

EXHIBITS

CASE # DCI 2004-00090

DCI 2004-00090

LEE COUNTY HOMES ASSOC.
In ref to BUCKINGHAM 345



CASE NAME: _____

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

ARE THERE ANY BOARD EXHIBITS?
LOCATION OF BOARDS _____

YES

NO

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

LARGE
AND
SMALL TO
BE MERGED
HERE

DCI2004-00090 BUCKINGHAM 345



JUN 24 2005

Tony Palermo, Senior Planner.

All photos accurately portray conditions on the date shown.

1. Exhibits

2. Highlight the
Aug. 29 Staff Report

3. Conclusions

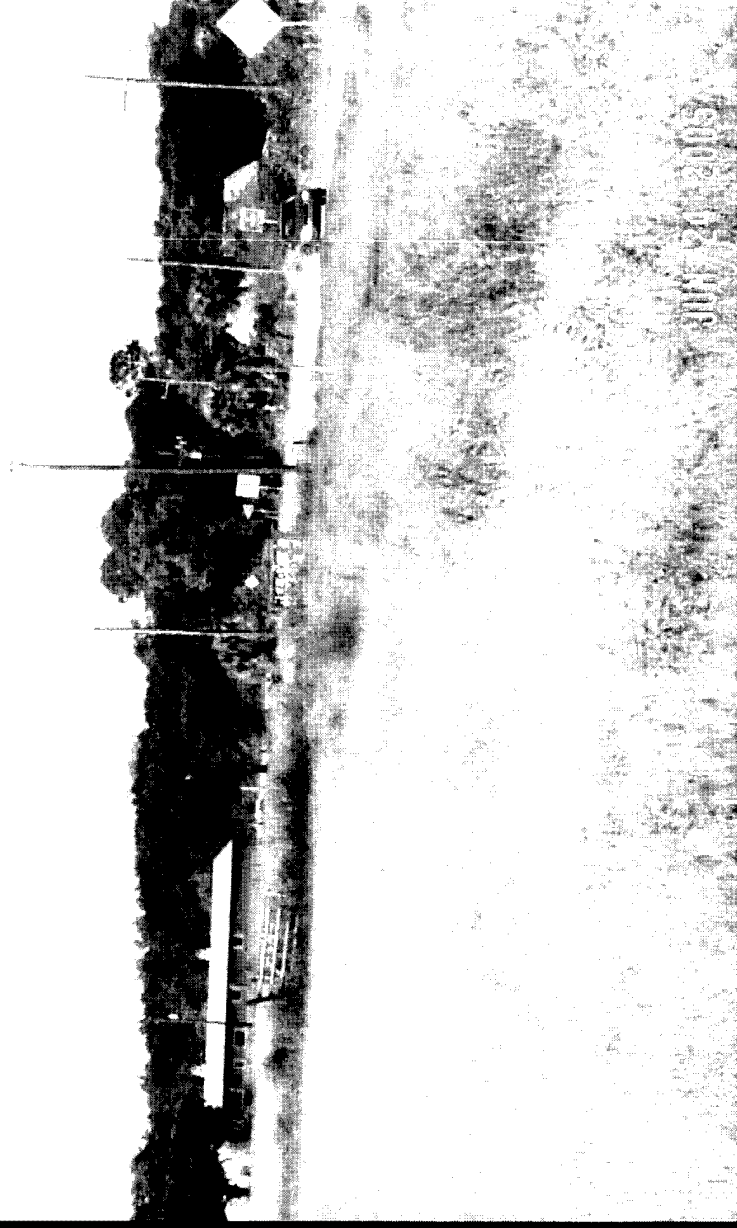
EXHIBITS

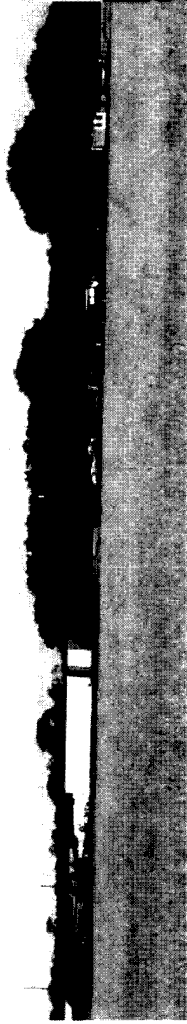
1. 2002 AERIAL.

2. HEARING EXAMINER RECOMMENDATION
FOR BUCKINGHAM 320

3. PORTION ON THE CALOOSAHAATCHEE SHORES
COMMUNITY PLAN. SEPTEMBER 2002.

4. STAFF PHOTOS WITHIN THIS PRESENTATION.



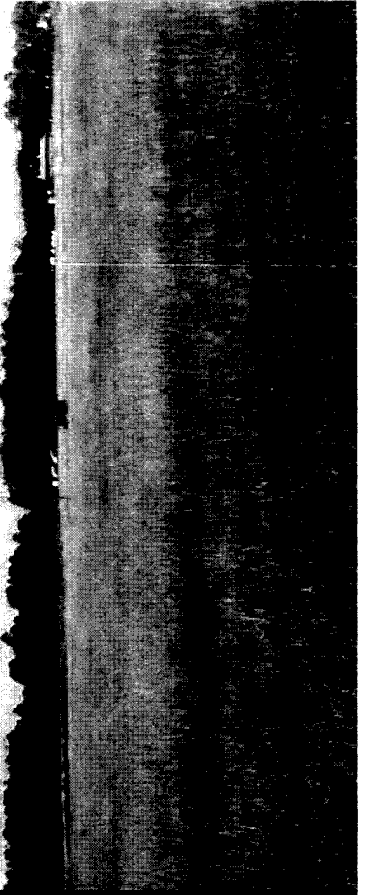
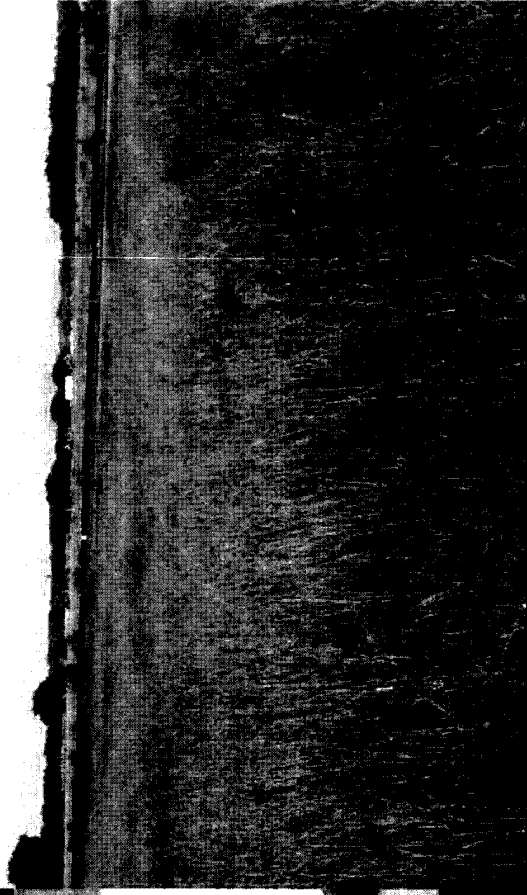


Amend Zoning Resolution #Z-00-029 to permit a Residential Planned Development (RPD) with a maximum of 690 single-family dwelling units (an increase of 50 dwelling units) on +/- 345 acres of land. The proposed amendment includes the addition of +/- 20 acres of Agricultural (AG-2) land. Maximum building heights proposed are 3 stories/35 feet for residential uses, and 3 stories/45 feet for other uses (gate houses, recreational facilities). The request also includes a potential public school site, and a maximum of +/- 7,500 square feet of commercial uses within a clubhouse setting. No development blasting is requested.

OUTLYING SUBURBAN - MAX. 2 UNITS AN ACRE.

**325 ACRES OF RESIDENTIAL PLANNED DEVELOPMENT
20 ACRES OF AGRICULTURAL**

**AGRICULTURAL USES ON THE PROPERTY. HAY FARM.
SINGLE-FAMILY HOME.**



STAFF RECOMMENDS APPROVAL WITH CONDITIONS.

**AUG. 29 STAFF REPORT.
SEPT. 6 CORRECTIONS MEMO.**

**VOID: Zoning Resolution #Z-00-29 and
Administrative Amendment ADD2003-00067.**

This is a request for 2.0 units per acre. With the additional 20 acres to the property, the change from 1.97 dwelling units per acre to 2.0 is negligible.

5.6-acre recreational tract for a clubhouse facility, with limited commercial uses.

13.2-acre potential public school site on Buckingham Road.

New conditions recommended by staff p. 14-15.

Literature to be provided to homeowners (rural lifestyle, history, environment).



Lee Plan Considerations

PAGE 16

*POLICY 1.1.6
Outlying Suburban*

Lee Plan: Rural
Community Preserve
& Buckingham Issues

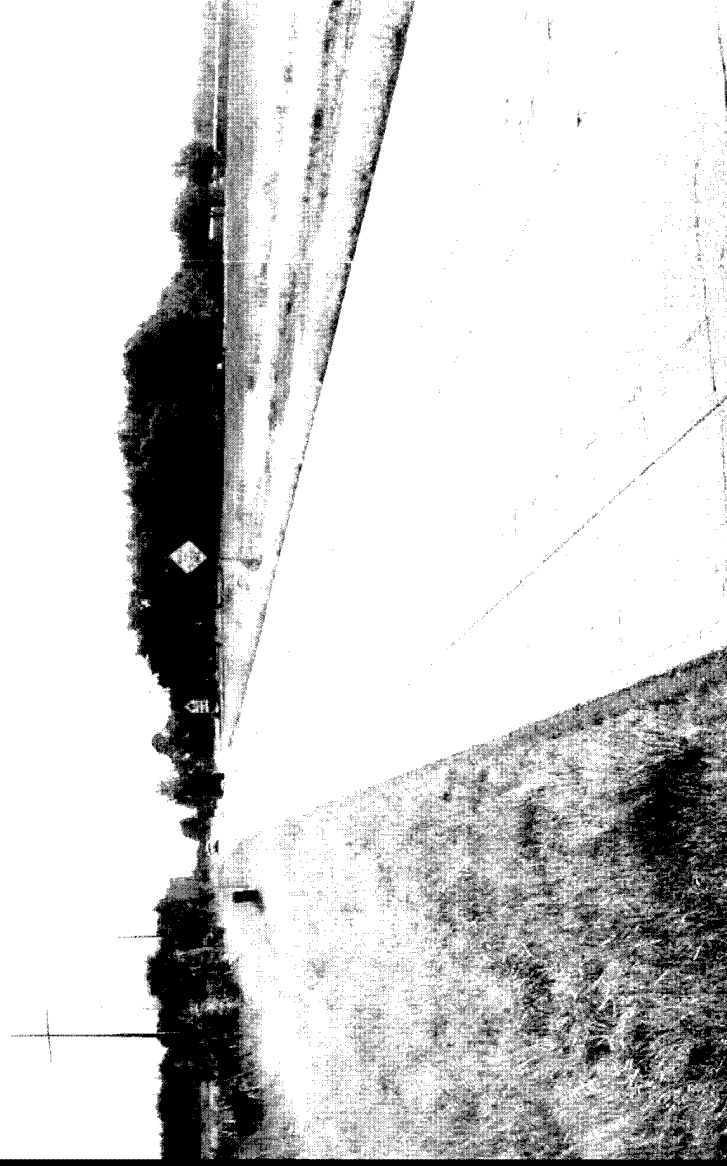
PAGE 19

GOAL 17 BUCKINGHAM

Lee Plan: School Issues.

PAGE 19-21

GOAL 46 AND RELATED POLICIES.





BUCKINGHAM
EXCEPTIONAL
STUDENT
CENTER

Caloosahatchee Shores Community/East Lee County
Council February 28, 2005.

Fort Myers Shores Planning Community.

NORTH – BUCKINGHAM EXCEPTIONAL SCHOOL.
SOUTH – BUCKINGHAM. RURAL RESIDENTIAL USES.
EAST – PORTICO/RIVER HALL RPD.
WEST – BUCKINGHAM ROAD. VERANDAH MPD.

As conditioned, this request is compatible with the
surrounding neighborhood.

P. 23 ENVIRONMENTAL.

KEEP ENVIRONMENTAL CONDITIONS AS IS.

P. 23 TRANSPORTATION.

NO LOS ISSUES.

20 FEET RESERVED FOR BUCKINGHAM ROAD.

SIDEWALKS WILL BE REQUIRED.

CONDITION 24 ADDRESSES SCHOOL CONCURRENCY.

Conclusions

In conclusion, this requested rezoning AMENDMENT as conditioned, meets the criteria necessary for a residential planned development 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 the road network, as planned.



Daniel P. Johnson, P.E.
Partner
Civil Engineering Manager

Mr. Johnson's career reflects over 27 years of experience in governmental and land development projects. His responsibilities have included master planning, feasibility studies, design permitting, construction administration, as well as project management for development, infrastructure entailing earthwork, transportation, water distribution, wastewater collection systems, and stormwater management facilities. He has a background in both private and public sector civil engineering and is responsible for the coordination and management of in-house multidisciplinary teams on a variety of land development projects.

Credentials

B.S. in Civil Engineering, 1975, University of Minnesota

Professional Registrations

Licensed Professional Engineer, FL: #37573

Experience Summary

- Master plans
- Site development
- Utility design
- Storm water management
- Roadway design
- Ports and marinas

Select Key Projects

Institutional:

Lee County Firearms Training Facility

One-story, 39,500 sf training facility to include 40 firing lanes, classrooms, and locker rooms; designed to serve as a hurricane shelter (Fort Myers, FL)

Collier County Courthouse Annex building (Naples, FL)

Collier County Government Center

Parking garage expansion (Naples, FL)

Collier County EOC

Design, permitting and construction administration for complex within a 4-acre parcel (Naples, FL)

Lee County Justice Center

120,000 sf, five-level addition of courtroom pods E & F; a 2,400 sf, three-level elevated pedestrian bridge; a nine-level, 3,600 sf elevator and elevator lobby; and a 10,000 sf judges' parking and future ice tank storage structure (Fort Myers, FL)

Estero Fire and Rescue

New Three Oaks fire station (Estero, FL)

Lakes Regional Library

Design, permitting and construction administration for new regional library ((Fort Myers, FL)

Education:

Florida Gulf Coast University Library Expansion

Addition and roadway (Fort Myers, FL)

Ida S. Baker High School

Civil design, permitting and construction administration for Lee County prototype high school (Cape Coral, FL)

South Ft. Myers High School

Civil design, permitting and construction administration for Lee County high school (Fort Myers, FL)

Mirror Lakes High School

Civil design, permitting and construction administration for Lee County high school (Fort Myers, FL)

Cape Coral Elementary

Civil design, permitting and construction administration (Cape Coral, FL)

Elementary School S

Civil engineering, site development for new school and related athletic amenities (Lehigh Acres, FL)

School District of Collier County: Estates Elementary School

Design, permitting, and construction administration for civil engineering and water and wastewater plants (Naples, FL)

School District of Collier County: Elementary School I

New school, play fields, parking lots, parent and bus drop-off loops and a storm water management system (Naples, FL)

Recreational:

Veterans Park

Design for expansion of open passive community park, including additional 50 acres, an elementary and middle school, football facilities,

basketball courts, playground and picnic area, and recreational center (Lehigh, FL)

Estero Community Park

Engineering for road layout, grading designs, concrete curbs, storm drainage, sanitary sewer, potable water, sidewalks, and lakes; sanitary sewage lift station design; permitting; and construction administration (Estero, FL)

Residential:

GL Homes of Florida

Stormwater management, permitting, surface hydrology, and platting for a 360 acre, 640-unit subdivision (Buckingham, FL)

VeronaWalk

Infrastructure and improvements for five phases within an 800-acre residential subdivision, including two bridge crossings (Naples, FL)

Pine Ridge Commons

30-acre commercial/office complex (Naples, FL)

Twin Eagles

500-acre tract of phased development with 100-unit estate-lot subdivision and 18-hole golf course (Naples, FL)

Belize & Vera Cruz at Cape Marco

Improvements for phased residential high-rise condominium development (Naples, FL)

The Eagles

Master drainage plan for 1,000 acre residential development (Tampa, FL)

East Lake Woodlands

Single and multi-family subdivisions in 1,300-acre residential DRI (Palm Harbor, FL)

Commercial:

Robb & Stucky

\$14 million office and warehouse building (Fort Myers, FL)

Florida Gulf Bank

New Daniels Parkway branch (Fort Myers, FL)

Belize & Vera Cruz at Cape Marco

Improvements for phased residential high-rise condominium development (Naples, FL)

Roadways:

Metro Parkway

Expansion of 3.5 miles of rural roadway to divided arterial (Fort Myers, FL)

East County Water Control District Bridges

Eight new bridges over drainage ways in Lehigh Acres and maintenance for 14 existing bridges; stormwater improvements within 110sq mile drainage district (Fort Myers and Lehigh, FL)

Pine Island Road

Roadway utilities and drainage design, permitting, and engineering during construction of 1.5 miles of four-lane urban arterial roadway (Fort Myers, FL)

Holmberg Road

One mile of two-lane divided roadway with design considerations for a four-lane expansion

Wyndham Lakes Boulevard

1.5 miles of four-lane divided urban collector roadway (Coral Springs, FL)

Ports and Marinas:

Port Everglades

Southport Phase V: 40-acre phased container yard expansion (Ft. Lauderdale, FL)

Sunset Marina

130-slip marina and 7 acres of upland condo and marina facilities (Key West, FL)

Deering Bay Marina

20-slip marina for 100-ft vessels; and ancillary facilities

Water / Wastewater

D-12 Pump Station and Collection System

U.S. Army Corps of Engineers:

Onslow Beach Re-nourishment (Wilmington, NC)

Project Engineer

Arkansas River Marina (Wilmington, NC)

Project Engineer for 600-slip marina and 40 acre park improvement

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

WHEREAS, Johnson Engineering, Inc. filed an application on behalf of the property owner, TW Acquisitions, Inc., to rezone a 589± acre parcel from Agricultural (AG-2) to Residential Planned Development (RPD) in reference to Portico RPD; and

WHEREAS, a public hearing was advertised and held on December 16, 2004, before the Lee County Zoning Hearing Examiner, who gave full consideration to the evidence in the record for Case No. DCI2004-00031; and

WHEREAS, a second public hearing was advertised and held on March 21, 2005, before the Lee County Board of Commissioners, who gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents on record and the testimony of all interested persons.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS:

SECTION A. REQUEST

The applicant filed a request to rezone a 589± acre parcel from AG-2 to RPD, to allow 1,058 single-family and 120 townhouse units (1,178 total dwelling units). The proposed maximum building heights are two stories/35 feet for single-family, three stories/50 feet for townhouses, and two stories/50 feet for a clubhouse. No development blasting is requested. The property is located in the Outlying Suburban Category and is legally described in attached Exhibit A. The request is APPROVED, SUBJECT TO the conditions and deviations specified in Sections B and C below.

SECTION B. CONDITIONS:

All references to uses are as defined or listed in the Lee County Land Development Code (LDC).

1. The development of this project must be consistent with the 8-page Master Concept Plan entitled MASTER CONCEPT PLAN FOR PORTICO stamped received May 3, 2005, except as modified by the conditions below.

This development must comply with all requirements of the Lee County 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 Master Concept Plan 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 OFFICES

CONSUMPTION ON PREMISES - Amenity sites only. See Condition 10.

CLUBS, CLUBHOUSE - PRIVATE. Amenity sites only as shown on the approved Master Concept Plan. Also see Condition 10.

DOCKS, FISHING PIERS

DWELLING UNITS

SINGLE-FAMILY - 1,058 maximum

TOWNHOUSE - 120 maximum. See Condition 15.

1,178 MAXIMUM Dwelling units

ENTRANCE GATES, AND GATEHOUSE - In compliance with LDC §34-1748

ESSENTIAL SERVICES

ESSENTIAL SERVICE FACILITIES -Group I ONLY

Communication, telephone and electrical distribution facilities up to 425 square feet in area and 10 feet in height.

EXCAVATION, WATER RETENTION - NO blasting or removal of excavated material off site.

FENCES, WALLS, Per LDC §34-1741

FOOD AND BEVERAGE SERVICES - Amenity sites only. See Condition 10.

HOME OCCUPATION, Per LDC §34-1741 *et seq.* - NO outside help.

MODELS: Per LDC §34-1951 *et seq.* - See Condition 5.

Model Display Center

Model Home

Model Unit

PARKING LOT, ACCESSORY

PERSONAL SERVICES - Group I - Amenity sites only, see Condition 10.

REAL ESTATE SALES - See Condition 5.

RECREATION FACILITIES, PERSONAL, PRIVATE, ON SITE

SIGNS, In accordance with Chapter 30

STORAGE, INDOORS

TEMPORARY USES - TEMPORARY SALES, TEMPORARY CONSTRUCTION

b. Site Development Regulations

Single Family

Minimum Lot Areas and Dimensions

Lot Size: 6,500 square feet

Lot Width: 50 feet

Lot Depth: 110 feet

$$50 \times 110 = 5500$$

Minimum Setbacks

Street 20 feet

Side 5 feet (Per Condition 10)

Rear	10 feet (5 feet - accessory)
Water body	20 feet (15 feet - accessory)
Building Separation:	10 feet
Perimeter Setbacks:	15 feet
Maximum Height:	2 stories/35 feet
Maximum Lot Coverage:	60 percent

Townhouse

Minimum Lot Areas and Dimensions

Internal Unit Width:	22 feet
External Unit With:	25 feet
Depth:	100 feet

Minimum Setbacks:

Street	20 feet
Side	Internal Unit = Zero feet External Unit = 7.5 feet
Rear	20 feet
Water body	20 feet

Building Separation:	20 feet
Perimeter Setbacks:	15 feet
Maximum Height:	3 stories / 50 feet

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

Maximum Lot Coverage: 60 percent

Clubhouse/Amenity Sites

Minimum Lot Areas and Dimensions

Lot Size:	6,500 square feet
Lot Width:	50 feet
Lot Depth:	110 feet

Minimum Setbacks

Street	20 feet
Side	10 feet

Rear	20 feet (5 feet accessory)	
Water body	20 feet (5 feet accessory)	(Except as provided in Deviation #9)

Building Separation: 20 feet

Perimeter Setbacks: 15 feet

Maximum Height: 2 stories / 50 feet

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

Maximum Lot Coverage: 60 percent

3. No development blasting is permitted as part of this project unless approved at a subsequent public hearing as an amendment to the planned development.
4. *Agricultural uses.* Existing bona fide agricultural uses on this site are allowed only in strict compliance with the following:
 - a. Bona fide agricultural uses that are in existence at the time this resolution is approved and as shown on Exhibit B attached hereto may continue until approval of a local development order for the area of the project containing those uses.
 - b. Additional clearing or grading of existing agricultural uses is prohibited. This prohibition is not intended to preclude County approved requests for the removal of exotic species.
 - c. The property owner must terminate the agricultural tax exemption for any portion of the property that receives a local development order. The agricultural use must cease by December 31st of the calendar year in which the local development order is issued. The exemption termination must be filed with the Property Appraiser's Office by December 31st of the calendar year in which the local development order is issued. A copy of the exemption termination must be provided to the Office of the County Attorney.
5. *Model Homes/Temporary Real Estate Sales/Temporary Sales Trailer.*
 - a. The number of model homes or model units will be limited to no more than 30 within the development at one time.
 - b. Any model homes or units must be developed within the area identified as "models", "townhouse site" or "model display center" on the approved Master Concept Plan.
 - c. Models cannot be of the same floor plan and each must be a distinctly different design.

- d. Model Display Centers or Model Display Groups must be shown on the development order plans. Parking areas for these uses will be buffered with a single-row hedge and tree canopy for parking areas per the LDC.
 - e. Real Estate sales are limited to temporary real estate trailers, model units, model homes, model display centers, models within the townhouse site, amenity sites, and clubhouses.
 - f. Real estate sales will be limited to the sale of lots or units within the development only.
 - g. Hours of operation for both models and real estate sales are limited to Monday through Sunday, 8:00 a.m. through 8:00 p.m.
 - h. Model homes and temporary real estate sales will be valid for a period of up to six years from the date of issuance of a Certificate of Occupancy of a model home per LDC §34-1954(d)(1).
6. All required buffers must utilize 100 percent native vegetation.
7. 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.
8. Approval of this rezoning does not guarantee local development order approval. Future development order approvals must satisfy the requirements of the Lee Plan Planning Communities Map and Acreage Allocation Table, Map 16 and Table 1(b), be reviewed for, and found consistent with, all other Lee Plan provisions.
9. *Five-foot setback.*
- a. No structures, including but not limited to, sidewalks, mechanical equipment, door stoops, walls, etc., may be constructed or placed within the required five-foot side setbacks; or
 - b. Prior to issuance of Certificate of Occupancy on each lot, the Engineer of Record must certify that the drainage for each lot is built in compliance with the typical lot grading detail (See Exhibit D Sheet 8 of the approved Master Concept Plan) provided as part of the building permit process.
10. *Consumption on Premises, Food & Beverage Services, Personal Services, Group I (all uses).*
- a. These uses are limited to a maximum of 7,500 square feet of floor area for the entire development.
 - b. Consumption on Premises, Personal Services Group I, and Food and Beverage Services are limited to amenity sites only, as shown on the approved Master

Concept Plan. These uses are limited to members and guests of a private club. Use by the general public is prohibited.

- c. Consumption on Premises is limited to sales within a residential clubhouse setting only. No restaurants, bars, package stores, or similar uses are permitted.
 - d. Hours of operation for these uses are limited to 7:00 a.m. to midnight daily.
 - e. Consumption on Premises is permitted only at amenity sites (and clubhouse) and outdoor seating for Consumption on Premises must be located within the fenced area at the clubhouse as shown on Sheet 7 of the attached Master Concept Plan.
 - f. Outdoor seating (outside of the fenced clubhouse area) for Consumption on Premises may be approved by Special Exception only (public hearing required).
 - g. Outdoor sales of alcohol is prohibited, and may not be permitted on a temporary or permanent basis.
 - h. The clubhouse as shown on the amenity site of the approved Master Concept Plan is limited to a maximum 10,000 (5,904) square feet building under air and 16,000 square feet under roof. There must be a minimum 366± feet of separation between the front door of the clubhouse and the school property, and a minimum of 1,122± feet of separation from the clubhouse building to the school building in accordance with the Master Concept Plan.
- 11. Prior to local development order approval, a protected species survey for burrowing owls and burrows within the upland portions of the project within the phase being covered in the development order must be submitted for review, field verification, and approval by the Division of Environmental Sciences' staff. If burrowing owls or burrows are located, then a burrowing owl management plan, including an appropriate preservation area within the project, must be submitted.
 - 12. Prior to local development order approval, the development order plans must include ±8.67 acres of open space within the townhouse tract of which ±6.62 acres must be indigenous preservation, and approximately ±25 acres of wetland preservation on the remainder of the site.
 - 13. The development order must provide an enhanced 25-foot-wide "D" buffer along Buckingham Road including 10 trees per 100 linear feet (which must include live oaks, no palms) and a berm a minimum of three feet in height.
 - 14. The development order must provide a 25-foot-wide landscaped buffer/berm combination along the southern boundary of the subject property where it abuts the school site. Atop the berm will be intermittent landscaping and/or wall with a minimum height of six feet. All berming and walls must meet LDC requirements.
 - 15. Townhouse buildings must be set back a minimum of ±1,000 linear feet from Buckingham Road, as shown on the approved Master Concept Plan.

16. The 20-foot-wide lake maintenance easements, along lakes that are completely surrounded by private lots, must be made accessible by maintenance vehicles from a road, through a 20-foot-wide lake access easement.
17. Any additional site access points, such as a separate construction access, would require an amendment to the RPD zoning.
18. There are several pyramid shaped symbols and text shown along Buckingham Road on the MCP that are not legible. The applicant must revise the MCP so that all information is clearly legible.
19. If the developer desires to deviate from the regulations contained in LDC Chapter 30, pertaining to project signage, the proposed sign package must be submitted for review and approval by the Lee County Department of Community Development prior to the issuance of any local development order for the property.
20. During the March 21, 2005, Board Zoning Hearing, the applicant voluntarily offered to dedicate a 25-foot wide strip along Buckingham Road for County right-of-way purposes, at no cost to Lee County. Dedication of this 25 foot strip may be accomplished by recording an instrument (ie. deed or plat) that grants or dedicates to the County an exclusive easement for right-of-way purposes. [If the easement is dedicated via a plat, the dedication must be clear and unambiguous. Use of the label "future right-of-way" will not be acceptable.] The dedicated area may not be used for required development buffering or any other non-county right-of-way improvements. This dedication must be complete prior to issuance of the first building permit allowing permanent vertical construction within the project.

SECTION C. DEVIATIONS:

1. Deviation (1) seeks relief from the LDC §10-328(a) requirement to provide a minimum 20-foot-wide maintenance access easement along lake perimeters, to allow zero feet where lakes are bulkheaded. This deviation is DENIED.
2. Deviation (2) seeks relief from the LDC §10-329(d)(1)a.2 requirement prohibiting excavation for water retention or detention within 50 feet of any existing or proposed right-of-way line or easement for a collector or arterial street, to allow excavation within 50 feet of an existing or proposed right-of-way line or easement. This deviation is APPROVED, SUBJECT TO the following conditions:
 - a. Approval is limited to water retention and detention areas as shown on the approved Master Concept Plan.
 - b. Appropriate protection for wayward vehicles must be provided at the time of local development order.
3. Deviation (3) seeks relief from the LDC §10-329(d)(1)a.3 requirement for water retention or detention excavation to set back 50 feet from any private property line under separate

ownership, to permit a 25-foot setback for internal property lines. This deviation is APPROVED, SUBJECT TO the following conditions:

- a. Approval is limited to water retention and detention areas as shown on the approved Master Concept Plan.
 - b. A minimum 4-foot high fence or other approved barrier must be provided along the property line adjacent to the lake.
4. Deviation (4) seeks relief from the LDC §10-329(d)(4) requirement that lake banks be sloped at a maximum 4:1, to allow bulkheads at the shoreline. This deviation is APPROVED, SUBJECT TO the following conditions:
- a. Prior to local development order approval, any bulkheads to be installed within Lakes A, B, or D as labeled on the attached Master Concept Plan must be delineated on the landscape and engineering plans. The bulkheads may not encompass more than 30 percent of the linear shoreline of the lake measured at control elevation. A compensatory littoral zone equal to the linear footage of the bulkhead must be provided within the same lake meeting the following criteria:
 - (1) A 5-foot-wide littoral shelf planted with herbaceous wetland plants to provide 50 percent coverage at time of planting; or
 - (2) An 8:1 slope littoral shelf with herbaceous wetland plants to provide 50 percent coverage at time of planting; or
 - (3) An equivalent littoral shelf design as approved by the Division of Environmental Sciences' Staff.
 - (4) The compensatory littoral zone must be planted with native wetland plants calculated as two per linear foot of shoreline for lakes utilizing bulkheads up to 20 percent of the shoreline, and three plants per linear foot of shoreline for lakes utilizing bulkheads along 21 percent to 31 percent of the shoreline.
5. Deviation (5) seeks relief from the LDC §10-384(b) requirement to provide a 20-foot-wide fire department access lane in the rear of buildings that fall into classes set forth in LDC §10-384(a)(3), to allow decks ancillary to the amenity site to be located zero feet from a water body. This deviation is APPROVED, SUBJECT TO the following conditions:
- a. Approval is limited to amenity areas, water retention and detention areas as shown on the approved Master Concept Plan.
 - b. The developer must provide written documentation from the Fort Myers Shores Fire Department indicating that this design is acceptable and allows adequate access for emergency vehicles.
6. Deviation (6) - WITHDRAWN.

7. Deviation (7) seeks relief from LDC §34-934 Note 23 which restricts the operation of real estate sales centers for a period not to exceed five years, to allow the operation of a sales office within Portico RPD for a period of six years. This deviation is APPROVED, SUBJECT TO the condition that the real estate sales office remains in compliance with Condition 5 above.
8. Deviation (8) - WITHDRAWN.
9. Deviation (9) seeks relief from the LDC §34-2194(b) requirement to provide a 25-foot setback for buildings from a water body, to allow a zero-foot setback at bulkhead areas. This deviation is APPROVED, SUBJECT TO Deviation (4) above.
10. Deviation (10) seeks relief from the LDC §34-935(b)(2) requirement that parking or internal roads or drives not be closer to the development perimeter than the greater of either the width of any buffer area or landscape strip required by Chapter 10, to allow an emergency access road within this area. This deviation is APPROVED, SUBJECT TO the condition that the approval is limited to the emergency access point shown as Deviation (10) on the approved Master Concept Plan.
11. Deviation (11) seeks relief from the LDC §10-418 requirement that storm water ponds be designed to mimic the function of natural systems, to allow for the use of bulkheads. This deviation is APPROVED, SUBJECT TO Deviation (4) above.
12. Deviation (12) seeks relief from the LDC §10-714 design standards for cul-de-sacs, to allow the use of "eyebrow" road elements on the Village Roads within the community. This deviation is APPROVED, SUBJECT TO the following conditions:
 - a. Approval is limited to the detail plan and locations as shown on the approved Master Concept Plan.
 - b. Traffic calming devices indicated in the approved Master Concept Plan must be included in the homeowner documents to be reviewed and recorded during the local development order process.
13. Deviation (13) - Withdrawn.
14. Deviation (14) seeks relief from the LDC §34-152(4)c.4 requirement that on-site directional signage be set back a minimum of 15 feet from the edge of the street right-of-way or easement, to allow on-site directional signs to have a setback of four feet. This deviation is DENIED in accordance with Condition 19.
15. Deviation (15) seeks relief from the LDC §10-285(a) requirement that the centerline distance for local roads be 125 feet, to allow for centerline distances of no less than 60 feet for the eyebrow road features. This deviation is APPROVED, SUBJECT TO the following conditions:
 - a. Approval is limited to the detail plan and locations as shown on the approved Master Concept Plan.

- b. Traffic calming devices indicated in the approved Master Concept Plan must be included in the homeowner documents to be reviewed during the local development order process.
 - c. Stop signs will be provided for vehicles exiting the eyebrow element.
 - d. Traffic control devices will be determined during development order review.
16. Deviation (16) seeks relief from the LDC §10-291(3) requirement that residential developments of more than five acres provide more than one means of ingress or egress, to allow for one main access on Buckingham Road and a minimum of two emergency access points. This deviation is APPROVED, SUBJECT TO the following conditions:
- a. No walls, fences or entrance gates may be constructed within the access point area per the approved Master Concept Plan.
 - b. All utilities along the entrance from Buckingham Road as shown on the approved Master Concept Plan must be placed underground.
 - c. The local development order must depict a 70-foot-wide divided entrance on Buckingham Road that must include a 14-foot-wide median with two 11-foot-wide lanes on both sides of the median for ingress and egress in accordance with the primary corridor typical shown on the approved Master Concept Plan.
 - d. The local development orders must include emergency access gates to be constructed on two emergency access points as shown on the approved Master Concept Plan.
 - e. The installation of any access gates must comply with all applicable regulations pertaining to emergency equipment that are in effect at the time of installation.
 - f. Prior to issuance of a development order, the developer must provide written documentation from the Fort Myers Shores Fire Department indicating that these access points are acceptable and provide adequate access for emergency vehicles.
 - g. If the emergency access point located near the southeast corner of Phase 2, into Hawks Haven is not available at time of local development order submittal for that phase of work, then the emergency access must connect to the Lehigh Acres roadway system through the existing platted roadway easement. This will require a culvert across the east-west canal lying south of Phase 2 of Portico RPD. Such a change can be approved administratively.
17. Deviation (17) seeks relief from the LDC §10-416(d)(6) requirement that roadways must be set back 125 feet from any existing residential development or provide a 30-foot-wide buffer consisting of an 8-foot-high wall constructed a minimum of 25 feet from the residential property line with landscaping planted between the wall and the residential property line, to allow an 8-foot-high wall a minimum of 10 feet from the residential property line with

landscaping planted between the wall and the residential property line. This deviation is APPROVED.

SECTION D. EXHIBITS AND STRAP NUMBER:

The following exhibits are attached to this resolution and incorporated by reference:

- Exhibit A: Legal description of the property
- Exhibit B: Bona fide Agricultural Uses
- Exhibit C: Zoning Map (subject parcel identified with shading)
- Exhibit D: The approved Master Concept Plan

The applicant has indicated that the STRAP numbers for the subject property are: 33-43-26-00-00002.0000, 33-43-26-00-00002.0020, 33-43-26-00-00002.0030, and 34-43-26-00-00001.0000.

