatever development occurs on the subject property is compatible with the airport and that additional Airport Commerce acreage in the appropriate location is not precluded in the future.” Allowing the development of a regional retail commercial destination shopping center would preclude development that is consistent with the Tradeport future land use category. The limited areas that are adjacent to the Southwest Florida International Airport need to be protected from inappropriate uses.

### **Lee Plan Industrial Siting Criteria**

The general nature of siting industrial and Tradeport uses depends on the specific requirements of Policies 5.1.5 and 7.1.9. The siting of industrial uses in a manner that is consistent with the Lee Plan is more difficult than siting retail commercial centers. Policy 5.1.5 reads as follows:

**POLICY 5.1.5:** Protect existing and future residential areas from any encroachment of uses that are potentially destructive to the character and integrity of the residential environment. Requests for conventional rezonings will be denied in the event that the buffers provided in Chapter 10 of the Land Development Code are not adequate to address potentially incompatible uses in a satisfactory manner. If such uses are proposed in the form of a planned development or special exception and generally applicable development regulations are deemed to be inadequate, conditions will be attached to minimize or eliminate the potential impacts or, where no adequate conditions can be devised, the application will be denied altogether. The Land Development Code will continue to require appropriate buffers for new developments.

Policy 7.1.9 reads states:

**POLICY 7.1.9:** Industrial development will not be permitted if it allows industrial traffic to travel through predominantly residential areas.

One of the major premises of the Lee Plan is the protection of the character of residential communities from incompatible uses. This has necessitated the inclusion of the policies identified above. It is more difficult to identify appropriate locations for industrial uses than it is for retail commercial and office uses.

Siting of industrial land uses is also difficult because of the specific needs that are required for typical industrial uses. This has been contemplated by the Lee Plan as evidenced in Policy 7.1.3 which reads as follows:

**POLICY 7.1.3:** Industrial land uses must be located in areas appropriate to their special needs and constraints, including, but not limited to, considerations of: topography; choice and flexibility in site selection; access by truck, air, deep water, and rail; commuter access from home-to-work trips; and utilities; greenbelt and other amenities; air and water quality considerations; proximity to supportive and related land uses; and compatibility with neighboring uses.

In the economic analysis submitted by the applicant the author makes the statement:

*The changing employment picture in Lee County, and in the Construction sector in particular, does more than challenge calls for additional industrial land accumulation. It renders them moot.*

The currently designated industrial and Tradeport lands are in fact the only such lands the County will ever have. As stated previously, these land uses are extremely difficult to place in an already developed landscape. Also, as articulated in Policy 7.1.3 access to the airport and the interstate highway system, and the services that they provide, is important to industrial uses. Staff's position in this case is not to call for additional industrial lands, but to protect the limited industrial lands that we have in proximity to the airport and Interstate 75. It should be noted that this amendment is seeking to effectively remove land from an already designated Tradeport area.

### **Resisting the Transformation of Industrial Lands**

The following is an excerpt from the Tom Roberts Industrial Land Use Needs study prepared for Lee County in conjunction with the Comprehensive Plan. It predicted future attempts to allow non-industrial uses within areas that have been designated for industrial uses:

*Whenever a proposal comes along to use industrially designated land for some non-industrial use, it will be tempting to permit it, on the grounds that the County has a great deal of vacant land and that will continue to be the case for many years. But, ...the amount of land that is needed to provide for eventual industrial use is a tiny percentage of the County's total land area, and it is very important that it be available when and where it is needed.*

*Chapin and Kaiser stress the importance of industrial land use planning by stating that it should receive top priority, preceded only by environmentally critical open space.*

The Tom Roberts study also concludes the following:

*Just as important as providing an adequate amount of industrial district land is the need to save it in the right places, because of industry's special locational requirements.*

*Ironically, if Lee County errs in its long-term land use planning, it is less likely to be in the category of environmentally critical areas. That issue, while still shaky, has attracted strong public and governmental attention, and its importance is graphic. The greater risk is in the area of industrial land use planning, because the long-term economic and fiscal implications of being short-sighted in the preservation of enough good industrial sites seem remote and elusive today,*

*and the problems faced by older retirement/tourism centers like Miami Beach and St. Petersburg seem far away.*

Staff agrees with these earlier assessments, and does not believe that the County should make changes to the Lee Plan that would weaken the intent of the Tradeport future land use category by allowing the development of a regional retail commercial shopping center.

The applicant believes that the proposed Regional Retail Commercial center will act as a catalyst for the light manufacturing or assembly, warehousing, and distribution facilities; research and development activities; laboratories; ground transportation and airport-related terminals or transfer facilities; hotels/motels, meeting facilities; or office uses that are intended for the Tradeport future land use category. The applicant has provided an analysis prepared by Snaith Economic Advisory Services to support this claim. The analysis provided by the applicant states that “the addition of a hotel and retail amenities to the southwest parcel of the Research and technology Park will make the remaining industrial space in the rest of the Park more attractive to the types (of) industrial and office tenants that the county seeks to attract.”

The Tradeport category has undergone several modifications to broaden the allowable uses and to allow additional services and amenities through the Planned Development rezoning process. Review of Appendix C to the applicants economic analysis (*Characteristics and Trends in North American Research Parks: 21<sup>st</sup> Century Directions*, by Battelle Technology Partnership Practice, October 2007, Developed in cooperation with the Association of University Research Parks) stresses the need for services and amenities in association with research parks. In no place does the report promote a need for regional and community commercial retail in association with such parks. A portion of the results of a survey of 122 research parks is included in this appendix. A pie chart on page 7 of that document indicates that the average retail component of these parks is around 4.5 percent of the tenants of the parks. The application proposes 15 percent of the entire floor area of the park, including the office, industrial, and retail. This amount of commercial far exceeds any services and amenities needs.

The application’s economic analysis cites a development in Alabama, the Cummings Research Park as a potential blueprint for the Gulf Coast Research and Technology Park. This park is associated with the University of Alabama at Huntsville. The park contains approximately 3,843 acres and is the second largest research park in the United States and the fourth largest park in the world. There is an area of this research park called the Bridge Street Town Center. It is a mostly retail center developed somewhat as a main street lined with shops and restaurants. The area of the center is approximately 90 acres. This equates to about 2.3 percent of the project area.

The following types of commercial development are available near the subject site:

- Approximately 4.5 million square feet of retail commercial uses currently exist or have the required zoning approvals within one mile of the subject site.
- Approximately 1.9 million square feet of commercial office uses currently exist or have the required zoning approvals within one mile of the subject site.
- Approximately 2,300 hotel/motel rooms currently exist or have the required zoning approvals within one mile of the subject site.

