



EXHIBITS

from HEX hearing

CASE #: DCI2004-00054

CASE NAME: River Hall

Attach a copy of this form to the top of packet of the exhibits & place exhibits in case file.

ARE THERE ANY BOARD EXHIBITS? YES ☒ NO

LOCATION OF BOARDS:

If there are any board exhibits, attach another copy of this form to boards for identification purposes.

EXHIBITS

APPLICANT

#1 ~~Aerial Photo~~

1 #2 MCP (B&W)

2 #3 2004 MCP

3 #4 Master Land Use Summary

4 Lake Bullhead Section

#5 _____

#6 _____

#7 _____

#8 _____

#9 _____

#10 _____

OTHER EXHIBITS

NAME

#1 _____

#2 _____

#3 _____

#4 _____

#5 _____

STAFF

#1 Aerial Photo 2002

#2 PAM & Hex Rec #99-03072 &
emails to public

#3 Photographs

#4 Proposed S34-3104

#5 _____

#6 _____

#7 _____

#8 _____

#9 _____

#10 _____

NAME

#1 _____

#2 _____

#3 _____

#4 _____

#5 _____

**CPA 2004-10
HAWKS HAVEN
AMENDMENT
TO THE**

LEE COUNTY COMPREHENSIVE PLAN

THE LEE PLAN

**Privately Sponsored Application
and Staff Analysis**

**BoCC Public Hearing Document
for the
June 1st, 2005 Public Hearing**

*Lee County Planning Division
1500 Monroe Street
P.O. Box 398
Fort Myers, FL 33902-0398
(941) 479-8585*

May 25, 2005

STAFF'S EXHIBIT

#2
COMPOSITE
1242001-00054

**LEE COUNTY
DIVISION OF PLANNING
STAFF REPORT FOR
COMPREHENSIVE PLAN AMENDMENT
CPA 2004-10**



Text Amendment



Map Amendment

	This document contains the following reviews:
☒	Staff Review
	Local Planning Agency Review and Recommendation
	Board of County Commissioners Hearing for Transmittal
	Staff Response to the DCA Objections, Recommendations, and Comments (ORC) Report
	Board Of County Commissioners Hearing for Adoption

STAFF REPORT PREPARATION DATE: May 18, 2005

PART I - BACKGROUND AND STAFF RECOMMENDATION

A. SUMMARY OF APPLICATION

1. APPLICANT/REPRESENTATIVE:

Hawks Haven Investment LLC

Represented by Matt Uhle of Knott, Consoer, Edeline, Hart & Swett, P.A.

1625 Hendry Street Third Floor

Fort Myers, FL 33902

2. REQUEST:

Amend the Future Land Use Map series, Map 1 for 1,727 acres of land in Sections 25, 26, 27, 34, 35, 36 of Township 43 Range 26 from Rural and Suburban to Outlying Suburban. To amend Table 1 (a) of the Lee Plan to limit the area to a maximum residential density of 2 units per acre.

Amend Footnote 6 of Table 1(a), the density table to add the following language:

The property that is the subject of CPA2004-10 is eligible for an increase from 1,999 to 2,999 dwelling units upon the execution of a development agreement, which legally obligates the developer of the property to pay a proportionate share of the cost of six-laning State Road 80 from

State Road 31 to Buckingham Road. No development orders may be issued for the additional units until the construction of the improvement is included in the first three years of the County's Capital Improvement Program or the Florida Department Of Transportation Work Program.

B. STAFF RECOMMENDATION AND FINDINGS OF FACT SUMMARY

1. RECOMMENDATION:

Staff recommends that the amendment **not** be transmitted as proposed by the applicant.

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

- The property has already been approved for 1,598 dwelling units in a Residential Planned Development. The applicant has not demonstrated a need for more dwelling units in this area.
- The property has only one access point which is onto State Road 80.
- The applicant has not justified the need for more future urban acreage in the County.
- The proposed amendment would double the residential density on land near the Hickey Creek Mitigation Park.
- The Fort Myers Shores Planning Community currently does not have any land allocated to the Outlying Suburban Future Land Use Category on Lee Plan Table 1(b).
- The proposed amendment will cause the adopted level of service to be exceeded on several roadway links.
- The proposed amendment would create enclaves of land that do not match the future land use category on the subject property.
- The application is internally inconsistent in describing the amount of wetlands and uplands on the subject property.
- The proposed amendment impacts SR 80 and Hickey Creek Mitigation Park, which are both regional facilities.
- To address transportation deficiencies, the applicant is proposing Development of Regional Impact (DRI)-like conditions but without performing a DRI analysis.

C. BACKGROUND INFORMATION

1. EXISTING CONDITIONS

SIZE OF PROPERTY: 1,978 acres.

PROPERTY LOCATION: The property is located in Sections 25, 26, 27, 34, 35, 36 of Township 43 Range 26. The property is located south of State Road 80 and east of

Buckingham Road. The property abuts the northern boundary of Lehigh Acres and is located west of the Hickey Creek Mitigation Park. The park is separated from the property by a canal owned by the East Lee County Water Control District.

EXISTING USE OF LAND: The majority of the parcel is vacant pastureland. Portions have been cleared and infrastructure to support the residential development approved under Z-99-56 is under construction.

CURRENT ZONING: AG-2 and RPD. The RPD zoning was created in October 1999 by Zoning Resolution Z-99-56. The resolution created a residential planned development and approved 1,598 dwelling units.

CURRENT FUTURE LAND USE CLASSIFICATION: Rural, Suburban, and Wetland

2. INFRASTRUCTURE AND SERVICES

WATER & SEWER:

Potable Water: The property is located in the Lee County Future Water Service area.

Sewer: The property is located in the Lee County Future Sewer Service Area, but receives sewer service from the City of Fort Myers Raleigh Street Waste Water Treatment Plant via an inter-local agreement.

FIRE:

The property is in the Fort Myers Shores Fire District. Fire service is currently provided from a station approximately 3 miles west of the subject property and EMS service is provided from a location 4 miles west of the subject property.

TRANSPORTATION: Access to the property is currently from State Road 80. This is the only access proposed by the applicant. LeeTran route 100 runs along State Road 80 in front of the entrance to the property.

SOLID WASTE FRANCHISE: ONYX Waste Services

PART II - STAFF ANALYSIS

A. STAFF DISCUSSION

INTRODUCTION

This proposed amendment is one of several pending applications for the subject property. The Hawks Haven Residential Planned Development was approved in 1999 by Zoning Resolution Z-99-056. This resolution approved a total of 1,598 residential units. As of this report, the subject property is under review to amend the governing Master Concept Plan to allow an additional 401 residential units. If this proposed amendment to the Lee Plan is adopted, further increases in density would require an application to amend the Master Concept Plan of the Hawks Haven Residential Planned Development. The traffic impacts from the density generated by the proposed Lee Plan Amendment would negatively impact State Road 80 and Buckingham road, lowering the level of service to an unacceptable level for sections of those roads.

There is a discrepancy in the exact acreage of wetland and uplands within the property. The acreage allocation represented in the application is not consistent with other sources provided by the applicant. The original application lists 1,648 acres in the Rural category, 79 acres in the Suburban category and 251 acres in the Wetland category. The Environmental Resource Permit from the South Florida Water Management District (SFWMD) lists 1,797 acres total with 242 acres of wetland. The electronic data received from the applicant shows 1,727 acres of Rural. The applicant is requesting a maximum of 2,999 residential units on the property, which is less than the number of units resulting from any of the estimates. Therefore the exact wetland acreage does not affect the number of residential units permitted on the property.

The applicant is also proposing to amend Lee Plan Table 1(a) to add the following language:

The property that is the subject of CPA2004-10 is eligible for an increase from 1,999 to 2,999 dwelling units upon the execution of a development agreement, which legally obligates the developer of the property to pay a proportionate share of the cost of six-laning State Road 80 from State Road 31 to Buckingham Road. No development orders may be issued for the additional units until the construction of the improvement is included in the first three years of the County's Capital Improvement Program or the Florida Department Of Transportation Work Program.

By including this language, the applicant is voluntarily adopting a mitigation methodology similar to that used in the DRI process. The proposed amendment is not undergoing a DRI review.

PROJECT SUMMARY

The applicant proposes to redesignate the Rural and Suburban portions of the subject property to Outlying Suburban with a maximum of 2 du/acre. The areas designated as in the Wetland category are not part of the proposed amendment. The applicant also proposes to amend footnote 6 of Table 1 (a) of the Lee Plan to address the impact of the increased density upon nearby roadways. Future development of parcels beyond the 1,999 limit proposed by this amendment would not be possible until the developer of the parcels shared the cost of six laning a section of SR 80 between SR 31 and Buckingham Road.

COMPREHENSIVE PLAN BACKGROUND

In 1984, Lee County adopted its first official Future Land Use Map (FLUM) as an integral part of its comprehensive plan. On that map, the majority of the subject property was part of the Rural land use category. Maximum standard density for the Rural category was established by the 1984 plan with a standard density range of 1 du/acre. The Rural land use category was described as areas that "are to remain predominately rural, that is, low density residential use and minimal non-residential land uses that are needed to serve the rural community."

According to the application, 79 acres of the property were designated Suburban on the 1984 FLUM. The standard density range for Suburban category is 1-6 du/acre. The Suburban category is intended to provide housing near the more urban areas but not the full mix of land uses typical of urban areas.

There are several areas in the Wetland Future Land Use Category within the subject property. The exact acreage is not known due to discrepancies in the amendment application. The application lists 251 acres of wetland but the Environmental Resource Permit from the SFWMD lists 242 acres of wetland. The standard density range is 1 du/20 acres. The category permits residential and recreational uses that do not adversely affect the ecological functioning of these areas.

ADJACENT ZONING AND USES

Zoning: The property abuts RS-1 zoned lands in Lehigh acres to the south. Property to the east is zoned AG-2. Property to the northeast is zoned RM-2. Property north of the subject property and south of SR80 is AG-2, and the property to the west is zoned AG-2, RPD, RS-1, and RM-2.

Adjacent Land Uses: North of the subject property the land is developed for low density single family residences and agriculture. The Hickey Creek Mitigation Park (HCMP) is located on the eastern border of the property. The park is separated from the subject property by a large canal owned on the south end by the East Lee County Water Control District. The Lehigh Acres property to the south consists of vacant single family lots. To the southwest the land is vacant, but has been approved for residential development.

POPULATION ACCOMMODATION CAPACITY DISCUSSION

The Hawks Haven RPD is currently approved for 1,598 dwelling units. If the proposed amendment is adopted, the total potential number of units within the project will increase to 2,999. This would amount to an increase of 1,401 units. At 2.09 people per dwelling unit, the proposed amendment would add 2,928 people to the Future Land Use Map.

MAP 16 - PLANNING COMMUNITIES AND TABLE 1(b)

The property is within the Fort Myers Shores Planning Community. In this community, 257 acres are allocated for commercial uses and 391 acres allocated for industrial uses. There are 783 acres allocated for residential uses in the Rural Future Land Use Category of which 328 are existing. This leave 455 acres available for development before 2020. There are 1,803 acres allocated for residential use in the Suburban category of which 1,264 acres are existing and 539 acres are still available for development before 2020. No acreage has been allocated to residential uses in the Outlying Suburban category in the Fort Myers Shores Planning Community. Adopting the proposed amendment would necessitate an amendment allocating residential acreage to the Outlying Suburban Future Land Use Category within the Fort Myers Shore Planning Community.

TRANSPORTATION ISSUES

In a memo from Lee County Department of Transportation staff state:

The analysis of 2020 conditions included modification to the 2020 growth forecasts for the traffic analysis zones (TAZs) in which the applicant's development proposal is located, TAZs 154 and 180. The growth forecasts in those zones were also modified to account for a number of other recently-approved developments in the area, namely Buckingham Gardens, Buckingham 320, Portico, and Tuscany. We felt the applicant's configuration of TAZ180 (i.e., centroid location, centroid connections) did not result in a reasonable assignment of trips consistent with the way those particular developments within it are configured and access the surrounding road network. Based on the trip generation information, Hawks Haven represents about 57% of the total trips coming from TAZ 180, and it only has access to SR 80. Therefore DOT staff reran the FSUTMS to assign 57% of the traffic from TAZ 180 to SR 80, meaning the rest of the trips were assigned west to Buckingham Road and South to Lehigh Acres. The net result was that two other road links, besides the section of SR 80 identified by the applicant would be expected to exceed their adopted level of service standard in 2020 even given planned improvements. The additional segments are SR 80 from Buckingham Road to Old Olga Road, which is projected at level of service "C" (exceeding the standard of "B"), and Buckingham Road from Orange River Boulevard to Bird Road, which is projected at level of service "F."

The expected improvement costs for the three segments could not be accommodated in the current 2020 Financially Feasible Plan without sacrificing other needed projects already in the plan. The County's plan amendment application suggests that if the necessary improvements cannot be accommodated within the financially feasible limits of the plan, the requested land use change should be denied. To avoid a recommendation of denial, the applicant has the option of making the commitment to cover the full cost of these improvements that go beyond the 2020 Financially Feasible Plan, or scaling back his proposal to the point that additional improvements to the affected roads are not needed. The applicant's suggestion to limit his development level until he has paid a proportionate share of the cost of one of the improvements and that the improvement is actually programmed is innovative from a comprehensive plan standpoint, but if the County were to accept it the proposal would have to be expanded to cover the additional impacted road segments. Staff would note that if the project is a DRI the applicant would be under the obligation to pay a proportionate share for his transportation impacts anyway.

*Another planning issue is the access for the Hawks Haven project, which is currently limited to a single entrance onto a major arterial (SR 80). County codes require more than one access for a project of this size, and Exhibit F.2.(a) includes the statement, "The applicant is exploring the feasibility of providing a secondary access through Lehigh Acres." The traffic circulation analysis for the amendment also indicates on page 6 that the applicant will construct site-related improvements, "Along the southern property boundary as required to provide access to Sunshine Boulevard and Cemetery Road." However, no specific commitment has been made by the applicant to provide this secondary access and no site plan has been provided which indicates how such secondary access will be achieved. **DOT staff cannot recommend that the County allow an increase in density for this site without a specific plan for multiple access points being included.***

PUBLIC SAFETY ISSUES

Emergency Management - Hurricane Evacuation/Shelter Impacts

Hawks Haven is within category 2, 3, and 4 storm surge zones. The portion of the property located in section 27 is in the category 2 storm surge zone as is a wetland area lying in sections 34 and 35. The southeast portion of section 35 is in the category 4 storm surge zone and the rest of the property is either in category 3 or extends beyond the hurricane model limit.

Emergency Medical Services (EMS)

In a letter dated February 23, 2004, Lee County Emergency Medical Services staff stated that current and planned budgetary projections for additional EMS resources should meet increased demand from the subject parcel.

Sheriff's Office Impact

In a letter dated February 20, 2004, Sheriff's Office staff state that they anticipate receiving reasonable and necessary funding to support growth in demand.