SECTION E. FINDINGS AND CONCLUSIONS:

1. The applicant has proven entitlement to the rezoning by demonstrating compliance with the Lee Plan, the LDC, and any other applicable code or regulation.
2. The rezoning, as approved:
 - a. meets or exceeds all performance and locational standards set forth for the potential uses allowed by the request; and,
 - b. is consistent with the densities, intensities and general uses set forth in the Lee Plan; and,
 - c. is compatible with existing or planned uses in the surrounding area; and,
 - d. 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; and,
 - e. will not adversely affect environmentally critical areas or natural resources.
3. The rezoning satisfies the following criteria:
 - a. the proposed use or mix of uses is appropriate at the subject location; and
 - b. the recommended conditions to the concept plan and other applicable regulations provide sufficient safeguard to the public interest; and
 - c. the recommended conditions are reasonably related to the impacts on the public interest created by or expected from the proposed development.
4. Urban services, as defined in the Lee Plan, are, or will be, available and adequate to serve the proposed land use.

5. The approved deviations, as conditioned, enhance achievement of the planned development objectives, and preserve and promote the general intent of LDC Chapter 34, to protect the public health, safety and welfare.

The foregoing resolution was adopted by the Lee County Board of Commissioners upon the motion of Commissioner Hall, seconded by Commissioner Judah and, upon being put to a vote, the result was as follows:

Robert P. Janes	AYE
Douglas R. St. Cerny	AYE
Ray Judah	AYE
Tammy Hall	AYE
John E. Albion	AYE

DULY PASSED AND ADOPTED this 21ST day of March 2005.

ATTEST:
CHARLIE GREEN, CLERK

BY: *Charlie Green*
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: *[Signature]*
Chairman

Approved as to form by:

Dawn E. Perry-Lehnert
Dawn E. Perry-Lehnert
County Attorney's Office



RECEIVED
MINUTES OFFICE
lp
2005 MAY 10 PM 3:44

RECEIVED
JUL 30 2004

May 10, 2004

DESCRIPTION
PARCEL IN
SECTIONS 33 & 34, TOWNSHIP 43 SOUTH, RANGE 26 EAST
LEE COUNTY, FLORIDA

PERMIT COUNTER

A tract or parcel of land lying in Sections 33 and 34, Township 43 South, Range 26 East, Lee County, Florida, which tract or parcel is described as follows:

From the northeast corner of said Section 33 run S 00° 50' 15" E along the east line of the northeast quarter (NE-1/4) of said Section 33 for 187.50 feet to the Point of Beginning.

From said Point of Beginning continue S 00° 50' 15" E along said east line for 2250.05 feet to an intersection with a non-tangent curve; thence departing said east line run southeasterly along an arc of a curve to the right of radius 240.00 feet (delta 06° 55' 14") (chord bearing S 48° 34' 00" E) (chord 28.97 feet) for 28.99 feet to a point of tangency; thence run S 45° 06' 23" E for 156.71 feet to a point of curvature; thence run southeasterly along an arc of a curve to the right of radius 240.00 feet (delta 21° 30' 24") (chord bearing S 34° 21' 11" E) (chord 89.56 feet) for 90.09 feet to an intersection with a non-tangent line and the north line of the south half (S-1/2) of said Section 34; thence run N 89° 15' 30" E along said north line for 5,100.79 feet to the northeast corner of said south half (S-1/2) of Section 34; thence run S 00° 59' 28" E along the east line of said fractional section for 2,654.48 feet to the southeast corner of said Section 34; thence run S 89° 04' 55" W along the south line of said fractional section for 5,290.35 feet to the southwest corner of said fractional section; thence run N 00° 47' 28" W along the west line of said fractional section for 2,670.74 feet to the northwest corner of said fractional section; thence run S 88° 59' 10" W along the north line of the southeast quarter (SE-1/4) of said Section 33 for 1,980.78 feet to the northeast corner of the west half (W-1/2) of the northwest quarter (NW-1/4) of the southeast quarter (SE-1/4) of said Section 33; thence run S 00° 41' 08" E along the east line of said fractional section for 1,333.22 feet to an intersection with the north line of the south half (S-1/2) of the south half (S-1/2) of said Section 33; thence run S 89° 02' 54" W along said north line for 1,988.34 feet to the southwest corner of the northeast quarter (NE-1/4) of the southwest quarter (SW-1/4) of said Section 33; thence run N 00° 56' 52" W along the west line of said fractional section for 1,331.03 feet to the northwest corner of said fractional section; thence run N 88° 59' 10" E along the north line of said fractional section for 1,334.18 feet to the southwest corner of the northeast quarter (NE-1/4) of said Section 33; thence run N 00° 39' 01" W along the west line of said fractional section for 1,321.78 feet to the southeast corner of the north half (N-1/2) of the northwest quarter (NW-1/4) of said Section 33; thence run S 89° 09' 28" W along the south line of said fractional section for 2,391.80 feet to an intersection with the southeasterly right-of-way line of Buckingham Road (right-of-way varies);

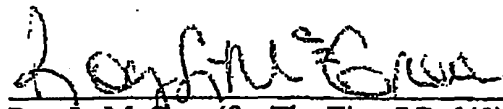
EXHIBIT A
PAGE 1 OF 3

thence run N 24° 23' 10" E along said southeasterly line for 1,263.86 feet to an intersection with the westerly prolongation of the south line of lands as described in deed recorded in Official Record Book 3535 at Page 380, Public Records of Lee County, Florida; thence run N 89° 10' 16" E along said prolongation and south line for 4489.91 feet to an intersection with the east line of the northeast quarter (NE-1/4) of said Section 33 and the Point of Beginning.

Containing 25,663,514 square feet (589.15 acres), more or less.

Bearings hereinabove mentioned are based on Plane Coordinates for the Florida West Zone NAD 1983 (1990 Adjustment) whereas the east line of the Northeast Quarter of Section 33, Township 43 South, Range 26 East bears S 00° 50' 15" E.

Applicant's Legal Checked
by  August 7, 2004



Roy L. McCreia (for The Firm LB-642)

Professional Land Surveyor

Florida Certificate No. 6205

DCI 2004-00031

AFFIDAVIT

STATE OF FLORIDA)
COUNTY OF LEE)

BEFORE ME, the undersigned authority, on this 23rd day of July, 2004, personally appeared THOMAS SPENCE, who is personally known to me or who produced FLA. DRIV. LR. as identification and who did take an oath, who deposes and says as follows:

1. That I am the owner of the following described property, to wit:

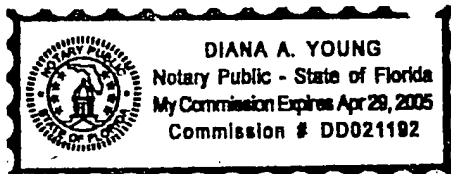
See attached Exhibit "A"

2. That the above described property was used for bona fide agricultural purposes, to wit livestock grazing and pasturage, at the time of the Lee County Board of County Commissioners review and consideration of the rezoning of the property described on the attached Exhibit "A" on _____
3. The agricultural use of the property is an existing bona fide agricultural use.
4. The agricultural use is being conducted on the entire 589.15 acres. The entire property described on the attached Exhibit "A" is being used for the grazing of livestock.
5. Affiant further states that he is familiar with the nature of an oath; and with the penalties as provided by the laws of the State of aforesaid for falsely swearing to statements made in an instrument of this nature. Affiant further certifies that he has read, or has hear read to him, the full facts of this affidavit and understands its meaning and context.

FURTHER AFFIANT SAYETH NAUGHT.

SWORN TO and subscribed before me on the date and year first above written.

(Notary Seal)



Commission No.

[Signature]
Signature of Notary Public

DIANA A. YOUNG
(Print, type or stamp commissioned name of Notary Public)

RECEIVED
JUL 30 2004

PERMIT COUNTER

PERMIT COUNTER

JUL 30 2004

RECEIVED

NOTES:

1. BEARINGS SHOWN HEREON ARE BASED ON THE WEST LINE OF SECTION 27, TOWNSHIP 43 N, RANGE 24 EAST TO BEAR N00°50'15"W.
2. THIS SKETCH DOES NOT MAKE ANY REPRESENTATION AS TO ZONING OR DEVELOPMENT RESTRICTIONS ON SUBJECT PARCEL.
3. POC = POINT OF COMMENCEMENT.
4. POB = POINT OF BEGINNING.
5. DESC = DESCRIPTION.
6. OR = OFFICIAL RECORD.
7. OR = OFFICIAL RECORD.
8. PG = PAGE.

N 1/2

(OR 409B, PG 479)

CURVE	RADIUS	DELTA	CHORD BEARING	CHORD	LENGTH
C1	240.00	6°35'14"	S48°34'00"E	28.97	28.99
C2	240.00	21°30'24"	S34°21'11"E	89.56	90.09

C1 S45°06'23"E
156.71'

C2
EASEMENT
(OR 263, PG 186)

NE 1/4, SE 1/4
(OR 326B, PG 1377)

19°10'W 1980.78'

N89°15'30"E 5100.79'

NORTH LINE S 1/2 SECTION 34

NE 1/4, SE 1/4
(OR 326B, PG 1377)

WEST LINE S 1/2 SECTION 34
N00°47'28"W 2670.74'

S 7/2
(OR 3167, PG 3545)

EAST LINE S 1/2 SECTION 34
S00°59'28"E 2654.48'

SOUTH LINE S 1/2 SECTION 34
S89°04'55"W 5790.35'

LEHIGH ACRES
(PB 26, PG 1)

2158 JOHNSON STREET
P.O. BOX 1550
FORT MYERS, FLORIDA 33902-1550
PHONE (239) 334-0046
FAX (239) 334-3661
E.B. #642 & L.B. #642

SKETCH TO ACCOMPANY
DESCRIPTION

DATE
05/10/04

PROJECT NO.
20034316

FILE NO.
33-43-26

SCALE
1" = 100'

SHEET
1 OF 1

JOHNSON
ENGINEERING

RECEIVED
JUL 30 2004

May 10, 2004

**DESCRIPTION
PARCEL IN****PERMIT COUNTER****SECTIONS 33 & 34, TOWNSHIP 43 SOUTH, RANGE 26 EAST
LEE COUNTY, FLORIDA**

A tract or parcel of land lying in Sections 33 and 34, Township 43 South, Range 26 East, Lee County, Florida, which tract or parcel is described as follows:

From the northeast corner of said Section 33 run S 00° 50' 15" E along the east line of the northeast quarter (NE-1/4) of said Section 33 for 187.50 feet to the Point of Beginning.

From said Point of Beginning continue S 00° 50' 15" E along said east line for 2250.05 feet to an intersection with a non-tangent curve; thence departing said east line run southeasterly along an arc of a curve to the right of radius 240.00 feet (delta 06° 55' 14") (chord bearing S 48° 34' 00" E) (chord 28.97 feet) for 28.99 feet to a point of tangency; thence run S 45° 06' 23" E for 156.71 feet to a point of curvature; thence run southeasterly along an arc of a curve to the right of radius 240.00 feet (delta 21° 30' 24") (chord bearing S 34° 21' 11" E) (chord 89.56 feet) for 90.09 feet to an intersection with a non-tangent line and the north line of the south half (S-1/2) of said Section 34; thence run N 89° 15' 30" E along said north line for 5,100.79 feet to the northeast corner of said south half (S-1/2) of Section 34; thence run S 00° 59' 28" E along the east line of said fractional section for 2,654.48 feet to the southeast corner of said Section 34; thence run S 89° 04' 55" W along the south line of said fractional section for 5,290.35 feet to the southwest corner of said fractional section; thence run N 00° 47' 28" W along the west line of said fractional section for 2,670.74 feet to the northwest corner of said fractional section; thence run S 88° 59' 10" W along the north line of the southeast quarter (SE-1/4) of said Section 33 for 1,980.78 feet to the northeast corner of the west half (W-1/2) of the northwest quarter (NW-1/4) of the southeast quarter (SE-1/4) of said Section 33; thence run S 00° 41' 08" E along the east line of said fractional section for 1,333.22 feet to an intersection with the north line of the south half (S-1/2) of the south half (S-1/2) of said Section 33; thence run S 89° 02' 54" W along said north line for 1,988.34 feet to the southwest corner of the northeast quarter (NE-1/4) of the southwest quarter (SW-1/4) of said Section 33; thence run N 00° 56' 52" W along the west line of said fractional section for 1,331.03 feet to the northwest corner of said fractional section; thence run N 88° 59' 10" E along the north line of said fractional section for 1,334.18 feet to the southwest corner of the northeast quarter (NE-1/4) of said Section 33; thence run N 00° 39' 01" W along the west line of said fractional section for 1,321.78 feet to the southeast corner of the north half (N-1/2) of the northwest quarter (NW-1/4) of said Section 33; thence run S 89° 09' 28" W along the south line of said fractional section for 2,391.80 feet to an intersection with the southeasterly right-of-way line of Buckingham Road (right-of-way varies);

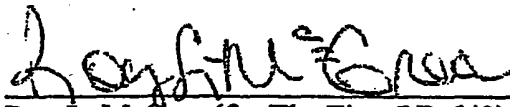
EXHIBIT B
PAGE 3 OF 4

DCI 2004-00031

thence run N 24° 23' 10" E along said southeasterly line for 1,263.86 feet to an intersection with the westerly prolongation of the south line of lands as described in deed recorded in Official Record Book 3535 at Page 380, Public Records of Lee County, Florida; thence run N 89° 10' 16" E along said prolongation and south line for 4489.91 feet to an intersection with the east line of the northeast quarter (NE-1/4) of said Section 33 and the Point of Beginning.

Containing 25,663,514 square feet (589.15 acres), more or less.

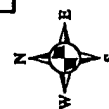
Bearings hereinabove mentioned are based on Plane Coordinates for the Florida West Zone NAD 1983 (1990 Adjustment) whereas the east line of the Northeast Quarter of Section 33, Township 43 South, Range 26 East bears S 00° 50' 15" E.



Roy L. McGrea (for The Firm LB-642)

Professional Land Surveyor

Florida Certificate No. 6205

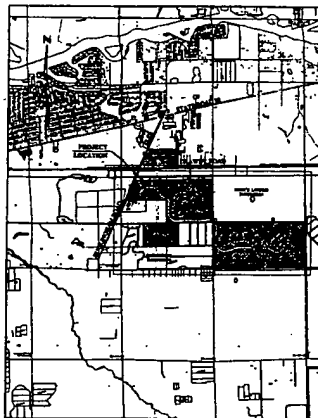


1,500	750	0	1,500 Feet
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EXHIBIT C

MASTER CONCEPT PLAN FOR PORTICO

DCI 2004-00031



SECTION 28, 33 & 34, TOWNSHIP 43 S., RANGE 26 E.
LEE COUNTY, FLORIDA

APRIL, 2005

LOCATION MAP



INDEX OF PLANS

SHEET NO.	DESCRIPTION
1	COVER (AREA LOCATION MAP)
2	MASTER CONCEPT PLAN
3	MASTER CONCEPT PLAN PHASE ONE A
4	MASTER CONCEPT PLAN PHASE ONE B
5	MASTER CONCEPT PLAN PHASE TWO
6	MASTER CONCEPT PLAN PHASE THREE
7	PRELIMINARY AMENITY CENTER SITE
8	MASTER CONCEPT NOTES
9	TOPOGRAPHY MAP

OWNER

TAYLOR WOODROW, INC.

STRAP NUMBER

20-43-26-40-00001.0000
20-43-26-40-00002.0000
20-43-26-40-00003.0000
20-43-26-40-00004.0000

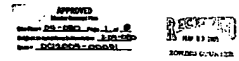
SIZE OF PARCEL

588.156 ACRES

ZONING

EXISTING AG-2
REQUESTING RPO

PROPERTY ADDRESS



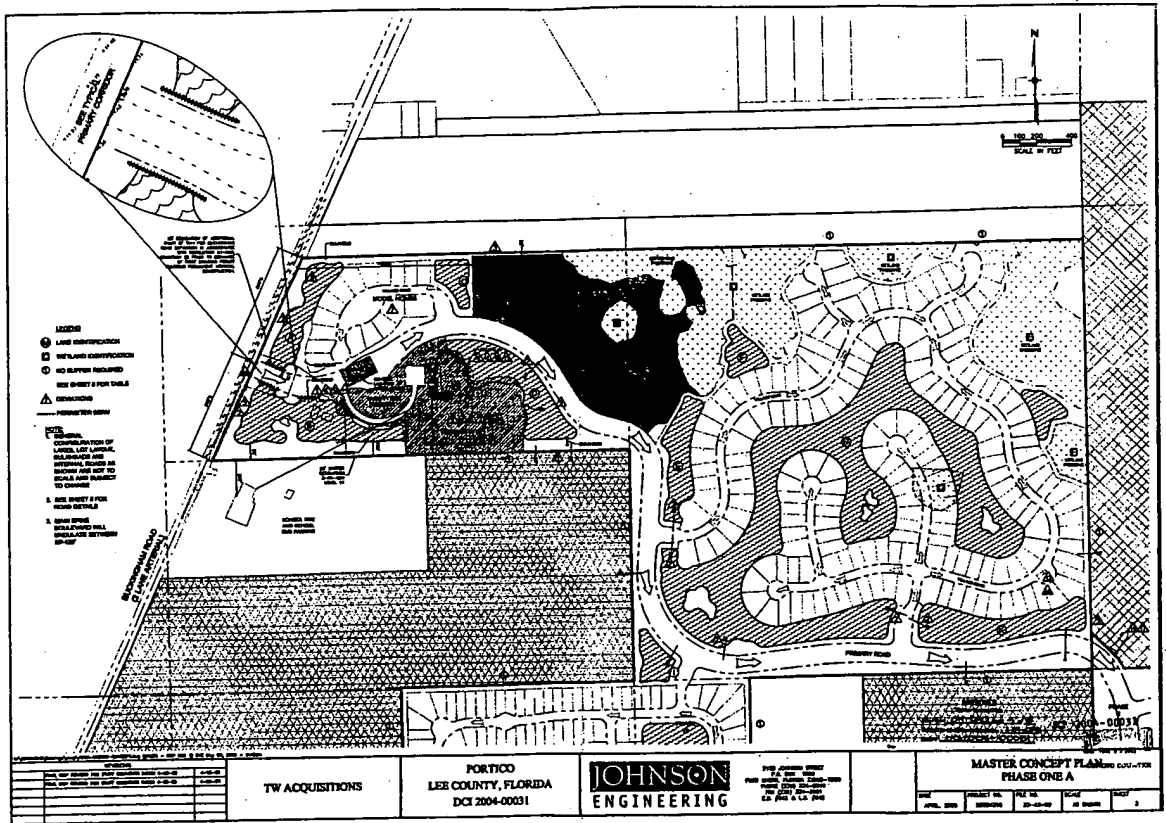
DCI 2004-00031

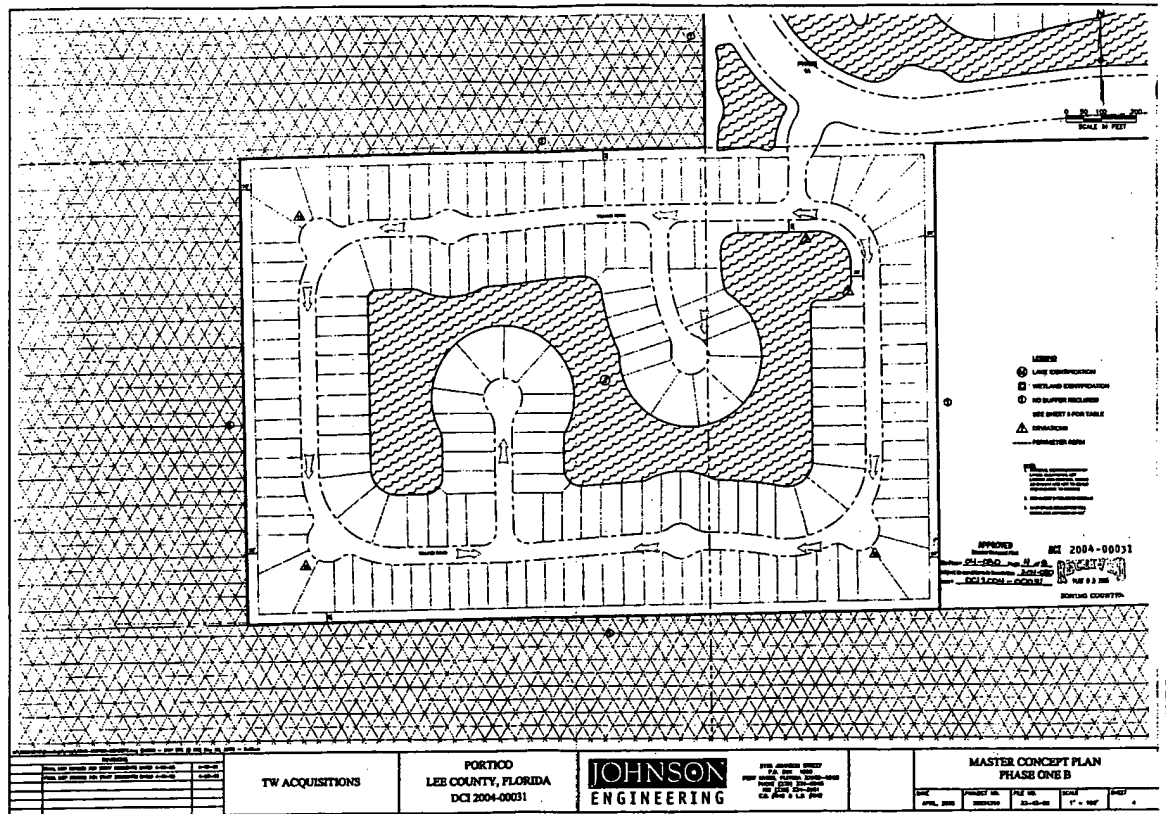
JOHNSON
ENGINEERING

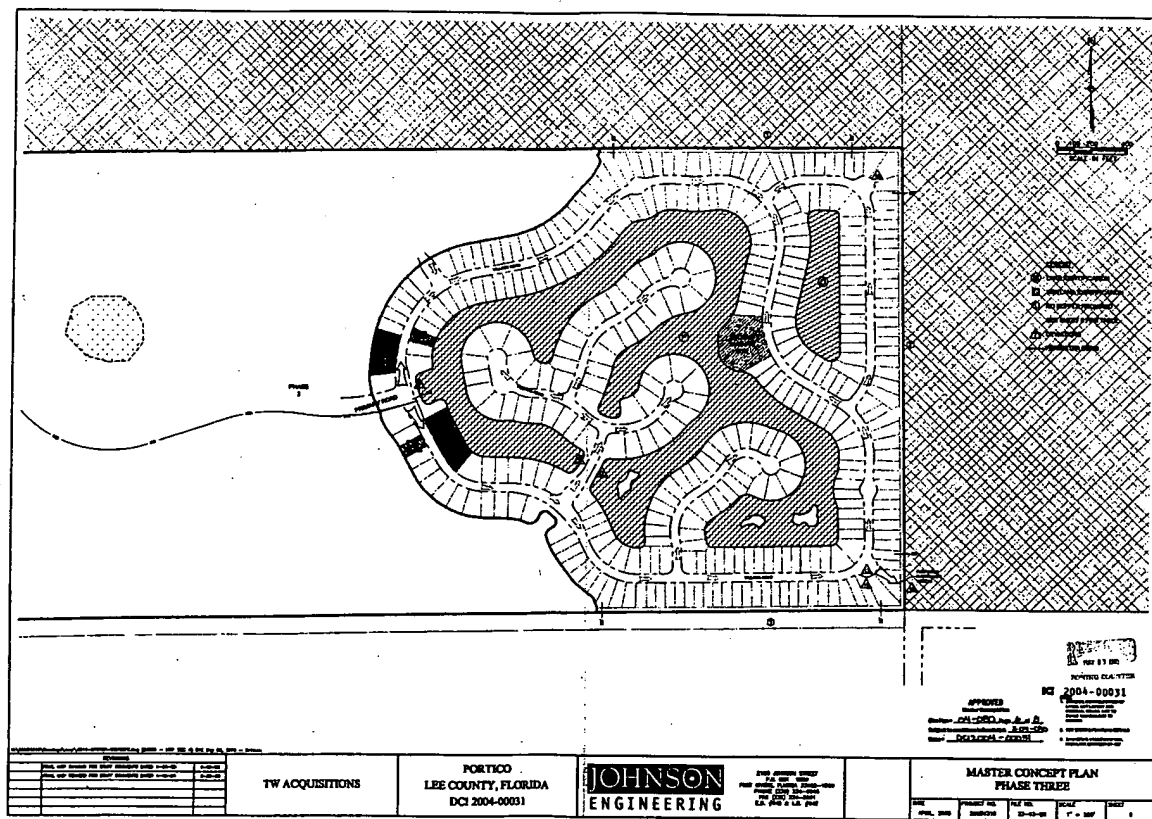
DAVID L. JOHNSON
REGISTERED PROFESSIONAL ENGINEER
NO. 12345
EXPIRATION DATE 12/31/2008
P.O. BOX 1234
LEE COUNTY, FL 33902

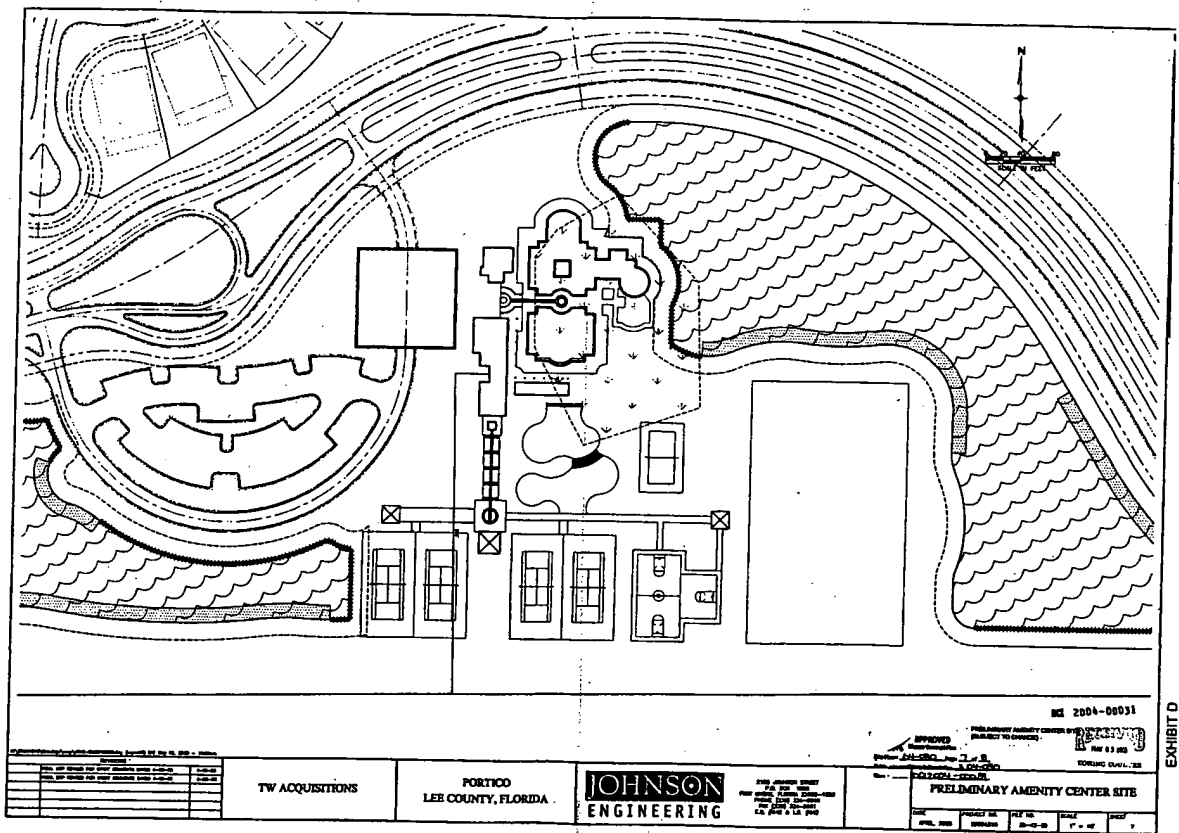
EXHIBIT D













CALOOSA HATCHEE SHORES

COMMUNITY PLAN

September 2002



Prepared by:

VanasseDaylor
12730 New Brittany Blvd., Suite 600
Fort Myers, FL 33907
(239) 437-4601

STAFF'S EXHIBIT # WVWVWV

STAFF'S EXHIBIT # 3
000004-00040



1.0 Introduction

The Caloosahatchee Shores Community Plan was generated by a grass roots effort, and coordinated by the East Lee County Council (ELCC), a coalition organization that represents neighborhood civic associations along State Road 80 (Palm Beach Boulevard) extending from the eastern boundary of the City of Fort Myers to the east end of Lee County (including Alva).

The Community Plan is partially funded by Lee County through a matching grant program, while the remaining fees are funded through a combination of private contributions and funds managed by the ELCC.

The Caloosahatchee Shores Community Plan aims to guide the future growth, character and quality of life within the Caloosahatchee Shores Community by adopting guiding principles into the Lee Plan and specific development regulations into the Lee County Land Development Code. These policies will provide direction on land use and infrastructure decisions, thereby ensuring that future development remains consistent with the stated vision of the community and encourages approved development to strive towards these goals.

2.0 History

The Caloosahatchee Shores Community consists of various residential neighborhoods and commercial strip development east of I-75 (see Appendix B, Map 1). This community is distinct from rural Alva, Buckingham, Bayshore and North Fort Myers to the east, south, and north, and the urban Palm Beach Boulevard corridor to the west. Caloosahatchee Shores consists of scattered residential neighborhoods including historic Olga, Fort Myers Shores, Hickey's Creek and several new residential developments and subdivisions currently under construction.

Until recently, the Caloosahatchee Shores community has been thought of and characterized both as part of Tice, located to the west, and Alva and Buckingham located to the east and south. The region was primarily used for citrus farming, cattle grazing as well as for lumber production. Both the Caloosahatchee River and the Orange River provided excellent means of transportation of goods for sale and trade. Trading posts existed in Olga, Alva and Buckingham.

As Lee County developed, SR 80 became a major commercial corridor and is now characterized by strip development from the intersection of Seaboard Street in the City of Fort Myers, through the Caloosahatchee Shores community. In 1990, Lee County created a Community Redevelopment Area (CRA) for State Road 80 extending from the Fort Myers border east to the border of Alva. The CRA conducted planning studies in the early to mid-1990s for both Tice and the SR 80 corridor. Most of the problems identified by the studies still pervade the community today, and several frustrated residents commented that the only concrete accomplishment of the CRA was enhanced landscaping along the SR 80 corridor. The CRA's attempt to address façade improvements for structures along the corridor through a matching grant program failed from lack of participation, and was ineffective in promoting redevelopment.

With development pressure building along SR 80 east of I-75, residents have a renewed interest in planning for growth in East Lee County. Business along State Road 80 can benefit from the new residential development to the east, coupled with the recent resurgence of redevelopment activity in historic downtown Fort Myers to the west. The key identity issue that the residents aimed to address in this plan is how to promote new development and redevelopment while maintaining some part of the historic rural identity of Olga and the surrounding communities of Alva and Buckingham.

3.0 Intent

The Caloosahatchee Shores Community Plan Phase I aims to begin addressing the future growth, character and quality of life within the Caloosahatchee Shores Community by adopting guiding principles into the Lee Plan. These guiding principles will provide direction on land use and infrastructure decisions, thereby ensuring that future development remains consistent with the stated vision of the community, and encourage approved development to strive towards achieving these goals.

This amendment marks an important first step in a long-term process. The provisions recommended by this Community Plan will guide the development of future Land Development Code regulations, as well as future site-specific residential and commercial projects. As identified above, the anticipated schedule for Phase I includes submittal by September 30, 2002 with adoption expected by the beginning of 2004.

The Community Plan will include two phases, as outlined below:

- Phase I:** Phase I is a preliminary evaluation of the major issues facing the future growth management of the Caloosahatchee Shores Community. This evaluation will include collection of data and analysis, public input and coordination with Lee County representatives. The result of this initial effort will be the establishment of a Community Vision, and the submission of a Lee County Comprehensive Plan Amendment to add Goals, Objectives and Policies to the Lee Plan to provide additional direction in evaluating future development approval requests, and revise the Lee County Future Land Use Map to designate commercial nodes and lower residential densities along Buckingham Road.
- Phase II:** Phase II includes the preparation of Land Development Code regulations addressing issues ranging from landscaping and signage, to incentives for redevelopment. Phase II, if necessary will be adopted as amendments to the existing SR 80 CRA overlay in the Lee County Land Development Code.

4.0 Visioning Process

The community vision will provide the basis for land use planning decisions in Caloosahatchee Shores. The vision articulated by the community and described in this document will allow the community to better communicate their desires and expectations for development in Caloosahatchee Shores.

The East Lee County Council selected VanasseDaylor to develop and facilitate the community visioning process, which lasted over a period of eight months and consisted of stakeholder interviews, and three community workshops and an all-day community design charrette. The VanasseDaylor Design Team is comprised of a multi-disciplinary group of designers and planners. They are as follows:

□ **TEAM LEADERS**

Daniel DeLisi, AICP, Project Manager
Planner

C. Chad Elkins, Charrette Facilitator
Landscape Architect

□ **CHARRETTE FACILITATORS**

Noor Ismail
Planner / Architect

Jeffrey Jenkins, AICP
Planner

Fred Learned, RLA
Landscape Architect

Brian Smith
Landscape Architect

Wayne Robinson, RLA
Landscape Architect

□ **VOLUNTEER FACILITATORS**

Mitch Hutchcraft, AICP, RLA
Landscape Architect, Planner
Bonita Bay Group

Antonio Caliendo
Architect

METHODOLOGY

□ STAKEHOLDER INTERVIEWS

The VanasseDaylor Design Team initiated the visioning process by interviewing a series of community leaders, business owners, and government officials. Conducting personal interviews with various interest groups within the community is essential for accurately understanding the major issues faced in this community. Additionally, identifying and including all stakeholder groups helps to ensure that the visioning process is organized and facilitated in an inclusive equitable manner.

□ COMMUNITY WORKSHOPS

The East Lee County Council and VanasseDaylor organized a total of four (4) community workshops for the East Lee Community. The initial workshop and the charrette were advertised through public notices in the News-Press, sign boards along State Road 80 and a mailing that the East Lee County Council sent to every property owners within the study area (Appendix D).

Mid-way through the interview process, the East Lee County Council and VanasseDaylor organized the first workshop on February 21, 2002 to introduce and explain the visioning process to the community. The workshop provided a forum for the community to identify initial issues of concern. Using the issues identified in the first community workshop and the results of the stakeholder interviews, the East Lee County Council and the VanasseDaylor Design Team identified four general issues for in-depth discussion at the community design charrette – the second workshop. The community design charrette was a day long event, on March 16, 2002, to assist the community to graphically represent their ideas for the future growth of East Lee.

The 2 (two) refinement workshops were designed as follow up workshops to refine the information and begin drafting an amendment to the Lee Plan. The purpose was to solicit additional input on more specific topics that the community identified in the previous two workshops. The refinement workshops were held on May 2, 2002 and July 9, 2002 followed by a final presentation on August 26, 2002.

□ QUESTIONNAIRE

During the charrette, participants were asked to fill out a questionnaire, which was designed to identify perceived problems or constraints and opportunities within the Caloosahatchee Shores Community. Note: the questionnaire was not designed to be a statistical survey. It was used as a means to gather input only.

STAKEHOLDER'S REPORT

INTRODUCTION

The Stakeholder Analysis was the first step in the comprehensive public participation process for the Caloosahatchee Shores Community. The findings of the report were used in preparing the community design charrette and providing the design team with initial ideas. The Stakeholder Analysis, similar to a Conflict Assessment in the field of conflict resolution, is a commonly used tool in consensus building to ensure that all interests are represented before the initiation of the formal process. The report provides recommendations for the process to become more inclusive in order to create a plan that first incorporates the visions and knowledge of a more diverse group, and second, has a broader base of support to aid in a smooth implementation process.

Interviews were conducted to examine the issues of concern to the community and to further identify the stakeholder groups. This report outlines the results of interviews (supplemented by the first public meeting which attracted over 150 people) conducted by VanasseDaylor staff to identify issues of concern to residents and property owners.

All of the interviews were conducted face-to-face with one to two interviewees. The interviews used an aerial map to facilitate the discussions and provide a locational context for ideas. During the interviews, three major topics were discussed: 1) general issues of concern, 2) specific land uses, and 3) specific additional people that need to be involved. Interviews lasted for approximately 1 hour each, but varied from ½ to 2 ½ hours.