A more detailed analysis of the developed and approved uses in the surrounding area is shown on the following table:

<b>Approved and Existing Development</b>			
Development	Retail	Office	Hotel
	(Square feet)	(Square feet)	(Rooms)
<b>East of I-75</b>			
Southwest Florida Inter. Airport		225,000	300
Airport Interstate Commerce Park	175,000	131,000	
Miromar Lakes MPD	250,000	340,000	450
Gulf Coast Town Center	1,916,000		250
University Plaza	160,000	140,000	120
Airport South Interchange	300,000		172
Jetway Tradeport	120,000	75,000	300
Airport Technology Center	69,000	200,000	115
Alico Airpark Center	240,000		
<b>Subtotal</b>	<b>3,230,000</b>	<b>1,111,000</b>	<b>1,707</b>
<b>West of I-75</b>			
Alico Crossroads Center	300,000	51,000	200
Vintage Commerce Center	270,000	30,000	
Alico Interchange Park	696,000	750,000	400
<b>Subtotal</b>	<b>1,266,000</b>	<b>831,000</b>	<b>600</b>
<b>Total (Approximately 1 mile along Alico Road)</b>	<b>4,496,000</b>	<b>1,942,000</b>	<b>2,307</b>

The Tradeport future land use category requirements have been recently modified to allow Corner Store commercial uses, and remove some of the restrictions that applied to the ancillary retail commercial uses in CPA2007-00055. Staff, in CPA2007-00055 concluded that the allowance of ancillary commercial uses and corner stores within the Tradeport future land use category as proposed in that Lee Plan amendment was needed to allow for the development of Research and Development parks sought by the Economic Development Office in the Industrial Development and Tradeport future land use categories. This view was supported by the *Commercial/Industrial Land Use Analysis*, completed by Basile Baumann Prost & Associates for Lee County. Unfortunately, when the Tradeport future land use category was revised a clear definition or amount of appropriate ancillary and corner store uses was not provided. Because the Lee Plan does not provide a clear definition or amount of appropriate commercial uses and intensities, staff finds that retail commercial uses that have been recently approved to be developed within the Tradeport future land use category vary to a great degree, leading to the conclusion that this issue needs to be clarified.

<b>Approved and Existing Commercial Development in Tradeport FLUC</b>			
Development	Retail	Office	Total Acres

	(Square feet)	(Square feet)	
Southwest Florida Inter. Commerce Park	6,000	180,000	207.50
Airport Interstate Commerce Park	175,000	131,000	321.94
Alico Airpark Center	50,000	190,000	240.96
Premier Airport Park	0	0	225.71
Airport Technology Center	69,000	200,000	90.46
Airport Crossings	75,000	295,000	82.43
Arlington Commerce Park	50,000	160,000	80.57
<b>Total</b>	<b>425,000</b>	<b>1,156,000</b>	<b>1,249.57</b>

The types of retail commercial uses that were approved in the above listed developments within the Tradeport future land use category include the following:

Consumption on premises - in conjunction with a restaurant; factory outlets (point of manufacture only); health club or spa; all types of restaurants; banks and financial establishments; retail and wholesale sales; convenience food and beverage; food stores, hardware stores, fueling stations; automatic teller machine; autoparts store; bar/cocktail lounge; boat parts store; pharmacy; gift shops; laundry and dry cleaning; nightclubs; parcel and express services; package store; specialty retail shops; vehicle and equipment dealers (Group IV and V); hardware store; used merchandise; variety store; paint stores; commercial recreation facilities; drive through facilities; and photo finishing.

Staff finds some consistency in the *Commercial/Industrial Land Use Analysis*, completed by Basile Baumann Prost & Associates for Lee County, and the *Characteristics and Trends in North American Research Parks: 21<sup>st</sup> Century Directions*, completed by Battelle Technology Partnership Practice for the applicant. Both studies acknowledge the utility of a commercial catalyst in an Industrial and/or Research and Development area, which staff accepts. However, because the primary intent of the Tradeport future land use category is to provide for light manufacturing, assembly, warehousing and distribution facilities, research and development activities, laboratories, ground transportation and airport-related terminals, or office uses; an upper limit should be re-established for retail commercial uses.

The wide range of retail commercial approvals within the Tradeport future land use category and the applicant's concern that the category does not provided adequate certainty for the types and amounts of commercial uses that are appropriate within the category also point to the need for a revision to Policy 1.2.2 of the Lee Plan to provide an upper limit to the amount of retail commercial uses within the Tradeport land use category.

### **Past and Future Precedents**

It is important to point out that the existence and approval of retail commercial developments at the southeast, and southwest corner of the intersection of Alico Road and Ben Hill Griffin Parkway does not dictate the development that is to be expected at the northeast quadrant of the intersection. This is articulated in Policy 6.1.10 of the Lee Plan, which reads as follows:

**POLICY 6.1.10:** The approval or existence of commercial development on one corner of an intersection will not dictate the development of all corners for commercial development, nor does

the existence of commercial development on an arterial or collector road dictate that all frontage must be similarly used.

It should also be noted that the retail commercial developments at the southeast and southwest corner of the intersection of Alico Road and Ben Hill Griffin Parkway were approved in the University Community future land use category.

Staff and the applicant have worked towards language that deals with this issue in an equitable fashion for the entire Tradeport future land use category.

## **TRANSPORTATION/TRAFFIC CIRCULATION IMPACTS**

The Department of Transportation has reviewed the above-referenced privately-initiated comprehensive plan amendment, submitted in conjunction with a DRI application, to modify the “Tradeport” land use designation for approximately 103 acres on the north side of Alico Road east of Ben Hill Griffin Parkway to allow significantly more commercial development than otherwise would be allowed. The applicant has asked that this change allow an additional 700,000 square feet of regional and community commercial/retail space [*applicant has reduced the request to 650,000 square feet retail commercial uses*] by 2030 for purposes of the traffic analysis (half of that for the 2014 analysis). A significant number of roadways in the area are projected to fail by 2030, both with and without the land use modification, and there is no specific mitigation plan to address those failures or larger public benefit being provided by the applicant to off-set the failures and justify this modification of critical “Tradeport” lands in the heart of the “Research Diamond.” Therefore, DOT staff recommends the amendment not be transmitted.

*[The development continues to be reviewed by Lee County staff through the Development of Regional Impact (DRI) and Development of County Impact (DCI) processes. Since this analysis was provided by DOT staff, the applicant and DOT staff have been working to develop a mitigation plan that will be included in the DRI Development Order.]*

### **Analysis of Impacts**

In order to analyze the impact of this proposal on the Lee County MPO’s 2030 Financially Feasible Plan, the applicant’s consultant added the employment associated with 700,000 square feet of commercial (1,750 employees) to the zonal data for existing traffic analysis zone (TAZ) 1387, and ran the FSUTMS travel demand model. Based on the model runs on the financially feasible plan network, six roadway segments within a 3-mile radius of the site are projected to exceed their adopted level of service standard in 2030 with or without this amendment. They are:

*Alico Road from Three Oaks Parkway to I-75  
Ben Hill Griffin Parkway from Alico Road to FGCTRP Entrance  
Ben Hill Griffin Parkway from FGCTRP Entrance to Terminal Access Road  
Treeline Avenue from Terminal Access Road to Daniels Parkway  
I-75 from Corkscrew Road to Alico Road  
I-75 from Alico Road to Daniels Parkway*

### **Applicant’s Proposed Mitigation**

The applicant’s consultant estimates that the project will generate \$7.7 million in road impact fees under today’s rate schedule, and suggests that these payments can be used to fund whatever improvements are found to be necessary to support general growth in the area. The DRI proportionate share amount has not yet been determined, as the DRI analysis is not yet sufficient and the DRI impacts not yet agreed upon.