Fire Service Impact

In a letter dated February 23, 2004, Fort Myers Shores Fire District Staff requests that the developer work with the fire district in securing land for a new station within or close to the property. The reason given is that growth in the east end of the county will create new demand for fire protection services.

SCHOOL IMPACTS

The Lee County School District owns an approximately 20-acre parcel of land within the subject property (STRAP # 27-43-26-00-00003.0030) and plans to build an elementary school there with a planned capacity of one thousand students. In a letter from the Lee County School District dated February 17, 2004, staff noted that an increase of 1,430 units would result in 503 students. This would necessitate 23 new classrooms. Existing schools are at or above capacity levels so a new school site is required. Another school, in addition to the planned new school, will be necessary to support the projected increase in student population.

SOILS

The soil map submitted by the applicant draws its data from the 1981 Soil Survey of Lee County published by the Soil Conservation Service. The map is consistent with plate 15 of the soil survey. There are 20 soil types listed in the soil survey map for the property.

ENDANGERED SPECIES

In a memo dated September 7, 2004 Lee County Parks and Recreation staff state the proposed amendment is inconsistent with the Lee Plan. Policies 77.23.3 and 77.2.10 address the prevention of impacts to hydrological systems and the protection of natural areas. Policies 77.4.1, 77.4.2, 77.4.3, and 77.4.4 concern the protection of endangered species. Objective 77.11 and policies 77.11.1 through 77.11.6 detail Lee County's commitment to the protection of the Florida Panther and Black bear, both of which have been documented at Hickey Creek Mitigation Park.

Hickey Creek Mitigation Park is a regional facility that is affected by the proposed amendment. The impact of the proposed density has not undergone review under the DRI process.

Environmental Services staff have not provided comment on the applicants proposed amendment.

PARKS, RECREATION AND OPEN SPACE

Community Parks

Hawks Haven is located in Community Park Impact Fee District #3, East Fort Myers. The minimum regulatory standard for community parks in Lee County is 0.8 acres per one thousand population, and the desired level of service standard is 2 acres per thousand population. As of the September 2004 concurrency report, there were 147 acres of developed community park land in District #3, with 36 more acres planned with the Veterans Park expansion in Lehigh Acres. The regulatory standard in District #3 in 2004 based on the existing population was 55 acres and the desired level was 137 acres. The increase in potential residential units on the site is approximately 2,928, residents which would translate into an additional regulatory requirement of 1.6 acres of Community Park, or a desired level of 4 acres.

Regional Parks

The standard for regional parks is applied county wide and is 7 acres per thousand population for the regulatory standard, and 8 acres per thousand population for the desired level of service. The additional 1,400 units created by the proposed amendment would generate a need for 14 acres at the regulatory standard and 16 acres at the desired level of service. According to the last concurrency report, the county had 5,857 acres of existing park and another 890 acres of potential additions. With a County populations of 500,000, the regulatory standard for regional parks would be 3,500 acres and the desired level of service would be 4,000 acres.

DRAINAGE/SURFACE WATER MANAGEMENT

As the property occupies the same "footprint" as The Hawks Haven Residential Planned Development, Surface water management measures were addressed by the master concept plan approved under zoning resolution Z-99-056 and under Environmental Resource Permit No. 36-04006-P. If the number of units permitted on the property is increased, by virtue of this plan amendment, the South Florida Water Management District, the Army Corps of Engineers, and Lee County Staff must review a new master concept plan for the property.

MASS TRANSIT

In a letter dated February 23, 2004, Lee County Transit Division Staff stated that although bus service direct to the property is not available, service on State Road 80 is available. This makes public transportation available to the westernmost portions of the property. The service is provided seven days a week and has a high frequency, creating sufficient capacity to add more riders. The closest stop to the property is at State Road 80 and Old Olga Road.

UTILITIES

Potable Water: Daily consumption of potable water is estimated to be 711,436 gallons per day. The project will require connection to a 24" force main on the north side for SR80 for potable water service. This line is anticipated to have adequate capacity and pressure to serve the project and is currently supplied by the Olga Water Plant. The Olga Plant is nearing capacity but a new water plant in North Fort Myers is anticipated to come online. This plant will be connected to the Olga Plant and will have adequate capacity to serve the project.

Sewer: The estimated average daily production of wastewater 711,436 gallons per day. The current plant capacity is 11 MGD with a 3 month average of 9.14 MGD. The system currently has capacity for the

project. The project will require construction of a 14" force main along SR80 from the project entrance to the intersection of Buckingham Road, approximately 4,300 feet. Water and sewer services are provided to the property as part of the currently approved RPD zoning.

SOLID WASTE

In an email dated March 24, 2004, Lee County Solid Waste Division Staff stated that they had no objection to the proposed amendment.

B. CONCLUSIONS

The Hawks Haven subdivision is adequately served by public safety services. Future capacity is available to serve the proposed increase in residential units. The public school system will need another school site to accommodate the proposed number of units. The anticipated impact of the increased units upon the transportation network would reduce the level of service on three different road links to unacceptable levels. The applicant has voluntarily proposed DRI-like measures to mitigate traffic impacts but without performing a DRI review. The Fort Myers Shore Planning Community currently has no residential acreage allocated to the Outlying Suburban Future Land Use Category. If the proposed amendment is adopted, the planning community must have residential acreage allocated to the Outlying Suburban Future Land Use Category on Lee Plan Table 1 (b), Planning Community Year 2020 Allocations.

C. STAFF RECOMMENDATION

Staff recommends that the board **not** transmit the amendment proposed by the applicant.

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

DATE OF PUBLIC HEARING: May 23, 2005

A. LOCAL PLANNING AGENCY REVIEW

Planning staff gave a presentation outlining their concerns with the proposed amendment. The applicant then gave a presentation presenting their case. The applicant stated that the LOS on SR 80 would fail with or without the proposed amendment. The applicant then stated that the proposed amendment would not change the footprint of the development on the subject property. The applicant also stated that some of staff's concerns, such as the planning community allocation table, were already being addressed by staff. LPA members asked the applicant and DOT staff about a possible secondary access to the subject property. DOT staff responded that the applicant has not made any specific commitment to creating such an access. A private citizen addressed the LPA and stated that the proposed amendment is not consistent with the Caloosahatchee Shores Community Plan and abutting residential uses. She also stated that land abutting the property to the west was changed from Rural and Suburban to the Outlying Suburban category with 2 units per acre. That amendment reduced the maximum allowable density within the amended area. One LPA member noted that in light of Lehigh Acres there is no need for more single family residential development. Most of the LPA stated that the transportation issues need to be worked out to a greater degree.

B. LOCAL PLANNING AGENCY RECOMMENDATION AND FINDINGS OF FACT SUMMARY

1. RECOMMENDATION:

The LPA recommended that the board **not** transmit the proposed amendment.

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

The LPA stated that the applicant has not adequately addressed the concerns raised by staff, in particular, the transportation and access issues.

C. VOTE:

NOEL ANDRESS	<u>AYE</u>
MATT BIXLER	<u>AYE</u>
DEREK BURR	<u>AYE</u>
RONALD INGE	<u>NAY</u>
CARLTON RYFFEL	<u>NAY</u>
FRED SCHILFFARTH	<u>AYE</u>
RAYMOND SCHUMANN	<u>AYE</u>

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

DATE OF TRANSMITTAL HEARING: June 1st 2005

A. BOARD REVIEW:

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

1. BOARD ACTION:

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

C. VOTE:

JOHN ALBION

TAMMY HALL

BOB JANES

RAY JUDAH

DOUG ST. CERNY

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

DATE OF ORC REPORT: _____

- A. DCA OBJECTIONS, RECOMMENDATIONS AND COMMENTS**

- B. STAFF RESPONSE**

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

DATE OF ADOPTION HEARING: _____

A. BOARD REVIEW:

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

1. BOARD ACTION:

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

C. VOTE:

JOHN ALBION

TAMMY HALL

RAY JUDAH

BOB JANES

DOUG ST. CERNY

OFFICE OF THE HEARING EXAMINER, LEE COUNTY, FLORIDA

HEARING EXAMINER RECOMMENDATION

REZONING: CASE 99-03-066.03Z 01.01
APPLICANT: FL TAMPA WEST, INC., in ref. to HAWK'S HAVEN
HEARING DATE: AUGUST 18, 1999

I. APPLICATION:

This matter came before the Lee County Hearing Examiner as an Application for a Rezoning to a Residential Planned Development (RPD) pursuant to Lee County Land Development Code (LDC).

Filed by FL TAMPA WEST, INC., % FOREST CITY LAND GROUP, 5307 Fox Hunt, Wesley Chapel, FL 33543 (Applicant/Option Holder); WILLIAM SCHULMAN, TRUSTEE, CALVERTON LINKS, P. O. Box 306, Calverton, NY 11933 (Owner); MATTHEW D. UHLE, ESQUIRE, % HUMPHREY & KNOTT, P.A., 1625 Hendry St., Ft. Myers, FL 33901 (Agent).

Request is to rezone 1,797.45± total acres of land from AG-2 (Agricultural) to Residential Planned Development (RPD) to permit a maximum of 1,598 dwelling units in a mix of housing types, within a golf course community. Buildings are not to exceed 35 feet in height within a maximum of three stories.

The subject property fronts S.R. 80 about one-half mile east of Buckingham Road (property extends to the south, and then east again over six sections), in S25-T43S-R26E, S26-T43S-R26E, S27-T43S-R26E, S34-T43S-R26E, S35-T43S-R26E, and S36-T43S-R26E, Lee County, FL. (District #5)

II. STAFF REPORT AND RECOMMENDATION: APPROVE WITH CONDITIONS

The Department of Community Development Staff Report was prepared by Kay Deselem. The Staff Report is incorporated herein by this reference.

III. RECOMMENDATION OF HEARING EXAMINER:

The undersigned Lee County Hearing Examiner recommends that the Lee County Board of County Commissioners APPROVE the Applicant's request to rezone 1,797.45± total acres of land from AG-2 (Agricultural) to Residential Planned Development (RPD) to permit a maximum of 1,598 dwelling units in a mix of housing types, within a golf course community for the real estate described in Section IX. Legal Description WITH THE FOLLOWING CONDITIONS AND DEVIATIONS:

A. CONDITIONS:

1. The development of this project must be consistent with the one-page Master Concept Plan (MCP) entitled "Hawk's Haven," stamped received July 15, 1999, last revised 07/02/99, except as modified by the conditions below. This development must comply with all requirements of the Lee County Land Development Code (LDC) at time of local Development Order Approval, except as may be granted by deviation as part of this planned development. If changes to the MCP are subsequently pursued, appropriate approvals will be necessary.

2. The following limits apply to the project and uses:

a. **Schedule of Uses**

Accessory Uses and Structures

Administrative Office

Agricultural Uses (cattle raising in undeveloped phases prior to development and nursery operations for plantings used on-site only)

Club - country and private

Consumption on Premises - limited to one in the clubhouse area

Dwelling Units - maximum of 1,598 units to be comprised of single-family, two-family attached, townhouse, multiple-family, zero-lot-line units (**densities may not be shifted between Land use categories unless the provisions of Policy 5.1.11 of the Lee Plan are followed in a new public hearing**)

Entrance Gates and Gatehouse

Excavation, Water Retention

Fences and Walls

Golf Course

Golf and Tennis Pro Shops (limited to ancillary use in clubhouse)

Golf Driving Range

Golf Training Facility

Model Home and Model Unit - must be in compliance with LDC Section 34-1954

Model Display Center, must be in compliance with LDC Section 34-1955, limited to one only, which must be located in the sales center area shown on the MCP and must only serve this project

Parks, Group I

Real Estate Sales Office - limited to sales of lots, homes or units within the development, except as may be permitted in Section 34-1951 et seq. The location of, and approval for, the real estate sales office will be valid for a period of time not exceeding ten years from the date the Certificate of Occupancy for the sales office is issued [if Deviation (2) is approved, otherwise the Real Estate Sales Office use is valid for five years from the

date the Certificate of Occupancy for the sales office is issued].
The director may grant one 2-year extension at the same location.
Recreational Facilities - Private, On-site only
Residential Accessory Uses - In compliance with LDC Section 622(c)42 and LDC Article VII, Division 2
Signs, in compliance with LDC Chapter 30
Storage, Open, recreational vehicles, boats and similar items for residents only, limited to locations shown on the MCP and must be shielded behind a continuous visual screening at least eight feet in height when visible from any residential use, and six feet in height when visible from any street right-of-way or street easement

b. **Site Development Regulations** - Limited to the standards shown in Attachment B, except that a minimum of 20 feet will be maintained for stacking in driveways.

Maximum Height: Three stories, or 45 feet, whichever is the lesser amount

c. **Commercial uses are limited to the following:**

If the Golf Driving Range is open after daylight hours, all lighting must comply with LDC Section 34-936(g), must be of the lowest intensity meeting life safety codes, and must be shielded and directed away from any adjacent residential area.

3. The following conditions address environmental issues:

a. The "American Alligator Management Plan" provided as part of the "Protected Species Management Plan for Schulman Parcel" counter stamped May 19, 1999 is hereby adopted. Prior to local Development Order Approval, the location of the American alligator management plan signage must be delineated on the development order plans for Division of Planning, Environmental Sciences review and approval. The warning signs must be placed where there is potential for human/alligator interaction. These signs must discourage the feeding or harassment of alligators.

b. The "Gopher Tortoise Management Plan" provided as part of the "Protected Species Management Plan For Shulman Parcel" counter stamped May 19, 1999 is hereby adopted. If gopher tortoises are moved out of harm's way utilizing the "bucket trapping method," all buckets must be checked for tortoises a minimum of three times a day. An alternative method of tortoise relocation may be proposed (with details) at the time of local Development Order submittal. Any revisions to the tortoise management plan are subject to Division of Planning, Environmental Sciences review and approval.

c. The "Florida Burrowing Owl Management Plan" provided as part of the "Protected Species Management Plan For Schulman Parcel" counter stamped May 19, 1999 must be revised for Division of Planning, Environmental Sciences staff review and approval at the time of local Development Order submittal. The plan must either commit to preserving the existing burrowing owl burrows in place with a buffer per LDC Appendix H, or commit to a detailed relocation management plan. Should the Applicant demonstrate it is necessary to

impact the burrows, the management proposal must provide details about where appropriate replacement habitat for the owls will be provided, how the owls will be attracted to this area, and how it will be protected during construction activities on the site.

d. A final detailed scrub jay management plan must be provided to the Division of Planning, Environmental Sciences for review and approval at the time of local Development Order submittal. This plan must follow the general guidelines of the "Florida Scrub Jay Management Plan" provided as part of the "Protected Species Management Plan For Schulman Parcel" counter stamped May 19, 1999. The finalized scrub jay management plan must be approved by the Florida Fish and Wildlife Conservation Commission (FWC) prior to local Development Order Approval.

e. Open space must be provided per the open space table on the MCP counter stamped July 15, 1999. The open space table provides 643.9 acres of preserve area and lakes. The golf course tract provides 531 acres of open space. All individual tracts, excluding tracts of single-family lots greater than 6,500 square feet, must provide a minimum of 10 percent open space within the tract. Individual tract open space may be met with private open space.

f. Indigenous open space must be provided per the "Impact and Mitigation Plan" dated February 22, 1999 revised May 5, 1999. The preserves must be delineated on the local Development Order plans when they are within or adjacent to the development phase or tract being developed.

g. Every effort must be made in the final design of the golf course and residential tracts to preserve large native trees. An on-site preconstruction meeting must be held with Division of Planning/Environmental Sciences Staff prior to the issuance of a vegetation removal permit for any phase of development to confirm preservation and barricading requirements prior to the initiation of site clearing.