FINDINGS

During the interviews, participants were asked to identify general issues of concern to themselves or the community. County and state officials were asked to identify issues perceived by the community and impediments to solving the identified problems. Overall, there was a general agreement on issues facing the community, though there was some disagreement on desired land uses.

GENERAL ISSUES

Many of the issues of concern to the community are the result of the relatively sudden large scale development occurring in this area. The Caloosahatchee Shores Community is experiencing rapid growth and development pressure for new residential communities. Hawks Haven was recently approved to build 1,598 residential units, the Bonita Bay Group recently received permitting for Verandah, a golf course community with 1,500 residential units, Buckingham 320 was approved for 640 units and there is discussion of a fourth large residential community to the east of Buckingham Road.

Community Identity

- ❑ Most of those interviewed, and also the general consensus among active members of the East Lee County Council, recognize that development is coming and is inevitable. However, the community expressed a desire to retain its rural identity and ensure that new development be compatible with the existing rural character of the area.
- ❑ Included within the sentiment of retaining a rural identity is an awareness by some and an attachment to a historic identity for the area. Historic Olga lies within this community boundary and was one of several areas that were used as a trading post along the region's major transportation corridor – the Caloosahatchee River. As part of this issue of community identity, many of those interviewed expressed a desire to make the river a larger part of the community, as it was historically.

Traffic

- ❑ With the increased development occurring in the area, traffic is becoming an issue on two levels: maintaining the current level of service and creating a safer environment for pedestrians and bicycles. SR 80 is a major transit corridor, linking Ft. Myers to Florida's east coast. Residents are starting to see an increase in accidents around Riverdale High School. The perception of some of the residents was that multiple accidents occur each week due to the overflow of traffic on existing roads and speeding traffic.

Flooding

- ❑ Interviewees identified flooding as a major issue of concern. Along the Orange River, flooding causes water to back up into the Buckingham Rural Preserve, the community directly to the south of the Caloosahatchee Shores Planning boundary. Interviewees perceived increased development occurring in the area as having the potential to increase the flooding problem. Additionally, many believed that Lehigh Acres, a community built at a higher elevation, causes flooding in the area.

LAND USES

Unwanted uses

- ❑ Few people expressed problems with specific land uses. Generally, interviewees believed that the specific land use was less important than the appearance of that land use. The community wants to move away from the strip commercial *appearance* that currently exists along SR 80.

Specifically desired uses

- ❑ Residents expressed a desire to see both the existing commercial development revitalized and new shopping opportunities locate to the area. Some participants suggested that the intersection of SR 80 and Buckingham Road was the center of the community and envisioned this area as a major focus for development, although others expressed the opinion that policy limiting commercial in the Suburban land use category was appropriate at this intersection. Several people who were interviewed envisioned more opportunity for larger types of retail at the intersection of SR 80 and SR 31 because much of the intersection was under single ownership and the size of the property would allow for larger types of commercial uses and shopping centers. “Big box” retail was also mentioned (Wal-Mart and Home Depot). Some of those interviewed wanted to encourage “big box” retail to locate to this area to provide the desired shopping opportunities along this corridor. Others specifically did not want “big box” retail because of aesthetic reasons and out of fear that “big box” would diminish opportunities for “mom and pop” businesses. However, the general feeling of the community was that if “big box” developments were to locate in this community they should be at or west of State Road 31.

Open Space

- ❑ Interviewees generally felt that the need for community open space should be limited because existing residents in the established rural community are on larger size lots that already provide for their open space needs. The general sentiment was that people moved out to the rural communities in East Lee County to have a big lot and get away from masses of people. However, several interviewees stated that new commercial development could create the need for usable open space for gathering in areas developed as commercial or mixed use. Some talked about having recreation facilities spread throughout the area.

Landscaping

- ❑ The majority of those interviewed expressed a preference for typical native Florida landscaping similar to what currently exists along the Caloosahatchee and Orange Rivers (without the exotics). Many expressed a desire to see the rural character preserved in landscaping and hardscape materials and did not want to see development alter the community’s character to a typical Mediterranean style.

The following were additional issues that interviewees mentioned:

- ❑ Major disconnect in the Community – There are many well-to-do land/business owners in the area and many more low-income laborers. The area has lost much of its sense of community.

- ❑ Olga Mall on Old Olga Road – Good example of "Mom and Pop" business. Olga Mall is an example of the size of the historical trading posts along the river.
- ❑ Real estate values rising above affordable costs for low-income home buyers
- ❑ Business areas only allowed certain floor area to be developed. Size should not be limited
- ❑ Architectural guidelines, redevelopment
- ❑ Preserve buildings, community center needs to be developed
- ❑ Need parks
- ❑ Preserve Buckingham Country Store (outside of study area)
- ❑ Apartments or townhouses needed
- ❑ Desired quality in building design

STAKEHOLDER RECOMMENDATIONS

- ❑ Following the stakeholder interviews, we instituted a process as we moved forward whereby the Community Planning Panel would not be a decision making body, but only a group facilitating logistics. The reason was that we needed to maintain as diverse a group as possible when decisions were made as to the content of Lee County policy changes. The East Lee County Council is already a very diverse organization, consisting of neighborhood civic associations, businesses, religious leaders and real estate developers. While the Community Planning Panel is similarly diverse and has been effective in organizing a representative cross section of people to attend the visioning workshops, it lacked diversity in its *active* membership.

At the first follow up workshop, we asked for volunteers to serve on a small working group. Since that time, all policy decisions were made through discussions with this larger group in meetings that were advertised and open to the general public. As the process continues, all meetings where input is gathered will similarly be conducted with this group of residents and property owners.

Interviewees:

1. Don Blackburn, Lee County Development Services Division
2. Bill Burdette
3. Reverend Feliciano
4. Lucy Feliciano
5. Pam Houck, Lee County Zoning Division
6. Marcia Moller Hunter
7. Richard Shafer, Principal, Riverdale High school
8. Debbie Paul
9. Mike Rippe, Florida Department of Transportation
10. Bruce Strayhorn
11. David Tinder, Manatee World
12. Barbara Ware
13. Grover Widden, Florida Power and Light

COMMUNITY CHARRETTE

Following the stakeholder interviews and the initial community workshop, VanasseDaylor, along with the East Lee County Council, identified four (4) major themes for the charrette (the design problems). Each facilitator researched the themes as they applied to the Caloosahatchee Shores Community to facilitate discussion. At the beginning of the charrette, VanasseDaylor gave an educational presentation with planning ideas and possibilities to prepare the community for each workshop.

Following the presentation, each community member was given a packet with a number that corresponded to a design problem, placing approximately 20 people in each group with a VanasseDaylor facilitator. Each design problem team had three hours to brainstorm for solutions. At the close of the brainstorming session, each group submitted their solutions, which consisted of both words and concepts in bulleted form and graphic sketches that were used to facilitate discussion and formulate ideas. The sketches provided the facilitators with concrete illustrations of the community's vision for Caloosahatchee Shores.

Provided in this report are both the bulleted verbiage and graphic sketches. In addition, each community member who attended the charrette was asked to submit their responses to pre-determined questions. The questions and responses are provided in Appendix A.

The findings and recommendations summary for each design problem are discussed sequentially within this report. The four (4) design problems were:

- ❑ **Problem 1:** Parks and Open Spaces
(Facilitators: Dan DeLisi and Fred Learned)
- ❑ **Problem 2:** Commercial Development/Redevelopment Opportunities
(Facilitators: Chad Elkins and Brian Smith)
- ❑ **Problem 3:** Community Attractors and Theming
(Facilitators: Noor Ismail and Antonio Caliendo)
- ❑ **Problem 4:** Land Use Density / Intensity
(Facilitators: Jeff Jenkins and Mitch Hutchcraft)

EAST LEE COMMUNITY

Design Problem 1

PARK AND OPEN SPACES

Problem #1 is designed to determine if the open space and green space needs of the East Lee Community are being met. *What types of open space and green space opportunities would you like in your neighborhood?* First we will need to look at what open space and green space means.

Open Space and Green Space in your Neighborhood:

Open space and Green space are very broad terms used to define land that is not developed and will not be developed. Open space is usually considered to be lands that are preserved as open areas, which in many instances can be used by people in many ways (i.e. paved courtyards, play areas, parks, golf courses, rivers, lakes, campgrounds, wetlands and preserves). Parks and green spaces along commercial corridors are often located to act as anchors for development and resting areas for pedestrian activity. Green spaces are open space lands that are green (typically landscaped or preserved indigenous vegetation). The East Lee community has several park areas designated for waterfront activities, preserves, pedestrian or bike trails, and athletics.

To complete this problem your group will be asked to discuss the uses of open space that exist in the community and the positive and negative elements that they bring. *How can these areas be improved? What are the additional areas, if any that could be used for green space?* As a group you will need to discuss what type of open spaces or green spaces are needed, desired and/or appropriate for your neighborhood. You will need to design the space with all desired elements. You will need to consider the open space's relationships with existing commercial and residential uses. You will need to determine the connections to the open space for both pedestrian and vehicular interaction. The group will need to create a design sketch of the site plan for this open space to include all desired uses and landscape features.

In addition the group should also prepare a plan of park linkages between open space areas that suggest a line of movement for the pedestrian. The linkages can offer green space between uses that are landscaped, viewed as a park and/or passages for animal movement. The linkages will soften the hard lines of development offering a holistic environment for the East Lee Community.

The facilitator will help the group prepare the sketches and written descriptions for presentation at the end of the workshop. The group facilitator and a community member will present this information at the end of the design process. You can present verbiage in bullet form or actual graphic sketches.

FINDINGS AND RECOMMENDATIONS SUMMARY:

- ❑ Open space / Water resource
- ❑ Implement rural character and stop urban sprawl
- ❑ Creation of agricultural districts based on historical land use
- ❑ Recreational uses for children with playgrounds, ball-fields and river access
- ❑ Under-utilized existing river access park land
- ❑ Preservation of existing wooded areas and large historic trees
- ❑ Sidewalks in Olga/ Riverdale High School/ Fort Myers Shores
- ❑ Bike paths connected to schools and parks
- ❑ Green space in commercial areas
- ❑ Increase depth of lots of commercial parcels for future expansion and the incorporation of green space
- ❑ Revitalize, rehabilitate SR 80 visual eye-sores
- ❑ Equestrian activity/center for shows

EAST LEE COMMUNITY

Design Problem 2

LAND USE DENSITY / INTENSITY

Problem #2 is designed to gather specific information concerning how the community perceives and feels about residential density and commercial intensity. First we must understand what density looks like and distinguish between density and appearance. We then need to look at specific areas within the community and identify what types of densities or commercial intensities are most appropriate.

Residential Density

The group will need to start by discussing what type of character they envision for the East Lee community and define the differences between East Lee and surrounding areas. The facilitators will present a series of pictures and aerial photographs to help guide discussions and identify what different densities can look like. The facilitators will also explain the concept of "cluster development" – the technique of using higher density development clustered in specific areas in order to preserve open space, natural areas or recreational areas. What is the difference between "cluster development" and "sprawling development"?

The facilitators will review the existing Lee County Future Land Use Map (FLUM - the map that defines density and land use in Lee County) and the current allowable densities in each area.

Commercial Intensity

The facilitators will start out by defining different types of commercial development and the necessary areas for these uses. The facilitators will then review the existing FLUM and identify areas that need to be changed, if any, to allow for the type of commercial development that the community envisions.

Village Center/ Mixed Use Area:

Mixed-use developments are developments that combine multiple land uses such as: residential (single-family and multi-family), commercial (retail, office, restaurant, medical) and open space (ball fields, parks, picnic areas, fishing piers). A mixed-use development can be either a mix of uses within one single building or multiple buildings developed in close proximity, and typically provides an increase in daily activity within a neighborhood, and provides convenience through the commercial uses and additional housing opportunities for the neighborhood. A village center is a common setting for mixed uses.

Some local examples of mixed use developments are: Ft. Myers Beach along San Carlos Boulevard, 5th Avenue South in Naples, S. Armand's Circle near Long Boat Key, and downtown Fort Myers. All of these areas of development have residential uses within very close proximities to high intensity commercial areas, or have residential uses mixed with office and retail uses.

To complete this problem your group needs to discuss how they would like to see the residential and commercial areas interact. Do you enjoy walking to the store or would you find it convenient to do so? What types of commercial uses are compatible with residential? What types of commercial uses are not compatible with residential?

FLUM

The facilitator will assist the group to recolor the Future Land Use Map based on the community's vision. The group facilitator and a community member will present this information at the end of the design process. You can present verbiage in bullet form and/or the re-colored FLUM.

FINDINGS AND RECOMMENDATIONS SUMMARY:

- ☐ Convert First Street to service road to encourage more upscale commercial.
- ☐ Prohibit car dealerships
- ☐ Unify lighting districts
- ☐ Development of riverfront to include greenway and fishing pier
- ☐ Controlled access on SR 80
- ☐ Sound proofing/buffer wall for noise screening, landscaping, conversion to higher quality commercial
- ☐ No high density residential on SR 80
- ☐ Alternate routes to SR 80, want back entrances
- ☐ Limit height on commercial
- ☐ Discourage low income residential apartments
- ☐ Review existing uses
- ☐ Establish design criteria
- ☐ Commercial locations at Old Olga (on SR 80)
- ☐ No storage locations on SR 80
- ☐ Mix use – residential/commercial along SR 80
- ☐ Transitional residential – to consider small residential standards consisting of “mother-in-law” apartments and flats
- ☐ Nice upscale Industrial Park
- ☐ Commercial to be clustered with larger ratios, service roads and back entrances
- ☐ Limit rental home and HUD homes in Fort Myers Shores
- ☐ Strengthen code enforcement
- ☐ Major river access for fishing, active and passive recreational areas for kites, horses etc.
- ☐ Expand, improve standards for parks
- ☐ Improve security standards and lighting
- ☐ Commercial design standards
- ☐ Establish architectural review board

EAST LEE COMMUNITY

Design Problem 3

COMMUNITY ATTRACTORS AND THEMING

Problem #3 is designed to gather specific information about how you perceive your community, potential attractors or the identity of the community, and the potential of gateway features to define the identity of East Lee.

First we must define the multiple types of roadways and design elements within the community and the general perception of the community. List adjectives that describe the general resident and outside perception of the East Lee community. *How do people identify and relate to the community? What draws people to the community?*

Second, we want to understand what a Gateway is and how it works. We must ask ourselves the question; *Do we want a Gateway to define the identity and boundaries of the community? Do we want an identifiable entrance into the community? How should it look? Do we want an identifiable architectural character for the community (Mediterranean, Old Florida Cracker...)?*

Gateway

A gateway can be viewed as an entrance to an area. Just as someone enters a home into a foyer or vestibule at a church, that specific area is designed to mark the beginning and end of a visit. An area can be defined with hard-scape, planting material or architectural elements to distinguish the East Lee Community's identity. Developing elements at the gateway areas will be useful when creating a cohesive design for the community.

Please locate the gateway areas on the aerial provided and describe both graphically and in bullet form what the gateway will be.

Theming (Provide Bullets and Sketches)

Third, we want to identify elements of the community that can be used for identification or attractors. In planning we call this exercise "theming". Some of the ideas that have already been mentioned are the revitalization of "historic Olga", providing a stronger connection with the river, creating horse trails and amenities, etc.

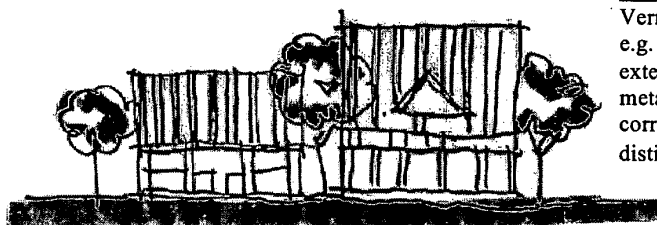
To complete the problem your group needs to discuss how you want people to identify with the community and ideas for creating that kind of community. If possible, identify where in East Lee each type of feature would be appropriate. Your group should provide areas of concentration for immediate and long-term concern. In addition, think of potential names that are more descriptive to identify this community (The Lee County Comprehensive Plan refers to this area as the Ft. Myers Shores Planning Community, we are referring to this area as East Lee).

The group facilitator and a community member will present this information at the end of the design process. You can present verbiage in bullet form or actual visual pictures.

FINDINGS AND RECOMMENDATIONS SUMMARY:

- Gateway into Community – Participants agreed not to create any physical gateway into the community, but preferred to have more indigenous plants landscaped/planted within the vicinity and creating a rural theme throughout the community. The additional plantings will subconsciously demarcate the boundaries of the geographical location of the area. Plants to include indigenous plants not limited to the following: Palmetto, Oak and Wax Myrtle.
- Architectural Theme - Vernacular Architecture, e.g.: Florida Cracker, Southern Architecture, extended overhangs, pitch roof, corridor, tin metal roofing and others

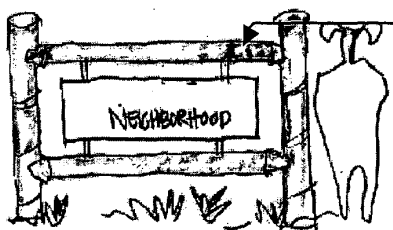
Not to exceed 3 stories in height



Architectural theme:

Vernacular Architecture
e.g. Florida Cracker with
extended roof overhangs,
metal roofing, shaded
corridors and other
distinctive features

- Height restrictions to be placed on buildings – not to exceed three (3) stories in height
- Gateway into Neighborhoods – The community agreed to distinct monumental markers demarcating the entry into the various neighborhoods. This can be a standardized simple form or a “free for all structure” that has a rural characteristic instilled within it. The community agreed that they should find a common name for the East Lee Community for future references.



Wood
frame



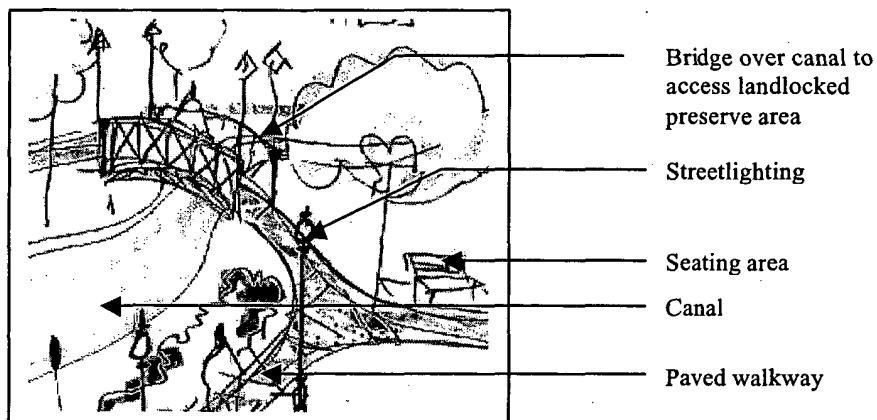
Tin roof

Masonry and
rocks with
creeping vines

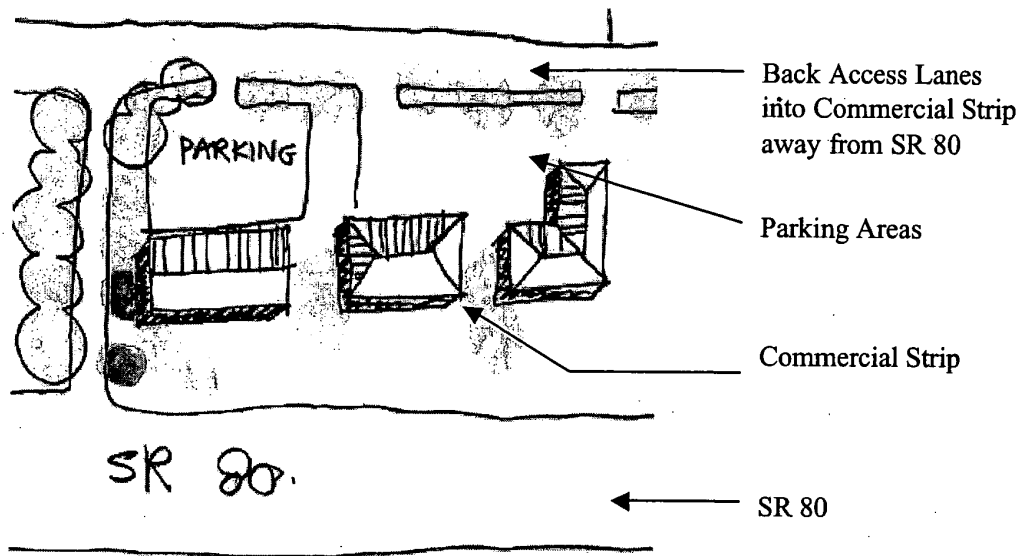
Gateways into neighborhoods to depict a rural, “rustic” theme throughout.
(The sketches above are merely quick artist conceptual illustrations to depict theme)

- Streetscaping – lined-up palm trees and adequate landscaping at ground level. Streetscaping to break away from the monotony to create focal points where appropriate
- Speed limit on SR 80 to be maintained in view of the proposed six lane expansion plans

- ❑ No big box development, stick with rural architectural theme, more "Mom and Pop" establishments
- ❑ Village Center to be away from SR 80 – to include basic amenities such as post office, library and other basic amenities
- ❑ Public access to riverfront – While it is important to maintain public access to riverfront, the community agreed that access should be restricted. Issues to be addressed include the following: maintenance of shore-line, preservation issues, enforcement, control issues, buffering and screening of neighborhoods
- ❑ Active/passive recreational activities should fit in with the rural type image. The community agreed that emphasis should be on canoeing, horse trails, kayaking and walking trails.
- ❑ Proposed park at two areas:
 - ❑ Northeast of defined geographical boundaries of East Lee Community on agricultural lands
 - ❑ Land-locked area of preserves behind Methodist Church that is surrounded by canal. Ideal for walking trails, connected bridges and seating areas. Centrally located and easily accessible by the various neighborhoods surrounding the area



- ❑ Adequate lighting in neighborhood and public areas for crime prevention
- ❑ Davis Boat Ramp to be cleaned up
- ❑ Trailer parks to be spruced up or screened
- ❑ No used car lots
- ❑ Back street access into commercial strip away from SR 80



- No Billboards
- Library - Community is requesting that the existing library be given a new lease, or create a free-standing library within the community

EAST LEE COMMUNITY

Design Problem 4

COMMERCIAL DEVELOPMENT/REDEVELOPMENT OPPORTUNITIES

Problem #4 is designed to determine how your community feels about commercial land use and its development. To complete this problem you must understand what commercial land uses are. Below, examples are given that define existing commercial land use developments. An aerial has been provided for the group to develop its vision of a commercial property. Please identify where parking should be located. Also, determine on which street the development fronts and where there will be access to the businesses. Please note that these are hypothetical examples of commercial development. This exercise will inform us of how the community would ideally like to see commercial uses being developed in different areas of East Lee – what kind of uses and what types of site designs.

Commercial Land Uses:

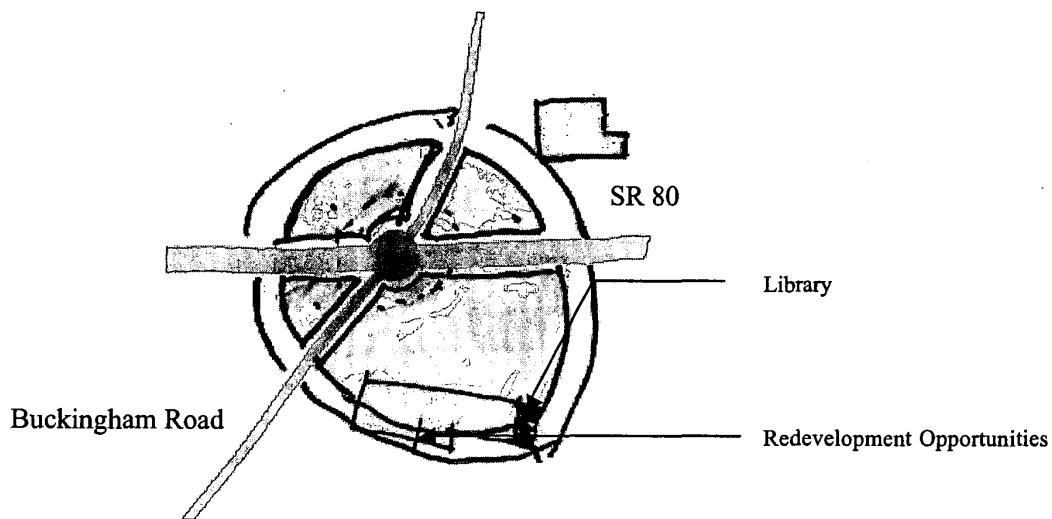
Publix Shopping Center, Winn-Dixie Shopping Center, SR 80 “strip development”, Wendy’s, historic retail are a few examples of commercial land use.

For the aerials provided, determine how the commercial areas need to be developed.

- A. Intersection of Buckingham Road and SR 80
- B. Intersection of SR 80 and SR 31
- C. “Historic Olga” – Old Olga Road

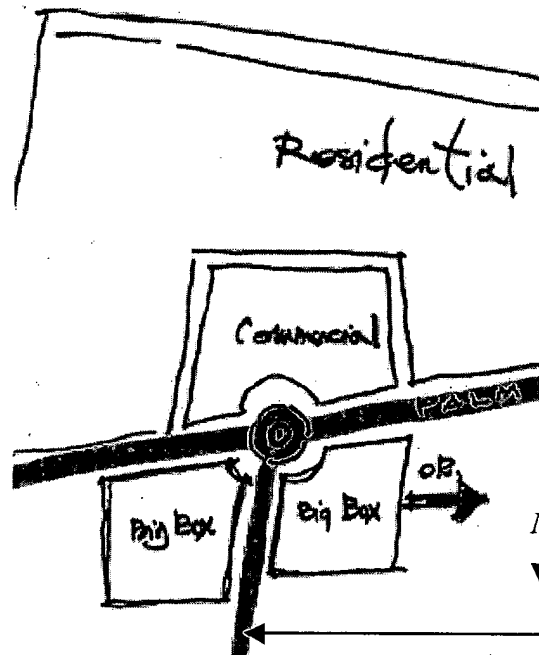
FINDINGS AND RECOMMENDATIONS SUMMARY:

- ❑ Commercial uses tied to community needs
- ❑ Enhanced existing commercial areas
- ❑ Connectivity of community with sidewalks
- ❑ Improvement plan sidewalk
- ❑ Transition from Suburban to Rural to Outlying Suburban
- ❑ Updated design standards for older residential
- ❑ Commercial identity through identification of community name
- ❑ Town Center at intersection of SR 80/ Buckingham Road
- ❑ Town Center to incorporate restaurants, farmer's market/vegetable stand, retail shops, community center, antiques, café, post-office, library, youth center, elderly center, bowling and recreation



Conceptual Layout: VILLAGE CENTER

- ❑ Buffer between commercial/residential areas.
- ❑ Signage to be uniform throughout. No neon lights and low signage to be provided throughout (like Wellington). All signage structures to match/be compatible with informational signage.
- ❑ Big box development (such as Target, Wal-Mart, Home Depot) to be developed strictly in line with architectural guidelines

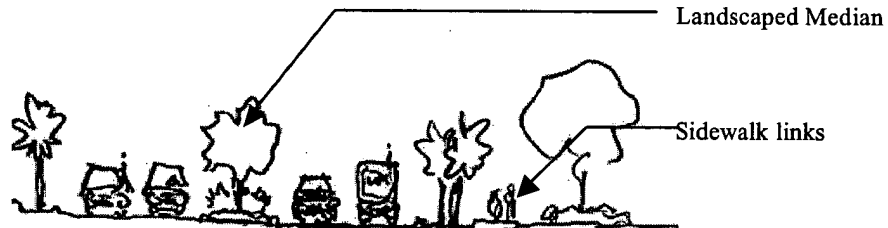


Types of "Big Box" Development:

- Wal-Mart
- Target
- Home Depot

Conceptual Layout: SR80 / SR31 Intersection

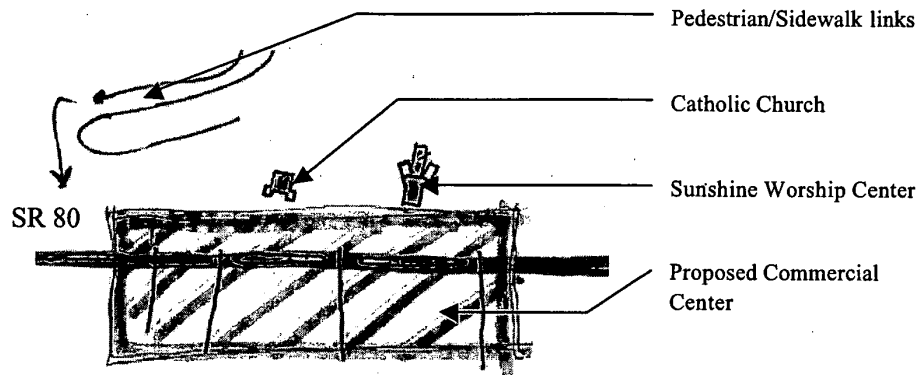
- ❑ Streets to incorporate medians and limit access (curb cuts) where possible
- ❑ Pedestrian links from residential to commercial areas



Conceptual Layout: Streetscaping

- ❑ Commercial areas to include bike paths, pedestrian sidewalks, parking lot with trees, Parking areas to be in the back
- ❑ Commercial outlets to depict rural vernacular Florida architecture with a two-story height limitation, rural theme throughout





Conceptual Layout: Proposed Commercial Center

□ Do not want list:

- Adult entertainment – strip clubs, adult book stores, pornography stores
- No bars
- Limit/prohibit franchise outlets
- Limit Big Box via design and area
- No more used car lots

5.0 Community Characteristics

The East Lee County Council initiated the community plan under the realization that development is coming to the Caloosahatchee Shores area, and there is a need to ensure that new development be allowed in line with the community vision. The current Lee County Comprehensive Plan projected only a minimal increase in population for the Caloosahatchee Shores Community. Note that the current Lee County Comprehensive Plan designates this area as part of the "Fort Myers Shores Planning Community", which also includes a small area west of I-75. The Fort Myers Shores Planning Community is projected to increase in population from 12,000, as was estimated in the base year of the Comprehensive Plan, to 15,000 people by the year 2020 (Table 1). According to census data, this slow growth rate is fairly accurate (Table 2).

Table 1: 2020 Population Projections for the Ft. Myers Shores Community

Year	Population
1998	12,617
1999	12,867
2020(Forcast)	15,135

Source: Lee County Department of Community Development

Table 2: Census Projections for the Caloosahatchee Shores Community

Year	Population
1990	11,830
2000	14,115

Source: US Census Bureau

However, over the last three years there has been a significant increase in entitlements for residential developments in the Caloosahatchee Shores Community. The following table shows the projected population increase based on the three recently approved residential developments in the Caloosahatchee Shores community. What the tables show are that even if there are no new developments proposed in this community, there will be a 85% increase in population over the next ten years, based on build-out projections of Verandah, Hawks Haven and Buckingham 320.

Table 3: Permitted Increase in Residential Units

	Development	# of Multi-Family	# of Single Family	Total DU
1	Hawks Haven	250	1,348	1,598
2	Verandah	375	1,125	1,500
3	Buckingham 320	320	320	640
Total New Units		945	2,793	3,738

Source: Lee County Department of Community Development

Table 4: Projected Increase in Population by 2012

Unit Type	# of Units	Population Multiplier	Population Projection
Multi-Family	945	2.02	1,909
Single Family	2,793	2.74	7,653
Total			9,562

Note: Population figures are based on multipliers obtained from the Lee County Planning Division. These multipliers are fairly consistent with data obtained from the US Census Bureau and located in Maps 2 and 3 of Appendix B

The increase in population is significant for a number of reasons. First, the idea of creating a community plan originated with the rezoning of the 320-acre property originally proposed for a total of 1,320 units. Residents rallied against the rezoning based on concerns for residential density, compatibility with the surrounding communities, and the Buckingham Rural Preserve land use category which is directly to the south of the property. Therefore, one common theme that was reiterated by residents throughout the planning process was that growth and development are acceptable as long as the density is compatible with existing density, and the rapid increase in development does not place an undue burden on the existing communities.

The second theme we heard constantly throughout the planning process was a desire for increased and enhanced shopping opportunities within the community. Residents expressed concern about having to go outside the community for much of their shopping needs, creating situations where residents drive longer distances and create more traffic on the roads in their community and surrounding communities. The population increase is significant in that it has created the expectation and hope that larger retail establishments will now, with an increased customer base, locate larger shopping opportunities in the area.

Finally, with the increased population and desire for more regional-type shopping opportunities, residents wanted to retain some of their historic rural identity. In the following plan amendment, we have attempted to do that by locating the increased retail designation at the largest intersection and closest to I-75, created a change that aims to locate higher density residential development away from Buckingham Road, which is presently rural in nature, and establish policies to address community character to ensure that new development promote the vision of the community.

Community Identity and Historic Resources

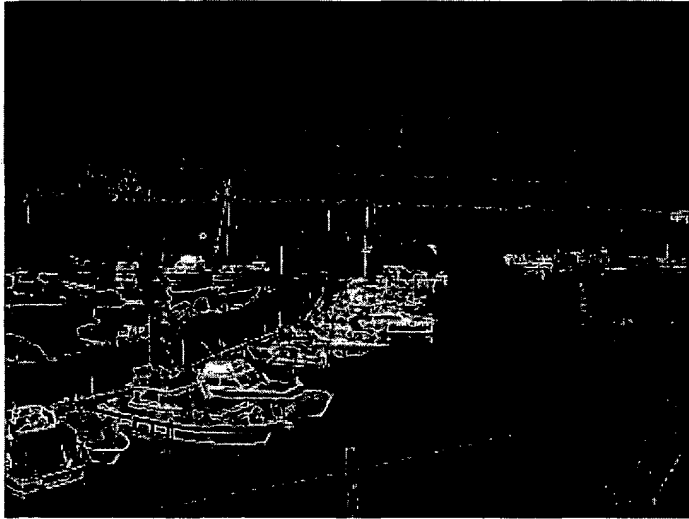
The Caloosahatchee Shores Community is a mix of rural, suburban and strip commercial development. In the minds and hearts of the residents this community is still rural in nature. However, it is clearly a transitional area, from the rural areas to the east in Alva, to the intense commercial development directly to the west of I-75.

The Caloosahatchee Shores Community has a historic identity that the community wants to preserve. The identity of the community is tied to the waterfront and the rural farming character that is now fading. Historic structures and historic uses do exist in this community and should be preserved where possible. Much of the focus on maintaining the historic rural identity for the area translated into retaining the historic Florida Vernacular architectural style or Florida Cracker. The Lee Plan currently provides for the preservation of historic structures and Lee County and the Lee Trust for

Historic Preservation currently work to ensure that historic buildings of value are preserved. Buildings already preserved include the Olga Community Center, the Flint House and the Olga Mall. This should continue; however, we do not feel there is anything additional to propose at this time that would significantly help historic preservation in the Caloosahatchee Shores Community.

Maintaining the community's historic connection to the waterfront, however, will add significant value to residents and visitors of this area. Connection to the community's rivers defined a large part of the area's past, both from the Caloosahatchee River that bounds the community on the north and the Orange River which bounds the community on the south. The neighborhood "Fort Myers Shores" was clearly named to maintain the neighborhood's connection with the riverfront. Despite this, the waterfront aspect of the community is not readily apparent from properties setback away from the water. Public access is fairly

limited to Manatee Park, Franklin Locks, and at one time, the Florida Power and Light Power Plant. The community still retains some of the historic water dependent uses such as Marina 31, Manatee World, and several other areas located on Lee Plan Map 12, the Water Dependent Overlay Zone; however, public connections to the water can be enhanced.



Above: View of the Caloosahatchee River from Marina 31



Above: View of the Caloosahatchee River from a house in the Fort Myers Shores neighborhood



Projected Demographic Shift

The development of Verandah, Hawks Haven and Buckingham 320 will undoubtedly alter the demographics of the Caloosahatchee Shores Community. According to Map 4 in Appendix B, the Projected Median Property Values in 1999 (using Claritas data obtained from Lee County) ranged from \$112,000 at the high end for properties located along the Caloosahatchee River to approximately \$60,000 for properties located closer to State Road 80 (note however, that the highest valued properties, the high end outliers, located on the waterfront can exceed \$400,000 in value). Verandah alone, with 1,500 units, projects an average present value for properties (excluding higher end outliers along the Orange River) of \$360,000 in the first year. The low end homes, the Coach Home product will sell for approximately \$200,000. Even without Hawks Haven, which like Verandah, is a golf course community, and Buckingham 320, both of which will likely have property values slightly less than Verandah, the Caloosahatchee Shores Community will face rapid increase in average property values due to new high priced homes locating in the area. With the new higher end residential units coming to the community, retail developers will see a greatly expanded customer base and significantly increased community purchasing power.