The consultant suggests that since this development is not currently anticipated in future growth forecasts that all impact fees generated would be new revenues beyond the 2030 revenue forecasts. That approach does not consider that future road impact fee revenue forecasts are not site-specific, and does not really address the issue of the needed improvements being financially feasible and reasonably expected to be in place not only when the impacts of the development arrive, but in the horizon year of the plan. It also does not account for the potential reduction or repeal of road impact fees in the future, options that have been discussed in the current economic downturn.

*[Staff expects that an acceptable mitigation plan for the DRI's traffic impacts will be provided for in the DRI Development Order.]*

**Needed Infrastructure Commitments**

Section B.1.e of the County's comprehensive plan amendment application states that "An inability to accommodate the necessary modifications within the financially feasible limits of the plan will be a basis for denial of the requested land use change." Normally, the County would look for a specific financial commitment from an applicant to make the necessary improvements by the 2030 time frame, otherwise DOT staff would recommend denial under these circumstances. Without a financial commitment, we cannot say that there is sufficient infrastructure planned to accommodate future growth, including the amended land use. There have been some limited instances where the County has allowed such amendments to move forward based on their specific circumstances; examples include there being no real roadway solution and the applicant making a commitment to fund alternative modes of transportation, or there being a site-specific condition put in the comprehensive plan that limits the amount of development until the needed improvements are incorporated into the financially feasible plan.

Also the MPO's long range plan is currently being updated and extended to the year 2035, so the list of improvements that are or will be in the financially feasible plan is somewhat in flux. However, in this case, we are looking at a proposed land use modification in an area where there are expected to be significant roadway improvement needs, and the applicant has offered the payment of impact fees and no other solution.

Based on the MPO's 2030 Plan, as adopted in December, 2005 and last amended in March, 2006, the needed improvements and their costs are:

<u>Segment</u>	<u>Current</u>	<u>Needed</u>	<u>Cost</u>
Alico Rd., Three Oaks-I-75	6L	Alico Expwy.	\$603,111,223
Ben Hill Griffin Pkwy, Alico Rd.-Terminal	4L	I-75 10L	See below
Treeline Ave, Terminal-Daniels	4L	I-75 10L	See below
I-75, Corkscrew.-Alico	6L	12L	\$77,514,291*
I-75, Alico-Daniels	6L	10L	<u>\$78,302,569*</u>
TOTAL			\$758,928,083

*\*Pro-rated cost of larger project based on segment length*

The MPO plan does not identify improvements to Ben Hill Griffin Parkway/Treeline Avenue between Alico Road and Daniels Parkway, because the widening of this road is not anticipated to be needed once I-75 is widened to ten lanes. One complicating factor in regards to the future widening of I-75 is that the Florida Legislature established the Southwest Florida Expressway Authority in 2003 and gave it the specific objective of expanding the interstate through the addition of tolled express lanes in portions of Lee and Collier Counties. Both the Expressway Authority and the Florida Turnpike Enterprise conducted



preliminary toll feasibility studies and determined that a 10-lane interstate project could be supported by toll revenues and financially feasible, but only if there were 6 tolled express lanes and 4 non-tolled general use lanes. At the same time, FDOT secured Federal funding to move forward with 6-laning I-75 from Golden Gate Parkway in Collier County to Colonial Boulevard in Lee County. This project was recently completed. The added lanes were not tolled, and it may be difficult in the future (legally and politically) to toll lanes that are not specialty lanes (for example, HOV lanes) or were not tolled in the past. That means the implementation of a 10-lane project made up of 6 tolled express lanes and 4 non-tolled general use lanes may not be feasible in the future, and other configurations may not be feasible as toll-supported projects. With the recent completion of the 6-laning and the reduction in demand on the interstate due to the current economic downturn, the need for additional lanes has been pushed farther into the future. The Expressway Authority has recently decided to pursue its dissolution.

### **Alico Road**

The FSUTMS computerized travel demand model used to analyze the impact of this comprehensive plan change is a system-wide model that sometimes does not realistically reflect what might happen at a given site. This plan amendment only affects a portion of the Florida Gulf Coast Technology & Research Park DRI, adding 700,000 square feet of commercial to the growth parameters for TAZ 1387 with centroid connections from the TAZ to both Ben Hill Griffin Parkway and Alico Road. The model has loaded the majority of the trips from this TAZ to Ben Hill Griffin Parkway, which results in the two-lane piece of Alico Road east of Ben Hill Griffin Parkway not being shown as failing in the 2030 horizon. However, the TAZ 1387 growth parameters don't include the full level of development proposed for the Florida Gulf Coast Technology & Research Park DRI, with a buildout year of 2022. The model also doesn't reflect the access set-up envisioned in the DRI Master Plan, with one driveway connection to Ben Hill Griffin Parkway and seven driveway connections proposed onto Alico Road (six of which access the 103-acre parcel that is the subject of this plan amendment). Other comprehensive plan amendments, zoning and local development order approvals in the area have shown the two-lane piece of Alico Road between Ben Hill Griffin Parkway and Airport Haul Road as failing in the not-too-distant future with the addition of their development traffic. It is reasonable to expect that this DRI will also have that effect. The conversion of light industrial lands in the Tradeport category to something that would accommodate regional and community commercial development (and thereby increasing the trip generation potential) would only exacerbate that potential problem.

Alico Road is also an industrial corridor with significant truck traffic, including the majority of the mining traffic coming from the limited mining areas off of Alico Road allowed by the DR/GR plan amendments and code changes. Modifying 103 acres of Tradeport to allow more commercial development would cause more of a mixing of traffic types than we would otherwise expect, and could create the kind of safety concerns that are frequently noted by users of Corkscrew Road to the south, particularly without the widening of Alico Road. On a two-lane undivided road segment such as Alico Road between Ben Hill Griffin Parkway and Airport Haul Road, there is no median so there is no limitation on the movements coming in and out of the seven entrances the applicant has proposed. This could create numerous conflict points with fully-loaded trucks that have difficulty slowing down, in terms of left turns across their path or right turns in front of them.

The MPO's 2030 Needs Plan does not include the widening of Alico Road east of Ben Hill Griffin Parkway; instead it includes the Alico Expressway to the north as a parallel improvement that addresses the demand. The Alico Expressway now appears to be an unlikely improvement given development patterns in the area, and LCDOT staff expects that the on-going update of the MPO plan to 2035 will drop the Expressway project and add the widening of existing Alico Road and its extension up to SR 82 (which

was the subject of a recent County corridor alignment study). Whether the widening of Alico Road ends up in the new 2035 Financially Feasible Plan or the Needs Plan remains to be seen. However, in recognition of the importance of widening Alico Road in encouraging alternative energy research and development activities in this area and eliminating obstacles to their establishment, the County is proposing to fund the preliminary engineering/design/permitting effort for the four-laning of Alico Road from Ben Hill Griffin Parkway to Airport Haul Road in its CIP. Unfortunately, severely declining transportation revenues do not allow the County to fund the right-of-way and construction phases at this time.