4. The following recommendations are presented in order to mitigate future hurricane damage and/or loss of life, as well as to ensure compliance with comprehensive plan objectives.

a. The Applicant must establish a homeowners' or residents' association that will provide an educational program on an annual basis, in conjunction with the staff of Emergency Management, who will provide literature, brochures and speakers for Hurricane Awareness/Preparedness Seminars, describing the risks of natural hazards. The intent of this recommendation is to provide a mechanism to educate residents concerning the actions they should take to mitigate the dangers inherent in these hazards.

b. The Applicant must formulate an emergency hurricane notification and evacuation plan, which will be subject to review and approval by the Lee County Office of Emergency Management.

c. If access to this development or any portions thereof, is through a security gate or similar device, which is not manned 24 hours a day, it must be equipped with an override strip installed in a glass covered box to be used by drivers of emergency vehicles to gain entry, consistent with LDC Section 34-1749.

d. Because this development creates the need for 50 or more shelter spaces, or adds 15 minutes or more to the existing evacuation time, the Developer must cooperate with the Division of Public Safety/Emergency Management in determining and participating in a means to lessen those impacts on the County's hurricane preparedness process and public safety. Those "means" could include the provision of equipment, monies in lieu of equipment, or such other goods, materials or actions deemed appropriate by Emergency Management that results in the provision of additional shelters, or improvement of roads for use as additional evacuation routes. The choice of "means" will rest with the Developer, so long as the choice adequately mitigates the adverse impacts.

5. The following conditions are included to address Lee Plan consistency issues:

a. The portion of the property within the Rural future land use category must maintain densities of one dwelling unit per acre or less. No more than 1,499 dwelling units may be constructed in the Rural designated areas of the project.

b. Given the limited existing available Rural 2020 Planning Community Acreage Allocation at the time of rezoning, the available Rural allocation must be determined by the Planning Division, prior to any Development Order Approval for residential use in the Rural portions of the site. No Development Order will be issued or approved if the acreage, when added to the acreage contained in the updated existing land use database, exceeds the limitation established by Lee Plan Table 1(b), Acreage Allocation Table (per Lee Plan Policy 1.7.6). In order to develop more Rural acreage with residential uses, the Lee Plan must be amended to change the Rural residential acreage allocation for the Fort Myers Shores planning community in Table 1(b). Adequate data and analysis to support this amendment must be submitted by the Applicant at the time of the request for the Lee Plan amendment. Development in excess of the current Table 1(b) allocations will not be permitted until Table 1(b) is amended accordingly.

6. The following conditions are included to address concerns about the golf course:

a. Fertilizers with a low leaching potential (slow release) must be used, must not be applied after active growth of the turfgrass has ceased, and must be kept to the lowest reasonable levels; and

b. To reduce sources of pollutants, especially nutrients and pesticides associated with the golf course, the golf course manager must implement a chemicals management plan which includes an integrated pest management (IPM) program and a nutrient management program such that nutrients and pesticides are used only when absolutely necessary. The program must address prevention, diagnosis, and limited treatment with pesticides when necessary rather than blanket treatment with broad spectrum pesticides as insurance against all pest species. The application of pesticides will involve only the

purposeful and minimal application of pesticides, aimed only at identified targeted species. The regular widespread application of broad spectrum pesticides is prohibited. The IPM program must minimize the use of pesticides and must include the use of the US Department of Agriculture - Natural Resources Conservation Service (USDA-NRCS) Soil Pesticide Interaction Rating guide to select pesticides for use that have a minimum potential for leaching or loss from runoff. The nutrient management program must be based upon the USDA-NRCS Nutrient Management Standard and must include the use of soil tests to determine needed applications of nutrients. Only EPA-approved chemicals may be used. No turf managed areas (including fairways, tees, and greens) are permitted within 35 feet of wetlands or preserve areas. This chemicals management plan must be submitted to and approved by Lee County Planning Division Staff prior to the Development Order approval.

c. 1) The golf course manager must coordinate the application of pesticides with the irrigation practices (the timing and application rates of irrigation water) to reduce runoff and the leaching of any applied pesticides and nutrients.

2) The utilization of a golf course manager licensed by the state to use restricted pesticides and experienced in the principles of IPM is required. The golf course manager is responsible for ensuring that the golf course fertilizers are selected and applied to minimize fertilizer runoff into the surface water and the leaching of those same fertilizers into the groundwater.

d. 1) The storage, mixing, and loading of fertilizer and pesticides must be designed to prevent/minimize the pollution of the natural environment.

2) The golf course must comply with the "Best Management Practices for Golf Course Maintenance Departments," prepared by the Florida Department of Environmental Protection, May 1995, as amended.

f. 1) The golf course must be planted with a turfgrass cultivated variety that is drought and pest resistant, while requiring relatively low fertilizer use;

2) The irrigation system must operate on an "as needed" basis through the utilization of weather forecasting and ongoing assessment of the moisture content of the soil.

g. 1) All fairways, greens, and tees must be elevated above the 25-year flood level, and all greens must utilize underdrains. The effluent from these underdrains must be pre-treated prior to discharge into the balance of the project's water management system.

2) Stormwater run-off must be pre-treated through an acceptable recreated natural system or dry retention and water retention system, prior to discharging the run-off into existing lake or wetland (any aquatic) systems.

h. 1) An annual monitoring report of ground water and surface water quality is required for the golf course operation. The monitoring program must include: testing to assess whether there are any herbicide, pesticide or fertilizer pollution of the water within

the area of the golf course; identifying the locations for the ground water monitoring and testing on a map(s); setting forth the testing and recording requirements. The Developer must submit the test results with the monitoring report to the Lee County Planning Division. The monitoring program will be established and operated at the expense of the Developer, or other comparable legal entity charged with the legal responsibility of managing the golf course. This plan will be evaluated in accordance with the directives of Chapter 17-302, F.A.C., water quality standards.

2) If groundwater or surface water pollution occurs, as that term is defined by the rules or regulations in effect at the time, and should the pollution be caused by the application of fertilizers, herbicides or pesticides to the golf course, the application must cease until there is a revised management plan. If mitigation is necessary to address the pollution, a mitigation plan approved by Lee County must be implemented by the Developer.

7. Model units and homes are permitted in compliance with the following conditions:

a. Each model must be a unique example. Multiple examples of the same unit are not permitted; and

b. All model sites must be designated on the Development Order plans; and

c. Prior to constructing model homes within Hawk's haven, the lots upon which the model homes will be constructed will have been shown on a preliminary plat filed concurrently with the required local development order for this project. Such model home(s) will comply with all setbacks set forth within the Property Development Regulations for Hawk's Haven or the Land Development Code, whichever applies. Should setback problems arise after construction of a model home, it will be the responsibility of the owner/developer to resolve the setback problem.

d. Dry models are prohibited.

8. In addition to the single access from S.R. 80, the developer must submit for review and subsequent approval, a plan that demonstrates whether there is a need for an emergency access to the project prior to the approval of any development orders for dwelling units after the first 584 units have been approved. If an emergency access is deemed to be necessary, documents must be submitted with the plan that demonstrate the project's legal ability to provide emergency access. The emergency access, if deemed to be necessary, will provide a connection to Buckingham Road. Any road used for emergency access must be constructed or improved to the degree required for the use of emergency vehicles. If it is determined that no emergency access is needed, the Applicant will meet the provision of LDC Section 10-291(3) LDC with the single access from S.R. 80.

9. Bona fide agricultural uses that are now in existence may continue until the development commences. However, no development activity of any kind may occur on the property, including clearing of vegetation or cutting of trees, unless such activity is reviewed and approved in accordance with all applicable Lee County regulations as if no agricultural

use existed on the property. The purpose of this condition is to eliminate any exemption or other special considerations or procedures that might otherwise be available under Lee County regulations by virtue of the existing agricultural uses on the property.

10. Construction traffic must enter and exit this project from S.R. 80 until 200 units have been constructed in the project. Thereafter, construction access may be permitted from Buckingham Road (if the Applicant has maintained such an access). In no event, will construction traffic be permitted on Hickey Creek Road.

11. Buildings exceeding 35 feet in height must maintain additional building separation as regulated by LDC Section 34-2174(a).

12. Approval of this zoning request does not address access onto S.R. 80, since Lee County has no jurisdiction over that roadway. The Developer must pursue this access approval with the Florida Department of Transportation (FDOT). Approval of this zoning request does not address mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions consistent with the Lee County LDC may be required to obtain a local Development Order.

13. Approval of this rezoning does not give the Developer an undeniable right to receive local Development Order Approval. Future Development Order Approvals must satisfy the requirements of the Lee Plan Planning Communities Map and Acreage Allocations Table, Map 16 and Table 1(b).

14. This development must comply with all of the requirements of the LDC at the time of local Development Order Approval, except as may be granted by deviations approved as part of this planned development.

15. If required to do so by Florida Statutes, the Developer will provide access to the internal "out parcels" which are the separate tracts encapsulated by this project.

16. If the Developer constructs structures other than conventional single-family homes within 100 feet of any of the "out parcels," the Developer must provide a 25-foot-wide enhanced vegetative buffer completely around the out parcel. In addition, the enhanced vegetative buffer must utilize native vegetation, indigenous to the plant community in which it is to be planted. The vegetation must be installed prior to any vertical construction and it must be installed according to the following density and size:

a. Six trees per 100 linear feet - At installation, trees must be a minimum of 12 to 14 feet tall, with a 2½-inch minimum caliper and a 5-foot minimum canopy. No palm trees, or completely deciduous trees may be used to meet the requirements of this enhanced buffer.

b. Thirty-three shrubs per 100 linear feet - 1) At installation, all shrubs must be 18 to 24 inches in height, 3-gallon pots, and spaced 30 to 36 inches on center; and 2) all shrubs used to meet the enhanced buffer requirements must reach a mature height in excess of six feet under normal growing conditions.

If these "out parcels" come under the control of the Developer prior to construction within the 100-foot-wide area, then compliance with this condition is not required.

B. DEVIATIONS:

Deviation (1) seeks relief from LDC Section 10-385(d)(3)(a), which specifies a maximum fire hydrant spacing of 800 feet in the one- and two-dwelling unit area, to eliminate this requirement in areas along the spine road where no homes exist. The Hearing Examiner recommends DENIAL of the deviation as proposed, i.e., to eliminate the fire hydrants, but recommends APPROVAL to allow the placement of a hydrant at the midpoint of each section along the "spine" road. For purposes of this Deviation, "section" is defined as the distance along the spine roadway between intersection roadways, measured along and from the roadway centerlines.

Deviation (2) seeks relief from LDC Section 34-934, Note 23, which limits the operation of a Real Estate Sales Office to five years, to allow the Sales Office to operate for a period of ten years to coincide with the expected buildout of the project. The Hearing Examiner recommends APPROVAL of the Deviation.

IV. HEARING EXAMINER DISCUSSION:

The Applicant, FL Tampa West, Inc., in reference to Hawk's Haven, is requesting a rezoning for a 1,797.45-acre parcel from the AG-2 (Agricultural) zoning district to the RPD (Residential Planned Development) zoning district. The parcel is located at S.R. 80, about one-half mile east of Buckingham Road. If approved, the Applicant will develop up to 1,598 dwelling units (in a mix of housing types), and two golf courses.

The site is in the Rural, Suburban, and Wetlands land use categories. The surrounding land uses are a mixture of Rural, Urban Community, and Suburban. To the north of the site is S.R. 80, and some AG-2 zoned property (part of which is occupied by the Hickey Creek subdivision, and part of which is undeveloped). To the east is the Hickey Creek Mitigation Park. To the south is a canal, and then mostly unoccupied lots within Lehigh Acres. To the west are mixed agricultural and residential uses (Riverdale Estates and Riverdale Shores, etc.).

The Staff has recommended approval of the request with a detailed list of conditions. It is the differences between the Applicant and the Staff on some of the conditions that took up most of the public hearing on this matter. They managed to work out most of the differences at the hearing with one or two exceptions. For the most part, there was agreement that such a project was compatible with the surrounding uses and was consistent with the Lee Plan and the Land Development Code (LDC).

The Staff recognized that the request represented one of the rare occasions where a golf course community was being recommended for approval in a predominantly rural area. However, because of the availability of the full panoply of public facilities in the area, the site is well suited for the intended purposes. Water and sewer service was provided to the area in the 1980's in anticipation of growth that has not yet taken place. This project is a welcome addition to the area in the eyes of the utilities that serve the area. Fire and rescue service is

also available to the expected residents. The testimony provided by the Applicants, and substantiated by the Staff, is that the transportation infrastructure is sufficient to handle the anticipated demand.

The Staff also noted that the project is a great improvement over what could be done on the property if no zoning took place. The type and location of dwelling units, buffering, open space, environmental protections, and other planned refinements, are a vast improvement over what can go there under the current AG-2 zoning.

As envisioned by the Applicant, the project will be a low density project that will be about one-third open space, with two golf courses, lakes, and preserve areas. The vast majority of the planned homes will back onto a golf course, water, or open space. Access will be from a single "spine road" from S.R. 80 in the northwest corner of the site. It will be four laned for the first 500 or 600 feet and then will taper down to two lanes for the remainder of its length. The goal is to have no homes visible from the road. Those "Estate Lots" that are expected to be along the road will be buffered from the road with vegetation and will be set back at least 70 feet from the road. The Suburban portion of the site will have a density of about three dwelling units per acre, and the Rural portion (about 80 acres of the site) will have a density under one dwelling unit to the acre. There will be no shifting of density between these two land use categories. These densities are well within the limitations placed on density by the Lee Plan.

The Applicant will be locating bike paths and walking paths along the "spine road" as well as throughout the site. They will also have large open areas for team sports. There are management plans for several listed species (see Condition 3 for the detailed management plans provided by the Applicant).

The list of uses is limited to those usually found in a golf club community. There will be a clubhouse with golf and tennis pro shops. The only commercial uses on the site are limited to those shops. There will be model homes, and a real estate sales office. Sales will be limited to the development itself. The Applicant has asked that it be permitted to operate the sales office for a period of ten years (the anticipated build-out time for the project), rather than five years as specified in the LDC. Since the sales are limited to the project, this is a reasonable request. It is the subject of Deviation (2), and it has been recommended for approval.