Transportation:

Transportation was not among the major areas of concern to the community, and then mostly in terms of pedestrian safety, aesthetics, and character of the roadway. Creating a walkable area along State Road 80, the major spine road of the community, was discussed as well as limiting the number of commercial access points along the corridor. Residents expressed concern over high traffic speed, and generally wanted a corridor with enhanced landscaping. Residents wanted to maintain the rural character of Buckingham Road, the other major roadway in the community.

Planned Developments:

Map 5 in Appendix B shows the existing planned developments in the Caloosahatchee Shores Community. The striking aspect of this exhibit is that the three recent residential and mixed use developments, Hawks Haven, Buckingham 320 and Verandah, occupy a substantial amount of the remaining undeveloped land – over 3,600 acres. Much of the remaining land is occupied by the existing residential neighborhoods of Fort Myers Shores, Olga, the Florida Power and Light Power Plant, and the existing commercial strip centers along State Road 80.

Future Land Use Map

The Future Land Use Map (FLUM) currently identifies a hodgepodge of fairly intensive land use categories along the western end of the community along I-75. Generally, the land use categories become less intense to the east. Map 19 of the Lee County Comprehensive Plan also designates the intersection of State Road 80 and Buckingham Road a Commercial Node. The Future Land Use Map shows the Buckingham Rural Preserve adjacent to the south of the

Caloosahatchee Shores Community, and, with the exception of Lehigh Acres, rural lands to the east.

Table 5: Future Land Use Category Acreages

Future Land Use	Acreage
Suburban	4,550
Rural	3,926
Urban Community	1,160
Wetlands	1,082
Public Facilities	411
Industrial Development	410
Central Urban	272
Upland Conservation Lands	146
Intensive Development	75
General Interchange	59
Outer Islands	19
Wetland Conservation Lands	16
Industrial Development	5
Approximate Total	12,131

Table 5 shows the Future Land Use categories that exist in the Caloosahatchee Shores Community, and the total approximate acreage of each category, while Map 6 in Appendix B shows the future land uses within the community and surrounding area. Most of the area that the community envisioned for development is currently in the Suburban land use category, including the future residential developments and the two commercial nodes at SR 80 and Buckingham and SR 31 and SR 80. The “Suburban” category allows for moderate residential densities, and limits commercial intensities to developments less than 100,000 square feet of retail area.

Generally, the existing designations are appropriate for guiding the future growth of the community, provided that Lee County gives further direction on where and how commercial uses should be developed, and a methodology to encourage a mix of residential uses and community uses in the smaller parcels along key corridors.

However, two modifications that are necessary are:

1. Lower the allowable density along Buckingham Road
2. Allow for increased commercial development at the SR 80/SR 31 commercial node.

6.0 Recommendations

Based on the compilation of responses, evaluation of existing conditions, and mapping and data analysis, a Community Vision was defined and multiple “Action Items” were created. These Action Items represent general or specific steps that the community has identified for immediate action or future detailed evaluation. Presented below is a summary of the key issues identified by the participants of the study. However, in order to give the Community a clear expectation of how each of these Action Items will be addressed, when they will be addressed, and who is responsible for implementing them, each Action Item has been categorized in one of the following three categories:

- Lee Plan Amendment
- Land Development Code Amendment
- Community Responsibility

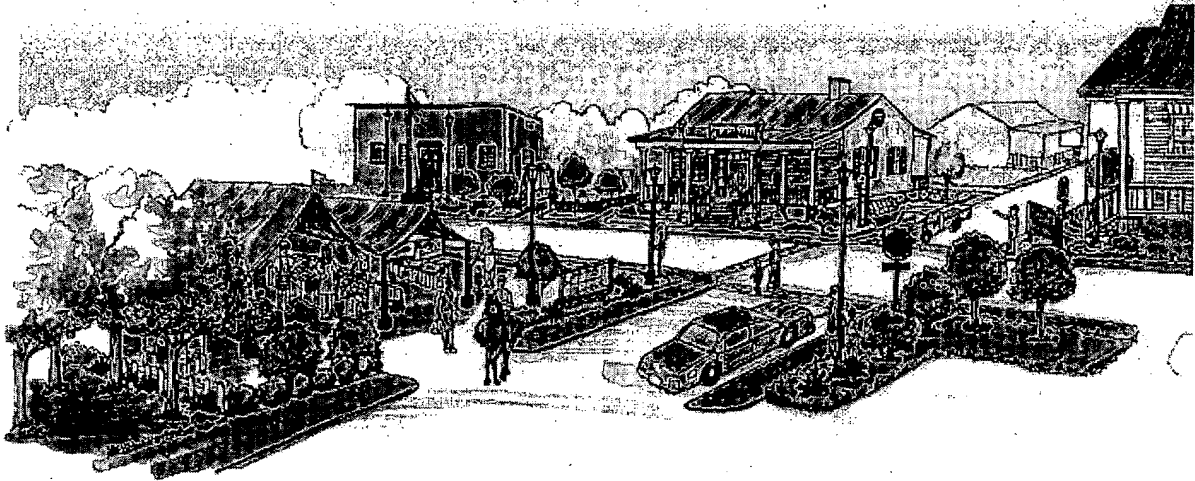
LEE PLAN AMENDMENT

The Action Items listed in this category can be addressed, even if only preliminarily, in the Lee Plan Amendment scheduled for submittal on September 30, 2002. These are typically issues that are visionary in nature, and can be adopted in Goal, Objective and Policy format. They will then serve as “enabling” language for future, more detailed community planning efforts, and also address areas within the current Lee Plan that would inhibit the Caloosahatchee Shores vision from becoming reality. These Action Items will help form the Community Vision, and will serve as the cornerstone for future development and project approvals.

Timeframe: Initiated September 30, 2002; Approved early 2004

- a. **Community Character - See Objective 21.2**
 - Enable the adoption of enhanced design standards
 - Encourage the use of Florida Vernacular styles of architecture
- b. **Commercial Corridor Concepts – See Objective 21.2**
 - Establish the intersection of SR 80 and SR 31 as a commercial node allowing for Community Commercial Levels of development.
 - Preserve the historic retail use (the Olga Mall) at the intersection of Old Olga Road and South Olga Drive, and encourage other village center uses (see Exhibit # 1).
 - Require the provision of pedestrian and vehicular interconnects between uses.
 - Encourage the redevelopment of SR 80 to use First Street as a reverse frontage road, and redevelop by aggregating parcels to deepen lots.

Exhibit 1: Artist rendering of the intersection of Old Olga Road and South Olga Drive



c. Residential Areas – See Objective 21.3

- Enable the community to draft enhanced buffer requirements when projects are not mixed use in nature.
- Discourage multi-story apartment buildings along SR 80 and Buckingham Road.
- Encourage and provide incentives for mixed-use developments at the commercial nodes – SR 80/SR 31 and SR 80/Buckingham Road. Grant deviations from or change any policies that would inhibit or discourage mixed-use developments (ie. Glossary Change).

d. Community Facilities/Parks - See Objective 21.5

- Encourage the creation and expansion of parks, nature trail, equestrian trails and river access.

f. Public Participation - See Objective 21.5

- Encourage Public Workshops prior to the Hearing Examiner proceedings and increased access to rezoning information.

g. General Amendments

- Update the Vision Statement to reflect current conditions in the Caloosahatchee Shores Community.

Map Change

As stated earlier in this report, the East Lee County Council initiated the community planning process after its successful opposition to a Residential Planned Development (Buckingham 320) located adjacent to the Buckingham Rural Preserve and along Buckingham Road. Residents expressed two major concerns during the Buckingham 320 zoning process that became central themes during the community plan visioning process.

First, the feeling of the community at that time and throughout this visioning process was that there needs to be an area of “transitional density from the Rural Preserve area in Buckingham (1 dwelling unit per acre) to the Suburban Land Use category (6 dwelling units per acre). The community feels strongly that jumping from an area of 1 unit per acre immediately to 6 units per acre is incompatible. In the Buckingham 320 RPD rezoning, the Lee County Hearing Examiner and the Board of County Commissioners agreed with the community and limited the development to approximately 3 units per acre in the portions of the development that are within the Suburban Land Use Category.

Second, residents generally wanted to see Buckingham Road remain rural in character, keeping lower densities along Buckingham Road and higher densities, if permitted, set back from Buckingham Road. Exhibit 1 below shows the section of the Future Land Use map that is of concern to the community. Currently, the Suburban Land Use category extends past Buckingham Road between 1/3 and 3/4 of a mile. Lee Plan Policy 5.1.11 allows for planned developments to aggregate the allowable densities for each land use category, *except* for portions of a property that are within a non-urban land use category (Rural). The net effect of this policy on large residential Planned Developments to the east of Buckingham Road (such as Buckingham 320) is that the higher density areas of the development must be placed along Buckingham Road, while the lower density areas must be set back in the areas that are in the Rural Land Use Category. Even though Buckingham 320 is under single ownership and has been proposed as a master planned community with primary access on Buckingham Road, the Lee Plan will not allow the project to shift the higher density units away from the road to the Rural land use areas.

[illegible]

This map change would create a “transitional” Land Use Category and also lead to a net reduction in the total allowable density on the Future Land Use Map. Table 6 below calculates the maximum allowable density under the current Future Land Use Map and the total allowable density with the proposed change. Please note that because we have not surveyed each property, all calculations are approximate in terms of acreage and allowable density.

Table 6: Density Reduction Under Proposed FLUM

Property	Rural Acres	Suburban Acres	Total Acres
Hunter, et. al.	169	86	
	320	6	
Total	489	92	581
Buckingham Development LLC	119	176	
		49*	
		21	
Total	119	246	365
James Kuhlmann	20		
Bonnie and Ralph Cantrell		6	
William Holler		1	
David Peck		1	
Thames Hazel		19	
Ingram Cezanne		10	
Total	20	37	57
Total	628	375	1,003
Maximum Total Units	628	2,250	2,878
Total With Map Change*			2,055
Total Reduction			823

* Property that is proposed for 3 du/acre. This accounted for in the "Total After Map Change."
Source: Lee County Property Appraiser

Exhibit 3: Proposed FLUM

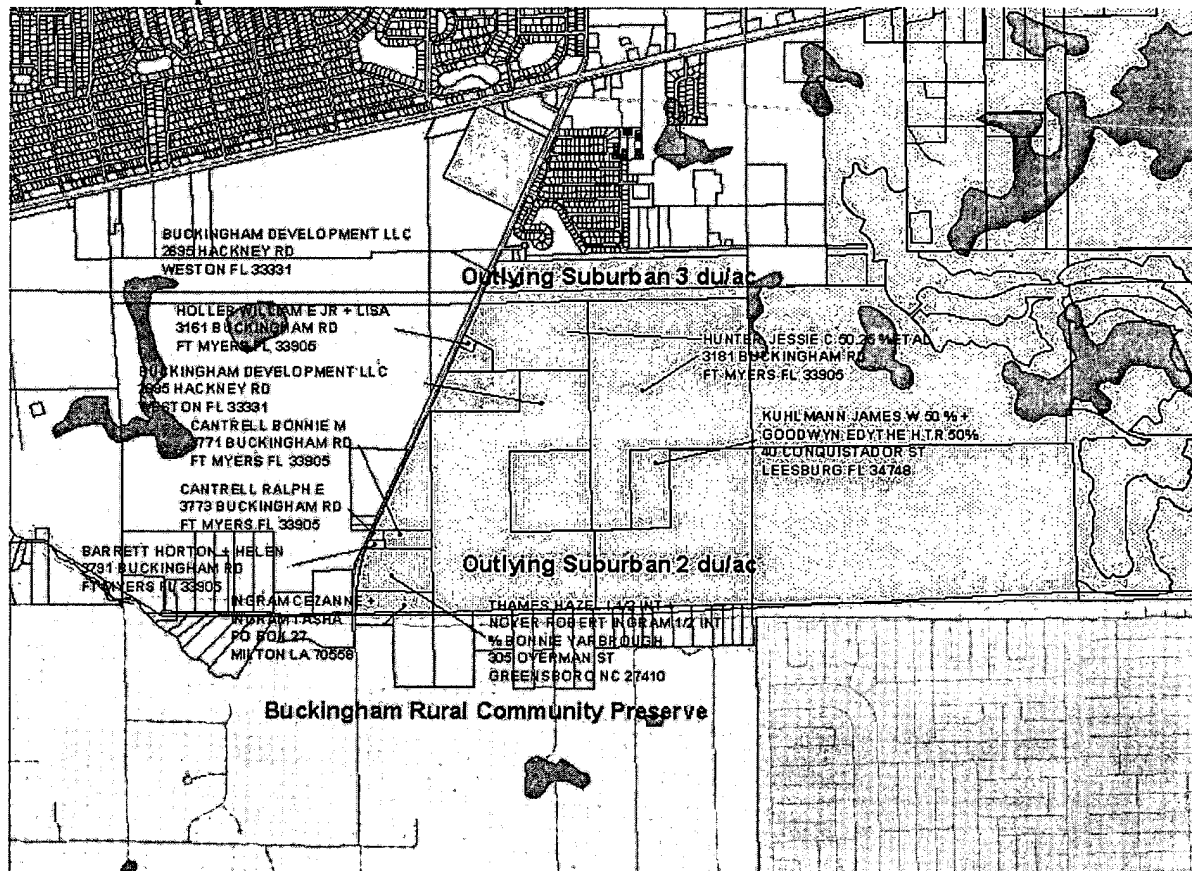
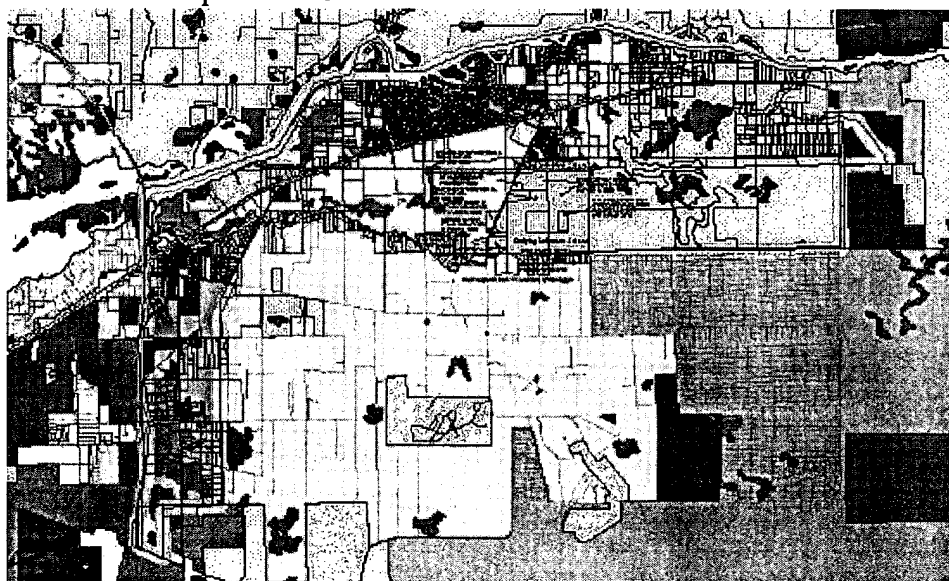


Exhibit 4: Proposed FLUM



Commercial Node Designation

One of the central themes that pervaded the visioning process was the desire for increased commercial shopping opportunities. While there was much discussion on what type of commercial shopping the community wanted to see, many residents specifically stated “big box” development was a desired use. Wal-Mart, Home Depot and Lowes were specifically mentioned through the visioning processes by residents both within this community and by residents living along State Road 80 west of I-75. Residents wanted the opportunity to stay within the community to fulfill their shopping needs. It is important to note that *although there is currently retail establishments and vacant land zoned for retail in the area, residents expressed interest in a diversity of retail uses that specifically included large retail outlets as well as small neighborhood stores.*

With the rapid change in population and demographics that Caloosahatchee Shores is experiencing, larger retail developments will become more viable in this area. Furthermore, with restrictions on retail development in Alva to the East and Bayshore to the north, larger retail uses that attract a customer base from the surrounding communities are desired by the community and will allow residents to stay closer to home to fulfill shopping needs. The larger retail developments that the community expressed interest in would likely require retail floor areas of over 100,000 square feet (see Table 7). However, currently the Lee County Comprehensive Plan allows for this intensity of retail development only in the portions of the community that are within the General Interchange, Central Urban and Urban Community Land Use Categories. The Suburban Land Use category, the predominant land use category in this community, does not allow for retail establishments greater than neighborhood centers (a maximum of 100,000 square feet of retail floor area). The areas within Future Land Use categories that currently would allow for this intensity of development are either currently built out, or would not be suitable due to road infrastructure constraints to handle this type of development.

From a planning perspective, intensive retail development should be located where the road infrastructure can support the level of traffic, and where there is sufficient current and projected traffic flow to make retail establishments viable. At the same time, the residents of the Caloosahatchee Shores Community did not want to see larger retail uses extend too far east past State Road 31. From the perspective of the residents that participated in the community design charrette and many of those who were interviewed in the stakeholder analysis, the intersection of State Road 31 and State Road 80 is the location where community levels of retail are desired.

Table 7 shows the floor area needed for the community commercial uses that residents desire, and a conversion of floor area to total site acreage, based on real experience developing in Lee County, accounting for water detention, open space, parking, etc. As Table 7 demonstrates, a minimum of 12.5 acres are necessary for a parcel to be viable for the desired community commercial development. It should also be understood that this floor area is solely for the anchor store. Any successful development will need to have retail shops in addition to the anchor tenant. Therefore, in order to attract a community commercial use, parcels will need to be substantially larger than 12.5 acres to accommodate the tenant retail uses necessary to create a viable development.

Existing conditions seem to support the community's desire to designate the SR 80/SR 31 intersection of community levels of retail. Map 6 in Appendix B shows parcels in the Caloosahatchee Shores Community and the surrounding areas, highlighting parcels that are 15 acres or greater – parcels that are viable for community commercial development. The intersection of State Road 80 and State Road 31 stands out as the best and probably only location that has both sufficient parcel size and sufficient road infrastructure to allow for a viable community commercial center.

Table 7: Major Non-Department Store Anchors

Selected Store Types	Size Range (Square Feet)	Required Land (Acres)
Biggs, IKEA	> 150,000	>18.75
Warehouse Clubs (Sam's, Costco)	110,000 – 135,000	13.8 – 16.9
General Discounters (Kmart, Venture, Wards, Wal-Mart, Target)	100,000 – 130,000	12.5 – 16.3
Home Improvement (Home Depot, Lowe's, Hechinger)	100,000 – 130,000	12.5 – 16.3
Supercenters	125,000 – 180,000	15.6 – 22.5
Combo Stores (Kroger, Albertson's, Vons, Giant, Fiesta, Ukrops)	55,000 – 75,000	6.8 – 9.4
Sporting Goods (Sportstown, Oshmans, Sports Authority, REI)	50,000 – 60,000	6.3 – 7.5
Catalog Showroom (Service Merchandise)	50,000	6.3

Source: Shopping Center Development Handbook, Urban Land Institute

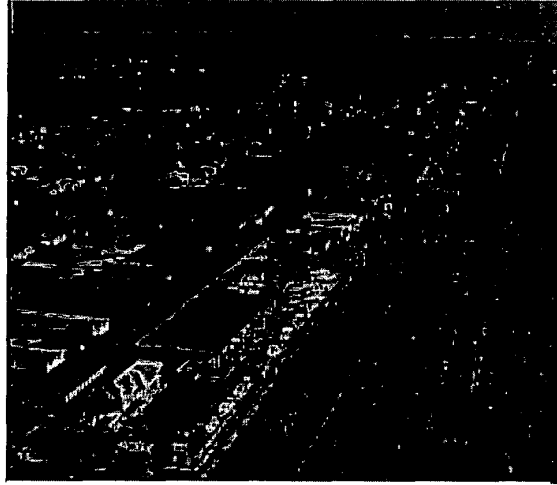
Note: We assume that 1-acre will allow for 8,000 square feet of retail floor area, based on actual experience.

In order to allow for and encourage community levels of commercial development at the intersection of State Road 80 and State Road 31, we are suggesting an amendment to Policy 6.1.2.3(f) to allow for an exception for Community Levels of commercial at this intersection, even though it is in the Suburban Land Use Category. There is already precedent for this in North Fort Myers. We are simply adding one intersection to the exception. This seems to be the easiest way to allow for the community vision without changing the land use category and “spot planning”. The second option is to change the underlying land use category from Suburban to Urban Community – the next intense land use. This is not preferable because it would allow for uses including light industrial that are outside of the community vision. The third option is to create a new land use category for commercial uses only. We have attached recommended language in Appendix C. From the community's perspective, it does not matter which way we choose to allow community commercial levels of development at this intersection, only that the community can have increased shopping opportunities in an appropriate location, without having to drive outside the area.

Redevelopment of State Road 80

The redevelopment of the commercial lots along State Road 80 is a difficult and complex task that Lee County has been attempting to address for over a decade. Similar to the strip commercial development that characterizes State Road 80 west of I-75, the lots east of I-75 are generally too shallow and lacking the lot dimensions to create viable businesses opportunities. Many of the commercial lots were originally platted as part of residential communities and therefore are not properly configured to provide for many types of commercial development. The 1991 Community Redevelopment Agency Plan for State Road 80 found that, *"Many of the commercial lots are of insufficient size in both the Tice and Fort Myers Shores areas. The C-1 zoning which exists in these areas requires*

a minimum of 7,500 square feet of area, 75 feet of width, and 100 feet of depth... Many of the lots fail to meet the minimum requirements, and would have significant difficulty being developed under current regulations." (State Road 80 CRA, Lee County Redevelopment Agency, 1991). Dimensional requirements not only affect legal conformity with the zoning codes, but the ability to redevelop. Commercial lots that are 50 feet x 100 feet will find great difficulty in developing, and thus the scattered vacant lots continue to contribute to a condition of blight.

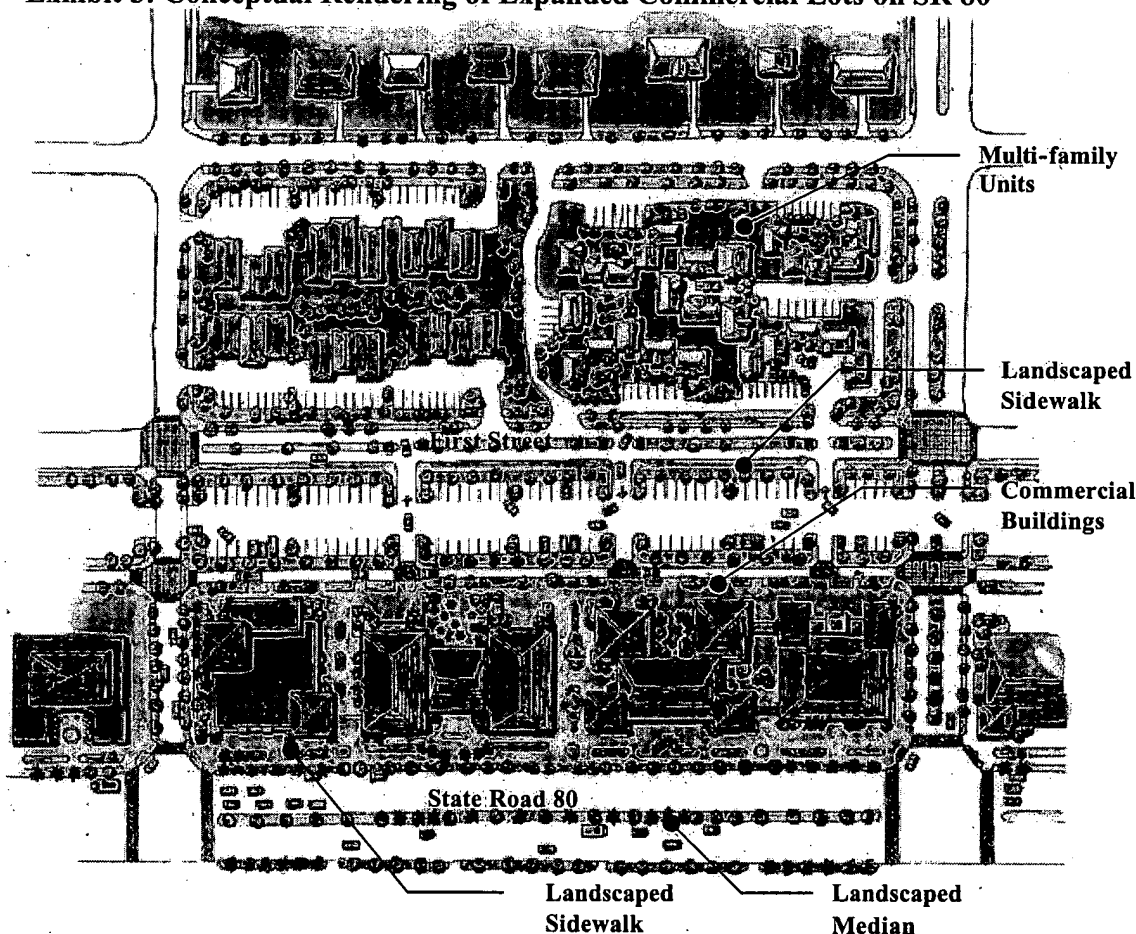


Above: Aerial view of the commercial strip along State Road 80



In addition to the vacant lots and underachieving business along State Road 80, the residents who participated in the visioning process identified the multi-family units that are located directly adjacent to the north of the commercial lots, and on the south side of First Street, as contributing to blight in the neighborhood. During the community design charrette, two groups addressed ways to redevelop the commercial businesses along State Road 80. Following the charrette, VanasseDaylor created a conceptual sketch based on the community input (Exhibit #5). The sketch depicts State Road 80 at the southern edge with expanded commercial lots to the north that aggregate the current multi family lots. First Street is used as a reverse frontage road, which will limit the number of access ways along State Road 80. Also note the enhanced landscaping and sidewalks on both State Road 80 and First Street, safely separated from the edge of pavement with a planning strip, consistent with community input.

Exhibit 5: Conceptual Rendering of Expanded Commercial Lots on SR 80



Land Development Code Amendments:

Following the submission of the amendment to the Lee Plan, the next step is to draft Land Development Code amendments. These policies will be more specific parameters by which projects can develop. Amendments can include design guidelines, incentives for mixed use developments, sign guidelines, and administrative procedures for public participation. Because the former Lee County Community Redevelopment Agency already established a zoning overlay for this area, it may not be necessary to wait until the adoption of the Lee Plan amendment to proceed with Land Development Code changes.

Timeframe: Initiated December 2002; Approved August 2003

Community Responsibility:

These are undertakings that do not fall within the “jurisdiction” of the local regulatory structure. These Action items are identified in this report, but will require the active involvement of the Community to implement. The following are suggestions based on community desires for improvements in the community.

a. Parks and Recreation

- Work with the Lee County and the National Parks Service to create a nature trail through the community. The nature trail should have riverfront access at some point and be open to pedestrian, bicycle and equestrian traffic.

b. Community Policing

- Work with the Lee County Sheriff’s Office to create a police substation in the Caloosahatchee Shores Community, and to increase the number of highway patrol officers to ticket speeding traffic.

c. Roadway Landscaping

- Work through the Lee County Roadway Landscape Advisory Committee (RLAC) to submit and attract additional county funding for enhanced street landscaping. The monies are currently available and could create an enormous aesthetic enhancement to the roadway corridors in the Caloosahatchee Shores Community.

d. Special Assessment Districts

- Unify the lighting districts and create a common theme for community landscaping, lighting and signage improvements.

All of these desires are efforts that must be undertaken by the residents and Key Stakeholders of the Community. Lee County has limited ability to mandate any change that would result in the achievement of these goals.

7.0 Conclusion

Over the last nine months working with the residents and property owners of the Caloosahatchee Shores community, the main theme that continued to pervade discussions in the community was the community's desire to allow and encourage growth while retaining as much of its historic identity as possible. Residents expressed a desire to direct growth toward a specific vision: historic preservation, including preservation of rural Old Florida styles of architecture; commercial redevelopment and increased shopping opportunities at specific nodes; low density residential development along Buckingham Road; and the creation of community "village" areas through mixed use development and preservation of historic neighborhood commercial uses such as the Olga Mall. This plan attempts to both articulate the community's vision for Caloosahatchee Shores and begin implementing it through the adoption of language into the Lee County Comprehensive Plan.

Where policies in a growth management plan cannot by themselves implement a community's vision for growth, we included a mechanism for increased public involvement in the development process, and suggested additional non-policy efforts that the community should consider. This plan should therefore be thought of as merely the community's first step in an ongoing process for preservation and growth in Caloosahatchee Shores.

OFFICE OF THE HEARING EXAMINER, LEE COUNTY, FLORIDA

HEARING EXAMINER RECOMMENDATION

REZONING: CASE DCI964568 fka 99-10-090.03Z
APPLICANT: BUCKINGHAM 320
HEARING DATE: MAY 24, 2000

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 THOMAS GORE, TRUSTEE, 1334 Gasparilla Drive, Ft. Myers, FL 33901 (Applicant/Trustee); CHARLES J. BASINAIT, ESQUIRE, % HENDERSON, FRANKLIN, STARNES & HOLT, P.A., P. O. Box 280, Ft. Myers, FL 33902-0280 (Agent).

Request is to rezone 325± acres of land from AG-2 to Residential Planned Development (RPD) to permit a maximum of 1,320 dwelling units in a mix of housing types, with personal and private recreational facilities and a private club (no golf course). Buildings are not to exceed 35 feet in height within a maximum of three stories.

The subject property is located at 3621 Buckingham Road (approximately 1½ miles south of S.R. 80 on the east side of Buckingham Road), in S32 & 33-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 325± acres from AG-2 to Residential Planned Development (RPD) for the real estate described in Section IX. Legal Description WITH THE FOLLOWING CONDITIONS:

A. CONDITIONS:

1. The development of this project must be consistent with the one-page Master Concept Plan (MCP), entitled "Conceptual Site Plan-Buckingham 320 RPD," stamped received April 26, 2000, last revised April 26, 2000, 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**

Administrative Office

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

Club, private

Dwelling Units

(1) A maximum of **900 units** to be comprised of single-family, duplex, townhouse, multiple-family and zero-lot-line units (densities may not be shifted between land use categories unless a new public hearing occurs and the provisions of Policy 5.1.11 of the Lee Plan are followed)

(2) Single-family units may be located in any of the Phases/Development Areas within the Suburban land use category - whether or not so indicated on the approved Master Concept Plan, PROVIDED the trips do not exceed 8,759 ADT, 648 AM peak hour, and 845 PM peak hour - as set out in the Zoning Traffic Impact Study.

(3) The number of units is also subject to compliance with concurrency requirements

Entrance Gates and Gatehouse

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

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

Real Estate Sales Office - limited to sales of lots, homes or units within the development, except as may be permitted in LDC §34-1951 *et seq.* The location of, and approval for, the real estate sales office will be valid for a period of time not to exceed five years from the date the Certificate of Occupancy for the sales office is issued is approved.

Recreational Facilities - Private, On-site only

Residential Accessory Uses - In compliance with LDC §34-622(c)42 and LDC Article VII, Division 2

Signs, in compliance with LDC Chapter 30

b. **Site Development Regulations**

Overall Project:

Setbacks: (structure, parking areas, water management areas and pavement): In compliance with LDC §10-329 for water detention/retention excavation setbacks and LDC §10-416(d)(6)

Building Height: 35 feet/three stories (not to exceed either parameter)

Open Space: 40 percent minimum
10 percent must be distributed to individual dwelling units having immediate private ground floor access.
Indigenous open space must be provided as depicted on the MCP

Minimum Water Body Setback: 25 feet
Maximum Lot Coverage: 40 percent

Phases 1-6:

Minimum Lot Area: 5,250 square feet
Minimum Lot Width: 50 feet
Minimum Lot Depth: 105 feet
Minimum Street Setback: 20 feet
Minimum Side Setback: zero feet and five feet for zero lot line units, 7.5 feet for all others, except that where there are two or more principal buildings on a development tract, the minimum separation of buildings will be no less than 20 feet
Minimum Rear Setback: 20 feet

Phases 7 & 8:

Minimum Lot Area: 20,000 square feet
Minimum Lot Width: 100 feet
Minimum Lot Depth: 100 feet
Minimum Street Setback: 20 feet
Minimum Side Setback: 10 feet
Minimum Rear Setback: 25 feet

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

a. The Developer must initiate the establishment of a homeowners' or residents' association. The organization must provide an educational program on an annual basis, in conjunction with the staff of Emergency Management, which 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 Developer must formulate an emergency hurricane notification and evacuation plan for the development, which will be subject to review and approval by the Lee County Office of Emergency Management.

c. Hurricane preparedness and impact mitigation, if required, must comply with the provisions of Land Development Code §2-481 *et seq.*

4. Prior to Development Order Approval, the MCP must be revised to show compliance with the required 50-foot-minimum lake setback from Buckingham Road, an arterial roadway. Approval of this MCP does not grant any deviation from this requirement.

5. The developer must provide written disclosure to all potential and actual property owners within this project, of the existence of The School District of Lee County's transportation facility on the Buckingham campus and the potential for expansion of this facility.

6. 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 model home construction, the lots upon which model homes will be constructed must be shown on a preliminary plat (not the final). The preliminary plat must be filed concurrently with the local Development Order Application. The model homes must comply with the setbacks set forth in the property development regulations for this project.

d. Dry models are prohibited.

7. Multi-family uses within Phase 1 must be located north of the upland preserve area as depicted on the MCP, and no such structures may be constructed within 150 feet of the southern or western property line (excluding those areas where the western boundary abuts Buckingham Road).

8. A buffer 20 feet in width must be planted along the southern and western property line (excluding lands abutting Buckingham Road) *prior to the approval of building permits* for any dwelling units in Phases 1, 6 or 7. The vegetation in the buffer must contain, at a minimum, six native trees per 100 linear feet. All trees must be a minimum of 10 feet tall at time of planting. All shrubs must be a minimum of four feet tall at the time of planting and must create an unbroken hedge. Existing indigenous native vegetation may be counted toward the vegetation requirements of this condition, and no buffer is required in the area on the MCP shown as upland preserve areas.

9. Bona fide agricultural uses that are now in existence may continue in a given phase until the development of that phase commences, except for those areas designated as wetland/preserve area on the MCP, which will be specifically provided protection from intrusion by existing or continued agricultural uses prior to commencement of Phase 1. 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. 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 120 dwelling units may be constructed in the Rural designated areas of the project.

b. Given the limited existing available Suburban 2020 Planning Community Acreage Allocation at the time of rezoning, the available Suburban allocation must be determined by the Planning Division, prior to any Development Order approval for residential uses in the Suburban 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 that event, in order for Applicant to develop the Suburban acreage with residential uses, the Lee Plan must be amended to change the Suburban 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.

c. Approval of this rezoning does not guarantee local Development Order approval or vest present or future development rights for Lee Plan consistency. Development Order approvals must be reviewed for and found to be consistent with all other Lee Plan provisions.

11. Prior to Development Order approval, the MCP must be amended to depict a water retention area, no less than 100 feet wide, along the south property line (outside of the indigenous preserve areas) where such south property line is adjacent to Riverdale Ranches, Rancho Eight or Skates Circle. This condition does not include those areas of Phase 1 that are separated from Buckingham Road by the indigenous areas.

12. 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 or subsequent amendments thereto.

IV. HEARING EXAMINER DISCUSSION:

This is a request to rezone 325± acres from AG-2 to RPD for development of 1,320 dwelling units in a mixture of single-family, multi-family and zero-lot-line housing types. The subject property is located east of Buckingham Road, about one mile south of State Road 80 (S.R. 80). It is a large, irregularly-shaped tract that is designated Suburban on the west two-thirds, and Rural on the east third. It is bordered on the north by a school and a bus storage facility, and AG-2 zoned and used lands; on the east by a mixture of RS-1, AG-2 and RPD zoning districts and uses; and on the south and west by AG-2 zoned lands developed with very low density scattered residential uses and agricultural uses.

Applicant's Master Concept Plan (MCP) depicts eight phases of development with two access points along the 2,350-foot frontage of Buckingham Road, and a large preservation area in the southwest corner. The MCP indicates that they will be building 120 single-family units on the eastern 120 acres of the site, which are designated Rural in the Lee Plan. This

works out to a density of one unit per acre for that area, which is consistent with the maximum allowable density in the Rural land use category.