Whether through this comprehensive plan amendment process (if approved) or the DRI process, the applicant should be required to address the need for future widening of Alico Road between Ben Hill Griffin Parkway and Airport Haul Road, the entire length of which this applicant owns frontage. The applicant could commit to pipeline his DRI proportionate share to the improvements, and/or provide right-of-way for the roadway widening and/or water treatment, or make a commitment to take the roadway drainage into the site drainage. The various land owners have not yet developed a cooperative approach to dealing with the issue. The County may consider the establishment of some sort of funding mechanism for the property owners in the area to help pay for the road widening and other infrastructure needs (i.e., water and sewer lines), such as an MSTU. Such a mechanism could allow for credits against future impact fees or DRI proportionate share obligations. This property owner should be required to participate in any such funding mechanism established by the County in the future.

### **Summary**

Consistent with the requirements of the County's comprehensive plan amendment application, the lack of a specific financial commitment from the applicant to make the necessary roadway improvements by the 2030 time frame causes LCDOT staff to recommend not transmitting this amendment.

*[The development continues to be reviewed by Lee County staff through the Development of Regional Impact (DRI) and Development of County Impact (DCI) processes. Since this analysis was provided by DOT staff, the applicant and DOT staff have been working to develop an acceptable mitigation plan that will be included in the DRI Development Order.]*

### **LEE COUNTY PORT AUTHORITY COMMENTS**

The Lee County Port Authority Provided the following comments, these comments will be addressed by the DRI/DCI approvals:

*A parallel south runway is planned northeast of this property. The extended centerline of this future runway will pass just to the north of the CPA2010-00001 site - and directly over the remaining industrial/office portion of the Florida Gulf Coast Technology and Research Park development. The existing and planned Lee County noise overlay zones account for the planned runway at the Southwest Florida International Airport (SWFIA). When the second runway is in place, there will be significant numbers of low flying aircraft near the proposed development.*

*The industrial, retail, hotel, and office land uses within the boundary of the proposed Lee Plan Amendment appear to be consistent with those uses recommended for noise zones established in the Port Authority's most recent Federal Aviation Regulations (F.A.R.) Part 150 Noise and Land Use Compatibility Study approved by the Federal Aviation Administration (FAA) in 2006. Plans for the Lee Plan Amendment site are also be consistent with the current interim noise overlay*

zones adopted by Lee County on August 23, 2005. Our concerns center on the following issues which we ask you to consider:

**Potential Height Obstructions** – Future construction at the site must comply with the following regulations for all structures proposed on the site, including antenna towers and temporary construction equipment:

- Federal Aviation Regulations (FAR) Part 77 “Objects Affecting Navigable Airspace;”
- Florida Statutes Chapter 333, “Airport Zoning;”
- Lee County Land Development Code (LDC) Section 34-001 and seq.

The allowable heights for the hotel other permanent structures and temporary (construction) equipment will be dependent on review and approval by the LCPA and potentially the FDOT and FAA.

**Hazardous Wildlife Attractants** – Littoral lake slopes, buffers, and landscape vegetation must be in accordance with the FAA’s Advisory Circular 150/5200-33B, ‘Hazardous Wildlife Attractants On or Near Airports’ to discourage birds and other wildlife. Landscaping should be consistent with the list of recommended compatible native landscape plants for the airport available from the Lee County Port Authority (LCPA) Department of Planning and Environmental Compliance.

**Reflectivity and Power Interference** – Due to the proximity to the Airport, construction must comply with requirements of FAR Part 77, and related Federal Communications Commission (FCC), and Lee County LDC review requirements for all structures including frequency coordination of all broadcasting facilities so as not to interfere with aircraft and on-ground electronic navigation equipment.

**Light Emissions** – The applicant must minimize any potential light emissions that might distract, potentially blind, or create other impacts for aircraft landing, taking off, aircraft in flight, or impacts on the controllers in the (existing and future relocated) Air Traffic Control Tower. Parking lot lighting and other light sources therefore must be shielded downward so as not to create glare.

**Noise** – Proposed adult or child daycare facilities should be located south of the east/west Florida Power and Light corridor. Research facilities may also be impacted by noise. To the greatest extent possible, noise-sensitive land uses should comply with the following regulations:

- Federal Aviation Regulations Part 150, “Airport Noise Compatibility Planning”
- F.S. Chapter 333, “Airport Zoning”
- Lee County Land Development Code Section 34-100 et seq.

**Aircraft Overflights** – Existing and future flight patterns, proximity to the airport, ambient sound levels, and other information should be disclosed to all potential developers within the Florida Gulf Coast Technology and Research Park.

**Public Investment** – Any action near SWFIA which may have the potential to jeopardize the public investment and operation of Lee County public use airports should be reviewed by Lee County and

*potentially analyzed and reviewed by the Lee County Port Authority, the FAA and the FDOT depending on the nature and proximity of the potential impact.*

## **SOILS**

The applicant has provide a description of the soils that are found on site. For a detailed description please see the application materials.

## **POPULATION ACCOMMODATION**

The proposed amendment will not change the future land use category of the subject site and therefore will not have an effect on Lee County's population accommodation or Table 1(b) of the Lee Plan.

## **ENVIRONMENTAL CONSIDERATIONS**

*[Environmental concerns continue to be reviewed by Lee County staff for this project through the DRI and DCI reviews. Many of the concerns raised in this section are not applicable to the current comprehensive plan amendment request, which proposes an amendment to Policy 1.2.2 of the Lee Plan and is not site specific.]*

The applicant has submitted this privately initiated Lee Plan amendment in conjunction with a Development of Regional Impact (DRI) application #DRI2007-00002. The DRI encompasses approximately ±727 acres of property located at the northeast quadrant of the intersection of Ben Hill Griffin Parkway and Alico Road. The property which is the subject of this Lee Plan amendment is approximately ±103 acres and is located within the overall ±727 acre parcel which is in the Tradeport and Wetlands Future Land Use Category.

The applicant has an approved Environmental Resource Permit (ERP) from South Florida Water Management District (SFWMD) for the Florida Gulf Coast Technology and Research Park project. The SFWMD, ERP application for Florida Gulf Coast Technology and Research Park depicts ±1048 acres for the proposed project. In the Florida Gulf Coast Technology and Research Park Development of Regional Impact (DRI) application #DRI2007-00002 the acreage is ±727 acres. In the ERP it was noted that the wetland boundaries were field delineated by Passarella and Associates Inc. and formerly verified by (SFWMD) in 2003. Wilson Miller Inc. conducted a vegetative community assessment on the ±1048 acres and verified habitat quality and FLUCCS in January 2004.

A vegetative community assessment and protected species survey for Lee County listed species meeting the requirements of Lee County Land Development Code (LDC) Section 10-473 was conducted by Boylan Environmental Consultants, Inc. on the ±103 acre site. The property was field verified by ES Staff on April 1, 2010. The assessment and a Florida Land Use, Cover and Classification System (FLUCCS) map was submitted by the applicant:

The vegetative communities located on the property are primarily composed of Pine Flatwoods, Hydric Pine Flatwoods, Cypress Wetlands, Cypress-Pine-Sabal Palm, and Exotic Wetland Hardwoods. Noted native vegetation onsite included South Florida Slash Pine (*Pinus elliotti var densa*), Sabal Palm (*Sabal palmetto*), Bald Cypress (*Taxodium distichum*), Laurel Oak (*Quercus laurifolia*), Pop Ash (*Fraxinus caroliniana*), Swamp Bay (*Persea palustris*) and Dahoon Holly (*Ilex cassine*). Various epiphyte were scattered throughout this area including the listed Wild pine (*Tillandsia balbisiana*), Golden Polypody (*Phlebodium aureum*), Shoestring Fern (*Vittaria lineata*) and Florida Butterfly Orchid (*Encyclia tampensis*). Exotic vegetation predominately melaleuca (*Melaleuca quinquenervia*) and Brazilian pepper

(*Schinus terebinthifolius*) was found throughout the site in various densities. There are ±52.41 acres of wetlands within the ±103 acres included in this Comprehensive Plan Amendment.