Hurricane preparedness and mitigation have been addressed in Condition 4. The Applicant will have to address the mitigation of the project's impact, and to take actions necessary to lessen those impacts. There are also conditions that address the impact the golf courses will have on the soil and water quality of the area. Basically, the Applicant will have to follow the "Best Management Practices for Golf Course Maintenance Departments" prepared by the Florida Department of Environmental Protection. There will also be annual monitoring of ground water and surface water quality.

The two issues on which the Applicant and the Staff could not agree dealt with access. The first issue was whether the site required two full access points to meet the County's standards for projects of this size. The Staff cited Section 10-291(3) of the LDC as requiring two full

access points for any project over five acres in size. The Applicant noted that the cited section did not "require" two "full" access points. Instead, the provision said "where practical" the development "must provide two or more means of ingress or egress for the development."¹

As noted, the main access to the site will be from S.R. 80 in the northwest portion of the site. The Staff listed two other possible full access points in the Staff Report. One would come into the site from the south through Lehigh Acres (through Sunshine Boulevard). The second would be from Hickey Creek Road in the northern part of the site. There was extensive testimony with respect to the "practicality" of either of these roads for full access. The verbal and visual evidence with respect to the Lehigh Acres (Sunshine Boulevard) access was compelling in demonstrating that this would be a most impractical access for emergency vehicles to say nothing of a full access. This area of Lehigh Acres is platted but not developed. It consists of deteriorated roads that do not meet County standards. They are covered with debris (e.g., discarded hot water heaters, etc.), and are overrun with weeds and other nuisance vegetation. One witness estimated that it would cost the County \$4 million to bring them up to County standards.

It would also be necessary to bridge the 60-foot-wide canal that separates the subject parcel from Lehigh Acres (an area not owned by the Applicant). Even if all of this could be done there was testimony that described the circuitous route that emergency vehicles would have to take to reach the eastern portion of the site. A portion of the site which, incidently, is in the vicinity of the wetlands preserve area, slated to be developed last.

As a full access, this location makes even less sense. Traffic to the site would have to go through the same circuitous course noted above. This is a very rural area of Lehigh Acres, and if the bullet holes in the "Stop" signs are any indication, one which might prove dangerous to travelers.

The other secondary access proposed by the Staff would be via the northern portion of the site from Hickey Creek Road. This single issue was the one that brought the greatest public opposition to the project. For the most part, there was only token opposition with the exception of this issue. It was noted that Hickey Creek Road is more of a country road at this location, and that is it used for walking, riding bicycles, and horseback riding, and is very little traveled. It was also pointed out that to use this road as full access to the subject project would result in bringing a substantial number of vehicles through an established, sparsely populated rural community. Such an occurrence is not favored by the LDC or the Lee Plan. It would seem, therefore, that this is not a practical location for a full access, although it could serve as an emergency access if not for the availability of an alternative location; Buckingham Road.

¹ The full section reads as follows:

(3) Where practical, any residential development of more than five acres or any commercial or industrial development of more than ten acres must provide two or more means of ingress or egress for the development. Additional access points may be needed for continuation of an existing street pattern, to provide access to adjoining properties, or where additional access is needed to provide alternate access for emergency services. Where feasible, these alternate access points should not be on the same roadway.

Buckingham Road is an access that is available to the Applicant, and one that may be used for some of the construction traffic to and from the site. It is in an area that will have little, if any, impact on residential areas, and it could provide emergency vehicles with access to the site if that should prove to be necessary. If the testimony given at the hearing is to be believed, it will not be necessary. The un rebutted testimony of the Applicant's traffic experts was that the design of this project does not necessitate a second full access point. Using the worst-case scenario, they established that the 4-laned entrance from S.R. 80 would easily handle the traffic. Furthermore, the fire authorities concurred that they did not need a second access because of the wide, boulevard style entrance into the project.

Finally, it was noted that there are at least six other golf course communities in Lee County that have one access or one full access and one emergency access, and they are operating without incident.²

With this testimony in mind, it is necessary to address the question of whether Section 10-291(3) requires two "full" accesses. There was testimony from the Staff that they have always interpreted this Section of the LDC to mean two "full" access points, and that is how they are interpreting it now. That is one way to read that Section, however, it is clear that the word "full" or some equivalent is never used in that paragraph. This provision of the LDC requires, "where practical, two or more means of ingress or egress," no more and no less. Therefore, if it proves to be impractical, one access is sufficient. If it proves to be practical, the second access need not be a full access. If this provision is interpreted to require two full accesses, then a limited access (e.g., right-in/right-out only) could never be acceptable. Clearly, that is not the County's policy, because such arrangements are routinely made.

There was some discussion that suggested that to have anything less than two full accesses for this project, it would first be necessary to obtain a deviation from Section 10-291(3). This position was not adopted, nor was it deemed to be necessary. As such, there is no recommendation for a deviation.³

The other access issue was concerned with several internal "outparcels" that are owned by third parties, and whether it was the County's responsibility to guarantee access to these parcels. The Staff's position was that Section 10-291(1) requires the County to avoid the creation of remnants and landlocked areas. To this end, they recommended a condition that required the Applicant to provide legal access to the internal "out parcels." This access would be via an easement that met all County local road standards and that had to connect to a designated public right-of-way.

The Applicant took the position that this was a "taking" by the government for a private purpose. The Applicant acknowledged that it might have some responsibility to provide

² West Bay Club; Villages At Country Creek; Las Brisas (part of Spanish Wells); Fiddlesticks; Wildcat Run; and Eagle Ridge.

³ If the BOCC is of the opinion that a deviation is necessary, then the Deviation should read as follows:

Deviation (3) seeks relief from LDC Section 10-291(3) which specifies that any residential development of more than five acres must provide two or more means of ingress or egress, to allow one full access and one emergency access from Buckingham Road, should it prove to be necessary.

access under Florida Statutes, but that this was a private matter beyond the scope of a rezoning hearing. What the Staff was asking the Applicant to do, in their opinion, was not only to provide access (apparently without cost to the outparcel owner), but also to provide an easement to accomplish this condition.

Section 10-291(3) states: "The development must be designed so as not to create remnants and landlocked areas, unless those areas are established as common areas." Since the development is not "creating remnants or landlocked areas," because these areas will exist whether the rezoning is approved or not approved, this provision would seem not to apply in this instance. However, to simply ignore the situation would be to perpetuate an undesirable condition. Fortunately, access to "encapsulated" parcels is addressed in the Florida Statutes. Since this is a private matter, it should be left to the parties to resolve it without any County involvement. Therefore, Condition 15 has been drafted to require the parties to privately resolve this issue, or to use the Florida Statutes, to reach some consensus.

As noted, the major opposition to this project involved the use of Hickey Creek Road as a full access to the project. If it is approved as recommended, this issue will have been resolved in favor of the residents of the Hickey Creek subdivision. However, there was other opposition. It was over the increased development in an area that has been rural for some time. This perception by the opponents will not be changed by comments made by the Applicant or the Staff. To keep the request in perspective, the project will be a low density development containing more than 600 acres of open space, reserve areas, wetlands, lakes, and golf courses. It is far superior to what can now be placed on the site, and the extensive conditions that address buffering, setbacks, and density will make this a project that is fully compatible with the bucolic character of the surrounding uses. The project is also fully consistent with the Lee Plan and the LDC.

It is recommended that the Lee County Board of County Commissioners approve the rezoning and the deviations, as conditioned.

V. FINDINGS AND CONCLUSIONS:

Based upon the staff report, the testimony and exhibits presented in connection with this matter, the undersigned Hearing Examiner makes the following findings and conclusions:

- A. That the Applicant has proved entitlement to the rezoning by demonstrating compliance with the Lee Plan, the Land Development Code, and any other applicable code or regulation.
- B. That the request will meet or exceed all performance and locational standards set forth for the potential uses allowed by the request.
- C. That the request is consistent with the densities, intensities and general uses set forth in the Lee Plan.
- D. That the request is compatible with existing or planned uses in the surrounding area.

- E. That approval of the request will not place an undue burden upon existing transportation or planned infrastructure facilities and will be served by streets with the capacity to carry traffic generated by the development.
- F. That the request will not adversely affect environmentally critical areas and natural resources.
- G. That the proposed use or mix of uses is appropriate at the subject location.
- H. That the recommended conditions to the concept plan and other applicable regulations provide sufficient safeguard to the public interest.
- I. That the recommended conditions are reasonably related to the impacts on the public interest created by or expected from the proposed development.
- J. That the requested deviations enhance the achievement of the objectives of the planned development.
- K. That the requested deviations preserve and promote the general intent of Chapter 34, Land Development Code, to protect the public health, safety and welfare.
- L. That, where the change proposed is within a future urban area category, urban services, as defined in the Lee Plan, are, or will be, available and adequate to serve the proposed land use.

VI. LIST OF EXHIBITS:

Hawk's Haven Master Concept Plan, stamped Received Jul 15 1999 Zoning Counter

STAFF'S EXHIBITS

Résumés of Lee County Staff are on file with the Hearing Examiner's Office and are incorporated herein.

- 1 Composite Exhibit: Fax to Kay Deselem, from Scott Hofmeister, received 08/16/99, with attachments: 08/12/99 letter from Development Services to Mr. Hofmeister with Zoning Map (Attachment A to Staff Report); 08/17/99 letter from Mr. Hofmeister to BOCC, re: concerns over project and potential for his parcel to be landlocked; and copy of Trim Notice for his parcel
- 2 Resolution Z-97-089, Case 9-07-164.03Z 01.01, Sahdev, Inc., in ref. to Estero River Bay PDDO
- 3 Letter to Kay Deselem, from Stephanie Keyes, Facilities Planner, The School District of Lee County, dated 06/15/99, re: construction entrance impacts on Buckingham Exceptional School and on the District's East Transportation Facility
- 4 Road Rankings

APPLICANT'S EXHIBITS

Résumés of Applicant's consultants are on file with the Hearing Examiner's Office and are incorporated herein.

- 1 Requested Revisions to Staff Conditions
- 2 Deed from N. H. & Catherine Hunter and Louise B. Hunter, to Lee-Dade Properties, Inc., dated 11/15/56, recorded as Deed 263, Page 186
- 3 Résumé - Andrew T. Sullivan, NCARB, AIA, AICP, President/Principal, Sullivan Associates, Inc.
- 4 Hawk's Haven Master Concept Plan, Sheet 1 of 1, dated 03/16/99, prepared by Sullivan Associates, Inc., and Consul-Tech Engineering, Inc. [color/board exhibit]
- 5 Hawk's Haven Master Concept Plan, Sheet 1 of 1, dated 02/22/99, prepared by Sullivan Associates, Inc., and Consul-Tech Engineering, Inc. [board exhibit]
- 6 Sketch showing driveway lengths and building setbacks from road right-of-way
- 7 Résumé - Timothy A. Shaw, Environmental Scientist, Consult-Tech Engineering, Inc.
- 8 Résumé - Michael A. Troxell, P.E., McMahon Associates, Inc.
- 9.a Road Conditions in Lehigh (15 photographs) [board exhibit]
- 9.b Locational maps [board exhibit/reverse of 9.a]
- 10 Composite Exhibit: Letter to Mike Roeder, from Warren G. Bleckley, Fort Myers Shores Civic Association, Inc., dated 06/05/99, re: support for project; Letter to Mr. Roeder, from R. L. McWilliams, East Lee County Council, dated 05/25/99, re: support for project with copy of minutes from 05/15/99 Council meeting
- 11 Composite Exhibit: Resolution Z-96-005, Case 95-06-148.03Z, Atlantic Gulf Communities Corporation, in ref. to Estero Pointe; Resolution ZAB-86-34, Case 86-2-13 DCI, Villages at Country Creek; and Resolution Z-95-004, Case 95-01-007.03Z, Frank S. Scarlati, Jr., Trustee, in ref. to Las Brisas
- 12 Soils, Vegetation and Ground Cover Map for Hawk's Haven, Sheet 1 of 1, dated 02/22/99, revised 05/05/99, stamped received May 19, 1999 by the Permit Counter
- 13 Zoning/Intergraph Map

OTHER EXHIBITS:

Morris

- 1 Letter/Presentation

Wheaton

- 1 Letter/Presentation

Cella

- 1 Resumé - Kris Cella, CEO, Cella & Associates, Inc. (transportation consultant)
- 2 Letter/Presentation
- 3 Composite Exhibit: Letters from James L. & Alicia C. Waller; Lisa & Curtis Dodd and Debbie & Charles Maxwell; Mildred Ruttman; Johnna C. Michaelkiewicz; David & Kimberly Wallen; Ray & Susan Wagoner; Vincent E. & Barbara A. Mingione; Mr. & Mrs. Dave C. Pryor; Gary B. Stilwell; F.M. & Katherine Wallace; Hugh Roth & Ginger Patterson; Larry McGuire; David & Joleen Sasser; Don & Janet Jones; William A. & Judith A. Watkins; Hal A. & Louise D. Cope; and Matthew & Julie Morello

VII. PRESENTATION SUMMARY:

SEE OFFICIAL COURT REPORTER TRANSCRIPT.