Phases 1 through 6 - being in the Suburban land use category - were planned for development with single-family, multi-family, zero-lot-line, and townhouse units at a gross density of about 5.85 units per acre for that 205 acres. This density would be just slightly less than the maximum allowable density of six units per acre in the Suburban category.

If developed as proposed, the overall project, Phases 1 through 8, will have a density of about 4.06 units per acre.

The site contains approximately 15+ acres of wetlands, with about 13.8 of those acres being located in the southwest corner, and the other 1.4+ acres located toward the east along the south boundary. Applicant proposes to preserve the 13+-acre wooded wetland in the southwest corner, but will incorporate the 1.4-acre area into the detention/retention lake that will be excavated along the south boundary.

Applicant, in recognition that their proposed development would be of a higher density than the surrounding development and lands, proposed some additional buffer and boundary setbacks along the south property line. The lands located to the south of the subject property have been designated Buckingham Rural Community Preserve Area (Rural Preserve Area) in the Lee Plan, and have been restricted to a development density of only one unit per acre. The additional buffering and setback were intended to reduce any impacts of the proposed higher density development on the planned and existing lower density development within the Rural Preserve Area. Water retention/detention lakes along the south and northeast boundaries are expected to provide additional separation and buffering between the proposed project and the existing scattered residential development in those areas. The MCP also reflects a 20-foot-wide buffer along the south property line, between the preserve area and Buckingham Road, to protect the existing single-family residences abutting that area.

Buckingham Road is classified as a 2-laned arterial, which currently provides access to S.R. 80 and S.R. 82, and to Lee Boulevard in Lehigh Acres. Eventually, Buckingham Road is expected to connect into Daniels Parkway via S.R. 82, and to become a 4-laned arterial sometime in the future. However, LCDOT has no existing current or long range plans for that improvement. The existing level of service (LOS) on Buckingham Road is LOS "C." It is anticipated that this project will reduce that LOS to "D" until the roadway is widened. Applicant pointed out that LOS "D" is still an acceptable level of service under the Lee Plan. In addition, they will be required to mitigate some of the project's impacts on the surrounding road network by putting in certain site-related transportation improvements such as turn lanes at the project accesses and other affected intersections.

Staff recommended approval of the RPD zoning, with conditions, finding that the request, as conditioned, was consistent with the intent and provisions of the Lee Plan and Land Development Code. They specifically found that the additional setbacks and buffering along the south property line makes this project compatible with the surrounding lower density/intensity uses and zoning districts.

The public hearing was attended by quite a few residents of the Buckingham and Alva area, who strenuously objected to the proposed density of the project, although not to the RPD zoning. They argued that the proposed density would be much greater than the existing

density in the vicinity of the site and is totally incompatible with the existing and planned development for the area. They noted that the existing residential development in the immediate vicinity of the site is on larger acreage parcels, and complies with the one unit per acre density established in the Rural Preserve Area designation.

The Rural Preserve Area (Goal 17) was adopted in the Lee Plan in the early 1990's, and Policy 17.1.3 mandates a minimum lot size of 43,560 square feet even in a residential planned development. Goal 17 was last amended in 1998, but the stated intent has always been to preserve and protect the "historic rural character" and the "unique historical and environmental values" of the Buckingham area. The residents asserted that the proposed development would be inconsistent with, and contrary to, that stated intent, as the proposed project will have an overall density four times greater than what is allowed on all the properties lying south of the site. They stressed that approval of this density would destroy the rural character and historical values of the Rural Preserve Area, as well as the rest of the Buckingham area, and asked that the project be approved with a maximum density of only one unit per acre.

It was brought out in the hearing that only two residential projects in the vicinity of the subject property have densities of four to six units per acre. Both of those projects are located just south of S.R. 80 on Buckingham Road, and are adjacent to the commercial area fronting on S.R. 80. The objectors felt that a higher density was appropriate for those projects because of their proximity to S.R. 80, but was not appropriate for this property which is located well away from the commercial uses on a smaller, more rural roadway.

The residents asserted that the allowable density should decrease as proposed projects get further away from S.R. 80 and closer to the designated Rural Preserve Area. They argued that this project should be restricted to a much lesser density than what Applicant has proposed, in order to protect the rural nature of the area, as well as the mandated density of one unit per acre in the Rural Preserve Area. They pointed out that the MCP depicts some of the phases along Buckingham Road with densities as high as eight units per acre, which clearly means putting in multi-story condo or apartment buildings. They believed multi-story condo or apartment buildings were completely inconsistent and incompatible with the 1- and 2-story single-family residential development already out there. They also believed that multi-story condo or apartment buildings would be jeopardize the existing rural character and nature of the surrounding lands.

The objectors also pointed out that the Hawk's Haven project was approved for 1,598 dwelling units - with a maximum density of one unit per acre. They acknowledged that Hawk's Haven is located to the north and east of the subject property, in the Rural land use category - which only allows a density of one unit per acre. Nevertheless, it was their belief that the proposed development, with its higher density and location between Hawk's Haven and the Rural Preserve Area, would have detrimental impacts on the property owners and residents of both those areas.

These folks also expressed concerns about the effect this project would have on Buckingham Road, which they believed was already too busy and quite dangerous for drivers. They noted that there are schools at either end of Buckingham Road - Lehigh Senior High on the south and Riverdale Senior High on the north end. Since the School District's bus storage facility is also located to the north of the subject property, Buckingham Road is already being subjected to numerous buses going to and from that facility, as well as other vehicles

associated with that school facility or the high schools. They believed that a development of this size - with 8,759 average daily trips would greatly restrict the flow of traffic on the 2-laned Buckingham Road, and would further endanger anyone using that narrow roadway.

Applicant responded that the increased setbacks, including the excavated lakes and buffers, assured the compatibility of this project with the adjacent uses. They asserted that the proposed development plan puts the higher number of units closer to Buckingham Road and the school facility, which is consistent with good planning principles, and would help to protect the lower density properties to the east and south. They felt the proposed project, as designed, would provide a good "transition" from the 1-unit-per-acre density (in the Rural Preserve Area) to the higher density/higher intensity development currently existing about one mile to the north of the site.

Applicant argued that the approval of Hawk's Haven at a one unit per acre density had no bearing on the case herein, as those lands were designated Rural in the Lee Plan, which meant they could not be developed at any higher density. They also believed that the Hawk's Haven rezoning did not set a precedent for future rezonings in the area, and alleged that the Rural Preserve Area was not established as, nor intended to be, the development standard for all of the Buckingham area - only that area within the designated boundaries of the Rural Preserve Area. They asserted that development of the areas outside the Rural Preserve Area should be regulated by the land use designation, zoning district, and marketability.

Staff concurred with Applicant's responses to the public input.

The undersigned Hearing Examiner concurs, generally, with Staff's analysis, findings and recommendation of approval, with conditions, finding that approval of the rezoning to RPD is appropriate for the subject property, but that the proposed overall density of 4.06 units per acre is too intensive for the area. The Hearing Examiner finds that the request, as conditioned herein, meets the criteria for approval, is consistent with the intent and provisions of the Lee Plan, and will not be detrimental to the surrounding persons or property or the general public.

As noted, the Hearing Examiner is concerned about the proposed density of the project, in light of the low density - one unit per acre - mandated by the Lee Plan on both the east and south boundaries of the subject property. The Hearing Examiner understands and agrees that the density required in the Lee Plan for the Rural land use category and the Buckingham Rural Community Preserve Area does not necessitate an overall density of one unit per acre on the subject property. Nevertheless, she finds that the requested density of 4.06 units per acre is not consistent with the BOCC's stated intent for preserving the rural character of the Buckingham area, nor with the existing or planned development and uses in the area.

In the MCP, Phases 1 through 6 are located in the Suburban land use designation and Phases 7 and 8 are in the Rural designation. Phases 1 through 4 are located along the west side of the site, with Phases 5 and 6 lying in the south central portion, and Phases 7 and 8 lying on the east. The dwelling unit distribution and acreage is depicted on the MCP as follows:

Phase 1	(Southwest corner)	58 acres/225 units	3.8 units per acre
Phase 2	(West central)	30 acres/150 units	3.0 units per acre
Phase 3	(Northwest corner)	36 acres/324 units	8.8 units per acre

Phase 4	(North parcel)	36 acres/324 units	8.8 units per acre
Phase 5	(South central)	22 acres/88 units	4.0 units per acre
Phase 6	(South central)	22 acres/88 units	4.0 units per acre
Phase 7	(Southeast corner)	50 acres/50 units	1.0 units per acre
Phase 8	(Northeast corner)	71 acres/70 units	1.0 units per acre

The Hearing Examiner recognizes that Applicant's plan puts the highest density phases (Phases 3 and 4) adjacent to the school parcel on the north and Buckingham Road on the west in an attempt to buffer the residential units to the south of the subject property from the more intensive use. Phases 1 and 6, with a density of about four± units per acre, lie right along the south property line on the western half of the site, and are to be separated from the adjoining one unit per acre lands by a 100-foot-wide retention/detention lake and vegetative buffer, which is intended to provide some relief. Nevertheless, the Hearing Examiner points out that the density of the 205 acres of Suburban lands is approximately 5.85 units per acre - which is almost the maximum density allowed in the Lee Plan for this land use designation - and almost six times the allowable density of the lands to the south and east.

Furthermore, the Hearing Examiner understands, but does not agree with, Applicant's argument that the overall density (4.06 units per acre) constitutes a transitional density. A transitional density is one in which a "medium density/intensity" project is used to separate and buffer a less intensive development from a higher intensity one. In this instance, however, the proposed project will have essentially the same density as the two residential developments located a mile away at the intersection of S.R. 80 and Buckingham Road, even though the lands immediately surrounding the subject property would only allow a very low density development. In the Hearing Examiner's opinion, the facts of this situation do not meet the criteria nor the intent for a "transitional" project.

Lastly, the Hearing Examiner is aware that the BOCC established specific boundaries for the Buckingham Rural Community Preserve Area in Goal 17. However, she is not sure that the BOCC meant for the protection and preservation of the rural lifestyle and nature of the Buckingham area to end *abruptly* at the designated boundaries of the Rural Preserve Area or at the boundaries of the Rural land use designation.

For these reasons, it is the Hearing Examiner's recommendation that the BOCC approve only 900 units for this site - of which at least 120 will be single-family units. This works out to an overall density of 2.77 units per acre, and a density of 3.8 units per acre for the 205 Suburban acres, which is clearly a mid-line density in the Suburban land use designation. It is further the Hearing Examiner's opinion that a density of 2.77 units per acre is an appropriate transitional density, given the facts and circumstances relating to this area.

With the reduced density, the Hearing Examiner finds that the project will be consistent with the intent and provisions of the Lee Plan and the Land Development Code, and will be compatible and consistent with the surrounding development/uses and zoning districts.

It is the opinion of the Hearing Examiner that the conditions imposed herein are reasonably related to the impacts anticipated from the proposed development, and, with other local and state regulations, will protect the public health, safety and welfare.

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 these requests, as conditioned, by demonstrating compliance with the Lee Plan, the Land Development Code, and other applicable codes or regulations.

B. That the requests, as conditioned, will meet or exceed all performance and locational standards set forth for the potential uses allowed by the request.

C. That the requests, as conditioned, are consistent with the densities, intensities and general uses set forth in the Lee Plan.

D. That the requests, as conditioned, are compatible with existing or planned uses in the surrounding area.

E. That approval of the requests, as conditioned, will not place an undue burden upon existing transportation or planned infrastructure facilities, and the development will be served by streets with the capacity to carry the traffic it generates.

F. That the requests, as conditioned, will not adversely affect environmentally critical areas and natural resources.

G. That the proposed mix of housing types, as conditioned, are appropriate at the subject location.

H. That the recommended conditions to the Master Concept Plan are reasonably related to the impacts anticipated from the proposed development, and, with other regulations, will provide sufficient safeguard to the public interest.

I. That 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:

Buckingham 320 RPD Conceptual Site Plan (one sheet), prepared by Morris-Depew Associates, Inc., stamped "Received Apr 26 2000 Permit Counter"

STAFF'S EXHIBITS

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

- 1 Aerial Photographs - S32-T43S-R26E, Sheet No. 183D, and S33-T43S-R26E, Sheet No. 199C, dated Feb. 1999
- 2 Zoning/Intergraph Maps - S32-T45S-R26E and S33-T43S-R26E

APPLICANT'S EXHIBITS

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

- 1 Master Concept Plan
- 2 Modified Condition 2.a.(2)
- 3 Modified Condition 9
- 4 Applicant's Rezoning Analysis: The Buckingham 320 RPD, prepared by Morris-Depew Associates, Inc., dated 05/24/00

VII. PRESENTATION SUMMARY:

The Hearing Examiner announced the case, and explained to the public that the Applicant would first present their case. Following that, County Staff would present their Staff Report and recommendation. She would then take public comment and questions. She explained that a person must provide testimony or evidence on the record in order to appear before the Board of County Commissioners (BOCC) at their Zoning Hearing. At this time, the Hearing Examiner placed all witnesses under oath.

Charles Basinait, Applicant's attorney, explained that this is a request to rezone a 325±-acre parcel from AG-2 (Agricultural) to Residential Planned Development (RPD), with a maximum number of units anticipated at 1,320. The subject property is located in East Fort Myers, south of State Road 80 (S.R. 80) on the east side of Buckingham Road, and east of I-75.

Mr. Basinait referenced the Master Concept Plan (MCP) [Applicant's Exhibit 1], noting that it was a "bubble plan." The MCP sets out a list of uses which are all residentially oriented. The property falls within two land use categories - Suburban along the front and Rural at the rear of the site. He indicated the dividing line between these two categories, and stated that David Depew (Applicant's planner) would go into this in much greater detail. Mr. Basinait estimated that 200+ acres is situated in the Suburban portion of the site, with a little over 120 acres designated as Rural.

County Staff has prepared a Staff Report and is recommending approval of the requested rezoning, with conditions. The Applicant is in agreement with the majority of Staff's proposed conditions - except for Conditions 2.a.(2) and 9. The Applicant has modified language they will be submitting for substitution of Condition 2.a.(2). In Condition 9, the Applicant is merely asking for some additional language to the condition. With regard to Condition 4, the Applicant would ask that this condition be deleted; they believe it isn't necessary.

Mr. Basinait acknowledged the presence of a number of public at the hearing, and stated that he assumed most of them were from the East Fort Myers/Buckingham area. He stated that he and Mr. Depew had met with a number of people the previous day. While they did not reach any agreements as it was more of a fact finding/exchange of information type of meeting, the Applicant did intend to meet again with the residents over the next few weeks.

The residents had asked that the Applicant request a continuance in this case; however, the Applicant is too far along in the process to agree to this request. In lieu of this, the Applicant offered to have more meetings with the residents.

Mr. Basinait introduced Mr. Depew and stated that he (Depew) is a local land use planner. Mr. Depew would go through the specific request, address comprehensive plan consistency, Land Development Code (LDC) consistency, and other issues of this nature. Mr. Depew stated that he is president of Morris-Depew Associates, and also serves as a land planner in the course of his normal professional duties. He noted that he had previously been certified in this forum as an expert in planning, zoning, and transportation planning issues on a number of other occasions. A copy of his résumé is on file with the Hearing Examiner's Office. He asked that he be accepted as an expert in those areas for purposes of the instant hearing. There were no objections from the County, and Mr. Depew was accepted as such.

Mr. Depew indicated that he was familiar with the subject property, and referenced the various exhibits being exhibited. He noted that the aerial photograph [Staff's Exhibit 1] was a composite because the subject property is bisected by the section line between Sections 32 and 33 (Township 44 South, Range 26 East). The parcel is an irregularly shaped property. Buckingham Road, a 2-laned arterial roadway, abuts the site on its western boundary. Mr. Depew noted that the engineer who prepared the Traffic Impact Study (TIS) for the zoning application was present and could respond to any questions relating to Buckingham Road.

Referencing the aerial photograph, Mr. Depew pointed out that the subject property (highlighted in pink) is currently under cultivation and used for active agricultural purposes. He noted the lines denoting the cultivation activity. There is also a forested area in the southwest area of the site. He noted one area where the subject property wrapped around another area, reiterating that the subject property is irregularly shaped. This is an important aspect to consider because it has implications with regard to the perimeter treatment of the development.

Mr. Depew noted that Staff had also exhibited two zoning/intergraph maps [Staff's Exhibit 2] for the two sections over which the subject property stretched. The green "cross hatched" area is the subject property. He noted that the green area at the top of the map for Section 33 was another parcel, and not part of the instant rezoning. He compared the outline of the subject property on the aerial photographs with that outlined on the zoning/intergraph maps. He referenced the site plan [Applicant's Exhibit 1], which also depicted the irregular boundaries of the site.

The subject parcel is approximately 325 acres. The request is to rezone it from AG-2 to RPD, and to permit a maximum of 1,320 dwelling units. He indicated that a mixture of dwelling types is proposed for the project, including private recreational facilities and a private club, but no golf course. Building heights would not exceed 35 feet, or a maximum of three stories.

Mr. Depew addressed the problems in doing site planning on a parcel which is irregularly shaped, and with the characteristics of the subject property. It is really axiomatic that you need to consider the perimeter of the project, and this is one of the things they tried to do as part of this project. Even though they have a bubble plan, the plan shows what they tried to do and what they achieved.

The first thing they looked at was the environmentally sensitive area in the southwest portion of the site. As the aerial photograph depicts, a portion of this area is heavily wooded; it has not been farmed or heavily disturbed. The Applicant has, therefore, consistent with their environmental analyses, attempted to preserve this area and what little remaining natural vegetation exists on the site. This is an important element because it provides, in some respects, a buffer area and an area of green space for that portion of the project. When you look at the conditions proposed by Staff, and agreed to by the Applicant, it could be seen that this is an important element in terms of the buffering process.

Another thing which the Applicant tried to do when dealing with the perimeter of the site was to place the stormwater management system and detention/retention areas along that perimeter, as much as possible. Referencing the plan, he noted how these areas were depicted with wavy lines and indicated that this did not characterize how they would ultimately look; it was just an indication of where these areas would be. He reiterated that they are planning to place the stormwater management areas along the perimeter of the site, which will provide additional setback and buffering in areas which might need additional setback and buffering.

They have provided standard buffer details on the MCP, and the locations for those standard buffer areas. They have also provided more of a setback and a buffer from the property to the north and northwest owned by the School District. This includes the parcel on which the Buckingham Exceptional School is located, and the parcel where the school bus storage facility is located.

The plan shows access points in two locations on Buckingham Road to serve the proposed residential development. There is sewer service in this area with a 10-inch force main. Central water service is also within reach of this area, therefore, central utility service can be provided for this project. Buckingham Road is a 2-laned, arterial facility. He noted that there were no current plans to widen Buckingham Road, but the Applicant has discussed with Lee County Department of Transportation (LCDOT) Staff about providing setbacks along this roadway. There are some retention areas located at the front of the site which are intended to separate any impacts associated with traffic on Buckingham Road from the residential activities. These retention areas will not encroach into the area which will ultimately be needed for the widening of Buckingham Road.

The Applicant has not requested any deviations to allow them to have these retention areas closer, etc., than the required 50-foot setback distance. He noted that, while these areas might appear, on the plan, to be closer than this, this is not the intent - no deviations have been requested which would allow this.

Mr. Depew noted that, in fact, the Applicant hasn't requested any deviations for the proposed project and site plan. The Applicant is willing to work with Staff and has met with the County about the potential for providing right-of-way for future road improvements.

He pointed out a small area on the northwest corner of the site, indicating that they have been discussing giving this to the School District. They have not worked out all the details yet. He noted that giving property to a public agency was rather complicated. He pointed to the road which goes through that triangular piece, providing access to the School District's property. They are working with the School District to convey this triangular piece to the School District, and the Applicant is committed to doing this. This will also provide the School

District with a straighter, more even property boundary. Mr. Depew commented that the Applicant did not want the School District's road; they want the School District to have it.

As Mr. Basinait has indicated, the site is situated in two land use categories. The Applicant has tried to be sensitive to the differences between these two categories. They have concentrated their densities on the western portion of the site, i.e., the portion which is designated as Suburban. They have agreed to a condition proposed by Staff which would limit residential densities on the eastern portion of the property. He noted that there was approximately 121 acres in that area, and they would limit the density to 120 single-family dwelling units. These areas are located in Phases 7 and 8 of the project, and are in the area of the site designated as Rural.

Noting that they cannot spread the density throughout the property, since they can only place 120 units in this Rural area, the Applicant is asking for a variety of housing types in the Suburban area of the site, including multi-family, zero-lot-line, and single-family housing.

To the north/northwest of the site is the Buckingham Exceptional School, and the School District's transportation [bus] facility. To the east are lands zoned AG-2. To the northeast, and abutting the site at its northeast corner, is Hawk's Haven, a residential golf course community. To the south are some single-family residences. There are a number of different residential developments, as well as some vacant land. Referencing the "cut out" area, he indicated that this was a farmed area. He pointed out some other vacant lands and some scattered residences. At the southeast corner of the site (referencing the aerial photograph), he noted certain platted characteristics of those lands, indicating that this was the beginning of an area of Lehigh Acres. West, across Buckingham Road, is the Baucom property which has recently been acquired by Bonita Bay and on which planning efforts have begun.

The Hearing Examiner noted the proposed location of the water management areas along the perimeter of the site, and asked whether these would be narrow lakes or dry detention/retention areas? Mr. Depew indicated that some of the areas would be lakes, as well as some marshy areas and dry retention areas. There would be a mixture. He could not, however, state exactly where each of these types of areas would be located. Referencing the aerial photograph, he pointed out a small wetland area which extends onto the subject property. This is reflected on the MCP as a small "bump" in the retention lake area. They were going to try to have a mixture of these types of areas, but, for the most part, it would be wet retention. There would be some marshy areas with littoral plantings, etc. This has not been engineered yet, so he didn't have any specifics. They are trying to mix the different types of areas so that they can put in some plantings which will look good, and also have some open spaces with lakes, etc.

The South Florida Water Management District (SFWMD) will require that they average at least a 100-foot width for anything that remains as wet retention. The Applicant has no problem with this, and this should create a nice feature in this area, especially with the addition of plantings, etc. It should be an asset to the development. Mr. Depew stated that this was an important plus on the side of the Applicant. They need to create a nice interior to the site, and these features will provide this.

With regard to the Lee Plan land use designations, Mr. Depew noted that the Suburban category covers the western portion of the site with approximately 203 acres, and then approximately 121 acres in the Rural category on the eastern portion of the site. The

Suburban category is one which is intended to be predominantly residential, and is a category which is on the fringe of the Central Urban or Urban Community areas. Suburban areas are intended to provide housing near the more urban areas, but not provide the full mix of land uses typical in urban areas. The proposed project is a classic Suburban proposal, and will provide a mixture of residential activities, but not the full mix of land uses which one would associate with urban areas.

Rural areas are intended to remain low density residential or agricultural with minimal non-residential land uses. The proposed site plan maintains that type of approach, and the Applicant has agreed to a number of conditions which will assure that the Lee Plan policies pertaining to the Rural category are adhered to.

Lee Plan Objective 2.1 and Policy 2.1.1 speak to contiguous and compact growth patterns being promoted through the rezoning process, conservation of land, water and natural resources, minimizing the costs of services, and preventing development patterns in which large tracts of land are bypassed. It was his belief that the proposed project successfully meets all this criteria. The project is in close proximity to a number of other projects and activities in this area.

He referred to Attachment A to the Staff Report. This zoning and land map shows the subject property as well as many of the surrounding areas and uses. He pointed out that, when you refer to this map, it is clear that there is significant residential activity in this area. The RS-1 zoned properties to the southeast of the subject property are in Lehigh Acres. The Riverdale Ranches subdivision is located to the south. Hawk's Haven is to the northeast. Riverdale Shores, a U.S. Home development is just to the north. He pointed out the adjacent School District property [Buckingham Exceptional School, and the bus facility], as well as Riverdale High School further to the north (on the west side of Buckingham Road). At the intersection of Buckingham Road and S.R. 80 is rather significant commercial development, including a couple of shopping centers, fast food restaurants, etc.

This area is clearly one in which activity is occurring, and the development patterns support the Applicant's proposal.

Objective 2.2 addresses development timing in light of concurrency considerations and availability of services. Referencing Attachment A again, Mr. Depew pointed out what was happening in this area. Development, services, and infrastructure are being extended to this area. As he had noted, there is sewer service, and water service is in close proximity, which can easily be extended to the site. The property fronts on and will have access to a 2-laned, arterial roadway (Buckingham Road) which has good capacity at this time. The necessary facilities are in place, or close to being in place, for the suburban type of development proposed by the Applicant. Policy 2.2.1 notes that these types of infrastructure questions must be looked at. As support by the application, the Staff Report, and the proposed conditions, the request is consistent with this Policy.

Policy 4.1.1 sets out that development designs need to be evaluated to ensure that land uses and structures are well integrated, properly oriented, and functionally related to the topographic and natural features of the site. Mr. Depew pointed out that the subject property had essentially been scraped clean as part of the agricultural activities occurring on this site for a number of years. The exception to this is the southwest corner, which is a forested area and will be included in the overall preservation efforts on this site. The Applicant recognizes

the need to preserve the natural areas and indigenous vegetation that exists on the site. Environmental Sciences Staff has reviewed this area, and has proposed certain conditions (Attachment D to the Staff Report). Staff has acknowledged that there really isn't much to be preserved, but the Applicant has committed to additional buffering and setbacks along the perimeter of the site. The development design will take into consideration what exists in this area and on the site, as well as what will be occurring in this area in the future.

Mr. Depew referenced the property's frontage along Buckingham Road, stating that they were proposing to create a nice looking frontage area. In addition to incorporating the additional setbacks necessary for the widening of Buckingham Road, they are also targeting this area for buffering and landscaping, and perhaps a water feature incorporating the retention/detention areas.

He explained that they had not put in a lot of design effort into the project yet. They were still working through various engineering questions associated with the types of units and the marketing of this project. Based on this, he did not have a lot of detail with regard to the specifics of the lot layout or the structures on the site. They are doing their best to create a product which will be a middle class project with a mid-range price structure. They are trying to provide residential structures which offer four bedrooms, 2½ baths, or four bedrooms with three baths, throughout much of the project or as much as will work from an economic standpoint. The average price range is \$120,000. The Applicant isn't a developer of low-cost housing; he is a developer of moderate to upper level housing. They are looking at this area as one which could provide a product in demand for young families and others looking in the \$120,000-\$130,000 price range. Mr. Depew believed that the 4-bedroom/2½-bath units would sell out quite quickly as these types of units were in fairly high demand for young families.

Lee Plan Policy 5.1.5 provides protection of existing and future residential areas. The proposed use isn't one which will be "encroaching" into residential areas - it is a residential use which is compatible with and supportive of future residential areas. In the Rural portion of the site, density will be at one unit per acre. In the Suburban portion, there will be a mixture of various types of dwelling units. The total number of proposed residential units is 1,320, with an overall density of around four units per acre. This is consistent with the density in both land use categories.

The LDC addresses and defines compatibility in terms of the relationship between two land uses in which the two land uses exhibit either a positive or a neutral relationship. The Applicant believes that this is the situation involved with the instant request, and how it relates to the adjacent or surrounding properties and development thereon. Mr. Depew stated that the proposed project will create either a positive development, or, at the very least, a neutral development.

There are a number of design criteria set out in LDC Section 34-411, and those criteria speak to minimizing negative effects, and overall site planning and design criteria of a project. The proposed plan complies or will comply with those criteria, especially in light of the conditions proposed by Staff. The project will be consistent with this Section. He reiterated that the Applicant has not requested any deviations; therefore, they must meet the criteria of the LDC. He noted that this was further evidence of the compatibility with the surrounding land uses and zoning.

Mr. Depew next addressed Staff's proposed conditions, confirming that the Applicant is in agreement with these with three minor exceptions. He referenced Condition 2.a., the Schedule of Uses, and subheading (2), which sets out that the development can have 120 single-family units, 400 zero-lot-line single-family units, and 800 multi-family units. He noted that this was "nice" and was what the Applicant based their traffic impacts on, and where Staff probably got those numbers. These were reflective of the numbers shown on the MCP. This is, however, only a projection of what they envision for the site. They have used these numbers to show the maximum possible impact. On the other hand, he could quite easily see the project being developed with only single-family residential. They did not, however, want to request that at this time because they need to preserve some flexibility so they can make this project work, and to provide the type of internal, recreational amenities (recreational facilities, internal landscaping, buffering, etc.) that will be an asset to the community and which will make economic sense. This, in turn, will ensure that the developer will be able to sell the units and not end up in bankruptcy, etc. The idea is to provide incentive for good development to take place, and this is how they would like to see this condition worded.

The Applicant would propose a modified condition for Condition 2.a.(2) to provide more flexibility than the language proposed by Staff. Mr. Basinait submitted Applicant's Exhibit 2, containing the proposed modified language for Condition 2.a.(2). Mr. Depew explained that this condition would allow the Applicant to develop any mixture of units. He noted that, obviously, this was only on the Suburban portion as the portion located in the Rural area would be single-family as limited by the Lee Plan. This condition would allow for a mixture of uses on the Suburban portion which could equate up to the overall impact described in the Traffic Impact Statement (TIS), i.e., 8,759 average daily trips. This is the maximum number of trips that the TIS projects under the scenario of 120 single-family units, 400 zero-lot-line units, and 800 multi-family units. This revised condition would allow this unit mix, so long as no Lee Plan policies were violated, and up to this total projected traffic impact.

This will provide flexibility to the project and, long term, will create a better project that may evolve with a lower density. Should the zero-lot-line and multi-family units, however, actually sell well in this area, then the Applicant would like this ability to make this an economically healthy project that can be maintained over the long term. The Applicant believes that this condition would provide a reasonable compromise, but still gives Staff exactly what they want, i.e., a limitation on the traffic impacts. The Staff's proposed language appears to arise from this concern.

Condition 4 requires that, prior to development order approval, the MCP must be revised to show the 50-foot minimum lake setback from an arterial roadway. The Applicant isn't asking for a deviation from this requirement. They will be maintaining any minimum required setbacks, such as the 50-foot lake setback. He noted that the Applicant didn't have a problem with this condition, but pointed out that this condition wasn't necessary as the Applicant hasn't asked to deviate from these particular requirements of the LDC. The intent of the MCP isn't to get approval for any lesser setback. The Applicant intends to develop the site with the required setback along Buckingham Road in order to accommodate any water retention or lake facilities.

With regard to Condition 9, Mr. Depew pointed out that the site currently had active agricultural activities. Mr. Basinait submitted Applicant's Exhibit 3, with revised language for Condition 9. Mr. Depew referenced the MCP, noting that the project is to be a phased project. The Applicant would like to maintain the agricultural activities, on a phase-by-phase

basis, until such time as development is opened up within a phase. He interpreted Staff's condition such that agricultural activities were allowed until development activities commence; however, once development begins, they lose the ability to have these agricultural activities/uses. The Applicant would like to maintain these agricultural uses.

He explained that this related to the unique structure of the site. It is a very long parcel with a large area to the rear that won't be developed for quite awhile. They have to extend infrastructure from Buckingham Road inward, and they aren't going to extend it all the way to the rear of the site and then work their way back up to the front. This would be cost prohibitive, and would create an economic nightmare for this project. He pointed out where they wanted to begin development activities, and how they proposed to proceed as they worked towards the rear of the site. They did not see any reason why they could not maintain agricultural activities in the short term on the area to the east of the Rural land use line. This would help the land pay for itself by producing something.

The Applicant would, therefore, request that the first sentence of Condition 9 be modified to state that "bona fide agricultural uses that are now in existence may continue in a given phase until the development of that phase commences." This would mean that, as each phase is opened up, any agricultural activities/production would be shut down, and active development of that phase would begin. The Applicant believes that this is a reasonable approach to development on this site, and would request this modification of the language in Condition 9.

He noted that, with regard to the remainder of the conditions, the Applicant did not have any disagreements or further comments. He stated that he had addressed the various Lee Plan and LDC aspects of the site, and, in conclusion, would note that the request represents a series of conditions and commitments which conform to all of the various applicable codes, policies, and ordinances. He had covered the specific Lee Plan Objectives, Goals, and Policies, and all the elements of the LDC which are applicable. Significant efforts have been made to ensure that the proposed project is compatible with the adjoining properties and other development in this area. With the proposed conditions, as modified, success of the project can be assured as well as the ultimate long term economic health and viability of the property and development.

Mr. Basinait asked Mr. Depew whether, to his knowledge, the proposed project would degrade the level of service on Buckingham Road below the County's acceptable level of service, and Mr. Depew replied that it did not. Mr. Basinait asked whether it would do so, either at buildout or at any other point in time? Mr. Depew replied that it would not. Mr. Basinait questioned whether this also included the background traffic, and Mr. Depew indicated that it did.

Mr. Depew clarified that the subject property was not located in the Buckingham Rural Community Preserve Area; it is north of that Area. He believed that Staff had already identified this fact in the Staff Report, but wanted to ensure that this point was clear to the Hearing Examiner.

Mr. Basinait submitted a copy of the "Applicant's Rezoning Analysis" for the Buckingham 320 RPD, which was labeled as Applicant's Exhibit 4.

Kay Deselem, Development Services Division, presented the Staff Report and stated that a copy of her résumé is on file with the Hearing Examiner's Office. She asked to be accepted as an expert witness in the field of land use planning in Lee County. There were no objections, and she was accepted as such. Ms. Deselem noted that Kim Trebatoski, with Environmental Sciences, was part of the County's review team in this matter; however, she wasn't present at the hearing. If any questions concerning the environmental aspects of the case did arise, Ms. Trebatoski was on-call and could come to the hearing to respond to those questions. She noted that Elaine Wicks, with LCDOT, was present and could respond to any transportation-related issues. Ms. Deselem stated that Mr. Depew had made a fairly detailed presentation, therefore, she would not restate those facts, but only cover the outstanding issues.

The only outstanding issues or disagreements relate to three conditions, or portions thereof. Ms. Deselem indicated that an element which had given Staff some concern was the fact that the Applicant's site plan is a "bubble plan." This provides the Applicant with extreme flexibility, although the Applicant isn't asking for any deviations. No "product" is shown on the site plan. The Applicant has noted how many dwelling units will be in each phase. That is the only detail that has been provided. The Applicant provided the same information in the TIS, and Staff merely adopted, into their proposed conditions, what the Applicant had provided. The Applicant was now indicating that they didn't want this information/restriction, that this was counter-productive. Staff needs something, in an application, on which they can rely, and they relied on the information submitted by the Applicant. Staff would request that Condition 2.a.(2), as set out in the Staff Report, be retained "as is."

She noted that Ms. Wicks (LCDOT) would address Condition 4 as it related to traffic issues.

With regard to Condition 9, this particular condition has been imposed in numerous projects where there is a bona fide agricultural use on the land. It has been much negotiated, agreed upon, refined and fine-tuned over the years and it seems to have worked well in the past. Staff has some concerns about cattle grazing in the preserve areas. The Applicant has proposed to modify Condition 9 (Applicant's Exhibit 3) to allow existing agricultural uses to continue, contingent on the phasing plan. At this point, "phasing" is just the label on an area on the MCP - there is no "phasing plan." The proposed buildout period is 10 years; however, Staff has no idea how many years any particular phase will take, when development will begin, or when it will end. She believed that the wording of Condition 9 was appropriate and asked that Staff's wording be retained.

Mr. Basinait noted that, when discussing Condition 9, Ms. Deselem had indicated that she wasn't sure when a particular phase will begin or end. He asked whether she understood that the Applicant's proposed language change for Condition 9 simply states that, when development begins in a particular phase, all agricultural activities in that phase would cease? Ms. Deselem noted that the Applicant's modification didn't really mean anything because they didn't know what a "phase" was - other than the label on an area on the site plan. There isn't any type of phasing plan, therefore, there was no way to determine what would happen.

Mr. Basinait asked if there is some reason why the timing of the phases was important? Ms. Deselem indicated that Staff was concerned that the areas shown as preserve areas be maintained as such, and that agricultural uses be kept out of those areas. Referencing the site plan, she pointed to the indigenous areas included as part of Phase I. Although that area

is named "Phase I," there are no indications as to which phase the Applicant was planning to develop first. Environmental Sciences Staff wanted to maintain the preserve area and ensure that there were no agricultural uses in those areas. Staff doesn't know what is in there now, but believe there could have been some cattle grazing. They wanted to make sure that the cattle grazing activity ceased as part of Phase I. Without a phasing plan, the Applicant might begin development on any part/phase of the subject property. Without a phasing plan, Staff doesn't know where development is going to begin because the Applicant has the flexibility to come in at any portion, or sub-phase it through the development order stage.