ES Staff conducted a site inspection on April 1, 2010 for the ±103 acre portion of the project and observed the following:

The site was heavily vegetated with scattered grassy areas. Exotic coverage varied throughout the site with the heaviest coverage located in the central portion of the site, lessening towards the western and eastern property lines. In the north-eastern portion of the property staff observed a cypress dominated wetland with melaleuca along the fringe but, with little to no exotics in the central portion of the area. Staff noted large bald cypress, pop ash and various airplant throughout this wetland community. The hydrological conditions were favorable with water levels at the time of the site inspection between two and three feet in depth. There is a flowway located onsite in the western portion of the property that had a significant volume of water flow at the time of the site inspection.

### **Indigenous:**

The project is located within the Six Mile Cypress/Ten Mile Canal Watershed, the future land use is Tradeport and Wetlands and the project is adjacent to the Density Reduction Groundwater Recharge (DRGR). There are special environmental and design review guidelines for the Tradeport land use category that with the impacts proposed and the intensity of the requested use staff is concerned will not be met. The entire ±103 acre project is covered in vegetation, exotics dominate in some areas; however, other areas are dominated by indigenous vegetation with limited to no exotic coverage. Indigenous areas include pine flatwoods, cypress-pine-sabal palm, hydric pine flatwoods, and cypress dominated wetlands. The wetland located in the north-eastern portion of the site had little in the way of exotics and was dominated by bald cypress (*Taxodium distichum*) with laurel oak (*Quercus laurifolia*), pop ash (*Fraxinus caroliniana*), swamp bay (*Persea palustris*) and dahoon holly (*Ilex cassine*). Various epiphyte were scattered throughout this area including the listed Wild pine (*Tillandsia balbisiana*), golden polypody (*Phlebodium aureum*), shoestring fern (*Vittaria lineata*) and Florida butterfly orchid (*Encyclia tampensis*).

There are approximately 52.41 acres of wetlands on the subject site. The applicant is proposing to impact a majority of the wetlands within the subject site and is not proposing any indigenous preservation. This is not consistent with the Lee Plan, or the Best Management Practices from the Henigar & Ray study that are required in the Tradeport land use category.

### **Protected Species:**

A protected species survey for Lee County listed species, meeting the requirements of Lee County Land Development Code (LDC) Section 10-473, was conducted by Wilson Miller Inc. in January of 2004 on the ± 1048 acre parent parcel which included the ± 103 acres being requested with this application. An updated survey was conducted on the ± 103 acre site by Boylan Environmental Consultants, Inc. in December 2009 and again in January 2010. The survey was field verified by ES Staff on April 1, 2010. Listed species observed by Boylan Environmental Consultants, Inc on the ±103 acre site included the Little Blue Heron (*Egretta caerulea*) and the epiphyte Wild pine (*Tillandsia balbisiana*), no other listed species were observed. However, the survey conducted by Wilson Miller, that incorporated the larger parent parcel (1048 acres), observed additional listed species. The additional listed species observed on the overall project have the potential to occur on the ±103 acre site, therefore ES Staff has identified the species observed by Wilson Miller. These species include:

The American Alligator (*Alligator mississippiensis*) is listed as a Species of Special Concern (SSC) by the Florida Fish and Wildlife Conservation Commission (FWC) and as Threatened by The Fish and Wildlife Service (FWS) because of its similarity to the American crocodile. Two American alligator were observed by Boylan Environmental Inc in a borrow area, and there is the potential for the alligator to utilize the wetlands and borrow area onsite.

Big Cypress Fox Squirrel (*Sciurus niger avicennia*) is listed as Threatened by FWC and its distribution is believed to be limited to an area south of the Caloosahatchee river and west to the Everglades. A Big Cypress fox Squirrel was observed in the cypress wetlands in the southwestern portion of the parent parcel site. Several stick like structures were also observed that are associated with the Big Cypress Fox Squirrel.

Gopher Tortoise (*Gopherus polyphemus*) is listed as threatened by the FWC. Two gopher tortoise burrows were observed east of the project on the parent parcel.

Several Species of wading bird were observed utilizing the site throughout the parent parcel.

Listed Plant Species include:

Stiff Leafed Wild Pine (*Tillandsia fasciculata*), The Wild Pine (*Tillandsia balbisiana*), fuzzy-wuzzy (*Tillandsia pruinosa*), Giant Wild Pine (*Tillandsia utriculata*), Butterfly Orchid (*Encyclia tampensis*), and Giant Leather Fern (*Acrostichum aureum*). These species were observed scattered throughout the site.

The project is located within the Florida Panther (*Puma concolor*) Primary Zone and as such consultation with FWS has been initiated. According to the applicant, consultation with FWS has specified that compensation for impacts to habitat for the Florida panther will be accomplished through off site mitigation.

### **Environmental Features:**

#### **Objective 114.1 of the Lee Plan States:**

**Objective 114.1:** The natural functions of wetlands and wetland systems will be protected and conserved through the enforcement of the county's wetland protection regulations and the goals, objectives, and policies in this plan. "Wetlands" include all of those lands, whether shown on the Future Land Use Map or not, that are identified as wetlands in accordance with F.S. 373.019(17) through the use of the unified state delineation methodology described in FAC Chapter 17-340, as ratified and amended by F.S. 373.4211.

A majority of the ± 52 acres of wetlands located onsite are proposed for impact by the project. Of major hydrological importance is a flowway that has offsite connectivity. The origin of the flowway lies outside the boundaries of the ±103 acre parcel, the flowway originates northeast of the subject property, on the parent parcel, with conveyance through the property along the western property line. The flowway also has hydrological connectivity to the southwest, traveling under Ben Hill Griffin Parkway, then offsite to the adjacent property where it is proposed for restoration. The applicant is proposing to impact a portion of the flowway which has the potential to increase velocity during major storm events causing downstream flooding. Policy 60.5.3 states: the County encourages the preservation of existing natural flow-ways and the restoration of historic natural flow-ways. Compaction of the flowway can also increase sediment and turbidity causing water quality concerns for downstream property-owners.

The cypress dominated wetland located in the north-eastern portion of the property is also proposed for impact. Preservation of this wetland would make an excellent addition to the project as an aesthetic feature and would aid in storm water management, aquifer recharge and flood control. The wetland could be incorporated into the project's storm water management system. The management system can then maintain the hydrology and function of the wetland and the wetland can assist in storm water management, flood control and water quality.