VIII. OTHER PARTICIPANTS AND SUBMITTALS:

ADDITIONAL APPLICANT'S REPRESENTATIVES:

1. Jim HUMPHREY, Esquire, and Mike ROEDER, Director of Planning, % Humphrey & Knott, P.A., 1625 Hendry St., Ft. Myers, FL 33901
2. Andrew T. SULLIVAN, % Sullivan Associates, Inc., 2314 Market St., Philadelphia, PA 19103
3. David McKEE, and Timothy A. SHAW, % Consul-Tech Engineering, Inc., 24831 Old 41 Rd., Bonita Springs, FL 34135
4. Michael A. Troxell, P.E., McMahon Associates, Inc., no address provided
5. Frank STRINGER, Vice President/General Manager, % Forest City Land Group, 5307 Fox Hunt, Wesley Chapel, FL 33543

ADDITIONAL COUNTY STAFF:

1. Dawn PERRY-LEHNERT, Assistant County Attorney, Lee County, P. O. Box 398, Ft. Myers, FL 33902-0398
2. Matt NOBLE, Division of Planning, Lee County, P. O. Box 398, Ft. Myers, FL 33902-0398
3. Kim TREBATOSKI and Betsie Newton HIATT, Division of Planning/Environmental Sciences Program, Lee County, P.O. Box 398, Ft. Myers, FL 33902-0398
4. Don BLACKBURN, Development Services Division, Lee County, P. O. Box 398, Ft. Myers, FL 33902-0398

PUBLIC PARTICIPATION:

A. THE FOLLOWING PERSONS TESTIFIED OR SUBMITTED EVIDENCE FOR THE RECORD AT THE HEARING (SEE SECTION VII.):

For:

1. R. L. McWILLIAMS, Chairman, East Lee County Council, 13855 Sleepy Hollow Lane SE, Ft. Myers, FL 33905
2. William ROUNSIFER, P. O. Box 50354, Ft. Myers, FL 33994
3. Milton S. SAGER, 1280 Bluffs Cir., Dunedin, FL 34698

Against:

1. Dr. A. D. ALI, 17140 Oak Creek Rd., Alva, FL 33920
2. Claudette HALLAM, 17621 Oak Creek Rd., Alva, FL 33920
3. Jack BRADDY, 1826 S.E. 29th Ln., Cape Coral, FL 33904

General:

1. Armon BOONSOPON, Amtel Group, Inc., 2500 Edwards Dr., Ft. Myers, FL 33901 [drainage concerns]
2. Kris CELLA McGUIRE, 17371 Oak Creek Rd., Alva, FL 33920 [opposed to connection to Hickey Creek Road]
3. Charles MORRIS, 17630 Oak Creek Rd., Alva, FL 33920 [letter/presentation - opposed to road connection to Hickey Creek Road; concerned about schools, water/sewer service, blasting, effect of golf course on existing area wells]

4. George WHEATON, 16860 Fox Den S.W., Ft. Myers, FL 33908 [representing Martha W. Pruyn, owner of outparcel within proposed development] [letter/presentation - requesting access to Mrs. Pruyn's property]

5. Hugh KINSEY, Esquire, P. O. Box 400, Ft. Myers, FL 33902 [representing Scott Hofmeister]

6. Janet JONES, 17221 Oak Creek Rd., Alva, FL 33920 [opposed to Hickey Creek Road connection]

B. THE FOLLOWING PERSONS SUBMITTED A LETTER/COMMENT CARD, OR OTHERWISE REQUESTED A COPY OF THE HEARING EXAMINER RECOMMENDATION:

For:

1. Fred BURSON, 2260 Bay St., Ste. 11, Ft. Myers, FL 33901

2. R. L. McWILLIAMS, Chairman, East Lee County Council, 13855 Sleepy Hollow Lane SE, Ft. Myers, FL 33905 [letter supporting development - endorse plan of development; believe will add to value of East Lee County and its image]

3. Lilly S. SAGER, 1280 Bluffs Cir., Dunedin, FL 34698

Against:

1. Richard HALLAM, 17621 Oak Creek Rd., Alva, FL 33920

2. Dirk KRUZAN & Rebecca HAMILTON, 17651 Frank Rd., Alva, FL 33920

3. Lorie MAUCH, 1826 S.E. 29th Ln., Cape Coral, FL 33904

4. William G. McILTROT, 3950 Ellis Rd., Ft. Myers, FL 33905 [letter in opposition - development will destroy rural environment of Alva/Olga/Buckingham areas, add to traffic problems, and have negative environmental impact]

5. John K. McILTROT, 10271 Deer Run Rd., Ft. Myers, FL 33912 [letter in opposition - development inconsistent with the area's rural lifestyle, will lead to traffic problems, and destroy area's delicate scrub ecosystem/prime habitat for protected species]

LETTERS OPPOSING ROAD CONNECTION TO HICKEY ROAD: [see also Cella testimony]

1. Hal A. & Louise D. COPE, 17721 Frank Rd., Alva, FL 33920-3511

2. Lisa B. & Curtis DODD, 17801 Oak Creek Rd., Alva, FL 33920

3. Don & Janet JONES, 17221 Oak Creek Rd., Alva, FL 33920

4. Debbie & Charles MAXWELL, 17571 Oak Creek Rd., Alva, FL 33920

5. Larry McGUIRE, 17371 Oak Creek Rd., Alva, FL 33920
6. Johnna C. MICHAELKIEWICZ, 17930 Oak Creek Rd., Alva, FL 33920
7. Vincent E. & Barbara A. MINGIONE, 17301 Oak Creek Rd., Alva, FL 33920
8. Matthew & Julie MORELLO, 17651 Oak Creek Rd., Alva, FL 33920
9. M/M Dave C. PRYOR, 17901 Oak Creek Rd., Alva, FL 33920
10. Hugh ROTH & Ginger PATTERSON, 17341 Oak Creek Rd., Alva, FL 33920
11. Mildred RUTTMAN, 17200 Oak Creek Rd., Alva, FL 33920
12. David & Joleen SASSER, 17541 Oak Creek Rd., Alva, FL 33920
13. Gary B. STILWELL, 17521 Oak Creek Rd., Alva, FL 33920
14. Ray & Susan WAGONER, 2470 Hickey Creek Rd., Alva, FL 33920
15. F. M. & Katherine WALLACE, 17900 Oak Creek Rd., Alva, FL 33920
16. David & Kimberly WALLEN, 17450 Oak Creek Rd., Alva, FL 33920
17. James L. & Alicia C. WALLER, 17270 Oak Creek Rd., Alva, FL 33920
18. William A. & Judith A. WATKINS, 17711 Oak Creek Rd., Alva, FL 33920

General:

1. Frances DONOHUE, P. O. Box 272, Alva, FL 33920 [asked questions/no formal presentation]
2. Scott HOFMEISTER, 108 Barbara St., Louisville, CO 80027 [letter - concerned that development will landlock his 10-acre parcel; requesting access; concerns about lack of advance notice of hearing]
3. Robert McWILLIAMS, no address provided [asked questions/no formal presentation]
4. Wallace & Cecilia STORCH, 2600 Hickey Creek Rd., Alva, FL 33920
5. Stanley G. WISE, 14938 Wise Way S.E., Ft. Myers, FL 33905 [asked questions/no formal presentation]

IX. LEGAL DESCRIPTION:

ALL OF THAT LAND DESCRIBED IN OFFICIAL RECORDS BOOK 976, PAGE 551-554, LEE COUNTY PUBLIC RECORDS, LYING SOUTH OF STATE ROAD 80, ALL IN TOWNSHIP 43 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

PARCEL NO. 1: THE NW-1/4, OF THE SW-1/4, OF THE NW-114, OF SECTION 27, SUBJECT TO AN EASEMENT TO FLORIDA POWER & LIGHT, AS DESCRIBED IN DEED BOOK 208, PAGE 67, LEE COUNTY RECORDS.

PARCEL NO. 2: THE NE-1/4, OF THE NE-1/4, OF THE SW-1/4, OF SECTION 27.

PARCEL NO. 5: THE S-1/2, OF THE S-1/2, OF THE SE-1/4, OF SECTION 25, LYING SOUTH OF THE FORMER (NOW ABANDONED) SEABOARD AIRLINE RAILROAD COMPANY RIGHT-OF-WAY, SUBJECT TO A 50-FOOT EASEMENT TO FLORIDA POWER AND LIGHT AS DESCRIBED IN DEED BOOK 234, PAGE 26, LEE COUNTY RECORDS.

PARCEL NO. 6: ALL THAT PART OF THE S-1/2, OF THE SW-1/4, OF THE SE-1/4, AND THE S-1/2, OF THE S-1/2, OF THE SW-1/4, OF SECTION 26, WHICH LIES SOUTH OF THE FORMER (NOW ABANDONED) SEABOARD ALL FLORIDA RAILROAD COMPANY RIGHT-OF-WAY, SUBJECT TO A 50-FOOT EASEMENT TO FLORIDA POWER AND LIGHT AS DESCRIBED IN DEED BOOK 234, PAGE 26, LEE COUNTY RECORDS.

PARCEL NO. 7:

- (A) ALL THAT PART OF THE S-1/2, OF THE S-1/2, OF THE SE-1/4, OF SECTION 27, WHICH LIES SOUTH OF THE FORMER (NOW ABANDONED) SEABOARD AIRLINE RAILROAD COMPANY RIGHT-OF-WAY.
- (B) THAT PART OF THE S-1/2, OF THE SW-1/4, OF THE SW-1/4, OF SECTION 27, WHICH LIES SOUTH OF THE FORMER (NOW ABANDONED) SEABOARD AIRLINE RAILROAD RIGHT-OF-WAY, IN SECTION 27.
- (C) THE SE-1/4, OF THE SE-1/4, OF THE SW-1/4, IN SECTION 27, LESS THE FORMER (NOW ABANDONED) SEABOARD ALL FLORIDA RAILROAD COMPANY RIGHT-OF-WAY, SUBJECT TO A 50-FOOT EASEMENT TO FLORIDA POWER AND LIGHT AS DESCRIBED IN DEED BOOK 234, PAGE 26, LEE COUNTY RECORDS AND SUBJECT OF A 60-FOOT ROAD EASEMENT AS DESCRIBED IN OFFICIAL RECORDS BOOK 843, PAGE 864, LEE COUNTY RECORDS.

PARCEL NO. 8: THAT PORTION OF THE NW-1/4, OF THE NW-1/4, OF SECTION 27, LYING SOUTH OF THE SOUTH RIGHT-OF-WAY LINE OF STATE ROAD 80.

PARCEL NO. 9: THAT PORTION OF THE W-1/2, OF THE NE-1/4, OF THE NW-1/4 OF SECTION 27, LYING SOUTH OF THE SOUTH RIGHT-OF-WAY LINE OF STATE ROAD 80, SUBJECT TO A 70-FOOT LATERAL DITCH EASEMENT LEFT OF STATION 595+20, AS DESCRIBED IN DEED BOOK 175, PAGE 445.

PARCEL NO. 10: THE N-1/2, OF THE SE-1/4, OF THE NW-1/4, OF SECTION 27, SUBJECT OF A 60-FOOT ROAD EASEMENT AS DESCRIBED IN OFFICIAL RECORDS BOOK 843, PAGE 864, LEE COUNTY RECORDS.

PARCEL NO. 11:

- (A) THE SE-1/4, OF THE SE-1/4, OF THE NW-1/4, OF SECTION 27, LESS THAT PORTION OF SECTION 27, ALONG THE EAST LINE OF THE WEST ONE-HALF THEREOF, TO THE SOUTH LINE OF THE SE-1/4, OF THE SE-1/4, OF THE NW-1/4, THEREOF; DEDICATED AS A PUBLIC COUNTY ROAD.
- (B) THE SW-1/4, OF THE SE-1/4, OF THE NW-1/4, OF SECTION 27, SUBJECT OF A 60-FOOT ROAD EASEMENT AS DESCRIBED IN OFFICIAL RECORDS BOOK 843, PAGE 864, LEE COUNTY RECORDS.

PARCEL NO. 12: THE S-1/2, OF THE SW-1/4, OF THE NW-1/4, OF SECTION 27.

PARCEL NO. 13: THE N-1/2, OF THE NW-1/4, OF THE SW-1/4, OF SECTION 27.

PARCEL NO. 14: THE SE-1/4, OF THE NW-1/4, OF THE SW-1/4, OF SECTION 27.

PARCEL NO. 15: THE W-1/2, OF THE NE-1/4, OF THE SW-1/4, OF SECTION 27, SUBJECT OF A 60-FOOT ROAD EASEMENT AS DESCRIBED IN OFFICIAL RECORDS BOOK 843, PAGE 864, LEE COUNTY RECORDS.

PARCEL NO. 16: THE SE-1/4, OF THE NE-1/4, OF THE SW-1/4, OF SECTION 27, SUBJECT OF A 60-FOOT ROAD EASEMENT AS DESCRIBED IN OFFICIAL RECORDS BOOK 843, PAGE 864, LEE COUNTY RECORDS.

PARCEL NO. 17: THE N-1/2, OF THE SE-1/4, OF THE SW-1/4, OF SECTION 27, SUBJECT OF A 60-FOOT ROAD EASEMENT AS DESCRIBED IN OFFICIAL RECORDS BOOK 843, PAGE 864, LEE COUNTY RECORDS.

PARCEL NO. 18: THAT PORTION OF THE S-1/2, OF THE SW-1/4, OF THE SW-1/4, OF SECTION 27, NORTH OF THE SEABOARD AIRLINE FLORIDA RAILROAD COMPANY RIGHT-OF-WAY.

PARCEL NO. 19: THE N-1/2 OF SECTION 34.

PARCEL NO. 20: THE N-1/2 AND THE SW-1/4 AND THE S-1/2, OF THE SW-1/4, OF THE SE-1/4, IN SECTION 35.

PARCEL NO. 21: ALL OF SECTION 36.

AND FROM OFFICIAL RECORDS BOOK 843, PAGES 855-861, BY THE QUIT CLAIM DEED IN OFFICIAL RECORDS BOOK 976, PAGE 549, ALL IN THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, THE FOLLOWING DESCRIBED LAND:

PARCEL NO. 22: NORTH 50 FEET OF RAILROAD RIGHT-OF-WAY FROM WEST LINE OF SECTION 27 TO CENTER LINE OF SECTION 27.

PARCEL NO. 24: THAT PORTION OF THE ABANDONED SEABOARD AIRLINE RAILROAD COMPANY RIGHT-OF-WAY BETWEEN FORT MYERS AND ALVA, FLORIDA, LYING AND BEING IN SECTION 25, TOWNSHIP 43 SOUTH, RANGE 26 EAST; AND THE SOUTHERLY 50 FEET OF SAID RIGHT-OF-WAY LYING IN SECTIONS 26 AND 27, TOWNSHIP 43 SOUTH, RANGE 26 EAST.

CONTAINING 1,797.449 ACRES.

SUBJECT TO THE FOLLOWING:

- (a) THE PROPERTY HEREIN IS SUBJECT TO AN EASEMENT TO THE FLORIDA POWER & LIGHT COMPANY RECORDED IN DEED BOOK 280, PAGE 67, LEE COUNTY PUBLIC RECORDS, AND UTILITY EASEMENTS TO FLORIDA POWER & LIGHT COMPANY RECORDED IN DEED BOOK 234, PAGE 26, DEED BOOK 234, PAGE 28, DEED BOOK 262, PAGE 143, DEED BOOK 230, PAGE 106, AS MODIFIED BY AMENDMENT TO RIGHT-OF-WAY AGREEMENT FILED NOVEMBER 15, 1956, IN MISC. BOOK 43, PAGE 37 AND THE UNRECORDED EASEMENT DATED JANUARY 16, 1958.
- (b) OUTFALL DITCHES AS SET FORTH IN DEEDS TO THE STATE OF FLORIDA RECORDED IN DEED BOOK 175, PAGE 445, AND DEED BOOK 175, PAGE 492, LEE COUNTY PUBLIC RECORDS, WHICH AFFECT PARCEL NOS. 8, 9 AND 10 HEREIN.
- (c) RIGHT-OF-WAY FOR ROAD TWENTY (20) FEET WIDE ALONG SOUTH AND WEST SIDE OF THE TRACT DESCRIBED HEREIN, WHICH AFFECTS PARCEL NO. 11
- (d) EASEMENT RESERVATION AS SET FORTH IN DEED FROM N. H. HUNTER et al TO LEE-DADE PROPERTIED, INC., DATED NOVEMBER 15, 1956, RECORDED IN DEED BOOK 263, PAGE 186, INVOLVING A ONE-SQUARE-ACRE PARCEL IN THE SW CORNER OF THE N-1/2 OF SECTION 34, WHICH AFFECTS PARCEL NO. 19 HEREIN.
- (e) EASEMENT FOR INGRESS AND EGRESS THROUGH SECTION 27 FROM ROUTE 80 TO THE NORTH LINE OF SECTION 34, TOWNSHIP 43 SOUTH, RANGE 26 EAST BY MARTIN BLUM AND BEN M. BELON, AS TRUSTEES, AND EMMETT J. KELLY AND A. DOUGLAS GRACE, JR., AS TRUSTEES, RECORDED IN OFFICIAL RECORD BOOK 843, PAGE 862, LEE COUNTY PUBLIC RECORDS.