The Hearing Examiner asked Mr. Basinait to clarify whether there were already cattle grazing on the subject property, and that the Applicant would stop these grazing activities when development commenced? Mr. Basinait explained that the property is being used as a hay farm. Ms. Deselem commented that the zoning application designated the use as "agriculture" and that is all the information Staff had to go on. During her conversation with Ms. Trebatoski there was some indication that there might have been cattle grazing on the subject property. Staff was concerned that cattle would trample or further degrade the indigenous areas of the property and that could go on for 10 years (until buildout of the property). Right now, there is no phasing plan. Staff has been told that buildout is proposed in 10 years and that is all they have to go on.

Mr. Basinait asked again why the timing is important, noting that he did not quite understand why the timing makes that much of a difference. If what the Applicant was proposing to do was maintain the current agricultural use and, if that current agricultural use is a hay farm, how was that is going to affect the preservation areas? They were certainly not going to be invading the preserve areas to grow hay. But, in any event, from the standpoint of the timing of each individual phase, he did not see why it should make any real difference. What the Applicant is asking is to maintain agricultural operations. The important part of this proposal is that buildout is going to occur sometime in the next five to 10 years. Staff is proposing that, the first time a spade of dirt is turned at one end of the property, all agricultural operations over the entire property must stop, even in the Rural area. This does not make sense. Staff is presenting such an attenuated argument, that he cannot find the relevance.

Ms. Deselem offered a compromise on Condition 9 - perhaps additional language stating that there can be limiting conditions that would be effective in the Rural land use areas, but not in the Suburban land use areas. Since the Applicant believes that they are going to be developing one portion sooner than the other, and there appears to not be any environmentally critical areas in the Rural area, she could see the merit to Mr. Basinait's argument, particularly when the existing land use is apparently row crops.

The Hearing Examiner clarified that Staff's major concern is with the preserve area, more so than anything else on the site, and Ms. Deselem agreed. The Hearing Examiner noted that, in the past, tax credits have been a major issue. She asked whether Staff's concern has anything to do with the tax credit? Ms. Deselem stated that she could see where that could be an issue, but not in this case. Once the Applicant gets the land zoned RPD, it's RPD, and they will also be getting tax credits for agriculturally used land.

Mr. Basinait indicated that there was no problem in agreeing to Staff's condition that under no circumstance would this proposal impact that preserve area. The Applicant had no intentions of impacting the preserve area anyway. There are wetland areas and other areas designated for preservation as shown on the Master Concept Plan. As Mr. Depew stated

during his testimony, the plan is to leave those areas virtually intact. He could not foresee any agricultural activities impacting that.

The Hearing Examiner noted that Condition 8 of the Staff Report requires that a 20-foot-wide buffer “. . . be planted along the southern and western property line (excluding lands abutting Buckingham Road) prior to the approval of the building permits. . . .” She questioned why this condition was tied to the approval of the building permits, rather than the actual commencement of development? Ms. Deselem explained that, in this manner, the vegetation would already be in place and would have had a chance to grow prior to actually having structures on-site. Referring to the MCP, she indicated the area along the southern-western property line near Buckingham Road that Staff was concerned about. The Hearing Examiner observed that it is actually the property line near the preserve areas that concerns Staff, and not the entire southern boundary. Ms. Deselem agreed, adding that there are homes in that area. Mr. Basinait agreed that the Applicant would include that 20-foot-wide buffer area as part of their development order for those sections.

Ms. Deselem noted that the County's next witness was Elaine Wicks (LCDOT) and that she would address Condition 4. Ms. Deselem asked Ms. Wicks whether she had been accepted as an expert yet? Ms. Wicks declined to request expert witness status at this time.

Ms. Wicks recalled that the Applicant had mentioned that the MCP does not ask for approval to decrease the 50-foot setback from an arterial or a collector roadway for lake excavation. With regard to this issue, she noted that one did not need an actual bona fide deviation under LDC Section 10-329(e)(1)(a)(2). They merely need approval from the Director. The LDC also states that, if protection is provided for wayward traffic by a berm, swales, or vegetation buffer, the setback can be reduced.

Referencing the MCP, Ms. Wicks pointed out Phase 2, which is adjacent to a proposed retention lake and the Buckingham Road right-of-way. The MCP indicates that this area will have a 25-foot-wide buffer consisting of a berm and vegetation on top of the berm. If you measure the distance the lake is shown from the right-of-way, it is shown at 25 feet. The problem is that, several years from now, when the Applicant comes in for a development order or if they sell the property, someone might look at the MCP and mistakenly believe that the project was approved for a reduced setback of 25 feet because it shows a berm and vegetation. Staff is recommending Condition 4 be retained to avoid any confusion as to this setback.

The Hearing Examiner asked Ms. Wicks whether she could address some of the questions regarding Condition 2.a., which refers to the TIS? Ms. Wicks indicated that she couldn't as LCDOT doesn't usually review the Zoning TIS in zoning cases. She would have to refer those questions to Mike Carroll with the Development Services Division. Ms. Deselem indicated that she could try to get the appropriate Staff person, and noted that Mr. Depew had just informed her that Bob Rentz, Development Services Division, was the Staff person who reviewed the TIS for this project.

The Hearing Examiner asked Mr. Basinait whether he needed to cross examine Kim Trebatoski, Environmental Sciences Program, but he indicated that he didn't. The Hearing Examiner noted that Ms. Trebatoski's report is on file (Attachment D to the Staff Report) and that Environmental Sciences Staff had found only one protected species (snowy egrets) on the subject property.

At this time, the Hearing Examiner opened the hearing to public input and instructed the speakers to keep their comments germane to the issue, i.e., how this rezoning was going to affect their property and their lives.

The first speaker was Dr. Sam Watkins, who stated that he lives on the property on the southwest side. At the Hearing Examiner's request, Dr. Watkins pointed out the location of his property on the aerial photograph. The Hearing Examiner noted that he owned a large amount of acreage, to which Dr. Watkins replied that his total acreage is 26 acres. His daughter also owned a 6.6-acre piece of the property in the vicinity of the subject property. He stated that he was concerned about the density of the project, i.e., the density of the buildings and the density of the population. He is not opposed to the development, just opposed to the density.

The next speaker was Stephanie Keyes, representing the Lee County School District. She recalled that, during the Applicant's presentation, it was noted that the Buckingham Exceptional School is immediately adjacent to the subject property. Prior to this hearing, she met with the Applicant's planner, Mr. Depew. They discussed a number of issues and, subsequently, resolved those issues. The Applicant did agree to increase the buffer adjacent to Buckingham Exceptional School and went to a much denser buffer, which the School District had requested during the sufficiency round.

The Applicant also agreed to the School District's request to have a condition (Condition 5) placed in the Staff Report which would require the Applicant to educate all future residents of the project that the School District has additional acreage at the Buckingham Exceptional School property. Those additional 20 acres are vacant at this time, but that property will be used either for expansion of the school, construction of another type of school facility, or the expansion of the transportation facility. At this time, the transportation facility is expected to remain at this location. The School District wanted to ensure that residents of this project do not come into this area unaware that the east transportation complex will remain. The School District is seeing substantial growth in the east and, as a result, there will probably be an expansion of that transportation facility.

At the request of the Hearing Examiner, Mrs. Keyes referenced the aerial photograph to indicate the location of the Buckingham Exceptional School property and pointed out the bus facility. She noted that the property is a total of 40 acres and, at one time, there were plans for an elementary school at this site. However, the School District is not sure exactly what will be done with the property. They are concerned because they do get the calls from the residents about the school buses leaving at 6:00 a.m. and they want to put future property owners on notice that this will continue.

As Mr. Depew had noted, the School District and the Applicant are trying to work out how to resolve the encroachment problem. It's a technical issue that they believe can be worked out. Other than that, they would just like to ensure that Condition 5, as set out in the Staff Report, was recommended to the BOCC by the Hearing Examiner.

Mr. Depew recalled that Mrs. Keyes had mentioned that they were seeing significant growth in the east. He presumed that this was based on information provided to Mrs. Keyes by personnel at the School District who are responsible for counting these types of things, and that what they were telling Mrs. Keyes was that there is, in fact, significant growth occurring

in the eastern part of the county. Mrs. Keyes agreed, adding that eastern Lee County is one of the fastest growing areas with regard to children and the need for new school facilities.

The next speaker, Karen Redmond, stated that she was representing herself and her husband (Robert Harding). They own approximately 20 acres at 4261 Buckingham Road. They have a couple of concerns about the proposed project, the first being the excavation of the retaining lake. Several acres on the back of their property consist of a cypress stand and hardwood forest containing native orchids. They didn't want their forest drying out.

She and her husband moved in six months ago. They specifically bought this property because of the wetland area in the back and they were concerned about the size of this retention pond. There are no specifics on the MCP as to how deep it would be. Something very deep will drain off water from their wetlands. There are some really nice native orchids that they don't want to lose. She and her husband would like to see the environmental study that was done on the excavation of these lakes and how that is going to affect the surrounding wetlands. How deep are these lakes supposed to be? If the excavation is for a 6-foot-deep ditch that's one thing, however, if it is a 15- or 20-foot-deep lake, then it is going to drain water from their property.

The Hearing Examiner noted that there was no such environmental study, as the project wasn't that far along in the process yet. At the request of the Hearing Examiner, Ms. Redmond pointed out the location of her property on the zoning/intergraph map and noted that it is directly south of the preserve area. Referencing the aerial photograph, she indicated the location of her barn and stated that she has a very nice area which she did not want to lose. She and her husband are concerned about that.

According to the Staff Report, there is supposed to be two acres of indigenous area along their mutual border with the proposed development. Mrs. Redmond asked if that area was going to remain or if it would be reduced? She then read a sentence from the memorandum (from Kim Trebatoski, to Kay Deselem, dated 04/06/00; Attachment D to the Staff Report): "The remaining 2 acres of indigenous is a narrow strip along the south property line, and would be difficult to maintain. . . ." She reiterated her question as to whether this mean that this area would remain?

The Hearing Examiner asked Ms. Deselem to indicate that area on the map. Ms. Deselem pointed out the area that she believed Ms. Trebatoski was referring to, in her memorandum. She noted that Mr. Depew had also drawn this in; however, these drawings are only approximate depictions, therefore, you really couldn't tell exactly where the line was.

Ms. Redmond stated that their main concern was about the retention lake. If the lake drains water off the surrounding property then, in five or 10 years, their beautiful hardwood/cypress forest would die. One of the reasons they bought that property is because it is just absolutely beautiful, and it is one of their favorite spots on their property.

Another thing that concerned her was the density of the proposed development. She believed that the development would be too heavily populated for the Buckingham area. There should not be 1,300 residences in such a small area.

She and her husband moved from Lehigh Acres because they had problems with teenagers trespassing. They keep animals on their property and they have had animals killed and things

stolen. So they decided to move to a bigger piece of land where they could have privacy and security for their animals.

Currently, they were in the process of developing a herd of Brahmas. These are large animals which can be dangerous. If a teenager should get onto her property, climb into one of the pens and get injured, she could be sued. At her age she does not want another lawsuit. She has to work two jobs to pay for this property and didn't want any problems. In order to prevent people from intruding onto her property, she would like to see the buffer zone near her property changed from a Type "B" buffer to either a Type "C" or a Type "E" buffer because that would place a block wall between her property and the proposed development. That way, while there may be a certain percentage of teenagers that will scale the wall and come onto her property anyway, a wall will keep out a great percentage of people just wandering around on her property looking for a place to party in the woods on the back of her property. A Type "C," or preferably a Type "E," buffer would give her the privacy and the security for which she originally bought into this piece of property.

Because she has animals on her property that could cause harm to anyone who gets into their enclosures, she feels a wall would prevent her from having any legal problems. Presently, her property is completely fenced in by 4-foot-high hog-wire fencing and all her animals are enclosed. Only a trespasser could be injured. She related a story of a good friend who had to declare bankruptcy because of a lawsuit from a burglar who was injured on their property. She wanted to ensure that she could keep trespassers off her property. She did not want any kind of problems or lawsuits, noting that "good neighbors have good fencing."

Ms. Redmond requested a copy of the minutes of the hearing, so that her husband could know what had been stated at the hearing. The Hearing Examiner explained that a summary of the testimony presented at the hearing would be contained in her recommendation, which would be provided to all hearing participants when it is available. Additionally, copies of the audio tapes from the hearing could be purchased from her secretaries.

Ms. Redmond asked to be informed of any future meetings. The Hearing Examiner advised that Ms. Redmond would be advised of the date when this hearing was scheduled before the BOCC or, of any subsequent Hearing Examiner hearings with regard to this particular request. She explained that adjacent property owners were not notified of meetings between the Applicant and County Staff.

The next person to speak was Kris Cella, residing at 17371 Oak Creek Road in Alva, a community on the fringe of Buckingham. She stated that she is the owner and CEO of Cella and Associates, a planning firm in Lee County, and had previously been recognized by the BOCC as an expert in transportation planning. She noted, however, that she would be speaking to other issues, and did not wish to be recognized as an expert for the instant case. She thanked Mr. Basinait and Mr. Depew for meeting with some of the east Lee County residents the previous day at Mr. Basinait's office; however, she felt it was "too little, too late."

Ms. Cella stated that the developers of Hawk's Haven had come to their community to speak with the Lee County Civic Association and the other homeowners' associations, and had discussed their plans for developing Hawk's Haven. They had accepted input from the residents, and resolved many of the issues that the residents had with this project - prior to

the rezoning hearing. She noted that this was the reason the residents had asked for a postponement in the hearing today.

She stated that first she would address the density issue. While this project is outside the Buckingham Rural Community Preserve Area, it is adjacent to and directly north of the Area. This Preserve Area is intended to preserve the rural area and its characteristics, with one dwelling per acre the maximum allowed density. This project does not allow for any transition toward the commercial corridor of S.R. 80 for that type of density, particularly in the Suburban land use category, which is the Buckingham side of this development. While there is an area in the back that is designated as Rural, the development of this 375-acre property with 1,320 units is much too intense for the developing pattern of the area. Hawk's Haven is developing 1,500 units on 1,800 acres, which is density slightly less than one unit per acre. Bonita Bay has represented to the community, and in the newspapers, that they intend to have a similar density, i.e., one unit per acre on their 1,500 acres; whereas, the development in the instant case is seeking a density of approximately four units per acre.

In addition, as Mr. Depew stated earlier, the Applicant intends on developing the front of the property first. There is also a possibility that the project may be developed with all single-family residential. Yet, the Applicant's TIS has evaluated multi-family along with single-family. The trips for multi-family are far less than for a single-family development. Therefore, the TIS doesn't indicate what the true trip generation is, if, in fact, this developer is intending on building this project entirely as a single-family development.

Furthermore, there are no plans for the widening of Buckingham Road on Lee County's Long-Range Transportation Plan. However, it is apparent that they are looking at that with the commitments of the additional developments in the surrounding area. She would submit then that the infrastructure is not available for a development of this intensity. In addition, Mr. Depew's report states that there is no potable water available to the site right now. She would like to know where that water is coming from and from how far away. Ms. Cella stated that she may not have understood clearly the level of service issue on Buckingham Road, with the trips to be generated, but she would let that go.

Another thing that she wished to address is that this 375-acre development with 1,320 units is being submitted by a developer from Miami who is also submitting an application for a 75-acre development called Buckingham Gardens with a proposed 300 units. These two developments are less than a quarter of a mile away from each other. Together they constitute 1,620 units on 400 acres.

Mr. Basinait objected to Ms. Cella's statement, noting that it had no relevance to the Applicant's request in the instant case. The Hearing Examiner observed that Ms. Cella was trying to make a point about the intensity of the traffic resulting from the two developments and that she would, therefore, accept Ms. Cella's comments as a statement of her concern that there would be too much traffic.

Ms. Cella agreed, adding that the combination of the two developments, with multi-family units in both developments, under the same developer, could constitute a Development of Regional Impact (DRI). She had spoken with staff at the Southwest Florida Regional Planning Council (SWFRPC), who advised that such things as the proximity of these two developments to each other, the number of similar type units that share the same infrastructure and the same marketing would be factors in a DRI.

Mr. Basinait objected, stating that Ms. Cella had obviously misrepresented the facts to the SWFRPC. He stated that he found that a bit distasteful and was surprised she would do that. The two projects did not have common infrastructure, and did not have common marketing; they had none of those things. He stated that he was somewhat aggravated by her attempt to join two projects that are not the same project. They do have the same developer, but he could not see what that had to do with this particular request.

Ms. Cella stated that the number of units for trip generation on these two projects was going to impact the infrastructure of Buckingham Road far beyond its current capacity. Mr. Basinait inquired whether Ms. Cella was a traffic engineer? Ms. Cella wanted another TIS prepared if the developer was going to develop the site with just single-family residential uses, as the traffic generation would be much different from what has been proposed and submitted in the zoning TIS.

The Hearing Examiner noted that the Applicant has offered a condition that would limit this development to the number of trips stated in their TIS. Whether this development is all single-family or a mixture of multi-family, zero-lot-line and single-family, that number would be the ceiling and they could not go above that.

Ms. Cella asked how many trips that would be and how many single-family units? Mr. Depew replied that they are limited to 8,769 trips and 1,320 units overall. If they did single-family totally, they couldn't break that ceiling. An unidentified man stated "you couldn't fit 1,320 units on that site."

Mr. Depew stated that his point is that there are a number of different restrictions, all of which would be contained in any approval of this project. It wouldn't only be the trip generation; it would be total number of units.

Ms. Cella commented that current and future development patterns in east Lee County are not compatible with a density of four units per acre. Hawk's Haven is coming in at basically one unit per acre. Bonita Bay, across the street, is doing the same. The infrastructure and the employment base are not there to support that type of multi-family development proposed for the Suburban section of the subject property. The East Fort Myers community is not anti-development, by any means, but they are looking to work with the developers in the area. Hawk's Haven got the community's support after addressing their issues. They hope to have the same opportunity on this project.

Mr. Basinait noted that Ms. Cella mentioned Hawk's Haven and asked whether she was aware that they requested 1,598 units on that site? Ms. Cella replied, "yes," adding that they had 1,800 acres. Mr. Basinait asked whether she is aware of the DRI threshold in Lee County? Ms. Cella replied, "absolutely." Mr. Basinait asked, "what is that threshold?" Ms. Cella stated that it was 1,600. Mr. Basinait inquired whether she thought it was convenient that Hawk's Haven chose 1,598 units, and Ms. Cella replied that it wasn't surprising at all.

Mr. Basinait noted that Ms. Cella had stated that Bonita Bay has indicated to her that they were looking at developing one unit per acre. Ms. Cella responded that there had been an article in the newspaper reporting that information. Mr. Basinait asked whether or not Ms. Cella had actually talked to representatives for Bonita Bay? Ms. Cella stated that she had. Mr. Basinait asked whether they had filed anything with the County, at this point? Ms. Cella

replied, "no," and agreed that they could come in with something totally different from what they had represented.

Mr. Basinait asked Ms. Cella if she is a traffic engineer? Ms. Cella replied that she wasn't, but she was a transportation planner. Mr. Basinait asked whether she had read the Staff Report and the memos attached to the Staff Report? Ms. Cella replied that she had read them. Mr. Basinait asked if she was then aware, with the background traffic and the traffic that is estimated to be generated by this project, that at no time will Buckingham Road go below LOS "D?" Ms. Cella replied that was what was stated in the report. However, she did not see an evaluation of S.R. 80 and, since it is a Florida Intrastate Highway on the Highway System, they are held to a higher standard. She felt that evaluation is also very important.

Mr. Basinait recalled Ms. Cella's statement that she didn't believe the employment base is there to support this particular development, and asked her if she had any particular expertise in that area? Ms. Cella replied that this was her personal opinion based on the fact that there are mostly just "mom and pop" business operations in that area.

The next speaker was Michael G. Rippe, a resident of 13140 Bird Road, which is located approximately one mile to the west of the subject parcel. He stated that he first wished to address the issue of compatibility. He felt that Ms. Cella had done a good job of showing that a density of four units per acre wasn't compatible with any of the surrounding development. He referred to page 10 of the Staff Report and read the last sentence at the bottom of that page into the record: "Additionally, multi-family uses along the south and western property lines would be incompatible with the existing and allowable single family uses on the parcels to the south of this project."

He concluded that the Staff Report does then state that this proposal is not compatible with the surrounding land uses. While his house is not within the Buckingham Rural Community Preserve Area, it is within "rock-throwing distance." His property was at the one-acre threshold, as are most of the other properties in this area, even though they might not be within the Buckingham Rural Community Preserve Area.

Going back to the issue of density, as Ms. Cella stated, Hawk's Haven is looking at a density which is less than sub-DRI threshold of 1,598 units on their 1,800 acres. By doing some simple division, that comes to about one dwelling per acre, plus or minus, which is much more compatible than the 3.69, or approximately four units per acre, as proposed by the Applicant.

He noted that it might have been Ms. Wicks that addressed the 50-foot setback versus the 25-foot setback on Buckingham Road and he hoped that the County would stay with the 50-foot setback.

He believed that Ms. Cella had also hit on something when she talked about there being no major employment centers in the area. When you are talking about this type of density, the question arises "where are these folks going to work?"

He noted that Item 3. under "Findings and Conclusions" (page 6 of the Staff Report) states:

Approval of the request will not place an undue burden upon existing transportation or planned infrastructure facilities and the site will be served by streets with the capacity to carry traffic generated by the development.

The last paragraph under "Transportation Issues" states:

The applicant has proposed to reduce the setbacks of the lake excavations adjacent to the Buckingham Rd. right-of-way to 25 feet, as per LDC Section 10-329(e)(1)a.2. However, the Lee County Department of Transportation (LCDOT) is anticipating the proposed acquisition of additional right-of-way in the vicinity of the subject development for the widening of Buckingham Rd. Therefore, the "standard" lake excavation setback of 50 feet from the existing right-of-way line should be maintained.

This is incompatible because the Report states, in one section, that there is the capacity to carry the traffic generated by the development, but, in another section, it states that they are going to look into obtaining additional right-of-way. His understanding is that the multi-laning of Buckingham Road in this area is not part of the County's long range plans. Therefore, he can see a difference of opinion even in the Staff Report. While it says that there is no impact, it also speaks to the multi-laning of the facility. The Hearing Examiner stated that she would have Ms. Wicks address this further. Mr. Rippe reiterated that this level of density is not acceptable for this community.

He was surprised to discover that the Applicant met only yesterday with the civic and community organizations of this area. He hoped that there could be some type of early and often coordination so that a lot of these issues could be worked out earlier in the future. He has urged the County to develop some type of future land use plan for the east Lee County area, other than that which is now set forth in the Lee Plan. He did not doubt that this area was going to experience the type of growth that has occurred in the Bonita Springs and Estero areas. The area where the subject property is located consists entirely of agricultural pasture land which is much easier to develop than wooded areas. He would like to see some sort of plan to address a lot of these issues up front instead having spot zoning on a case-by-case basis. That results in people having to take time off from their jobs to attend. He felt that the existence of a more detailed plan would result in a lot fewer problems.

The Hearing Examiner asked whether there was a board that would consider Mr. Rippe's request? Mrs. Lehnert stated that he could go to the Local Planning Agency (LPA). He could also appear at the BOCC meeting and speak during the open forum for public comment. He could then make his pitch with respect to what is occurring in the area and the need for a committee to address this. Staff really needs BOCC direction because, even if LPA listened to what Mr. Rippe had to say, Staff doesn't have the power to act. The Hearing Examiner agreed, noting that there was also really nothing she could do at this point with respect to his suggestions. She asked Ms. Wicks if she could answer the other questions.

Ms. Wicks referred to the location of the Buckingham Garden Apartment site and referenced the meeting with the Hawk's Haven developer, which had been reported in the newspaper. She explained that the extension of Daniels Parkway is proposed to tie into S.R. 82, which in turn connects with Buckingham Road. It is anticipated that Buckingham Road will eventually be a north-south collector for all this traffic. These are all things that LCDOT is becoming aware of. She agreed with Mr. Rippe that this wasn't in the 2020 plan, however,

none of this development was proposed when LCDOT was developing the 2020 plan. She then referred to various units and areas, and explained that LCDOT is starting to look at what the impacts to Buckingham Road will be. Currently, they do not have a plan; however, instead of being "behind the eight ball," they are trying to get in front of it. She referred to another development in which LCDOT asked for some right-of-way. LCDOT had explained to the developer that they didn't have any funds at this time to pay for right-of-way. The Applicant's plan does not show any right-of-way and she didn't believe they were asking for impact fee credits. LCDOT would rather coordinate with them up front and try to get additional right-of-way to minimize any impacts.

The Hearing Examiner said that meant that the statement that is in the Staff Report involves more of an anticipatory situation. LCDOT is aware that there will be an impact if all of this gets approved and is developed. And, once it ties in with some of these other streets to the south, there will be more people heading north from the south end, and south from the north end, which is something that LCDOT can't totally ignore. Right now, however, the need is not there and they will not see the need until some of this development starts happening.

Ms. Wicks concurred. The Future Trafficways Map does show this as a major collector requiring 150 feet of right-of-way. LCDOT talked to the Applicant, who informed them that there is only 60 feet of existing right-of-way in the front of the subject property, which is the reason she wants to make sure that the 50-foot setback is there. The Hearing Examiner asked whether that meant that, until all of this other development happens, LCDOT sees this project as an overburdening of the roadway and not meeting the third finding that Staff has set out in the Staff Report? Ms. Wicks advised she could not answer that question.

Mr. Basinait referred to Mr. Rippe's reference to the provision of an alleged incompatibility with multi-family uses and asked him if he also reviewed Conditions 7 and 8 of the Staff Report which speak to a 150-foot setback in Phase 1 for multi-family uses? He asked if he also looked at the condition which requires a 100-foot setback along the south property line for all uses? Has he also examined Condition 7 or 8 that talks about a 20-foot-wide buffer in those areas? Mr. Rippe responded that he had. Mr. Basinait pointed out that, if he was to read further on in the Staff Report, he would discover that what it's really saying is that without those things they think there's some concern regarding compatibility, however, with those conditions added the development would be compatible. Mr. Rippe stated that was only Staff's opinion; not his. He concurred with Mr. Basinait that he had stated that Hawk's Haven had a density of about one unit per acre. Mr. Basinait asked Mr. Rippe if he was aware that, of the approximate 1,800 acres in Hawk's Haven, more than 1,700 acres are in the Rural land use category? Mr. Rippe explained that he was just speaking of the overall acreage versus the overall allowable number of units. He concurred with Mr. Basinait that he is aware that the maximum density allowed in the Rural land use category is one unit per acre.

Robert Huston, another resident of the area, stated that he was opposed to the request. This is the second time he has lived in Buckingham. The first time he lived in Buckingham it was Buckingham, Illinois, in a rural community, where he helped farm. This time he chose to live in Buckingham, Florida because he knew what the development in the area was like. He lived off Cemetery Road, and was familiar with the Meloy's hayfield, the Hunter property, the Carter property, etc.

One of his concerns regards the 8,572 trips that were mentioned. His son-in-law witnessed a gruesome death on Buckingham Road. He asked if there was any estimate as to the

amount of traffic that will be going south on Buckingham Road from the development with respect to the 8,572 trips? The Hearing Examiner asked whether the TIS included a distribution of impacts, and one of the Applicant's representatives indicated that it did.

Mr. Huston explained that this was the first time he has participated in a hearing such as this and he wasn't familiar with the procedures. He was, however, very concerned with traffic. He envisioned that, some time in the future, Buckingham Road would be straightened. The only way this could occur was to condemn the land, which means that life-time families are going to lose their property for the sake of development. He is very opposed to this.

He is also very concerned with all of the "mom and pop" establishments in this area. He didn't not want to see "Blockbusters" come to this area, or any more Eckerd Drug Stores, other than the one that is already there. He doesn't want to see big businesses come in and take over, including establishments such as the Olive Garden Restaurant, etc. He liked the "Video Unlimited," a "mom and pop" establishment that is there. He also liked "Huckle Buck's," another "mom and pop" establishment. He moved to this area because it is a family-oriented community where everyone supports each other's businesses.

He asked if it was correct that no environmental study has been done, and Mr. Basinait explained that an environmental analysis was required because of the preserve areas. Mr. Basinait concurred with Mr. Huston that this meant that, other than this study, no other studies had been done with respect to the kinds of impacts that are going to occur to the environment.

Mr. Huston referred to the Hearing Examiner's earlier comment about one endangered species having been found on the site, and asked what other types of species were found? The Hearing Examiner stated that the endangered species was a snowy egret, and noted that the Staff Report does not indicate that there were no other species found. She explained that when an environmental assessment is done, they are looking for specific species of plants and animals that are considered endangered or threatened. This is required by the County's regulations, and also by State Statutes. The Staff Report will set out which, if any, endangered or threatened species were found; it will not necessarily list other species.

Mr. Huston apologized to Mr. Depew for a statement that he made prior to the hearing in which he stated that Mr. Depew was planning to destroy the area. He understood what development is all about. Most of the people in Buckingham are not opposed to development; they just want controlled development. He was appearing on behalf of a number of families and friends, some of whom are fourth and fifth generation in this area. His wife is a member of the Flint family who has been in Florida "forever," and he was present to voice his concerns because they won't or they can't.

If the plan is to develop 1-acre, 5-acre, or 10-acre estates, that was one thing. If, however, it was to build tri-level condominium complexes in their back yards, that's another thing. They would be opposed to this type of development because that would take away the very reason that Buckingham was established in the first place. It was supposed to be a rural community. While his property is on a quarter-acre of land, it is also on a canal. He would, therefore, question how long it's going to take for the water in that canal to disappear with this additional development? He would also question how that is going to affect his well? Is he going to have dig a deeper well in two or three years? If this is allowed to be built, then more will be built, and the concern is, where will all this water come from - which aquifer? The point

is that there are a lot of questions that can't be answered today. It involves a lot of "what if's" and suppositions, so he would question when the final plan is going to be put together so they can stand up and speak against the development? He felt that they should have the opportunity to voice their concerns as part of their right to freedom of speech.

The Hearing Examiner explained that this process was as detailed as it was going to be, noting that, when the issue went before the BOCC, it would be in a similar format. If approved, the remaining review processes would be "in-house," and there wouldn't be any public hearings. There were also no public hearings on development orders. The process the public was in was "the" process for them to speak their concerns. Mr. Huston noted that this meant that this was their only opportunity to voice their concerns. Mrs. Lehnert explained that there is one other opportunity, but that is very difficult to exercise. This process involves being very vigilant about what development orders are issued, tracking a particular development, and then, within 30 days of a development order being issued, filing a Verified Complaint with respect to that development order. It is an extremely difficult avenue, and their only other avenue.

Mr. Huston stated that he is a labor leader and, as such, has faced some very difficult challenges, therefore, he was willing to take this one on as well, that is, as long as he could get some direction. Mrs. Lehnert offered to speak to Mr. Huston after the hearing. Mr. Huston concluded his presentation, stating that he could not help but believe that the decisions have already been made and that, whatever is going to happen, is going to happen, no matter the public says. He had seen this happen time and time again in this County. He had, however, never been through this process and would apologize for his ignorance, as he is not an environmental or traffic specialist; he is a citizen who cares about his family. He would urge the Hearing Examiner to recommend against this development because Buckingham is a rural community. It's not a condominium association.

He confirmed for Mr. Basinait that he lived on a quarter-acre lot, adding that he also owns the quarter-acre lot next to it.

Warren Bleckley, President of the Fort Myers Civic Association in East Lee County, stated that he was opposed to any approval of the Buckingham 320 zoning change. The requested density is not in keeping with the Buckingham and Riverdale areas. The plans that have been provided are extremely vague and do not show the intent or the planned character of the development. The residents have requested an explanation, which remains unanswered. The fact that the same developer has submitted a second development plan with even higher densities adds to his fears.

The second project, Buckingham Gardens, has been submitted as rental apartments. Any approval of the Buckingham 320 project could result in additional apartments. What impact would a sludge pit have on the economical viability of the project, and what is the developer's intent? The people of East Lee County are working hard to reduce the plight, and feel that approval of this project, as presented, could result in the failure of the community. It could also add to the economic blight in the area. He added that the area of their Association is just north of the Riverdale High School, across S.R. 80, and takes up quite an area. If one really wanted to see what duplexes do to an area he would suggest that the Hearing Examiner look at First Street, at S.R. 31, and drive all the way along Buckingham Road and Olga Road.

Barbara Ware stated that she is the owner of Barbara Ware Realty which has been located in East Fort Myers for 21 years. She was present as a resident of the Buckingham area for 25 years. She was also representing Susan May, and read a letter from Ms. May into the record [see Section VIII. Other Participants and Submittals, subsection B.2 (Against)]. Ms. May is the manager of a school cafeteria and several of her employees were out sick, therefore, she could not attend the hearing.

Ms. Ware stated that she also wished to speak on her own behalf. She has worked in East Lee County for more than 25 years with the many civic organizations trying to improve the area. The people of East Lee County, in Buckingham, have waited and worked hard waiting for the time to come to improve their area through many projects. Everyone was excited with Hawk's Haven and Bonita Bay coming to their area. The anticipation of another new development increased their excitement, until they learned that this project would drastically change the beauty of the Buckingham Rural Community Preserve Area, which must be developed at a density of no more than one unit per acre. Approval of the request would result in 800 multi-family units, 400 zero-lot-line units, and only 120 single-family units at their front door. The same developer is also asking for 300 multi-family units within less than a quarter mile. Her understanding is that there are to be 75 buildings with 4-unit apartments.

Mr. Basinait objected to Ms. Ware's references to the Buckingham Gardens project, noting that it had not yet appeared before the Hearing Examiner and might not. That project wasn't relevant to the instant case, and he would object to that information being placed on the record. The Hearing Examiner asked Ms. Ware to refrain from mentioning anything else about the "other project." She understood what the residents' concerns were, however, she could only consider the project before her. If or when this other project came forward for hearing, the residents would have an opportunity to comment on it at that time. Approval or denial of the instant case would not affect what might happen on this other parcel. Each project must stand on its own, and be reviewed on its own merits; therefore, comments pertaining to the other project were irrelevant. She asked that other speakers also keep their comments germane to the instant case.

Ms. Ware continued that, from her experience as a Realtor, she knew that many of these units, possibly as many as 50 percent of them, would become rental units and, as such, they would deteriorate the area. The subject property is next to the Buckingham Rural Community Preserve Area. There are not enough jobs in this area for the people who live here now. There is also the possibility that the sewer lines will not carry the density. This is something she would like to have checked because she has been told that the sewer lines will not carry this many units. Also, the community groups were not notified.

Buckingham Road, from S.R. 80 to Orange River Boulevard, is one of the highest accident rated roads around. Yet this development will empty out onto this 2-laned road. Even if they widen Buckingham Road in the area, it will not be widened in the area of the Buckingham Rural Community Preserve Area. She asked if it was correct that this meant there was going to be a 4-laned road that is going to turn into a 2-laned road? The Hearing Examiner stated that nothing has been decided on that yet.

Ms. Ware continued that they were told that nothing could be changed in the area of the Buckingham Rural Community Preserve Area, including the road, which is why they are upset. If it is ever widened to four lanes, two more lanes in this area will result in major impacts. She had worked hard toward getting a traffic light placed at the corner of Orange

River Boulevard and Buckingham Road. It required traffic counts to be done on several different occasions, including during the summer. There is a high school at either end of Buckingham Road and the traffic is immense when school is in session with all of the school buses, etc. Additional traffic on this road would only result in more accidents. Every day she hears sirens along Buckingham Road. She feels that the County should also check into the number of accidents that have occurred along that road.

The proposed high-density, multi-family project is to consist of very few amenities for children, if any, that is, other than the clubhouse. Referring to the aerial photograph, she pointed out the location of the airstrip, and explained that, to be contiguous with the Buckingham area, it would make much more sense if this was some type of an air park with less density since there is an airstrip already there. This, she feels, would bring nicer homes to this area instead of the apartments that are proposed.

It was also stated that there are to be 4-bedroom/2½-bath homes that would range in price from \$129,000 down. Only 120 homes are proposed, however, the majority of the development is to be multi-family, and so she would question what the price range of these multi-family units are going to be? Is it something that would lead the area to slums? Mr. Basinait stated that they didn't know the answer to that question at this time. Ms. Ware urged the Hearing Examiner consider this, noting that the residents have tried to preserve the Buckingham area for years. Since this is going to be a front door to Buckingham, they would ask that the Hearing Examiner stay with what the Buckingham Rural Community Preserve Area is for.

Mr. Basinait referred to Ms. Ware's comment that she had been told by someone that the sewer lines would not carry the density planned for the project, and asked if she was aware that the Staff Report indicates that there is sufficient sewer capacity? Ms. Ware responded, "no." At a meeting that was held yesterday, however, Mr. Davis stated that he did work on that project and that he was very concerned that it would not carry that large of a density. Mr. Basinait again asked Ms. Ware if she was aware that both the Staff Report, and Mr. Depew's testimony, indicate that there is sufficient capacity? Ms. Ware responded, "no." She would, however, suggest that the Applicant review this issue again.