The project is located within the Six Mile Cypress/Ten Mile Canal Watershed and the project's Future Land Use is Tradeport and Wetlands. There are special environmental and design review guidelines for the Tradeport Land Use Category. Lee Plan Policy 1.2.2 includes language for environmental concerns: Because this area is located within the Six Mile Cypress Basin and is also a primary point of entry into Lee County, special environmental and design review guidelines will be applied to its development to maintain the appearance of this area as a primary point of entry into Lee County. Tradeport is adjacent to the DRGR and as such, Policy 1.2.2: includes language for the protection of ground water resources stating that: during the rezoning process, the best environmental management practices identified on pages 43 and 44 of the July 28, 1993 Henigar & Ray study entitled, "Groundwater Resource Protection Study" will be necessary to protect potential groundwater resources in the area.

The applicant is proposing wetland impacts to a majority of the ±100 acre portion of the DRI proposed in this text amendment. These wetland impacts are inconsistent with the following Goals, Objectives, and Policies of the Lee Plan:

**Lee Plan Goal 60: Coordinated Surface Water Management and Land Use Planning on a Watershed Basis.** To protect or improve the quality of receiving waters and surrounding natural areas and the functions of natural groundwater aquifer recharge areas while also providing flood protection for existing and future development.

Preservation or the incorporation of wetlands into the storm water management system will assist with ground water recharge.

**Lee Plan Objective 60.4: Critical Areas.** The Six Mile Cypress Basin (as defined in Chapter 10 of the Land Development Code) and the Density Reduction/Groundwater Resource land use category are both identified as "critical areas for surface water management." The county will maintain existing regulations to protect the unique environmental and water resource values of these areas.

**Lee Plan Objective 60.5: Incorporation of Green Infrastructure Into the Surface Water Management System.** The long-term benefits of incorporating green infrastructure as part of the surface water management system include improved water quality, improved air quality, improved water recharge/infiltration, water storage, wildlife habitat, recreational opportunities, and visual relief within the urban environment.

**Lee Plan Policy 60.5.2:** The County encourages new developments to design their surface water management system to incorporate existing wetland systems.

Incorporating wetlands into Storm Water Management Systems benefits water quality, water recharge/infiltration, water storage and the hydrology of the wetland. The applicant is proposing impacts to the cypress wetland located in the north-central portion of the project.

**Lee Plan Policy 60.5.3:** The County encourages the preservation of existing natural flow-ways and the restoration of historic natural flow-ways.

The project will impact a significant portion of the flowway located in the western section of the property. The Lee Plan encourages the preservation and restoration of natural flowways. The impacts proposed to the flowway is inconsistent with the Lee Plan Goal 60 and Policy 60.5.3

**Lee Plan Goal 61: Protection of Water Resources.** To protect the county's water resources through the application of innovative and sound methods of surface water management and by ensuring that the public and private construction, operation, and maintenance of surface water management systems are consistent with the need to protect receiving waters.

**Lee Plan Objective 61.2: Mimicking the Functions of Natural System.** Support a surface water management strategy that relies on natural features (flow ways, sloughs, strands, etc.) and natural systems to receive and otherwise manage storm and surface water.

Policy 61.2.1: requires projects to use wetlands for storm water management. The project proposes impacts to a majority of the wetlands. This is inconsistent with the Lee Plan. Incorporating wetlands into the storm water management system preserves indigenous vegetation, promotes preservation of wildlife habitat and can be used as an aesthetic feature to promote utilization of natural features and green infrastructure for storm water management.

#### **Conclusion:**

The applicant is requesting retail at a higher intensity, for the ±103 acre portion of the DRI, than what is allowed in the Tradeport land use category. A majority of the wetlands are proposed for impact and limited indigenous vegetation is to be offered for preservation. The property is located within the Six Mile Cypress Watershed and is a primary point of entry into Lee County. Per Policy 1.2.2: Because this area is located within the Six Mile Cypress Basin and is also a primary point of entry into Lee County, special environmental and design review guidelines will be applied to its development to maintain the appearance of this area as a primary point of entry into Lee County.

The applicant is proposing to impact a portion of the flowway which has the potential to increase velocity during major storm events causing downstream flooding. Compaction of the flowway can also increase sediment and turbidity causing water quality concerns for downstream property owners. Impacting the flowway is inconsistent with Policy 60.5.3 which seeks to encourage the preservation of existing natural flow-ways and the restoration of historic natural flow-ways.

The cypress dominated wetland is proposed for impact. Preservation of this wetland and incorporating it into the storm water management system would make an excellent addition to the project as an aesthetic feature and would aid in storm water management, aquifer recharge and flood control. Impacting this wetland is inconsistent with Lee Plan Policy 60.5.2 which encourages new developments to design their surface water management system to incorporate existing wetland systems. The cypress dome is currently in the Wetlands Future Land use category. The land use category should be revised and the cypress dome placed into Conservation Lands, land use category.

The applicant should include the flowways and uplands into the conservation lands to compliment the Tradeport Land Use Category. The project should be designed to incorporate the wetlands into the stormwater management system for green infrastructure. Preservation of flowways and wetlands may



assist with groundwater recharge and water quality. The amount of impacts to the wetlands and modification to the flowways on the project are inconsistent with the best management practices specified in the 1993 Heniger and Ray study, which is presumed to be necessary to protect the ground water resources in this area. The project as proposed is inconsistent with Tradeport land use and does not support the preservation of environmental features.

*[Environmental Sciences staff comments are being addressed through the DRI and DCI approvals.]*

### **HISTORIC RESOURCES**

The Florida Division of Historical Resources has found that “no cultural resources eligible for listing in the NRHP were identified within the project area.”

Portions of this site are within the level 2 sensitivity areas for archeological and historic resources. Prior to development a Certificate to Dig will be required.

### **SCHOOL IMPACTS**

The Lee County School District provided correspondence dated February 2, 2010 and provided the following response: “After reviewing the submittal, this amendment should have no impact on classroom needs based on the applicant’s indication that this will be commercial/industrial.”

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

Lee County EMS provided correspondence dated February 1, 2010 concerning the proposed Lee Plan amendment stating that they “will be able to provide service with our current operational deployment structure.”

### **SOLID WASTE**

The Lee County Solid Waste Division provided the applicant a letter dated April 29, 2010 stating that “the Lee County Solid Waste Division is capable of providing solid waste collection service for the proposed 700,000 square foot of commercial space in the 107 acre site.”

### **MASS TRANSIT**

The applicant did not provide an analysis of compliance with the Lee Plan regarding transit, or an analysis of future impacts to transit service.

### **POLICE**

The Lee County Sheriff’s Office provided a letter to the applicant on January 28, 2010 stating that the proposed Lee Plan amendment “would not affect the ability of the Lee County Sheriff’s Office to provide core services as this time.”

### **FIRE**

The San Carlos Park Fire Protection and Rescue Service District provided a letter to the applicant dated January 4, 2010, and provided the following statement:

The project location is less than 3 miles from the main fire station at 19591 Ben Hill Griffin Parkway. The response time would be about 4 minutes or less. At this time, we use Lee County EMS for Advanced Life Support (ALS) transport and have our own Firefighter Paramedics on shift to provide non-transport ALS

service. There will be no adverse impact to the fire district to provide fire protection and inspection services.”