- (f) 100-FOOT EASEMENT ROAD ALONG SECTIONS 28 AND 33 BOUNDARY FROM BUCKINGHAM-OLGA ROAD TO EAST LINE OF SECTIONS 289 AND 33. (FROM DEED BOOK 263, PAGE 186, LEE COUNTY PUBLIC RECORDS)

X. UNAUTHORIZED COMMUNICATIONS:

Unauthorized communications shall include any direct or indirect communication in any form, whether written, verbal or graphic, with the Hearing Examiner, or the Hearing Examiner's staff, any individual County Commissioner or their executive assistant, by any person outside of a public hearing and not on the record concerning substantive issues in any proposed or pending matter relating to appeals, variances, rezonings, special exceptions, or any other matter assigned by statute, ordinance or administrative code to the Hearing Examiner for decision or recommendation. . . . [Administrative Code AC-2-5]

No person shall knowingly have or attempt to initiate an unauthorized communication with the Hearing Examiner or any county commissioner [or their staff]. . . . [LDC Section 34-52(a)(1), emphasis added]

Any person who knowingly makes or attempts to initiate an unauthorized communication . . . [may] be subject to civil or criminal penalties which may include: [Section 34-52(b)(1), emphasis added]

Revocation, suspension or amendment of any permit variance, special exception or rezoning granted as a result of the Hearing Examiner action which is the subject of the unauthorized communication. [LDC Section 34-52(b)(1)b.2.]; OR

A fine not exceeding \$500.00 per offense, by imprisonment in the county jail for a term not exceeding 60 days, or by both such fine and imprisonment. [LDC Section 1-5(c)]

XI. HEARING BEFORE LEE COUNTY BOARD OF COUNTY COMMISSIONERS:

A. This recommendation is made this 9th day of September, 1999. A copy will be forwarded to the offices of the Lee County Board of County Commissioners.

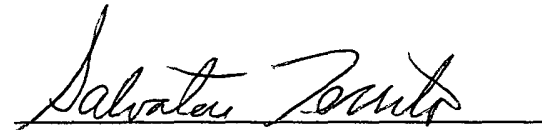
B. The original file and documents used at the hearing will remain in the care and custody of the Department of Community Development. The documents are available for examination and copying by all interested parties during normal business hours.

C. The Board of County Commissioners will hold a hearing at which they will consider the record made before the Hearing Examiner. The Department of Community Development will send written notice to all hearing participants of the date of this hearing before the Board of County Commissioners. Only participants, or their representatives, will be allowed to address the Board. The content of all statements by persons addressing the Board shall be strictly limited to the correctness of Findings of Fact or Conclusions of Law contained in the recommendation, or to allege the discovery of relevant new evidence which was not known by the speaker at the time of the earlier hearing before the Hearing Examiner and not otherwise disclosed in the record.

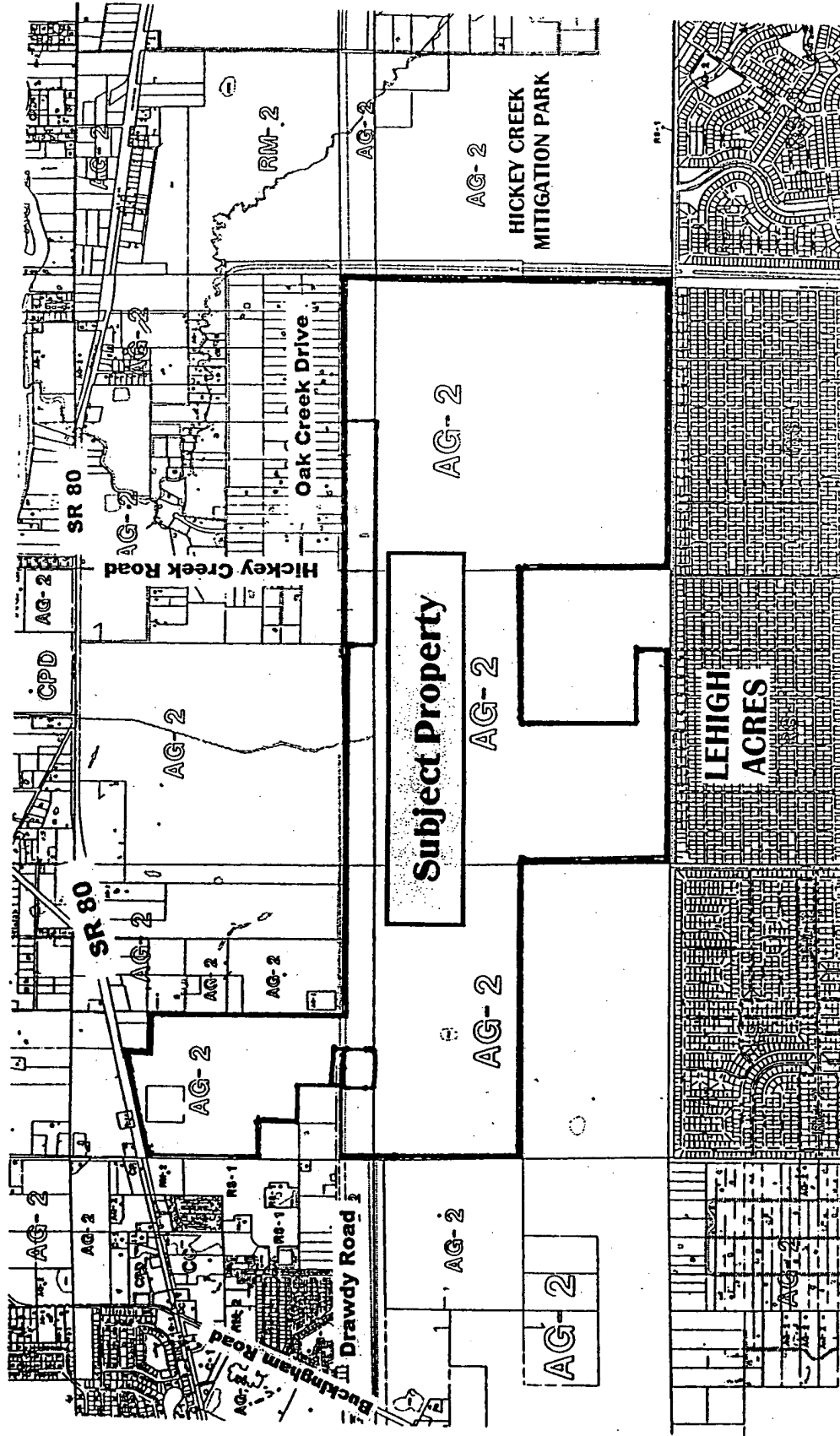
D. The original file containing the original documents used in the hearing before the Hearing Examiner will be brought by the Staff to the hearing before the Board of County Commissioners. Any or all of the documents in the file are available on request at any time to any County Commissioner.

XII. COPIES OF TESTIMONY AND TRANSCRIPTS:

A verbatim transcript of the testimony presented at the hearing can be purchased from the court reporting service under contract to the Hearing Examiner's Office. The original documents and file in connection with this matter are located at the Lee County Department of Community Development, 1500 Monroe Street, Fort Myers, Florida.


SALVATORE TERRITO
LEE COUNTY HEARING EXAMINER
1500 Monroe Street, Suite 218
Post Office Box 398
Fort Myers, FL 33902-0398
Telephone: 941/479-8100
Facsimile: 941/479-8106

ZONING MAP



ATTACHMENT A

DEVELOPMENT STANDARDS

LAND USE	SETBACKS				DISTANCE BETWEEN BLDGS.
	ROAD	SIDE	REAR	WATER	
SINGLE FAMILY:					
50' X 100' LOT	15'	5'	15'	20'	10'
60' X 100' LOT	15'	5'	15'	20'	10'
75' X 110' LOT	20'	7.5'	20'	20'	15'
100' X 160' LOT	25'	10'	20'	20'	10'
MULTI-FAMILY	25'	15'	20'	20'	30'
TWO-FAMILY ATTACHED	20'	0-7.5'	15'	20'	15'
ZERO LOT LINE	15'	0-7.5'	15'	20'	15'
TOWNHOUSE	15'	0-7.5'	15'	20'	15'
ACCESSORY STRUCTURES FOR SINGLE FAMILY*	20'	5'	5'	10'	15'
	25'	15'	20'	20'	20'
AMENITIES: CLUB HOUSE MAINTENANCE BLDG.					

*ACCESSORY STRUCTURES DEFINED AS POOLS, POOL DECKS, & SCREENED ENCLOSURES.

NOTICE TO PROPERTY OWNERS WITHIN 500 FEET**CASE NUMBER:** DCI2004-00054**CASE NAME:** RIVER HALL(F.K.A HAWKS HAVEN)

REQUEST: Rezone +/- 1,978.44 acres from Residential Planned Development (RPD) and Agricultural (AG-2) to Residential Planned Development/Commercial Planned Development (RPD/CPD) to add 148 acres, 401 dwelling units, an elementary school site, and a town center consisting of a maximum of 45,000 square feet of commercial uses to the Hawks Haven RPD, Resolution #Z-89-056. The request is for a total of 1,999 dwelling units (single- and multi-family) with a golf course, a public school, and a maximum of 15,000 square feet of offices and 30,000 square feet of retail. Maximum building heights are 15 feet/3 stories for residential uses, 35 feet/2 stories for commercial uses, and 60 feet/3 stories for recreational uses. No development blasting is requested.

LOCATION: The subject property is located on the south side of Palm Beach Blvd. (SR 80), about 1/4 mile east of Buckingham Rd., just west of Linwood Ave. in the Fort Myers Shores area, in S25, 26, 27, 34, 35, 36-T43S-R26E, Lee County, FL.

SIZE OF PROPERTY: 1,978.44± Acres

STAFF REPORT: Direct inquiries to Tony Palermo, Senior Planner, at (239) 479-8325, at the Department of Community Development, 1500 Monroe St., Ft. Myers, FL 33901.

FAX → 479-8313

PROPERTY OWNER'S REPRESENTATIVE: MR MATTHEW D UHLE
KNOTT CONSOER
239-334-2722

Notice is hereby given that the Lee County Hearing Examiner will hold a public hearing at 10:00 AM on 06/15/2005 on the above case. The public hearing will be held in the Hearing Examiner's Meeting Room, 1500 Monroe St., Ft. Myers, FL 33901.

You must appear in person, or through counsel, or an authorized agent and provide testimony, legal argument or other evidence at the hearing to become a participant with the right to address the Board of County Commissioners.

After the Hearing Examiner has made a written recommendation, the case will be scheduled for a public hearing before the Board of County Commissioners who will review the recommendation and make a final decision.

If you do not appear before the Hearing Examiner, by law, you will not be allowed to appear before the Board of County Commissioners at the final hearing in this case.

Copies of the staff report will be available two weeks prior to the hearing. The file may be reviewed at the Development Services Division, 1500 Monroe St., Fort Myers, FL 33901. Call 239/479-8585 for additional information.

In accordance with the Americans with Disabilities Act, reasonable accommodations will be made upon request. If you are in need of a reasonable accommodation, please contact Luisa V Villa at 239/479-8585.

DEPARTMENT OF COMMUNITY DEVELOPMENT
Development Services Division

Gold In Naples, Inc.
580 11th St. North
Naples, FL 34102
239-434-6028 Fax 239-430-6034

COUNSEL OF SEVERAL
LOTS IN CATCH
ACRES

OWNER
Gold In Naples, Inc.
580 11th St. North
Naples, FL 34102
239-434-6028 Fax 239-430-6034

WOULD LIKE TO MAKE SURE THAT THERE IS
A WAY BETWEEN SUNSHINE BLVD N. &
ST RD 80, IT IS DEFINITELY NEEDED.
THANKS!

Anthony Palermo - Hawks Haven Dc12004-0054

From: "Kris Cella" <kcella@cella.cc>
To: <APALERMO@leegov.com>
Date: 5/31/2005 9:50 AM
Subject: Hawks Haven Dc12004-0054

Tony: My neighborhood is very concerned about one aspect of this zoning case. In the original Hawks Haven zoning, the BOCC included a restriction that Hickey Creek Road could not be used for any purpose except in the case of an emergency. We want to be sure that this clause will also be in effect for Strap No. 25-43-26-00-00122.0000

Is this a zoning modification to the existing Hawks Haven and the 30 acre piece, strap No. 25-43-26-00-00122.0000, will be subject to the 1999 Hawks Haven conditions preventing Hawks Haven from using Hickey Creek Road?

If this parcel is not subject to the original 1999 Hawks Haven zoning resolution conditions, must we go in front of the Hearing Examiner and the BOCC again to get it in there?

Thanks for the information.

Kris Cella

Anthony Palermo - Re: River Hall Development

From: Albion Dist5
To: Waller, Alicia
Date: 6/1/2005 9:09 AM
Subject: Re: River Hall Development

Thank you for your e-mail this morning. The Hearing Examiner's Office will be made aware of your position on this issue.

>>> "Alicia Waller" <aliciawaller@hotmail.com> 5/31/05 6:18:12 PM >>>
Dear Commissioner,

We have great concerns about the impacts to our community with the development of River Hall, especially with the request of increasing the density from 1,598 units to 2,999 units and the use of Hickey Creek Road as an entrance.

Our family has lived on Oak Creek Road for twenty-three years. Enjoying five acres of rural living, seeing hawks, tortoises, indigo snakes and many other reptiles, birds, and animals. The land is being desecrated, please save the rural areas.

This development does not conform to the recently approved Caloosahatchee Shores Community Plan- 1 unit per acre. For years no one wanted to live in East Fort Myers but now that the south and Cape Coral is so crowded development is coming out here. We sacrificed to make the long commute to and from work every day to be able to reside in a rural area. All are neighbors have two and a half to ten acres each and wish to maintain this area of Lee County rural and not like other high density areas.

Also the road system will not be able to absorb all this increase in density-SR 80 and Buckingham Road.

Please preserve what little rural land is left in East Lee County.

Sincerely,

Alicia Waller and family

Anthony Palermo - Buckingham area development

From: <KarlGump@aol.com>
To: <dist5@leegov.com>
Date: 6/3/2005 5:55 PM
Subject: Buckingham area development
CC: <buckinhambluesbar@yahoo.com>

I am a resident of Lee County, Buckingham, Cemetery Road.

Karl G. Kauffman
15330 Cemetery Rd
Ft Myers Fl. 33905
239-693-2696 home
239-849-8088 cell

John,

I am very concerned with our neighborhood. Specifically the traffic.

I have just learned that there is a proposal that will have an increased negative impact in our area above and beyond the current plan. I say increased because there is already a wave of impact directly affecting Cemetery Road that I believe is against the intent of the Buckingham Rural Community Preserve Area. This is the increased traffic down Cemetery from the new development in Lehigh Acers.