Mr. Basinait referred to her comments regarding the accident rate on Buckingham Road and asked if that was her personal opinion? Ms. Ware responded that it wasn't. She explained that she obtained some of that information from an expert by the name of Mike Rippe. She also lives along this road and sees the accidents that happen every day. Mr. Basinait asked whether she actually counted that in comparison to other roads in the County? Ms. Ware responded, "yes." She stated that she could also see what occurs by what is reported on the television, but she sees what occurs herself every morning on her way to work.

After a brief recess, Mike Roeder stated that he was present as a member of the East Lee County Council Civic Association, noting that he was chairman of their Planning and Permitting Subcommittee. He stated that he had also been a representative for the Hawk's Haven development and could, therefore, answer any questions that might arise with respect to that development.

The East Lee County Council Civic Association really does not have an opinion on this case. When he spoke to their members, they informed him that the reason they didn't have an opinion was because the plans appeared to be fairly vague and unrealistic, and they felt that,

when it was finally developed, it would probably sort itself out. Nonetheless, they didn't want to appear to be coming in and objecting to a neighbor's property on something they did not have an opinion on. The East Lee County Council is, however, very concerned because of the vagueness of the plan, which is a "bubble plan." He wasn't saying that a bubble plan is a bad idea, as they can be very useful, but what everyone has learned is, if the public doesn't share their concerns with the Hearing Examiner in this public hearing, then it's all over. They have to let the Hearing Examiner know what concerns them so that the Applicant or the Hearing Examiner, and the BOCC, will take notice and give the proper response. They are here to let the Hearing Examiner know about their concerns, the first of which involves density.

Density is something he wanted to put in a little different context because of something that Mr. Depew had mentioned very briefly in his zoning analysis, but which he did not address during his testimony. It is also something that Staff mentioned very briefly but failed to analyze the implications of in their Staff Report. Along the south boundary of the subject property is the Buckingham Rural Community Preserve Area, a very distinctive land use category of the Lee Plan. It's a sector plan, which was mentioned might be needed for the subject property and immediate area, which lies just to the north of the Buckingham Rural Community Preserve Area. This Preserve Area is addressed in Policy 1.4.3 of the Lee Plan, which states:

The Rural Community Preserves are established following special studies of Lee County's intact rural communities. Within these areas, special design approaches are to be used to maintain the existing rural character, for example: conservation easements, flexible road design standards (including relocation of future arterials not serving the rural community), special fencing and sign standards, and retention of historic rural uses. These areas are not to be programmed to receive urban-type capital improvements. Lands within this category are not intended to be converted to any Future Urban Areas; rather, they are to remain permanently rural in character and use. These areas are restricted to low density residential uses (with minimum lot size requirements), agricultural uses, and minimal non-residential uses that are needed to serve the rural community. Property in this category may not be rezoned to any RV district. Additional goals, objectives, policies, and standards for these areas may be included in this plan based on the special studies (see for example, Goal 17). Maximum density is one dwelling unit per acre (1 du/acre). (Amended by Ordinance 91-19) (Amended by Ordinance No. 94-30)

This land use category requires a minimum lot size of one acre, not 1-acre lots as averaged over the entire property. Each lot must be a full acre.

At the request of the Hearing Examiner, Mr. Roeder showed the Hearing Examiner where the actual boundary of the Buckingham segment of the plan was located. It involves an area which he feels didn't receive sufficient attention because it's not just Rural, but rather Rural Community Preserve. Everyone has heard mention of the four units per acre, but that's four units per acre on this property spread over the entire 320 acres. In actuality, however, in the suburban portion, it's virtually six units per acre, which is the very maximum of the density of the Suburban land use category. He believed that, if they had it to do over again, they would recommend that there be some transition from the Buckingham Rural Community

Preserve Area to more intense categories, and certainly, right next to that he would have outlined Outlying Suburban perhaps with a maximum of three units per acre. To put six units per acre right on the edge of this seems to be out of character with the area.

Referring to the issue of compatibility with respect to those properties about the single-family homes to the south, he would agree that Staff has done a good job to provide for buffers and setbacks to deal with this issue. There is, however, a larger compatibility issue and that involves whether it's appropriate to have apartments next door to property in the Preserve Area. There are portions of the bubble plan that allow up to nine units per acre just to achieve that density. Part of the problem the community is having is that they are not sure what they are getting. As Mr. Depew stated, they think they want to do single-family homes for the middle class market as their first preference, however, if that doesn't work then they want to be able to build apartments or whatever else on the site to fill it up to make the money to pay for the cost of the land. This isn't the proper way to do zoning and/or land use planning since that would be putting the cart before the horse. In looking at the site plan they said that the first units that are to be developed would be single-family in the front, however, the list of uses on the pod does not include single-family, in the front portion - in Phases 1 through 6. The only single-family uses that are shown on the site plan are in Phase 7 and 8, however, the site plan doesn't even seem to permit that. Overall, they just don't know what's happening here.

Staff also mentioned that the recommendation for the mix of units was based on the traffic study - 800 multi-family, 400 zero-lot-line, and 120 single-family. The traffic study that was in the file as of last week depicted all single-family. He now sees that there is a new plan that does reflect the 800 multi-family, the 400 zero-lot-line, and the 120 single-family as it is shown in the Staff Report, and so that makes sense now. Nonetheless, the general public is going to see a plan that says 1,320 units. It isn't clear what is occurring here.

The Hearing Examiner questioned what the average daily trips for 1,320 single-family units would be. Mr. Depew interjected that is not a correct traffic study; that was supplemented by a later traffic study that was done that reflects a date of January 2000. The Hearing Examiner stated that she was aware of that, and stated that a question came up earlier that if this was to be developed with 1,320 single-family uses, what the average daily traffic would be? Mr. Roeder responded, "11,132 trips."

Mr. Roeder continued that the problem with this bubble plan was that it is "so bubbly" that it was "about to take off into the air." There's no getting handle on it and so there's no telling what will happen. He believes that it also fails Policy 2.2.1 with respect to general compatibility. He wouldn't speak to it being in violation of Policy 5.1.5 as it is fairly insulated and not within an existing neighborhood. Policy 2.2.1, however, speaks about the general compatibility area. When one looks at the general patterns of Buckingham, which, by far consists mostly of single-family uses, especially the character and density to the south, he feels that it doesn't pass the compatibility test.

Mr. Roeder referenced page 2 of the Applicant's Narrative attached to the Staff Report (Attachment B), specifically the statement "A Lee County Utilities 10" force main is located adjacent to the project in the Buckingham Road, however potable water service is not available." He noted that Mr. Depew had indicated during his presentation that there was nearby water service. When you look at the Staff Report, there is no discussion concerning water service availability, and there is no finding of consistency with Policy 2.2.1. There is

only a general finding that adequate facilities and services are available, but without any specific discussion or analysis. Mr. Roeder asserted that, based Mr. Depew's statement and on the comments contained in the Narrative, but with no analysis by Staff, one cannot come to the conclusion that there is adequate water. He noted that Staff had not recommended any condition in that regard. This is an important element under Policy 2.2.1 and Standard 11.1, but the site plan provided by the Applicant has not shown it. They can talk about extending the line, but information relating to this is not contained in the record. Based on this, he did not believe that Staff or the community had a good picture of what is being proposed.

The biggest concern is the density. According to the traffic study and the Staff Report, they could have up to 800 apartments. They are being told that this isn't likely; it is only the worst-case scenario. However, because this is a bubble plan, the Staff and the public have to respond to the worst-case scenario, or "forever hold our peace." He believed that, if this project is going to be approved, then the density needed to be reduced very significantly. Otherwise, it wasn't going to be compatible with the neighborhood.

Mr. Basinait indicated that he had several questions for Mr. Roeder. He noted that Mr. Roeder had read Lee Plan Policy 1.4.3 into the record, and that this Policy describes Rural Community Preserve areas. He asked Mr. Roeder whether this Policy referenced "adjacent properties"? Mr. Roeder replied "no."

Mr. Basinait noted that Mr. Roeder had also referenced a 6-unit-per-acre density along the south property line, and Mr. Roeder indicated that what he had stated was that the Suburban category allowed up to six units per acre. Mr. Basinait commented "good," and then suggested that they get into specifics, instead of taking something out of context (noting that he was sure Mr. Roeder had not intended to do this). He suggested that they talk about the actual density along the south property line. He offered that Mr. Roeder could look at the MCP, if that would help. Mr. Roeder commented that he was aware that one unit per acre is allowed in the Rural category. Mr. Basinait referred to the MCP and the aerial photograph, noting the approximate location of the dividing line between the Suburban and Rural categories. Mr. Roeder agreed that this was the approximate location of this dividing line. Mr. Basinait asked about everything east of this line and whether the allowed density was one unit per acre? Mr. Roeder indicated that was correct. Mr. Basinait asked whether, in Mr. Roeder's opinion, this would be consistent with the Buckingham area, and Mr. Roeder replied "yes."

Mr. Basinait asked if it was also true that the MCP indicates a 100-foot-wide lake along the southern property line, and Mr. Roeder agreed. Mr. Basinait asked if it was also true that, in the southwest corner of the parcel and adjacent to the Rural Community Preserve Area, the MCP depicted a preserve area and that no units were proposed? Mr. Roeder stated that this was also correct. Mr. Basinait pointed out another area, indicating that it was in the Suburban land use category. Mr. Roeder indicated that this was correct. Mr. Basinait asked if this area was shown on the MCP at 22 acres and 88 units, which equates to four units per acre, and Mr. Roeder stated that this was correct. Mr. Basinait referenced another lake in this same area with a 100-foot setback, and a 20-foot-wide buffer. Mr. Roeder agreed that this was correct as well.

Mr. Roeder noted that Mr. Basinait had missed the point he (Roeder) was making, and Mr. Basinait stated that he must have. Mr. Roeder explained that it wasn't adequate to just look at where the properties abut one another and whether there is an adequate buffer. It was

also important to look at the nature of the entire land use within the 320 acres, and the proposal for high-density apartments just up the road from the Buckingham Rural Community Preserve. This is part of a compatibility analysis.

Mr. Basinait observed that Mr. Roeder had mentioned some traffic numbers, and that these numbers had come from a traffic study which has been replaced. Mr. Roeder indicated that he had been responding to a question by the Hearing Examiner when he provided that information.

The Hearing Examiner asked if it was correct that, further north on Buckingham Road, there was a single-family residential subdivision, and Mr. Roeder responded that Riverdale Shores and Buckingham Reserve were to the north. The Hearing Examiner asked for the density of these two subdivisions, and Mr. Roeder estimated that the range was probably four to five units per acre. He added that, for single-family subdivisions, they were fairly dense. They were about as dense as you usually get for single-family. The homes were very modest on modest lots.

The Hearing Examiner asked how far away these two subdivisions were from the subject property, i.e., a mile, two miles? It was estimated that they were about a mile away. Mr. Roeder referenced Map A to the Staff Report, noting that they were depicted on that exhibit. Mr. Depew stated that he didn't believe they were a mile away, and Mr. Roeder noted that it was a mile and a half to the intersection [Buckingham Road/S.R. 80]. Mr. Depew pointed out that these subdivisions were south of the intersection. Mr. Roeder stated that it would depend from where it was measured. The Hearing Examiner referenced Map A, and the locations of these two adjacent subdivisions were pointed out, and asked if it was correct that these two subdivisions were well outside the Buckingham Rural Community Preserve Area. Mr. Roeder stated that they were a good mile from this Preserve Area, while an unidentified member of the public indicated that it was three miles, which was disputed by Mr. Basinait.

Mr. Roeder stated that, in general, he would suggest that the higher density would make sense closer to the S.R. 80/Buckingham Road intersection. If they were going to have six units per acre, it should be closer to this intersection and the commercial areas.

Mitch Howard noted that he resided on Skates Circle, and pointed out the location of his house on the aerial photograph. He asked the Applicant what type of development would be located behind his house, and Mr. Basinait stated that it would be single-family residential at one unit per acre. Mr. Howard asked what would be located between his property and those homes? Mr. Basinait replied that there would be a lake (shown on the plan along the south boundary), and a 20-foot-wide vegetative buffer. Mr. Howard questioned whether the water feature would be a small stream and Mr. Basinait explained that it would be a 100-foot-wide lake. In response to another question, he indicated that he did not know how deep the lake would be. Referencing the map exhibits, Mr. Basinait pointed out the location of the preserve area, and indicated that this lake would begin at that point and then run across the southern boundary to the eastern boundary. He pointed out the location of the 20-foot-wide vegetated buffer which would run across this entire length.

Mr. Howard wondered what was going to be done about the artesian well on the subject property, to which it was explained that it would be capped. Mr. Howard questioned whether he could still keep hogs on the back of his property, and not bother anyone? Would his property remain zoned agriculturally? He indicated he was concerned that this would change

the designation on his property. The Hearing Examiner explained that the instant rezoning would not affect the zoning district on Mr. Howard's property. In response to a question by the Hearing Examiner, Mr. Howard indicated that he had a 5-acre parcel. He referenced the aerial photograph, noting that the cleared strip was 2½ acres, and the parcel to the side was also 2½ acres. Mr. Howard commented that he believed the Applicant should place only one house per acre on the entire site, to make it look better.

Mr. Basinait indicated that Ms. Deselem had just advised him that, along the southern boundary, some of the buffer was 15 feet wide, and not 20 feet wide. The 20-foot-wide portion was in the area closer to Buckingham Road.

Joseph James stated that he resided on Drawdy Road, and pointed out the general location of his residence. The Hearing Examiner noted that it was north of the subject property, and Mr. James indicated that was correct. Mr. James pointed out that he had "concrete dust on his boots" and that he wasn't anti-development. He was aware that something would be happening in this area, but he was concerned with the density of this project. They live in the Buckingham area because they like to see trees in their skyline and not 3-story buildings. He was also concerned with the traffic on Buckingham Road. He had lived in this area about 15 years, and had a 10-acre parcel. He stated that he wasn't a traffic expert and that he is a very safe driver. He referred to the curve just to the south of the proposed development, and indicated that he even lost control one day on that curve on wet pavement. If the Applicant would only put in one house per acre, this wouldn't be too bad; however, he just could not see 3-story buildings.

Andy DeSalvo explained that he was appearing on behalf of the Hunter Family, the owners of 585 acres immediately to the north of, and somewhat to the east of, the subject property. He indicated that he had several questions to ask of the Applicant. He questioned whether they had an estimated start date for the development? He had not heard any mentioned, and was assuming there wasn't one. Mr. Basinait estimated that development would probably begin shortly after the first of the year. Mr. DeSalvo asked if he meant January 2001, and Mr. Basinait indicated that was correct. He explained that they would need this time to get all their permits, etc. Mr. DeSalvo observed that the length of buildout was proposed to be between five and 10 years, and Mr. Basinait confirmed that it was anticipated to be somewhere in that range.

Mr. DeSalvo referred to page 5 of the Staff Report, specifically Condition 10.b., and questioned whether the Applicant was proposing to submit a Lee Plan amendment relative to the Suburban residential acreage allocation for the Fort Myers Shores planning community [Table 1(b)]? He asked for clarification of this condition. Mr. Basinait explained that what would probably happen is that Lee County would probably be the applicant. This amendment would affect the entire area, and not just the proposed development. This amendment would affect Hawk's Haven, and a number of other developments. The County will probably be looking at initiating this type of amendment.

Mr. DeSalvo stated that the largest issue for the Hunter Family is that there are a lot of older [long time] families in this area, of which the Hunter Family is one. The Hunters are running an active ranch, with cattle, hay, and sludge spreading. He asked for clarification as to what type of buffering is proposed for the project wherever it directly abuts the Hunters' property. He pointed out the location of the Hunters's property, and noted the abutting property lines, stating that nothing specific was set out in Condition 8. Mr. Basinait indicated that he would

have Mr. Depew respond fully to that after Mr. DeSalvo had finished with his questions/statements.

Mr. DeSalvo noted that, because the Hunters are running an active ranch, they are always concerned with any new development that abuts their property. They want to ensure that they will always be able to continue with their bona fide agricultural uses. Buffering is important because the Hunters want to continue working their ranch for as long as they are able to do so and want to do so. With the proposed project, there will be residents living adjacent to an active ranch, and adequate buffering would alleviate some of the Hunters' concerns.

The Hearing Examiner asked Mr. DeSalvo to identify the parcels on which the sludge spreading activities were occurring. Mr. DeSalvo pointed out the location of the operation, but stated that he wasn't sure on which parcels they were actually spreading the sludge currently. He indicated how the sludge trucks accessed the site (near the Buckingham Gardens parcel).

Mr. DeSalvo explained that the Hunter Family was neither opposed to nor in favor of the proposed project. Based on what they had learned to date from the application and the plan submitted by the Applicant had raised certain questions/concerns on their part, and they needed clarification.

Mr. Depew indicated that he could answer part of Mr. DeSalvo's questions. Referencing the map exhibits, he pointed out and circled several areas which were intended to be retention areas, and which should accommodate buffering along these particular boundaries. Noting another area, he indicated that they did not yet have specific plans for it in terms of what the buffering would be along that area. He pointed out several more areas, indicating that there would definitely be buffering in those locations. He believed it was likely there would be a perimeter berm with some type of vegetative plantings on top of the berm. The regulations do not, however, require buffering between these particular areas/properties, and the Applicant did not have a plan, at this time, as to the specifics of any buffering.

Based on what Mr. Depew had pointed out, Mr. DeSalvo observed that approximately half the boundaries abutting the Hunter parcels would be buffered by a minimum 100-foot-wide water retention area, and Mr. Depew indicated that this was correct. Mr. DeSalvo noted that, for the remaining half of the abutting boundary lines, it was undetermined, at this time, what type of buffering would be used. Mr. Depew stated that this was correct also, adding that there would be some type of landscaped buffer, but he didn't know what it would consist of at this time.

Mr. DeSalvo requested that either the Applicant, or the Hearing Examiner, look at/consider some type of buffering in the areas which did not currently have some type of proposed buffering. He stated that he did not have anything specific in mind, except that they wanted to ensure people and cattle were not "mixing" with one another.

Jim Green, the next speaker, stated that he lived on South River Road in Alva, approximately five miles from the proposed development. Mr. Green explained that he is chairman of the East Lee County Council, a compendium of communities and business associations that aspire to improve the quality of life in East Lee County. The Council has been active in working with the County and with other organizations to reduce blight, assist historic communities in improving their worth and value, wrestling with the economic development

and needs for the area, and have also been very active with new developments coming into this area. He had personally also made a minor contribution to blight reduction by restoring a commercial building located approximately a mile and a half from this area. He had vested interests in this area, as did others in the communities which he represented.

The Council wasn't against growth. They have been in lockstep with both Hawk's Haven, and with Bonita Bay in their efforts in this area. The Council fully embraces these entities, and welcomes them with open arms. A key difference between those developments and Buckingham 320 is the community involvement. Both the developer of Hawk's Haven and Bonita Bay Properties, Inc., elicited public input well before the point where the Buckingham 320 project is now.

The Council cannot support the proposed project today. They do not understand the proposed plan, nor its intent - other than to provide an unknown East Coast developer with the approval for the maximum number of units which the law may conceivably allow.

Their concerns include the belief that the proposed density is completely out of character with the surrounding area and environment. The Applicant has stated they are basing this on market needs, but the lack of detail on the plan precludes the neighbors from being able to assess more specific impacts which this project may have on their lives. The general sketchiness of the bubble plan gives them significant concern. With the proximity of this area to the Preserve, with the bare amenities being provided, and, as pointed out by others, with the lack of employment opportunities in the area, he would question the economic viability of such an operation.

With regard to the request to not discuss the Buckingham Gardens' project, Mr. Green stated that he would object to not being able to comment on it, both on his own behalf and on behalf of others present - especially in light of the fact that Staff had mentioned it in the Staff Report. The Hearing Examiner noted Mr. Green's objection.

He questioned the economic viability of the proposed plan. Florida history shows well that the entire community loses, if the developer loses. The residents did not want a losing developer nor a plan which would cause a developer to lose. They are seeking to clean up the blight in this area, and were seeking no new opportunities for blight to occur. The community stake is high with new development, as is the developer's stake. The Council's objection is to work for the best mutual interest and negotiate on differences if they occur. Unfortunately, this dialogue has not occurred. Government has the responsibility to weight the landowner's rights as well as the rights of members of the community to ensure balance. He wanted to stop the mistakes of the past, where developments and zoning changes are approved without community participation and awareness, and to only later end up with emotional confrontations and law suits. Mr. Green requested, first, collaboration, and disagreement only as a last resort. Based on this, he would recommend denial of the request until community dialogue, participation, and hopefully embracement, can occur.

Theodore Budd stated that he lived in the Fort Myers Shores area and that he is on the board of directors of the East Lee County Council and active in the Civic Association. They have been actively working to keep this part of the County clean, and to work with the proposed new projects. He wholeheartedly agreed with the other speakers, and lent his support and that of these associations to the residents of this area. They did not believe that the proposed project is compatible with existing development in this area. If there are differences which can

be worked out, the association and residents would be happy to work with the developer to try to resolve some of them.

Mr. Basinait noted that one resident had asked about southbound trips on Buckingham Road, and distribution of those trips. He indicated that Bill Morris could respond to those questions. Mr. Morris explained that he is a civil engineer with Morris-Depew Associates, Inc., and confirmed that he is familiar with the traffic counts for Buckingham Road and which were found in the TIS. He stated that the TIS was prepared consistent with the County's accepted methodologies. The projected trip distribution count south of Orange River Boulevard for the AM peak hour is 101 trips. For the PM peak hour, it is 59 trips.

Mr. Basinait indicated that there had been other comments about the level of accidents on Buckingham Road, and Mr. Morris explained the normal manner in which accidents are treated, for a road of any kind. There are numerous studies set up by the Federal Highway Administration in a manual/document called the Manual of Uniform Traffic Control Devices (MUTCD). There are studies set forth by this manual which are called "warrant analysis," which are used to determine whether or not a road is dangerous, and needs to be addressed for public safety.

Mrs. Ware referenced Mr. Morris' testimony about 101 trips, and asked whether this was what they were projecting or what currently exists? The Hearing Examiner explained that this was the projection for the proposed project for the AM peak hour for southbound trips south of Orange River Boulevard. The PM peak hour generation was 59 trips. Mrs. Ware asked if what Mr. Morris was saying was that everyone was going to turn and go in a certain direction, and no one would be turning in the other direction? The Hearing Examiner indicated that was correct. Mrs. Ware asked how they could determine this? The Hearing Examiner suggested that Mrs. Ware discuss the details of how these studies were conducted etc., with Mr. Morris after the hearing, explaining that she (Hearing Examiner) knew how these studies were conducted. There were certain formulas which are used. Mr. Morris could provide her with the details of how this is done.

Ms. Wicks (LCDOT) asked Mr. Morris what the southbound peak hour trips were, and he indicated that, from the project only, was 59 for the PM peak hour. Ms. Wicks referred to Figures 3.1 and 3.2 in the TIS, noting that there were two entrances shown for the project, a north entrance and a south entrance. The figures show a peak trip generation for the south entrance of 127 trips, and for the north entrance it is shown as 51. Mr. Morris indicated that this was correct. The 101 and 59 trips were representative of those trips south of Orange River Boulevard. An unidentified man stated that this wasn't representative of the southern trips. These were southbound trips, and do not count the trips onto Orange River Boulevard. This needed to be noted.

The Hearing Examiner stated that she had not been furnished with a copy of the TIS, and requested that a copy be provided to her. She stated that she would review the information contained therein, and make a determination of this herself.

Ms. Wicks referenced the break up of the percentages that the Applicant had used as to which way the trips were going to, and asked if they had used their best judgement as to the route the various trips would take? Mr. Morris agreed, adding that it was also based on a methodology agreed to by County Staff. Ms. Wicks asked if it was correct that, at the

development order stage, more detail was required in a TIS than at the zoning stage, i.e., with regard to these types of issues, and Mr. Morris stated that this was correct.

Mrs. Ware asked if it included trips from WalMart, etc., and the Hearing Examiner indicated that these numbers did not include background traffic. These numbers reflected only project traffic. Mrs. Ware asked whether the project traffic would be going to WalMart, since there were no other large stores in the area, and they would need to go south on Buckingham Road? The Hearing Examiner explained that the standard the County uses is PM and AM peak hour trip generation. These other trip generations would be part of the average daily trips. Mrs. Ware pointed out that many people would go in that direction because of the location of the WalMart, etc., in Lehigh Acres, and they would have travel down Buckingham Road. There were no other stores around. The Hearing Examiner stated that she didn't know specifically about this, but reiterated that the standards that the County uses are the PM peak hour and the AM peak hour trip generations, as opposed to the average daily trips. She stated that she would review the TIS.

Ms. Redmond asked if she had heard correctly that the proposed lake would be 100 feet wide, or if it was going to be a 100-foot-wide ditch. The Hearing Examiner noted that the testimony had been that it was a lake. Ms. Redmond pointed out, therefore, that there would be water in it, and asked where that water would come from. Mr. Depew indicated that there would be water in the lake; that the water is already there. She then asked if it was the water from her swampy area, and if it would then be drained away. Mr. Depew indicated that this wasn't where the water would come from, and not how it would work.

The Hearing Examiner stated that she understood the neighbors' concerns, and did not want to belabor these issues. Mr. Rippe pointed out that the Applicant had indicated that they had not determined where the dry detention and the wet retention areas would be. Mr. Depew commented that this wasn't correct, stating that they had determined the general location of the wet and dry detention/retention areas. Although they had not determined the specific ratio of wet-to-dry detention, they have determined the general location and this is as noted on the MCP. These areas are being placed along the perimeters of the project in order to provide additional setbacks and buffers.

Mr. Basinait noted that the Applicant had gone through the proposed MCP. He understood that there were concerns with the density in this area. They had discussed the Buckingham Rural Community Preserve Area, traffic, etc. From the standpoint of traffic, the Applicant has performed the requisite traffic studies for the zoning process. The County's transportation staff have determined that the project will not degrade the level of service on Buckingham Road below an acceptable level of service. From a density standpoint, both Mr. Depew and Ms. Deselem have testified that the proposed density is compatible. Mr. Basinait stated that they did have a "quandary of sorts" to the extent that 120 acres of the 320-acre project is situated in the Rural category, and development is limited to one dwelling unit per acre. Ordinarily you would have a better spreading of the density across the entire site. The Applicant isn't, however, able to do this, given the Rural versus the Suburban land use categories. This is why they have a somewhat higher concentration in the Suburban area than what otherwise might be seen.

Nevertheless, in an effort to ameliorate those concerns and respond to them, the Applicant has proposed a series of water management areas along the south property line. There are wetland preserve areas, and upland preserve areas in the southwest corner of the site. There

is a 150-foot setback for the multi-family area, and this is also referenced in the conditions. There are water retention areas shown in various other locations along the property lines to provide for additional buffering. He pointed out the location of the proposed 15-foot-wide vegetated buffer along the southern property line, and the area where the vegetated buffer would be 20 feet wide. There is also a 50-foot setback from Buckingham Road, in addition to the water retention areas proposed along that roadway. The Applicant is trying to provide compatibility setbacks to ameliorate concerns relating to density.

There was testimony provided about other developments in this area, i.e., to the north, which are in the 5- to 6-unit-per-acre range; therefore, the proposed project is certainly not unheard of in the Buckingham area. It might be more than what has, historically, been found in some of the areas of Buckingham, however, as testified to, East Lee County is one of the highest growth areas and this is an area where people are starting to move. As people move into this area, the densities will get somewhat higher.

There are a number of conditions which address compatibility concerns, and which provide protection for both the surrounding neighborhood and for the proposed development.

With respect to the concerns about the Buckingham Preserve Area, Mr. Basinait stated that, while this Preserve Area has been designated specifically for one dwelling unit per acre, this particular Lee Plan policy does not speak directly to adjacent properties. However, it has been pointed out that there will be setbacks, buffers, and water retention areas along the south boundary line. Much of this buffer is adjacent to the Rural area which is limited to one dwelling unit per acre. Other portions along the southern boundary are actually preserved areas which will not be developed.

The Applicant has asked that Condition 2.a.(2) be modified [sic]. Mr. Basinait noted that Mrs. Lehnert had come up with further revisions to this condition, and the Applicant did not object to substituting this new language. All the Applicant was trying to make clear was that they are not sure of the exact unit mix at this time. They might end up with a lot more single-family than originally delineated, and it would be counter productive to limit the development to "artificial" numbers which were used in the TIS only to show what the impacts would be if all 1,320 units were constructed. The Applicant is merely asking for flexibility to provide a housing mix which may, in the long run, prove to be more beneficial to not only the Applicant, but also to the community.

Mr. Basinait referenced Condition 9, and then corrected his previous statement. The Applicant would ask that the Hearing Examiner approve the Applicant's proposed language for Condition 2.a.(2). Condition 9 is the condition for which Staff is going to submit revised language, and to which the Applicant does not object.

With regard to Condition 4, and the Applicant's request to delete that condition, Mr. Basinait commented that it really didn't matter one way or another. They just wanted to ensure that it was clearly understood that, contrary to the Staff Report and contrary to the memorandum from Bob Rentz attached to the Staff Report, the Applicant is not proposing to reduce the setbacks from the lake excavations. While they may have "mislocated" the lakes on the MCP, and shown them too close to Buckingham Road, it wasn't the Applicant's intent to place these within the 50-foot required setback. He pointed out that the Applicant has not requested a deviation from this standard, and it wasn't their intent to ask the Director to modify these setbacks [i.e., through an administrative amendment]. The Applicant doesn't

have a problem with the required 50-foot setback. The Staff Report and the memorandum from Mr. Rentz are incorrect as they have not requested any reduction in setback.

The rezoning application is consistent with the surrounding area, and with the trends being evidenced in the Buckingham area. The Applicant would ask that the Hearing Examiner carefully review their request, and approve the rezoning to RPD with the conditions as modified.

Ms. Deselem referenced Condition 2.a.(2), and the testimony by the Applicant that they may eventually determine they want to only do single-family residential. She wasn't sure if this was in response to compatibility concerns, and the testimony of the residents who would prefer single-family development. She referenced the MCP and stated that this couldn't happen, based on the way the plan was proposed. This use, i.e., single-family residential, isn't even listed on the different tracts - except for in the Rural portion of this site. She noted that this issue had come up during the sufficiency review. The TIS had only shown a certain number of trips attributed to single-family units, and single-family is a higher trip generator. The Applicant wanted to have the trips, and the uses as well, but they can't have it both ways. You can either have the uses, or you have the trips.

The Applicant has proposed multi-family, zero-lot-line, and townhouse development in these areas. They have the ability to later amend the RPD, through the public hearing process. If they don't know what they want, then they can change/amend it later. Staff responded to what the Applicant proposed. There has been testimony regarding the TIS, that trips attributed to the single-family use are much higher. Staff should be permitted the ability to address this, through the public hearing process, if, in fact, this is what the Applicant decides to do. Based on this, Staff believes that Staff's proposed Condition 2.a.(2) should be retained.

With regard to Condition 4, the Applicant continues to state that they have no intent to request a deviation [from the 50-foot minimum lake setback]. Because of this, Staff does not understand why the Applicant would have a problem with the condition. Staff would prefer that this condition be included. This is, essentially, a moot point. If the Applicant doesn't want a deviation from this requirement, then they should have no objection to keeping this condition.

Ms. Deselem submitted the revised language for Condition 9 [Staff's Exhibit 3], noting that this language was acceptable to both Staff and the Applicant.

With regard to water and sewer service, Ms. Deselem clarified that there are other Lee Plan policies and LDC requirements which require that any development in excess of 2.5 dwelling units per acre to provide water and sewer service. Before this project can receive an approved development order and proceed with any building permits, etc., compliance with these requirements would have to be shown. If this cannot be shown for this development, then the project cannot begin. The regulations provide a "safety valve" in this regard.

Another issue which was raised was a possible Lee Plan amendment, and it was stated that the County was going to initiate this amendment. She did not know for a fact whether this was correct. This condition [Condition 10] has been included in at least two other cases of which she was aware, but the County wasn't obligated to initiate the amendment. Based on this, the proposed project may or may not be able to proceed in the manner suggested by

the Applicant's testimony, i.e., with regard to commencing development in January 2001. This will depend on the Lee Plan allocations, and where the dwelling units are proposed. This may not be a realistic expectation of development because it takes from six months to a year to go through the Lee Plan amendment process.

With regard to the potential buffering from the Hunter property, Mr. Depew had testified that there would be buffering, but had not stated what that buffering would be. She stated that, from the standpoint of development order review, when this project applies for the development order, if no buffer is shown on the plan and there is no condition requiring this buffering, then no buffers would be required - regardless what Mr. Depew might have testified to at this hearing. She requested that the Hearing Examiner include a condition which set out a specific, measurable requirement for buffering - if there is a buffer recommended in this area. As it currently stands, there will be no buffering in this area.

Similarly, with regard to the water retention areas shown, the locations are noted on the MCP, because of the bubble plan, as being approximate. These areas are shown with varying widths, etc. This is why Staff included a condition which contained specific measurements, etc., for these water management areas. She asked that the Hearing Examiner include a specific condition, with measurable parameters, if this was something that was going to be required. This would ensure that, when Staff reviews the development order application, there is a quantifiable or measurable standard.

The Hearing Examiner stated that she would conduct a site visit, and would drive through the various surrounding neighborhoods and the community. While she was somewhat familiar with the Buckingham area, she would look more closely at the specifics of this site and the surrounding area. Noting delays due to vacation schedules, the Hearing Examiner noted that it might be July before the recommendation was issued in this case and that a copy would be mailed to each hearing participant. Following that, a notice would be sent indicating when the BOCC Zoning Hearing is scheduled.

VIII. OTHER PARTICIPANTS AND SUBMITTALS:

ADDITIONAL APPLICANT'S REPRESENTATIVES:

1. David W. DEPEW, AICP/President, % Morris-Depew Associates, Inc., 2216 Altamont Ave., Ft. Myers, FL 33901
2. Bill MORRIS, Civil Engineer, % Morris-Depew Associates, Inc., 2216 Altamont Ave., Ft. Myers, FL 33901

ADDITIONAL COUNTY STAFF:

1. Elaine WICKS and Andy GETCH, Dept. of Transportation, Lee County, P. O. Box 398, Ft. Myers, FL 33902-0398
2. Dawn PERRY-LEHNERT, Assistant County Attorney, Lee County, P. O. Box 398, Ft. Myers, FL 33902-0398
3. Kim TREBATOSKI, Division of Planning/Environmental Sciences Program, 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: NONE

Against:

1. Warren BLECKLEY, 1980 Bahama Ave., Ft. Myers, FL 33905
2. Theodore R. BUDD, 13280 Marquette Blvd., Ft. Myers, FL 33905
3. KRIS CELLA, 17371 Oak Creek Rd., Alva, FL 33920
4. Jim GREEN, P. O. Box 218, Alva, FL 33920
5. Mitchell M. HOWARD III, 9495 Skates Cir., Ft. Myers, FL 33905
6. Robert C. HUSTON, 3822 Hyde Park Dr., Ft. Myers, FL 33905
7. Joseph JAMES, 14991 Drawdy Rd., Ft. Myers, FL 33905
8. Karen REDMOND, 4261 Buckingham Rd., Ft. Myers, FL 33905 [also representing Robert Harding]
9. Michael G. RIPPE, 13140 Bird Rd., Ft. Myers, FL 33905
10. Mike ROEDER, Director of Planning, % Humphrey & Knott, P.A., 1625 Hendry St., Ft. Myers, FL 33901
11. Barbara WARE, 5531 Mackaboy Ct., Ft. Myers, FL 33905 [also representing Susan May]
12. S. P. "Sam" WATKINS, D.C., P. O. Box 1545, Ft. Myers, FL 33902 [also representing Hugh Watkins]

General:

1. Andrew P. DeSALVO, % DeSalvo & Wyatt, Inc., Realtors, 3960 Via Del Rey, Bonita Springs, FL 34134 [appearing on behalf of Jessie Hunter, adjacent property owner]
2. Stephanie KEYES, AICP, % The School District of Lee County, 3308 Canal St., Ft. Myers, FL 33916

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

For: NONE

Against:

1. Robert HARDING, 4261 Buckingham Rd., Ft. Myers, FL 33905 [represented by Karen Redmond]

2. Susan MAY, 4463 Skates Cir., Ft. Myers, FL 33905 [also represented at hearing by Barbara Ware]

Letter, dated 05/24/00: I would like to voice my concerns about the two housing developments you [are] considering allowing to be built on Buckingham Road. (1) I believe that the density is too great for the area. (2) This is too much traffic for Buckingham Road. (3) I have read the wildlife study that was done and it is not correct. On my property I see the small and large blue heron, bobcat, woodstork, otter, alligator, the apple snail, Everglades kite (we have at least two sets); anhinga (water turkey), and a alligator turtle. (4) I also have a problem with the height of these apartment buildings. I don't want people staring into my home from the third floor of their building. (5) I understand that there is no recreation facility for any of the people that would buy these homes. We don't have enough recreation facilities for the people that are living in the Buckingham area now. All we have is one baseball park for the children to play [at] and one very, very small play area at the Buckingham Community Center. I understand because I cannot leave my job to attend this meeting that I will not be able to speak at the County Commission Meeting that pertains to this matter. This job is how I pay for my house and the taxes that I have to pay on this house.