## **UTILITIES**

*[Utilities concerns continue to be reviewed by Lee County staff for this project through the DRI and DCI reviews. Many of the concerns raised in this section are not applicable to the current comprehensive plan amendment request, which proposes an amendment to Policy 1.2.2 of the Lee Plan and is not site specific.]*

The off-site utility improvements required for the Florida Gulf Coast Technology Center site are very significant due to the fact Alico Road will have to be four laned from Ben Hill Griffin Parkway east to Airport Haul Road. LCU has one 16” diameter and one 24” diameter water main within the right-of-way of Alico Road that will have to be replaced with one 36” diameter main as a part of the road widening project.

Significant off-site improvements will be required to provide adequate sanitary sewer service to this site including the construction of two recognized LCU CIP projects that have been placed on hold for at least the current and next fiscal years. The CIPs consist of the extension of a parallel 16” diameter sewage force main along the Ben Hill Griffin Parkway corridor starting at Alico Road, then south approximately 8,500’, then from the Ben Hill Griffin right-of-way west approximately 1,500’ west under I-75 to our Three Oaks WWTP. These improvements will accommodate the flows generated from the project at build out.

LCU has no reclaimed water available for this project.

Lee County Utilities Department provided the applicant a letter dated January 14, 2010 stating that “Potable water lines and wastewater lines are in operation in the vicinity of the proposed project mentioned above. However, in order to provide service to the subject parcels, developer funded system enhancements such as line extensions may be required.”

## **B. CONCLUSIONS**

There are three main issues with the proposed Lee Plan Amendment. These issues include: 1) Tradeport Uses, 2) Wetlands Impacts, and 3) Transportation Impacts

### **Tradeport Uses:**

There is an adequate level of community and regional retail commercial uses either built or approved in the areas surrounding the subject property. Planning staff does not believe that the Lee Plan revisions proposed by the applicant to allow community and regional retail commercial development within the Tradeport future land use category are appropriate. However, performing the staff analysis for this proposed amendment and meeting with the applicant has revealed that the existing language of Policy 1.2.2 does not provide sufficient guidance concerning stand alone retail commercial uses. The existing language solely deals with “ancillary retail and Corner Store commercial uses, intended to support the surrounding business and industrial land uses,” which provides unnecessary challenges to potential developers within the Tradeport future land use category. Although staff does not agree with the specific amendments recommended by the applicant, staff does see a need to amend the Lee Plan to better define the commercial uses that are permitted within the Tradeport future land use category.

Staff agrees that the hotel use is an appropriate use for a research park and notes that it is a permitted use in the Tradeport category. Additionally, staff is not concerned with the proposed amendment to Policy

2.12.2 of the Lee Plan to clarify that public and quasi-public, community facilities and recreational uses shall also be permitted where appropriate and reviewed as part of a planned development.

**Wetland Impacts:**

The applicant is proposing to impact a portion of the existing flowway. The amount of impacts to the wetlands and modification to the flowways on the project are inconsistent with the best management practices included in the 1993 Henigar and Ray study, which is presumed to be necessary to protect the ground water resources in this area. The project as proposed is inconsistent with Lee Plan because it does not support the preservation of environmental features.

**Transportation Impacts:**

The creation of a destination retail shopping center east of Ben Hill Griffin Road on the north side of Alico Road will cause additional left hand turning movements in conflict with the existing and anticipated industrial traffic creating a safety issue. There are also a significant number of roadways in the area that are projected to fail by 2030, both with and without the land use modification, and there is no specific mitigation plan to address those failures.

**C. STAFF TRANSMITTAL RECOMMENDATION**

Staff recommends that the Board of County Commissioners **transmit** the following staff amendment to provide clarity for these retail uses:

**POLICY 1.2.2:** The Tradeport areas are commercial and industrial lands adjacent to the airport needed to accommodate projected growth through the year 2030. These areas will include developments consisting of light manufacturing or assembly, warehousing, and distribution facilities; research and development activities; laboratories; ground transportation and airport-related terminals or transfer facilities; hotels/motels, meeting facilities; and office uses. Stand alone retail commercial uses intended to support and compliment the surrounding business and industrial land uses are permitted if they are approved as part of a Development of Regional Impact (DRI) or Planned Development rezoning. Stand alone retail commercial uses are limited to 1 acre out of every 10 Tradeport and preserved wetland acres. Ancillary retail and Corner Store commercial uses, related directly to the sale of products manufactured or services provided in the Tradeport intended to support the surrounding business and industrial land uses, are allowed if they are part of a Planned Development. Future development in this category is encouraged to include a mixture of land uses as described in Policy 2.12.2. Residential uses, other than bona fide caretaker residences, are not permitted in this category except to the extent provided in Chapter XIII of the Plan. Caretaker residences are not permitted in the Airport Noise Zone B. Because this area is located within the Six Mile Cypress Basin and is also a primary point of entry into Lee County, special environmental and design review guidelines will be applied to its development to maintain the appearance of this area as a primary point of entry into Lee County. Property in Section 1 and the east ½ of Section 2, Township 46 South, Range 25 East, and in Section 6, Township 46 South, Range 26 East, must be rezoned to a planned development zoning category prior to any development other than the construction of essential public services. During the rezoning process, the best environmental management practices identified on pages 43 and 44 of the July 28, 1993 Henigar & Ray study entitled, “Groundwater Resource Protection Study” will be rebuttably presumed to be necessary to protect potential groundwater resources in the area.

The amendment to Policy 1.2.2 of the Lee Plan, as proposed by staff, would better define the allowable retail commercial uses that are permitted in conjunction with the development of light manufacturing or

assembly, warehousing, and distribution facilities; research and development activities; laboratories; ground transportation and airport-related terminals or transfer facilities; hotels/motels, meeting facilities; and office uses that are intended as the primary use of the Tradeport future land use category. Limiting the acres that are used in the calculation for the stand alone retail commercial uses to Tradeport and preserved wetland acres would assure that unintended incentives are not being provided to fill wetlands to achieve a greater amount of Tradeport lands. This will help preserve the anticipated amount of primary Tradeport uses while providing the applicant with the ability to achieve his business model which provides standalone retail uses as a catalyst and marketing tool for the industrial park.

The Tradeport future land used category use to allow approximately 10 percent of a development's floor area to be developed as ancillary retail commercial uses on projects greater than 10 acres. This was found to be too restrictive by the *Commercial/Industrial Land Use Analysis*, completed by Basile Baumann Prost & Associates for Lee County, primarily because of the restriction placed on projects that were smaller than 10 acres. At the time Lee County elected to simply remove the limitations placed on ancillary retail commercial uses and added Corner Store uses. Unfortunately, in addition to removing the restrictions placed on the ancillary and corner store uses the amendment also removed any guidance provided by the Lee Plan as to what was meant by "Ancillary retail and Corner Store commercial uses, intended to support the surrounding business and industrial land uses" in the Tradeport future land use category. The amendment proposed by staff would provide that guidance.

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

DATE OF PUBLIC HEARING: June 18, 2010

**A. LOCAL PLANNING AGENCY REVIEW**

Staff provided a brief overview of the proposed amendment. Staff noted that the amendment is being proposed in conjunction with a Development of Regional Impact application. Staff discussed the history of the Tradeport category and that these lands had been set aside for economic development with the purpose to diversify Lee County's economy. Staff also discussed previous changes to the category that has resulted in the current private amendment. Staff informed the LPA that the Benderson Group are actual developers and long term owners of commercial, industrial, business and research and development parks.