The newest entry into this mix is the Hawks Haven proposal that will increase this even further. I must protest to any development that would increase any traffic in these rural areas, specifically Buckingham.

Studying the County Development Plan, I find that any increase or addition to access to or through Buckingham is not allowed. Including development that would increase traffic on existing roads. Given this, not only is this new proposal illegal but also the current increase in development in Lehigh Acers without provisions for the traffic to enter and exit their area through some other means.

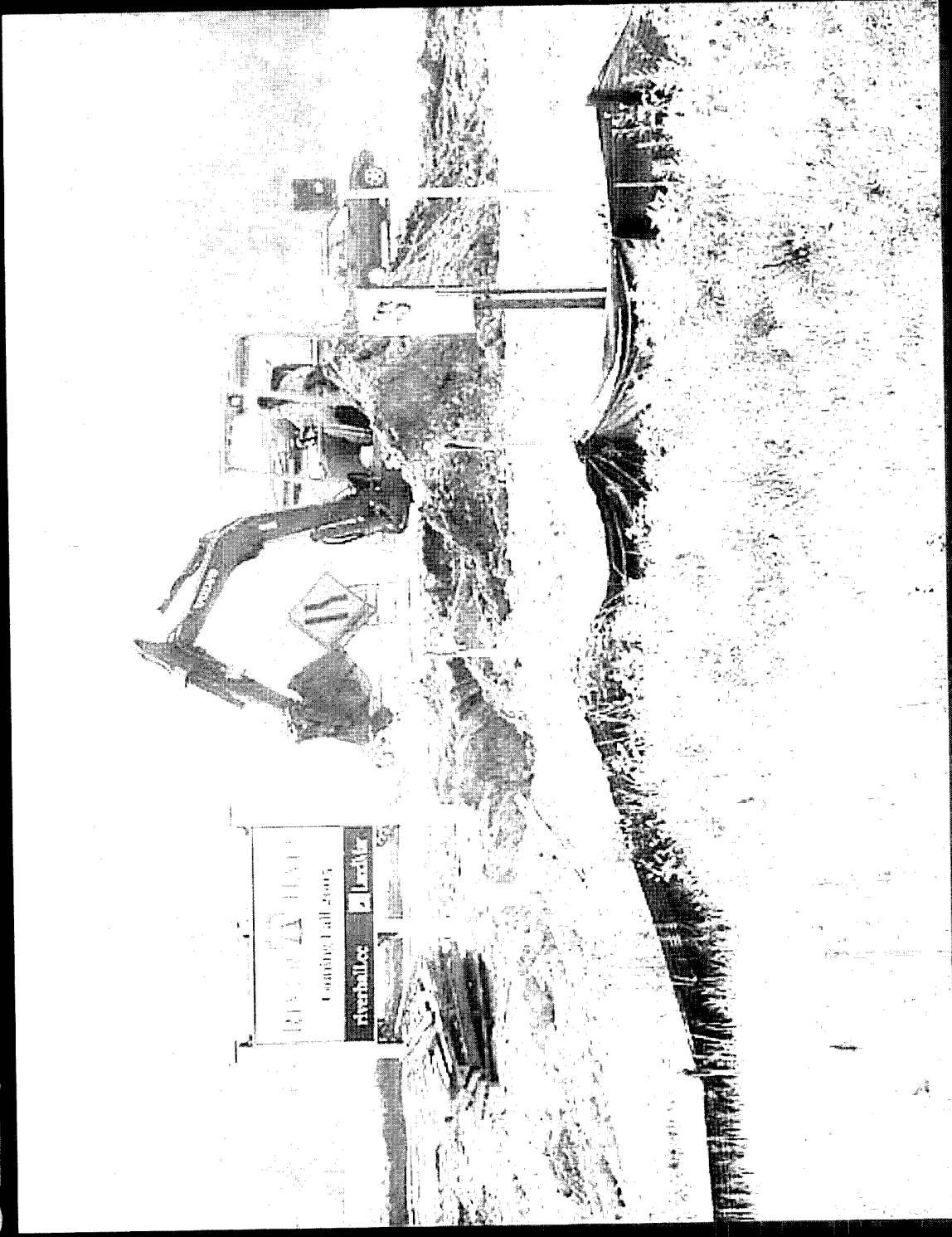
Bottom line, please do whatever is necessary to eliminate the increased encroachment on the Buckingham area by this new and all development.

By the way, where is the water for these new users going to come from.

Thanks for your time, call e-mail or write to discuss.

Karl Kauffman
KarlGump@aol.com

DCI2004-00054 RIVER HALL



Staff photos by Tony Palermo, Senior Planner.
All photos accurately portray conditions on the date shown.

STAFF EXHIBITS

1. Aerial Photograph
2. CPA2004-00010 HAWKS HAVEN AMENDMENT (WITHDRAWN)
3. HEARING EXAMINER RECOMMENDATION, AUG. 18, 1999 HAWKS HAVEN HEARING
4. EMAILS AND FAXES FROM THE PUBLIC
5. PHOTOGRAPHS FROM SITE VISIT TO RIVER HALL AND LEHIGH ACRES (ALL TAKEN MAY 2005)

STAFF CORRECTIONS TO THE MAY 31, 2005 STAFF REPORT

1. PAGE 2 CONDITION 1 - 2 PAGE MASTER CONCEPT PLAN DATED MAY 23, 2005.
2. PAGE 3 - CONDITION 2A. MODEL DISPLAY CENTER, Must be in compliance with LDC Sec. 34-1955, limited to one which must be located in the sales center area shown on the MCP and must only serve this project.
3. PAGE 8 - CONDITION 3G. "A minimum of 465 acres of indigenous preservation area .

ISSUES REMAINING

STAFF AGREES TO ITEMS 2, 3, 4, 6 & 7 of Matt Uhle's June 14 memo.

#1. CONVENIENCE FOOD & BEVERAGE.

Applicant offers no fuel pumps, no 24-hour operations.

CONVENIENCE FOOD & BEVERAGE - specializes in convenience products and other commodities, which may include self service fuel pumps and which is normally open to the public beyond normal sales hour of other retail stores.

FOOD STORES, GROUP I - retail stores primarily engaged in selling food for home preparation and consumption. NOT establishments primarily engaged in prepared food & drink for consumption on premises, or stores primarily selling liquor.

Includes : bakeries, candy, dairy, deli, fish, fruit, groceries, meat, produce, specialty food, supermarket.

- What are the hours? (6 a.m. to 9 p.m. are reasonable)
- Not a liquor store (primarily)
- No drive-through?
- Not primarily packaged convenience foods.

Staff can support FOOD STORES, GROUP I - With explicit conditions saying such stores may sell non-food items such as newspapers and other goods customarily found in supermarkets.

If the Hearing Examiner recommends a Convenience Food & Beverage Store - consider a condition saying there will be no fuel pumps, hours limited to 6 a.m. to 9 p.m., no drive through, no establishments that sell primarily liquor and no establishments that sell primarily prepared foods for consumption on premises.

ISSUES REMAINING

#5. 2ND ACCESS

"The developer may show the access at any location along the southern boundary of the property except where the Plan shows existing conservation easements." - Acceptable. That was the intent of the condition.

"The developer is not obligated to construct this access until Lee County has issued a certificate of occupancy for at least 1,850 dwelling units within the project." - This is only 149 short of completion of the project. Staff recommends 1,599 dwelling units as a trigger for the 2nd access.

"Nothing in this condition shall be construed to require the developer to make improvements to or maintain 75th Street West or any other street within Lehigh Acres." - These are county maintained roads. This wording prohibits LCDOT and Development Services from even asking for paving, repairs, or improvements or any cost-sharing for roads in which this development will have an impact. 75th Street and the end of Sunshine Boulevard are in poor shape and need improvements. Staff does not recommend approving as proposed by the applicant.

"The obligation to construct the access point will not become effective until the developer, in spite of reasonable efforts, is unable to obtain approval from the owner of the canal for the crossing." - Who is to judge what a reasonable effort is? What evidence is there that the East County Water Control District would not allow the canal crossing? The correct mechanism for removing the 2nd access is the public hearing process. Staff does not support this proposed wording.

Other issues raised by the Public:

Will it be possible to develop Sunshine Boulevard to SR 80?

Will there be public access from the 75th Street access to SR 80, or will it be gated off from the public?

Will this be a public or private "Spine Road"?

(Note: The public will need access to the elementary school site.)

Will there be access through Hickey Creek Road?

DCI2004-00054 RIVER HALL

Rezone +/- 1,978.44 acres from Residential Planned Development (RPD) and Agricultural (AG-2) to Residential Planned Development/Commercial Planned Development (RPD/CPD) to add 181 acres, 401 dwelling units, an elementary school site, and a town center consisting of a maximum of 45,000 square feet of commercial uses to the Hawks Haven RPD, Resolution #Z-99-056. The request is for a total of 1,999 dwelling units (single- and multi-family) with a golf course, a public school, and a maximum of 15,000 square feet of offices and 30,000 square feet of retail. Maximum building heights are 45 feet/3 stories for residential uses, 35 feet/2 stories for commercial uses, and 60 feet/3 stories for recreational uses. No development blasting is requested.

Future Land Use Category

Rural (1,647.55 acres) Suburban (79.47 acres) & Wetlands (251.42 acres)

Current Zoning

Residential Planned Development (RPD) & Agriculture (AG-2)

Existing Land Use

Vacant. Livestock grazing, pasture (AG exemptions) Construction underway for residential subdivision.



MAY 31 STAFF REPORT HIGHLIGHTS

1. The project is called "River Hall" - formerly Hawk's Haven.
2. The proposed density in this application is about 1.01 units per acre (an increase from 0.88 units per acre).
3. The Lee County Board of County Commissioners approved the Hawk's Haven Zoning Resolution #Z-99-056 October 18, 1999 (1,598 dwelling units on 1,797.45 acres). Staff approved an administrative amendment and new Master Concept Plan June 4, 2004 (ADD2004-00067A)

DCI2004-00054 RIVER HALL

North:

Palm Beach Blvd/SR 80 then largely vacant Agricultural (AG-2) zoned land and a vacant Commercial (C-1A) tract.

East:

AG-2 zoning. Rural single-family development and Hickey Creek Mitigation Park.

South:

Canal, then Residential (RS-1) zoned lots in Lehigh Acres. Mostly vacant land with paved and unpaved roads.

West:

AG-2, RM-2 & RS-1 zoned tracts, residential development including Hawk's Preserve residential development (single-family).

**IN THE FORT MYERS SHORES
PLANNING COMMUNITY.**



May 31, 2005 Staff Report

1. Staff recommends approval with conditions. This approval includes the Hawk's Haven Residential Planned Development (RPD) and adding +/- 181 acres of Agricultural (AG-2) land to Hawk's Haven (#Z-99-056 as previously amended by ADD2004-00067). Staff's recommendations are in strike-through underline to illustrate the changes to Resolution #Z-99-056. This is a rezoning request from RPD to RPD/CPD, not an amendment to the RPD.
2. Schedule of uses Residential, Town Center. No fast food, car washes, gas pumps. Applicant proposes Convenience Food & Beverage Store with conditions for staff's consideration.
3. Staff recommends the tall structures be limited to amenity/recreational buildings on the interior of the property. The height approved under Zoning Resolution #Z-99-056 was 3 stories/45 feet.
4. Updated Environmental conditions, kept golf conditions, kept Lee Plan conditions, updated Model Unit conditions.
5. Kept condition #17 - Vehicle access from the northern boundary of the subject property over and across Hickory Creek Road is prohibited.
6. Conditions 18 - 28 are new. They include no blasting, use of 100% native vegetation, nullification of old resolutions, school site is limited to a public school, no Palm Beach Blvd. signs referencing the Town Center, buffering conditions.
7. **The Master Concept Plan must be amended to include a 2nd full access which crosses the existing 50' canal to the south to connect to 75th Street West in Lehigh Acres.**
Approval of this zoning request does not address mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions consistent with the Lee County LDC may be required to obtain a local development order.
The Developer may obtain the necessary development orders when the project meets Lee County Concurrency requirements. Such approval may require either road improvements and/or a reduction in requested intensity and/or density.

Deviation 1 Approve

Deviation 2 Withdraw

Deviation 3 Approve with ES Conditions.

Deviation 4 Approve per previous zoning.

DRI issues

The threshold for a Development of Regional Impact (DRI) was changed *December 6, 2004* from 2,000 dwelling units. 2,000 or above were presumed to constitute a DRI under the DRI provisions in effect at the time Hawk's Haven was first approved in 1999 and when it received its first development orders. Therefore proposed development at or above 2,000 units would be presumed to be a DRI. With a mix of office, retail, and 1,999 dwelling units, this development qualifies as a "multi-use development" of three of more land uses. This raises the DRI threshold to 160%. The total of the uses proposed here is only 105.7%. Therefore the mix of 1,999 dwelling units, 15,000 s/f of office and 30,000 s/f of retail do *not* exceed DRI thresholds.

Plan Amendment Withdrawn

A large-scale plan amendment on this property (CPA2004-10) was heard by the County Commission June 1 and WITHDRAWN by the applicant. This amendment proposed changing the Suburban and Rural portions of Hawks Haven to Outlying Suburban with a 2 dwelling units per acre limit or 2,999 units and require funding for roadway improvements over 1,999 units.

East Lee County Council

The Developer conducted a public information meetings for this project with the East Lee County Council September 27, 2004. A summary of the community meeting is attached.

Lee Plan

Consistent as conditioned. Analysis on page 19-23

Compatibility

Compatible with surrounding environment, public park and residential uses. Page 24-25.

Traffic

Memo from Bob Rentz indicates a LOS failure at Palm Beach Boulevard - east of State Road 31. Buckingham Rd. S of SR 80 "D" with or without. SR 80 east of SR 31 is at "B" and goes to "F" with the project. SR 80 east of Buckingham goes from "A" to "C" with the project. S.R. 31 north of SR 80 goes from "C" to "D" with the project.

Environment

There are wetlands, protected species and habitat. ES did a field visit. Conditions included in the staff report.

DCI2004-00054 RIVER HALL

CONCLUSIONS

This requested rezoning as conditioned, meets the criteria necessary for a RPD/CPD including consistency with the Lee Plan. As conditioned, it is compatible with neighboring properties. As conditioned, it will not adversely affect environmentally critical areas or natural resources. As conditioned, the request will not place an undue burden upon on the road network. The deviations recommended for approval - as conditioned - enhance the objectives of the planned development and, preserve and promote the general intent of the LDC to protect the public health, safety and welfare.



Scattered housing on 75th Street.

DCI2004-00054 RIVER HALL



The end of Sunshine Blvd. Lehigh Acres.

DCI2004-00054 RIVER HALL



75th Street in Lehigh Acres.