The applicant provided an overview of their corporation, existing projects, and the location of the subject site. The applicant also discussed their business model and how it is an ideal fit with the Tradeport category. The applicant stated that they were seeking certainty through the amendment due to the current ambiguity of the Tradeport policy. The applicant stated that they were in support of the staff recommendation. Two members of the public recommended to the LPA that they transmit the proposed amendment. A representative of the Florida Gulf Coast University also recommended transmittal.

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

1. **RECOMMENDATION:** The Local Planning Agency recommends that the Board transmit the proposed amendment.
2. **BASIS AND RECOMMENDED FINDINGS OF FACT:** The Local Planning Agency accepted the findings of fact as advanced by staff.

**C. VOTE:**

<b>NOEL ANDRESS</b>	<b>NAY</b>
<b>CINDY BUTLER</b>	<b>ABSTAIN</b>
<b>CARIE CALL</b>	<b>AYE</b>
<b>WAYNE DALTRY</b>	<b>AYE</b>
<b>JIM GREEN</b>	<b>AYE</b>
<b>MITCH HUTCHCRAFT</b>	<b>AYE</b>
<b>RONALD INGE</b>	<b>AYE</b>

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

DATE OF TRANSMITTAL HEARING: June 23, 2010

**A. BOARD REVIEW:**

Staff gave a brief presentation to the Board of County Commissioners discussing the proposed Future Land Use Map amendment. The Board of County Commissioners asked some general questions about the affect of the proposed text change. This was followed by a presentation from the applicant about their specific proposed development. The applicant stated that the changes proposed to the Lee Plan would be able to accommodate their development and business model.

One member of the Board of County Commissioners stated a few concerns about the project concerning Alico Road and specific site design issues. Staff responded by stating that this plan amendment was a DRI related amendment, and that those project specific concerns would be addressed through the DRI approval process, which the BoCC would approve concurrent with the actual adoption of the proposed Lee Plan amendment. This member of the BoCC then used the opportunity to direct staff concerning what would be looked at when the BoCC approved the DRI. These issues would include wetland and upland preserves, access to Alico Road, and on-site accommodation of stormwater detention/retention needs that result from the improvements to Alico Road.

**A motion was made to transmit the staff proposed amendment to Policy 1.2.2 of the Lee Plan. The motion passed unanimously.**

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

- 1. BOARD ACTION:** The Board of County Commissioners transmitted the proposed amendment.
- 2. BASIS AND RECOMMENDED FINDINGS OF FACT:** The Board of County Commissioners accepted the findings of fact as advanced by staff and the LPA.

**C. VOTE:**

<b>BRIAN BIGELOW</b>	<b>AYE</b>
<b>TAMMARA HALL</b>	<b>AYE</b>
<b>VACANT</b>	
<b>RAY JUDAH</b>	<b>AYE</b>
<b>FRANKLIN B. MANN</b>	<b>AYE</b>

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

**DATE OF ORC REPORT:** Received by Lee County on August 23, 2010, and dated by the Florida Department of Community Affairs August 30, 2010.

**A. DCA OBJECTIONS, RECOMMENDATIONS AND COMMENTS:**

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

**B. PROPOSED MODIFICATIONS SUBSEQUENT TO THE TRANSMITTAL HEARING**

Subsequent to the Transmittal Hearing staff and the applicant continued to work together to assure that goals of Lee County and the applicant would be met. This led to two modifications to this Comprehensive Plan Amendment application.

The first modification made to the amendment was a revision to the proposed language. The intent of the revision is to provide an incentive to preserve uplands in certain cases. The revisions to Policy 1.2.2 were submitted by the applicant and supported by staff with slight modifications. Policy 1.2.2 is reproduced below, language that has been added since the Transmittal Hearing is shown with double underlines:

**POLICY 1.2.2:** The Tradeport areas are commercial and industrial lands adjacent to the airport needed to accommodate projected growth through the year 2030. These areas will include developments consisting of light manufacturing or assembly, warehousing, and distribution facilities; research and development activities; laboratories; ground transportation and airport-related terminals or transfer facilities; hotels/motels, meeting facilities; and office uses. Stand alone retail commercial uses intended to support and compliment the surrounding business and industrial land uses are permitted if they are approved as part of a Development of Regional Impact (DRI) or Planned Development rezoning. Stand alone retail commercial uses are limited to 1 acre out of every 10 Tradeport and preserved wetland acres within the project. To provide an incentive to preserve upland habitat, Developments of Regional Impact or Planned Developments may also receive additional stand alone retail acres at the rate of 1 additional acre out of every 10 acres of preserved and enhanced uplands within the project that protect wetlands, flowways or occupied listed species habitat. Ancillary retail ~~and Corner Store~~ commercial uses, related directly to the sale of products manufactured or services provided in the Tradeport intended to support the surrounding business and industrial land uses, are allowed if they are part of a Planned Development. Future development in this category is encouraged to include a mixture of land uses as described in Policy 2.12.2. Residential uses, other than bona fide caretaker residences, are not permitted in this category except to the extent provided in Chapter XIII of the Plan. Caretaker residences are not permitted in the Airport Noise Zone B. Because this area is located within the Six Mile Cypress Basin and is also a primary point of entry into Lee County, special environmental and design review guidelines will be applied to its development to maintain the appearance of this area as a primary point of entry into Lee County. Property in Section 1 and the east ½ of Section 2, Township 46 South, Range 25 East, and in Section 6, Township 46 South, Range 26 East, must be rezoned to a planned development zoning category prior to any development other than the construction of essential public services. During the rezoning process, the best environmental management practices identified on pages 43 and 44 of the July 28, 1993 Henigar & Ray study entitled, "Groundwater Resource Protection Study" will be rebuttably presumed to be necessary to protect potential groundwater resources in the area.

Environmental Sciences staff found that the proposed revisions to the amendment will enhance the Tradeport Land Use category. The proposed changes encourage the preservation of upland habitat that is adjacent to wetlands and flow-ways, further enhancing these features. The proposed changes also encourage the protection of occupied listed species habitat.

The second modification was to the application and process. The intent of this modification to the application was to separate the proposed Lee Plan Amendment from the Florida Gulf Coast Technology and Research Park Development of Regional Impact (DRI). The applicant had originally proposed revised Lee Plan language that was specific to the DRI property. However this language was not supported by staff. Staff recognized the need for clarification to Policy 1.2.2 of the Lee Plan, and proposed language that would affect all properties within the Tradeport future land use category. Therefore, Lee County staff, the applicant, and the Florida Department of Community Affairs agreed that the proposed amendment could be included in the 2009/2010 Regular Amendment Cycle.

**C. STAFF RECOMMENDATION**

Staff recommends that the Board of County Commissioners adopt Policy 1.2.2 as identified above in Part V, Section B.



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

**DATE OF ADOPTION HEARING:** October 20<sup>th</sup>, 2010

**A. BOARD REVIEW:**

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

**1. BOARD ACTION:**

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

**C. VOTE:**

<b>BRIAN BIGELOW</b>	_____
<b>TAMMARA HALL</b>	_____
<b>RAY JUDAH</b>	_____
<b>FRANKLIN B. MANN</b>	_____
<b>JOHN MANNING</b>	_____