DCI2004-00054 RIVER HALL



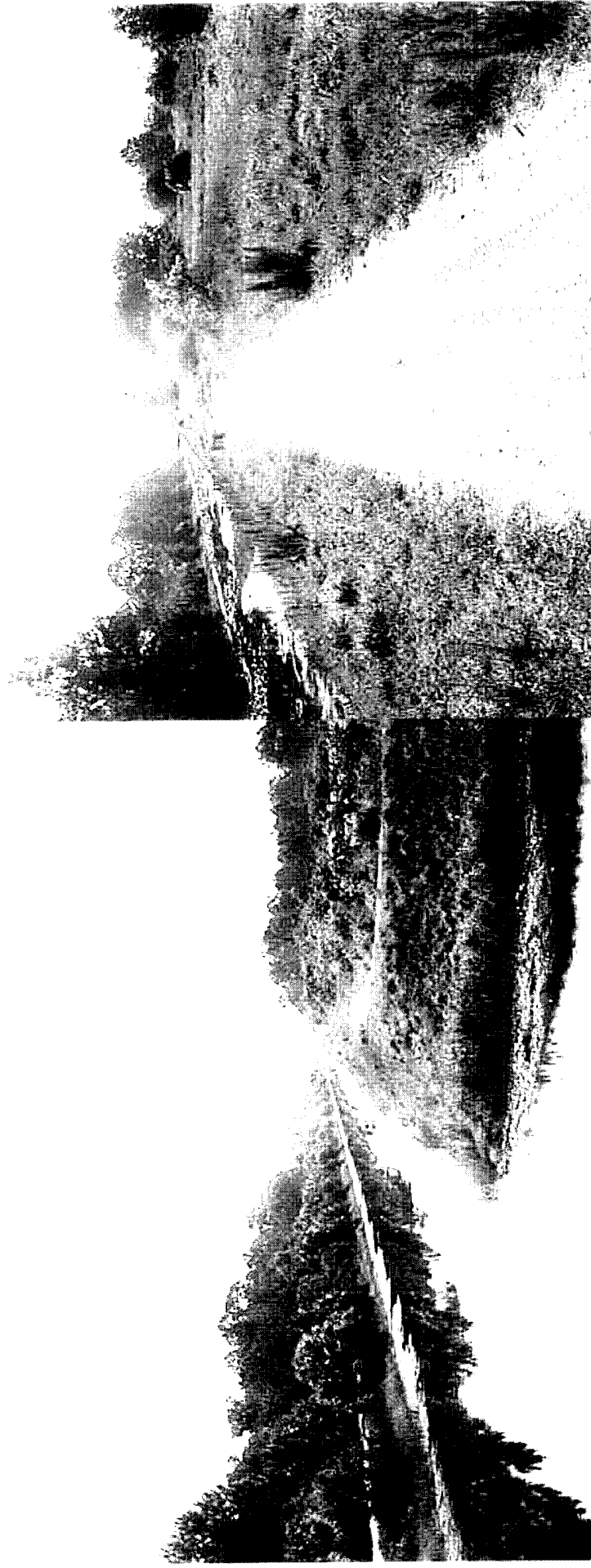
75th and Elaine Avenue.

DCI2004-00054 RIVER HALL



Paved road on the Lehigh Acres side.

DCI2004-00054 RIVER HALL



Two views of the Canal and Lehigh Acres.

- (5) Suburban, outlying suburban and rural land use categories. Buildings may be as tall as 45 feet above minimum flood elevation with no more than three habitable stories, except that such buildings may be as tall as 75 feet above minimum flood elevation with no more than six habitable stories when the applicant demonstrates that the additional height is required to increase common open space for the purposes of preserving environmentally sensitive land, securing areas of native vegetation and wildlife habitat, or preserving historical, archaeological or scenic resources.

DIVISION 39. USE, OCCUPANCY AND CONSTRUCTION REGULATIONS

Sec. 34-3104. Clearing, grading or filling of land. Note: LDCAC did not approve forwarding this amendment.

(a) No land may be cleared, graded, excavated or filled, or otherwise altered, except in conformity with the regulations contained in this chapter and all other applicable county ordinances.

(b) Site grading and surface water management standards for single family residential and duplex lots.

(1) Site grading during construction activities. The building site must be graded and maintained during construction to:

- a. prevent erosion of soil onto adjacent or abutting properties and street rights-of-way or easements; and
- b. control surface water runoff to ensure that no surface water in excess of the preconstruction discharge flows onto adjacent or abutting properties and street rights of way or easements; and
- c. maintain the flow capacity and function of existing drainage conveyances on or abutting the site to include adjacent street rights of way or easements.

(2) Final site grading. Final grading of a lot must:

- a. Control and direct surface water runoff to ensure that no surface water, in excess of the preconstruction discharge, flows onto adjacent or abutting properties or discharges offsite into and existing surface water management system or other offsite conveyances; and
- b. preserve or relocate existing drainage conveyances necessary to maintain preconstruction flow capacity and function.

Lehigh Acres Watchdog, Inc

RESOLUTION

WHEREAS, the BOARD OF THE LEHIGH ACRES WATCHDOG, INC. (hereinafter referred to as the BOARD) was formed to represent the best interests of the residents, voters, taxpayers and stakeholders of the LEHIGH ACRES, and

WHEREAS, the BOARD has been charged with informing the citizens of Lehigh Acres on good government, smart growth and preserve the great town of Lehigh Acres for years to come and

WHEREAS, a major component of this Community is the planning for adequate future infrastructure, including future designated traffic ways and road connectivity, and

WHEREAS, the BOARD in agreement with other groups in Lehigh Acres, a North/South Corridor connecting Sunshine Boulevard in LEHIGH ACRES with Green Meadows Road/Alico Road to the South, SR 80 (Palm Beach Boulevard) to the North, and

WHEREAS, the pending Lee County BOCC approval of the project known as HAWK'S HAVEN presents a major and immediate opportunity for the acquisition of road right-of-way to make such a northern connection to SR 80 possible in the future, and

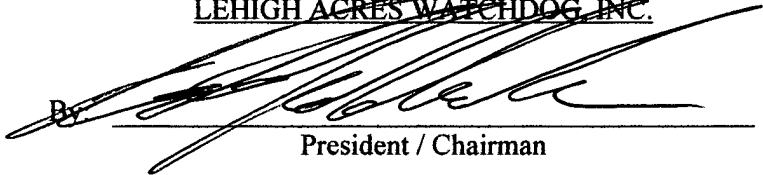
WHEREAS, the BOARD has an obligation to remind the Lee County government on future roads that will affect the Community of LEHIGH ACRES,

NOW, THEREFORE, BE IT RESOLVED THAT:

The BOARD respectfully asks the Lee County BOCC to make the approval of the HAWK'S HAVEN project contingent upon the developers' dedication and donation of such right-of-way that will allow for the eventual connection of the above referred North/South corridor from Sunshine Boulevard to SR 80.

THIS RESOLUTION INTRODUCED and ADOPTED by the BOARD at its formal meeting on June 9, 2005.

LEHIGH ACRES WATCHDOG, INC.

By 

President / Chairman

Mr. Robert J. Anderson

P.O. Box 1778
Lehigh Acres, FL 33970
239-369-6223
www.LehighAcresWatchdog.com

Anderson
WATCHDOG
EXHIBIT # 1
0472004-00054

John C. Miller
1006 Alaska Ave.
Lehigh Acres, FL 33971-6444

June 15, 2005

Hearing Examiners, Lee County Board of County Commissioners
Meeting on this date at the Examiners office, 1500 Monroe Street, Fort Myers, FL

Regarding the Hawks Haven Development and the future needs of the vast Community to their south.

Dear Examiners,

You must recognize that in the decades to come there will be great conflicts between communities unless the Board of County Commissioners is challenged with the foresight to make decisions as if they were living in the next generation.

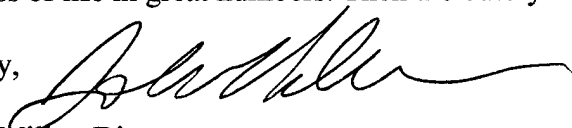
Lehigh Acres is a rural subdivision today but a sleeping giant. The overall projected build-out is to attain a population of 300,000 people. In less than two decades the conflicts over right of ways and water will prompt great lawsuits and we will be a great organized unit whose political leaders face problems whose solutions DEMAND drastic action unless the Commissioners of today take action now.

As a member of the Lehigh Acres Community Planning Corporation I appeal for wisdom. We have been outflanked by legal attempts to design as if we do not exist. The right of way for Sunshine Boulevard must not be overlooked and the needed space easily will exceed four lanes to Route 80, Palm Beach Boulevard. Evacuating a mass of people has to be considered for disaster relief.

Our second need of importance and possibly the greatest under certain circumstances will be the outflow of storm water searching for low land to fill. Already our outflow endangers developments to our Northwest and may well endanger the Hawks Haven area. Water is Lee County's great monster and the forces of storm water are tremendous. A city of 200,000 as opposed to today's 60,000 poses the obvious threat of multiple times the outflow we are trying to control today; and Hawks Haven needs to accommodate the Canal that has been an important factor in the plans of the East County Water Control District for a long time.

There are few other solutions and all of them could affect the Hawks Haven in adverse ways, more importantly the failure to recognize the importance of these problems could cause loss of life in great numbers. Then the outcry will flood the courts.

Sincerely,



John C. Miller, Director
Lehigh Acres Community Planning Corporation.

239-334-0313
johmiller@comcast.net

MILLER
EXHIBIT # 7
DL12004-00054

June 15, 2005

As this issue stands now, I am not here to oppose the zoning change. I am here to ask you to keep this additional property consistent with the current restrictions. I am speaking about keeping the density the same, as it has been set for the original project (Hawks Haven). I am also going to ask you to deny any access to Hickey Creek Road. I sure everyone involved knows how important this issue is in our neighborhood.

Thank You

Charles Morris

Charles Morris
17630 Oak Creek Road
Alva, FL 33920

RECEIVED

MOCKIS
EXHIBIT # 1
042004-00054



June 8th, 2005

RESOLUTION

(Introduced by LACPC Board Member, ~~Jim Fleming~~)

~~Bo Turbeville~~

Board of Directors of the LACPC

Mr. Bo Turbeville -
President

Mr. Frank LaRosa -
Vice-President

Mrs. Patty Vealy -
Treasurer

Mr. Willard Baker -
Secretary

Mr. Moises
Gallegos

Mrs. Liz Eilf

Mr. John Dixon
Morrow

Mr. Wayne Elrod

Mr. Damon Shelor

Mr. Charlie DiFelice

Mr. John Miller

Mrs. Azelma
Simmons

Mr. Keith Richter

Mr. Jim Fleming

WHEREAS, the BOARD OF THE LEHIGH ACRES COMMUNITY PLANNING CORPORATION, INC. (hereinafter referred to as the LACPC BOARD) was formed to represent the best interests of the residents, voters and taxpayers of the LEHIGH ACRES, and

WHEREAS, the LACPC BOARD has been charged with the responsibility of gathering public input, building public consensus, and formulating and adopting a Community Plan for LEHIGH ACRES, and

WHEREAS, a major component of this Community Plan is the planning for adequate future infrastructure, including future designated traffic ways and road connectivity, and

WHEREAS, the LACPC BOARD has proposed, among its studies, a North/South Corridor connecting Sunshine Boulevard in LEHIGH ACRES with Green Meadows Road/Allico Road to the South, SR 80 (Palm Beach Boulevard) to the North, and

WHEREAS, the pending Lee County BOCC approval of the project known as HAWK'S HAVEN presents a major and immediate opportunity for the acquisition of road right-of-way to make such a northern connection to SR 80 possible in the future, and

WHEREAS the LACPC BOARD has an obligation to assist the Lee County government in negotiating such land acquisition for future roads that will affect the Community of LEHIGH ACRES,

NOW, THEREFORE, BE IT RESOLVED THAT:

The LACPC BOARD respectfully ask the Lee County BOCC to make the approval of the HAWK'S HAVEN project contingent upon the developers' dedication and donation of such right-of-way that will allow for the eventual connection of the above referred North/South corridor from Sunshine Boulevard to SR 80.

THIS RESOLUTION INTRODUCED and ADOPTED by the LACPC BOARD at its formal public meeting on June 8, 2005.

LEHIGH ACRES COMMUNITY PLANNING CORPORATION, INC.

By: B. Turbeville
Chairman

Attest: _____
Secretary

Lehigh Acres Community Planning Corporation, Inc
PO Box 1408 Lehigh Acres FL 33970

TURBEVILLE
EXHIBIT # 1
DC17004-DDDS4



June 8th, 2005

RESOLUTION

(Introduced by LACPC Board Member, ~~Jim Fleming~~
Bo Turbeville)

Board of Directors of the LACPC

Mr. Bo Turbeville -
President

Mr. Frank LaRosa
- Vice-President

Mrs. Patty Vealy -
Treasurer

Mr. Willard Baker -
Secretary

Mr. Moises
Gallegos

Mrs. Liz Eilf

Mr. John Dixon
Morrow

Mr. Wayne Elrod

Mr. Damon Shelor

Mr. Charlie DiFelice

Mr. John Miller

Mrs. Azelma
Simmons

Mr. Keith Richter

Mr. Jim Fleming

WHEREAS, the BOARD OF THE LEHIGH ACRES COMMUNITY PLANNING CORPORATION, INC. (hereinafter referred to as the LACPC BOARD) was formed to represent the best interests of the residents, voters and taxpayers of the LEHIGH ACRES, and

WHEREAS, the LACPC BOARD has been charged with the responsibility of gathering public input, building public consensus, and formulating and adopting a Community Plan for LEHIGH ACRES, and

WHEREAS, a major component of this Community Plan is the planning for adequate future infrastructure, including water management, flood control, conservation of natural resources, water recharge and protection of the environment, and

WHEREAS, the East County Water Control District (ECWCD) and the South Florida Water Management District (SFWMD) have proposed, among their studies, an outfall diverter canal and related structures to allow surface water from LEHIGH ACRES to flow northward to the Caloosahatchee River, east of the Franklin Locks, and

WHEREAS, the pending Lee County BOCC approval of the project known as HAWK'S HAVEN presents a major and immediate opportunity for the acquisition of canal right-of-way and other mitigation opportunities to make such a northern connection to the Caloosahatchee River possible in the future, and

WHEREAS the LACPC BOARD has an obligation to assist the Lee County government in negotiating such land acquisition for future flood control that will affect the Community of LEHIGH ACRES, and all communities downstream of the community, and

NOW, THEREFORE, BE IT RESOLVED THAT:

The LACPC BOARD respectfully ask the Lee County BOCC to make the approval of the HAWK'S HAVEN project contingent upon the developers' dedication and donation of such right-of-way that will allow for the eventual connection of the above referred canal and water control system from LEHIGH ACRES to the Caloosahatchee River in a way that will be beneficial to the developers and all concerned parties.

THIS RESOLUTION INTRODUCED and ADOPTED by the LACPC BOARD at its formal public meeting on June 8, 2005.

LEHIGH ACRES COMMUNITY PLANNING CORPORATION, INC.

By: Bo Turbeville
Chairman

Attest: _____
Secretary