3. William & Cheryl SHAY, 4170 Gooble Dr., Ft. Myers, FL 33905

Letter, dated 05/16/00: We are opposed to the rezoning of Buckingham 320 from AG-2 to Residential Planned Development. We have lived here for 10 years and we have had alligators, otters, turkeys and bobcats cross our property. My wife said she saw a panther coming home from work one night. This will all disappear with this rezoning. When the rainy season comes, the otters and gators travel from the canals in Lehigh Acres across this area west to ponds and the Orange River looking for mates and new feeding grounds. We bought our property for its privacy, beauty and wildlife. I have over a dozen birdhouses and two bat houses up for the wildlife. I am not inclined to see any three-story buildings on this property. Keep it zoned AG-2.

4. Carolyn TYLER, 6241 Buckingham Road, Ft. Myers, FL 33905

5. Hugh WATKINS, P. O. Box 1545, Ft. Myers, FL 33902 [represented by S. P. Watkins]

IX. LEGAL DESCRIPTION:

See Exhibit "A" (scanned legal).

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 11th day of July, 2000. 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.

MEMORANDUM
FROM THE
DEPARTMENT OF COMMUNITY DEVELOPMENT
DIVISION OF ZONING

LEE COUNTY
HEARING EXAMINER
05 SEP 29 AM 9:01

DATE: SEPTEMBER 29, 2005

**To: THE LEE COUNTY HEARING
EXAMINER**

**FROM: TONY PALERMO
SENIOR PLANNER**

RE: DCI2004-00090 BUCKINGHAM 345 RPD - DEVIATION REQUEST

PLEASE FIND THE FOLLOWING ATTACHMENTS FROM THE APPLICANT REGARDING THIS CASE.

1. A SEPTEMBER 27, 2005 COVER LETTER FROM THE APPLICANT.
2. THE APPLICANT'S DEVIATION REQUEST FROM LDC SEC. 10-416(D)(6) WITH JUSTIFICATION.
3. E-MAIL FROM TAYLOR WOODROW (PORTICO) SAYING THERE IS NO OBJECTION TO THE DEVIATION REQUEST, WITH THE ATTACHED LANDSCAPE PLAN.
4. A COPY OF LDC SEC. 10-416 (6)(D)
5. PORTICO'S RPD RESOLUTION #Z-04-080.
6. A 2-PAGE UPDATED MASTER CONCEPT PLAN, WITH A 1-PAGE LANDSCAPE BUFFER PLAN FROM G.L. HOMES ALL STAMP DATED "RECEIVED SEP. 28, 2005: ZONING." (YOU HAVE ALSO RECEIVED A FULL-SIZED COPY OF THESE PLANS)

ALSO ATTACHED - FROM STAFF - PLEASE FIND A STRIKE-THROUGH UNDERLINE VERSION OF LDC SEC. 10-416(D)(6) - AS APPROVED BY THE LEE COUNTY BOARD OF COUNTY COMMISSIONERS AUGUST 23, 2005. THIS IS THE CORRECT VERSION TO REFERENCE.

THE DEVIATION REQUEST WILL ALLOW A BUFFER RANGING BETWEEN 20 AND 25 FEET WITH A COMBINATION OF 5-FOOT WALL, 3-FOOT BERM, HEDGE, SHRUB, AND TREES AS DETAILED ON THE ATTACHED LANDSCAPE BUFFER PLAN.

STAFF'S COMMENTS ARE AS FOLLOW.

1. STAFF RECOMMENDS APPROVAL OF THE DEVIATION REQUEST FROM LDC SEC. 10-416(D)(6).
2. STAFF RECOMMENDS THE FOLLOWING CONDITION RELATING TO THE DEVIATION REQUEST.

DEVELOPMENT MUST BE CONSISTENT WITH THE 1-PAGE G.L. HOMES "BUCKINGHAM 345" LANDSCAPE BUFFER PLAN STAMP DATED "RECEIVED SEP. 28, 2005: ZONING." (SHEET 3)

3. STAFF RECOMMENDS APPROVAL OF THE 2-PAGE MCP STAMP DATED "RECEIVED SEP. 28, 2005: ZONING." (SHEET 1 AND 2)

I AM AT 239-479-8325 IF YOU HAVE QUESTIONS OR CONCERNS REGARDING THIS MATTER.

CC. DONNA MARIE COLLINS, COUNTY ATTORNEY
KIM TREBATOSKI, ENVIRONMENTAL SCIENCES
BEVERLY GRADY, ATTORNEY, 2320 FIRST STREET, SUITE 1000, FORT MYERS, FL 33901
DANIEL JOHNSON, TKW, 5621 BANNER DRIVE, FORT MYERS, FL 33912
NEALE MONTGOMERY, PAVESE LAW FIRM, 1833 HENDRY STREET, FORT MYERS, FL 33901



2320 FIRST STREET
SUITE 1000
FORT MYERS, FL 33901-2904
239.338.4207 DIRECT
239.337.3850 MAIN
239.337.0970 FAX
bgrady@ralaw.com

September 27, 2005

Anthony Palermo, Senior Planner
Lee County Community Development
P.O. Box 398
Fort Myers, FL 33902-0398

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Re: Buckingham 345 RPD; DCI2004-00090 - Deviation from Land Development
Code Section 10-416(d)(6) for Buckingham 345

Dear Mr. Palermo:

At the Hearing Examiner's hearing^a deviation was added to the Buckingham 345 request. The Hearing Examiner continued the hearing, limited solely to this deviation issue. Enclosed is our deviation request and justification which includes a Landscape Architectural Plan which would be a condition of approval of the deviation. We previously provided that buffer plan to Lee County staff for review.

We would respectfully request your recommendation of approval to be submitted to the Hearing Examiner within the time frame that the hearing was left open. If we hear no further comments from staff then we intend to make our submittal to the Hearing Examiner with the deviation request and justification that is attached to this correspondence.

It has been a pleasure working with you. Thank you for your consideration with this matter.

Very truly yours,

ROETZEL & ADDRESS, LPA

Beverly Grady

Signed electronically to expedite
Beverly Grady

BG/umr

Enclosure: Deviation Request Justification
9/22/2005 12:41 p.m. Electronic communication from Michael Dady, Vice
President, Taylor Woodrow Communities to Buckingham 345
Copy of Code Section 10-416(d)(6)

cc: Richard Arkin
Dan Johnson
Patty Campbell
Michael Dady

Deviation from Land Development Code
Section 10-416(d)(6) To Permit the Berm/Wall to Be
Located 20 feet from the Abutting Property at
Locations Depicted on the Master Concept Plan

A deviation is requested from Section 10-416(d)(6) which requires where a road is located less than 125 feet from an adjacent single family residential subdivision, a combination berm and solid wall not less than 8 feet in height be constructed not less than 25 feet from the abutting property and landscaped between the wall and abutting property with a type C buffer (a minimum of 5 trees and 18 shrubs per 100 linear feet). The deviation being requested is to permit certain landscaping and a 3 foot berm/5 foot wall combination to be located closer to the abutting property at the certain location depicted on the landscape buffer plan which is attached.

Justification

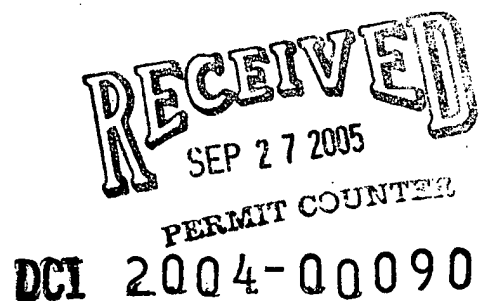
The deviation will be subject to the following conditions:

Compliance with the GL Homes Landscape Architecture Landscape buffer Plan Sheet 1 dated 9/21/05 for Buckingham 345 which reflects a combination 3 foot berm and 5 foot precast concrete wall, 5 shade trees per 100 linear feet of buffer, clusters of South Florida Slash Pines in between the shade trees, and mid-level shrubs under the Pines clusters and a continuous hedge which together exceed the 18 shrubs per 100 linear feet. Therefore, the total number of trees and shrubs exceed the code requirement.

A portion of the Buckingham 345 internal road is within 125 feet of a portion of adjacent Portico RPD. The landscape buffer plan has been reviewed and approved by the Portico RPD developer. Attached is electronic communication dated Thursday, September 22, 2005 at 12:41 to Richard Arkin of Buckingham 345 from Michael Dady, Vice President of Taylor Woodrow Communities supporting the deviation and finding the landscape buffer plan acceptable and fully satisfying to Taylor Woodrow.

Attached is a portion of the Portico RPD Resolution Z-04-080 and the pertinent portion of the attached Master Concept Plan which reflects that the Portico RPD has a 25 foot open space area along its perimeter boundary before commencement of the single family lots which in effect provides a minimum of a 45 foot separation between the Portico lots and the Buckingham 345 internal road.

The combination of the berm/wall and vegetation in excess of the code requirement and the 45-50 foot separation between the Buckingham 345 internal road and Portico accomplishes and we believe exceeds the code requirement.



-----Original Message-----

From: Mike Dady [mailto:Mike.Dady@us.taylorwoodrow.com]
Sent: Thursday, September 22, 2005 12:41 PM
To: Richard Arkin
Cc: Patty Campbell; Mike Lane; Neale Montgomery
Subject: RE: Buckingham 345

Mr. Arkin –

Taylor Woodrow does not object to your request for deviation from the Lee County LDC and finds the below listed wall and buffer plan you have proposed to be acceptable. The landscape and buffer plan looks good and should satisfy us fully. The Pine Trees will help with upper screening, the wall will prevent excessive vehicle noise from your proposed spine road, and we note that the planting plan will well exceed the LDC. We would ask that you provide TW with a copy of you final submittal plan and coordinate with us to the extent possible the final timing of installation as well as material and color of the wall. Taylor Woodrow appreciates your quick and thorough response to our concern and looks forward to being good neighbors now that the lines of communication are open.

Sincerely,

Michael Dady

Vice President

Taylor Woodrow Communities

2950 Immokalee Road, Suite 2

Naples, FL 34110

Tel. 239-592-0055 Ext. 14

Fax 239-592-5395

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BUFFER REQUIREMENTS								
Permitted or Existing Uses								
Proposed Uses		AG	SF-R	MF-R	COM	IND	STP	ROW
	AG	—	—	—	—	—	—	—
	SF-R	—	—	—	—	—	—	—
	MF-R	—	B	—	—	—	—	D
	COM	—	C/F	C/F	A	—	—	D
	WOR	—	C/F	C/F	—	—	—	D
	IND	—	Note a.	Note a.	—	—	—	D
	STP	C/F	E	E	E	C/F	—	C

Note a: All uses or activities must provide a Type E buffer unless the director determines that the proposed use or activity will not have an adverse impact on adjacent property. If the director determines that a Type E buffer is not required, a Type F buffer must be constructed.

- (4) *Buffer types.* The following table provides six different buffer types. Each type buffer, identified by a letter, provides the minimum number of trees and shrubs per 100 linear foot segment and indicates whether or not a wall or hedge is required.

BUFFER TYPES (per 100 linear feet)						
Buffer types	A	B	C	D	E	F
Minimum width in feet	5	15	15	15	25	30
Minimum # of trees	4	5	5	5(3)	5	10
Minimum # of shrubs	—	Hedge(2)	18	Hedge(2)	30	Hedge(2)
Wall required (1)	No	No	Yes	No	Yes	No

Notes for Buffer Types Table:

1. A solid wall, berm or wall and berm combination, not less than eight feet in height. All trees and shrubs required in the buffer must be placed on the residential side of the wall. The height of the wall must be measured from the average elevation of the street or streets abutting the property as measured along the

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centerline of the streets, at the points of intersection of the streets with the side lot lines (as extended) and the midpoint of the lot frontage (see section 34-2172). Walls must be constructed to ensure that historic flow patterns are accommodated and all stormwater from the site is directed to on-site detention/retention areas in accordance with the SFWMD requirements.

2. Hedges must be planted in double staggered rows and be maintained so as to form a 36-inch high (F type buffers must be 48 inches at installation and be maintained at 60 inches high) continuous visual screen within one year after time of planting.
3. Trees within the ROW buffer must be appropriately sized in mature form so that conflicts with overhead utilities, lighting and signs are avoided. The clustering of trees and use of palms within the ROW buffer will add design flexibility and reduce conflicts.
- (5) Public and quasi-public facilities, including, but not limited to, places of worship, parks, utility facilities, government offices, neighborhood recreational facilities and private schools must provide a type C buffer if, in the opinion of the director, the proposed development will have a significantly adverse impact on adjacent existing residential uses.
- (6) If roads, drives, or parking areas are located less than 125 feet from an existing residential subdivision or residential lots, a solid wall or combination berm and solid wall not less than eight feet in height must be constructed not less than 25 feet from the abutting property and landscaped (between the wall and the abutting property) with a minimum of five trees and 18 shrubs per 100 lineal feet. Where residences will be constructed between the road, drive or parking area and

the existing residential subdivision or lots, the wall or wall and berm combination are not required.

- (7) Uses or activities that generate noise, dust, odor, heat, glare or other similar impacts, must provide a type C or F buffer if, in the opinion of the director, the proposed development will have a significantly adverse impact on adjacent property.
- (8) Walls, berms and buffer plantings must not be placed so they violate the vehicle visibility requirements of section 34-3131.
- (9) *Development abutting natural waterway.* Except where a stricter standard applies for the Greater Pine Island Area (as defined in Goal 14 of the Lee Plan), there must be a 25-foot wide vegetative buffer landward from the mean high water line of all nonseawalled natural waterways. Where a proposed planned development or subdivision is located in the Greater Pine Island Area abutting state-designated aquatic preserves and associated natural tributaries, the width of the required buffer will be 50 feet.

Existing vegetation within the buffer area must be retained. The removal or control of exotic pest plants must not involve the use of heavy mechanical equipment such as bulldozers, front end loaders, or hydraulic excavators, unless approved at the time of development order.

- (10) All freestanding parking areas, whether commercial, public or private, not associated with other development must provide a D type buffer for the right-of-way and C type buffer if they abut single-family residential or multiple-family residential uses or zoning.
- (11) *Use of buffer areas.* Required buffers may be used for passive recreation such as pedestrian, bike, or equestrian trails, provided that:
 - a. No required trees or shrubs are eliminated;

- b. Not more than 20 percent of the width of the buffer is impervious surface;
- c. The total width of the buffer area is maintained; and
- d. All other requirements of this chapter are met.

(Ord. No. 92-44, § 13(E), 10-14-92; Ord. No. 94-28, § 24, 10-19-94; Ord. No. 95-12, § 5, 7-12-95; Ord. No. 98-28, § 2, 12-8-98; Ord. No. 00-14, § 3, 6-27-00; Ord. No. 01-18, § 2, 11-13-01)

Sec. 10-417. Irrigation design standards.

To improve the survivability of required landscaping, cultivated landscape areas must be provided with an automatic irrigation system. All required irrigation systems must be designed to eliminate the application of water to impervious areas, including roads, drives and other vehicle areas. Required irrigation must also be designed to avoid impacts on existing native vegetation.

All new developments that have required landscaping must be irrigated by the use of an automatic irrigation system with controller set to conserve water. Moisture detection devices must be installed in all automatic sprinkler systems to override the sprinkler activation mechanism during periods of increased rainfall. Where existing irrigation systems are modified requiring the acquisition of a permit, automatic activation systems and overriding moisture detection devices must be installed.

(Ord. No. 98-28, § 2, 12-8-98)

Sec. 10-418. Stormwater ponds.

Design standards. Techniques to mimic the function of natural systems in stormwater management ponds are as follows:

- (1) *Shoreline configuration.* Shorelines must be sinuous in configuration to provide increased length and diversity of the littoral zone. Sinuous is defined as serpentine, bending in and out, wavy or winding.
- (2) *Plant materials.* The planting is considered sufficient to mimic the function of

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RESOLUTION NUMBER Z-04-080

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

WHEREAS, Johnson Engineering, Inc. filed an application on behalf of the property owner, TW Acquisitions, Inc., to rezone a 589± acre parcel from Agricultural (AG-2) to Residential Planned Development (RPD) in reference to Portico RPD; and

WHEREAS, a public hearing was advertised and held on December 16, 2004, before the Lee County Zoning Hearing Examiner, who gave full consideration to the evidence in the record for Case No. DCI2004-00031; and

WHEREAS, a second public hearing was advertised and held on March 21, 2005, before the Lee County Board of Commissioners, who gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents on record and the testimony of all interested persons.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS:

SECTION A. REQUEST

The applicant filed a request to rezone a 589± acre parcel from AG-2 to RPD, to allow 1,058 single-family and 120 townhouse units (1,178 total dwelling units). The proposed maximum building heights are two stories/35 feet for single-family, three stories/50 feet for townhouses, and two stories/50 feet for a clubhouse. No development blasting is requested. The property is located in the Outlying Suburban Category and is legally described in attached Exhibit A. The request is APPROVED, SUBJECT TO the conditions and deviations specified in Sections B and C below.

SECTION B. CONDITIONS:

All references to uses are as defined or listed in the Lee County Land Development Code (LDC).

1. The development of this project must be consistent with the 8-page Master Concept Plan entitled MASTER CONCEPT PLAN FOR PORTICO stamped received May 3, 2005, except as modified by the conditions below.

This development must comply with all requirements of the Lee County 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 Master Concept Plan are subsequently pursued, appropriate approvals will be necessary.

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

a. Schedule of Uses

ACCESSORY USES AND STRUCTURES

ADMINISTRATIVE OFFICES

CONSUMPTION ON PREMISES - Amenity sites only. See Condition 10.

CLUBS, CLUBHOUSE - PRIVATE. Amenity sites only as shown on the approved Master Concept Plan. Also see Condition 10.

DOCKS, FISHING PIERS

DWELLING UNITS

SINGLE-FAMILY - 1,058 maximum

TOWNHOUSE - 120 maximum. See Condition 15.

1,178 MAXIMUM Dwelling units

ENTRANCE GATES, AND GATEHOUSE - In compliance with LDC §34-1748

ESSENTIAL SERVICES

ESSENTIAL SERVICE FACILITIES -Group I ONLY

Communication, telephone and electrical distribution facilities up to 425 square feet in area and 10 feet in height.

EXCAVATION, WATER RETENTION - NO blasting or removal of excavated material off site.

FENCES, WALLS, Per LDC §34-1741

FOOD AND BEVERAGE SERVICES - Amenity sites only. See Condition 10.

HOME OCCUPATION, Per LDC §34-1741 et seq. - NO outside help.

MODELS: Per LDC §34-1951 et seq. - See Condition 5.

Model Display Center

Model Home

Model Unit

PARKING LOT, ACCESSORY

PERSONAL SERVICES - Group I - Amenity sites only, see Condition 10.

REAL ESTATE SALES - See Condition 5.

RECREATION FACILITIES, PERSONAL, PRIVATE, ON SITE

SIGNS, In accordance with Chapter 30

STORAGE, INDOORS

TEMPORARY USES - TEMPORARY SALES, TEMPORARY CONSTRUCTION

b. Site Development Regulations

Single Family

Minimum Lot Areas and Dimensions

Lot Size: 6,500 square feet

Lot Width: 50 feet

Lot Depth: 110 feet

Minimum Setbacks

Street 20 feet

Side 5 feet (Per Condition 10)

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Rear 10 feet (5 feet - accessory)
Water body 20 feet (15 feet - accessory)

Building Separation: 10 feet

Perimeter Setbacks: 15 feet

Maximum Height: 2 stories/35 feet

Maximum Lot Coverage: 60 percent

Townhouse

Minimum Lot Areas and Dimensions

Internal Unit Width: 22 feet
External Unit Width: 25 feet
Depth: 100 feet

Minimum Setbacks:

Street 20 feet
Side Internal Unit = Zero feet
External Unit = 7.5 feet
Rear 20 feet
Water body 20 feet

Building Separation: 20 feet

Perimeter Setbacks: 15 feet

Maximum Height: 3 stories / 50 feet

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

Maximum Lot Coverage: 60 percent

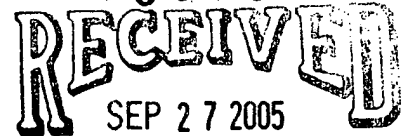
Clubhouse/Amenity Sites

Minimum Lot Areas and Dimensions

Lot Size: 6,500 square feet
Lot Width: 50 feet
Lot Depth: 110 feet

Minimum Setbacks

Street 20 feet
Side 10 feet



Rear
Water body

20 feet (5 feet accessory)
20 feet (5 feet accessory)

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(Except as provided in
Deviation #9)

Building Separation: 20 feet
Perimeter Setbacks: 15 feet
Maximum Height: 2 stories / 50 feet

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

Maximum Lot Coverage: 60 percent

3. No development blasting is permitted as part of this project unless approved at a subsequent public hearing as an amendment to the planned development.
4. *Agricultural uses.* Existing bona fide agricultural uses on this site are allowed only in strict compliance with the following:
 - a. Bona fide agricultural uses that are in existence at the time this resolution is approved and as shown on Exhibit B attached hereto may continue until approval of a local development order for the area of the project containing those uses.
 - b. Additional clearing or grading of existing agricultural uses is prohibited. This prohibition is not intended to preclude County approved requests for the removal of exotic species.
 - c. The property owner must terminate the agricultural tax exemption for any portion of the property that receives a local development order. The agricultural use must cease by December 31st of the calendar year in which the local development order is issued. The exemption termination must be filed with the Property Appraiser's Office by December 31st of the calendar year in which the local development order is issued. A copy of the exemption termination must be provided to the Office of the County Attorney.
5. *Model Homes/Temporary Real Estate Sales/Temporary Sales Trailer.*
 - a. The number of model homes or model units will be limited to no more than 30 within the development at one time.
 - b. Any model homes or units must be developed within the area identified as "models", "townhouse site" or "model display center" on the approved Master Concept Plan.
 - c. Models cannot be of the same floor plan and each must be a distinctly different design.

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- d. Model Display Centers or Model Display Groups must be shown on the development order plans. Parking areas for these uses will be buffered with a single-row hedge and tree canopy for parking areas per the LDC.
 - e. Real Estate sales are limited to temporary real estate trailers, model units, model homes, model display centers, models within the townhouse site, amenity sites, and clubhouses.
 - f. Real estate sales will be limited to the sale of lots or units within the development only.
 - g. Hours of operation for both models and real estate sales are limited to Monday through Sunday, 8:00 a.m. through 8:00 p.m.
 - h. Model homes and temporary real estate sales will be valid for a period of up to six years from the date of issuance of a Certificate of Occupancy of a model home per LDC §34-1954(d)(1).
6. All required buffers must utilize 100 percent native vegetation.
7. 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.
8. Approval of this rezoning does not guarantee local development order approval. Future development order approvals must satisfy the requirements of the Lee Plan Planning Communities Map and Acreage Allocation Table, Map 16 and Table 1(b), be reviewed for, and found consistent with, all other Lee Plan provisions.
9. *Five-foot setback.*
- a. No structures, including but not limited to, sidewalks, mechanical equipment, door stoops, walls, etc., may be constructed or placed within the required five-foot side setbacks; or
 - b. Prior to issuance of Certificate of Occupancy on each lot, the Engineer of Record must certify that the drainage for each lot is built in compliance with the typical lot grading detail (See Exhibit D Sheet 8 of the approved Master Concept Plan) provided as part of the building permit process.
10. *Consumption on Premises, Food & Beverage Services, Personal Services, Group I (all uses).*
- a. These uses are limited to a maximum of 7,500 square feet of floor area for the entire development.
 - b. Consumption on Premises, Personal Services Group I, and Food and Beverage Services are limited to amenity sites only, as shown on the approved Master

Concept Plan. These uses are limited to members and guests of a private club. Use by the general public is prohibited.

- c. Consumption on Premises is limited to sales within a residential clubhouse setting only. No restaurants, bars, package stores, or similar uses are permitted.
 - d. Hours of operation for these uses are limited to 7:00 a.m. to midnight daily.
 - e. Consumption on Premises is permitted only at amenity sites (and clubhouse) and outdoor seating for Consumption on Premises must be located within the fenced area at the clubhouse as shown on Sheet 7 of the attached Master Concept Plan.
 - f. Outdoor seating (outside of the fenced clubhouse area) for Consumption on Premises may be approved by Special Exception only (public hearing required).
 - g. Outdoor sales of alcohol is prohibited, and may not be permitted on a temporary or permanent basis.
 - h. The clubhouse as shown on the amenity site of the approved Master Concept Plan is limited to a maximum 10,000 (5,904) square feet building under air and 16,000 square feet under roof. There must be a minimum 366± feet of separation between the front door of the clubhouse and the school property, and a minimum of 1,122± feet of separation from the clubhouse building to the school building in accordance with the Master Concept Plan.
- 11. Prior to local development order approval, a protected species survey for burrowing owls and burrows within the upland portions of the project within the phase being covered in the development order must be submitted for review, field verification, and approval by the Division of Environmental Sciences' staff. If burrowing owls or burrows are located, then a burrowing owl management plan, including an appropriate preservation area within the project, must be submitted.
 - 12. Prior to local development order approval, the development order plans must include ±8.67 acres of open space within the townhouse tract of which ±6.62 acres must be indigenous preservation, and approximately ±25 acres of wetland preservation on the remainder of the site.
 - 13. The development order must provide an enhanced 25-foot-wide "D" buffer along Buckingham Road including 10 trees per 100 linear feet (which must include live oaks, no palms) and a berm a minimum of three feet in height.
 - 14. The development order must provide a 25-foot-wide landscaped buffer/berm combination along the southern boundary of the subject property where it abuts the school site. Atop the berm will be intermittent landscaping and/or wall with a minimum height of six feet. All berming and walls must meet LDC requirements.
 - 15. Townhouse buildings must be set back a minimum of ±1,000 linear feet from Buckingham Road, as shown on the approved Master Concept Plan.

PERMIT COUNTER

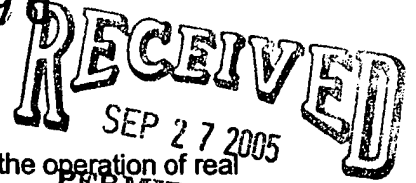
16. The 20-foot-wide lake maintenance easements, along lakes that are completely surrounded by private lots, must be made accessible by maintenance vehicles from a road, through a 20-foot-wide lake access easement.
17. Any additional site access points, such as a separate construction access, would require an amendment to the RPD zoning.
18. There are several pyramid shaped symbols and text shown along Buckingham Road on the MCP that are not legible. The applicant must revise the MCP so that all information is clearly legible.
19. If the developer desires to deviate from the regulations contained in LDC Chapter 30, pertaining to project signage, the proposed sign package must be submitted for review and approval by the Lee County Department of Community Development prior to the issuance of any local development order for the property.
20. During the March 21, 2005, Board Zoning Hearing, the applicant voluntarily offered to dedicate a 25-foot wide strip along Buckingham Road for County right-of-way purposes, at no cost to Lee County. Dedication of this 25 foot strip may be accomplished by recording an instrument (ie. deed or plat) that grants or dedicates to the County an exclusive easement for right-of-way purposes. [If the easement is dedicated via a plat, the dedication must be clear and unambiguous. Use of the label "future right-of-way" will not be acceptable.] The dedicated area may not be used for required development buffering or any other non-county right-of-way improvements. This dedication must be complete prior to issuance of the first building permit allowing permanent vertical construction within the project.

SECTION C. DEVIATIONS:

1. Deviation (1) seeks relief from the LDC §10-328(a) requirement to provide a minimum 20-foot-wide maintenance access easement along lake perimeters, to allow zero feet where lakes are bulkheaded. This deviation is DENIED.
2. Deviation (2) seeks relief from the LDC §10-329(d)(1)a.2 requirement prohibiting excavation for water retention or detention within 50 feet of any existing or proposed right-of-way line or easement for a collector or arterial street, to allow excavation within 50 feet of an existing or proposed right-of-way line or easement. This deviation is APPROVED, SUBJECT TO the following conditions:
 - a. Approval is limited to water retention and detention areas as shown on the approved Master Concept Plan.
 - b. Appropriate protection for wayward vehicles must be provided at the time of local development order.
3. Deviation (3) seeks relief from the LDC §10-329(d)(1)a.3 requirement for water retention or detention excavation to set back 50 feet from any private property line under separate

ownership, to permit a 25-foot setback for internal property lines. This deviation is APPROVED, SUBJECT TO the following conditions:

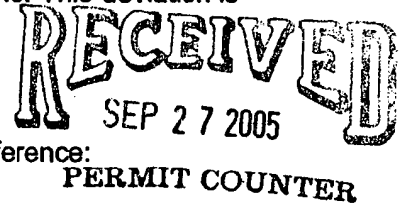
- a. Approval is limited to water retention and detention areas as shown on the approved Master Concept Plan.
 - b. A minimum 4-foot high fence or other approved barrier must be provided along the property line adjacent to the lake.
4. Deviation (4) seeks relief from the LDC §10-329(d)(4) requirement that lake banks be sloped at a maximum 4:1, to allow bulkheads at the shoreline. This deviation is APPROVED, SUBJECT TO the following conditions:
- a. Prior to local development order approval, any bulkheads to be installed within Lakes A, B, or D as labeled on the attached Master Concept Plan must be delineated on the landscape and engineering plans. The bulkheads may not encompass more than 30 percent of the linear shoreline of the lake measured at control elevation. A compensatory littoral zone equal to the linear footage of the bulkhead must be provided within the same lake meeting the following criteria:
 - (1) A 5-foot-wide littoral shelf planted with herbaceous wetland plants to provide 50 percent coverage at time of planting; or
 - (2) An 8:1 slope littoral shelf with herbaceous wetland plants to provide 50 percent coverage at time of planting; or
 - (3) An equivalent littoral shelf design as approved by the Division of Environmental Sciences' Staff.
 - (4) The compensatory littoral zone must be planted with native wetland plants calculated as two per linear foot of shoreline for lakes utilizing bulkheads up to 20 percent of the shoreline, and three plants per linear foot of shoreline for lakes utilizing bulkheads along 21 percent to 31 percent of the shoreline.
5. Deviation (5) seeks relief from the LDC §10-384(b) requirement to provide a 20-foot-wide fire department access lane in the rear of buildings that fall into classes set forth in LDC §10-384(a)(3), to allow decks ancillary to the amenity site to be located zero feet from a water body. This deviation is APPROVED, SUBJECT TO the following conditions:
- a. Approval is limited to amenity areas, water retention and detention areas as shown on the approved Master Concept Plan.
 - b. The developer must provide written documentation from the Fort Myers Shores Fire Department indicating that this design is acceptable and allows adequate access for emergency vehicles.
6. Deviation (6) - WITHDRAWN.



7. Deviation (7) seeks relief from LDC §34-934 Note 23 which restricts the operation of real estate sales centers for a period not to exceed five years, to allow the operation of a real estate office within Portico RPD for a period of six years. This deviation is APPROVED, SUBJECT TO the condition that the real estate sales office remains in compliance with Condition 5 above.
8. Deviation (8) - WITHDRAWN.
9. Deviation (9) seeks relief from the LDC §34-2194(b) requirement to provide a 25-foot setback for buildings from a water body, to allow a zero-foot setback at bulkhead areas. This deviation is APPROVED, SUBJECT TO Deviation (4) above.
10. Deviation (10) seeks relief from the LDC §34-935(b)(2) requirement that parking or internal roads or drives not be closer to the development perimeter than the greater of either the width of any buffer area or landscape strip required by Chapter 10, to allow an emergency access road within this area. This deviation is APPROVED, SUBJECT TO the condition that the approval is limited to the emergency access point shown as Deviation (10) on the approved Master Concept Plan.
11. Deviation (11) seeks relief from the LDC §10-418 requirement that storm water ponds be designed to mimic the function of natural systems, to allow for the use of bulkheads. This deviation is APPROVED, SUBJECT TO Deviation (4) above.
12. Deviation (12) seeks relief from the LDC §10-714 design standards for cul-de-sacs, to allow the use of "eyebrow" road elements on the Village Roads within the community. This deviation is APPROVED, SUBJECT TO the following conditions:
 - a. Approval is limited to the detail plan and locations as shown on the approved Master Concept Plan.
 - b. Traffic calming devices indicated in the approved Master Concept Plan must be included in the homeowner documents to be reviewed and recorded during the local development order process.
13. Deviation (13) - Withdrawn.
14. Deviation (14) seeks relief from the LDC §34-152(4)c.4 requirement that on-site directional signage be set back a minimum of 15 feet from the edge of the street right-of-way or easement, to allow on-site directional signs to have a setback of four feet. This deviation is DENIED in accordance with Condition 19.
15. Deviation (15) seeks relief from the LDC §10-285(a) requirement that the centerline distance for local roads be 125 feet, to allow for centerline distances of no less than 60 feet for the eyebrow road features. This deviation is APPROVED, SUBJECT TO the following conditions:
 - a. Approval is limited to the detail plan and locations as shown on the approved Master Concept Plan.

- b. Traffic calming devices indicated in the approved Master Concept Plan must be included in the homeowner documents to be reviewed during the local development order process.
 - c. Stop signs will be provided for vehicles exiting the eyebrow element.
 - d. Traffic control devices will be determined during development order review.
16. Deviation (16) seeks relief from the LDC §10-291(3) requirement that residential developments of more than five acres provide more than one means of ingress or egress, to allow for one main access on Buckingham Road and a minimum of two emergency access points. This deviation is APPROVED, SUBJECT TO the following conditions:
- a. No walls, fences or entrance gates may be constructed within the access point area per the approved Master Concept Plan.
 - b. All utilities along the entrance from Buckingham Road as shown on the approved Master Concept Plan must be placed underground.
 - c. The local development order must depict a 70-foot-wide divided entrance on Buckingham Road that must include a 14-foot-wide median with two 11-foot-wide lanes on both sides of the median for ingress and egress in accordance with the primary corridor typical shown on the approved Master Concept Plan.
 - d. The local development orders must include emergency access gates to be constructed on two emergency access points as shown on the approved Master Concept Plan.
 - e. The installation of any access gates must comply with all applicable regulations pertaining to emergency equipment that are in effect at the time of installation.
 - f. Prior to issuance of a development order, the developer must provide written documentation from the Fort Myers Shores Fire Department indicating that these access points are acceptable and provide adequate access for emergency vehicles.
 - g. If the emergency access point located near the southeast corner of Phase 2, into Hawks Haven is not available at time of local development order submittal for that phase of work, then the emergency access must connect to the Lehigh Acres roadway system through the existing platted roadway easement. This will require a culvert across the east-west canal lying south of Phase 2 of Portico RPD. Such a change can be approved administratively.
17. Deviation (17) seeks relief from the LDC §10-416(d)(6) requirement that roadways must be set back 125 feet from any existing residential development or provide a 30-foot-wide buffer consisting of an 8-foot-high wall constructed a minimum of 25 feet from the residential property line with landscaping planted between the wall and the residential property line, to allow an 8-foot-high wall a minimum of 10 feet from the residential property line with

landscaping planted between the wall and the residential property line. This deviation is APPROVED.



SECTION D. EXHIBITS AND STRAP NUMBER:

The following exhibits are attached to this resolution and incorporated by reference:

- Exhibit A: Legal description of the property
- Exhibit B: Bona fide Agricultural Uses
- Exhibit C: Zoning Map (subject parcel identified with shading)
- Exhibit D: The approved Master Concept Plan

The applicant has indicated that the STRAP numbers for the subject property are: 33-43-26-00-00002.0000, 33-43-26-00-00002.0020, 33-43-26-00-00002.0030, and 34-43-26-00-00001.0000.

SECTION E. FINDINGS AND CONCLUSIONS:

1. The applicant has proven entitlement to the rezoning by demonstrating compliance with the Lee Plan, the LDC, and any other applicable code or regulation.
2. The rezoning, as approved:
 - a. meets or exceeds all performance and locational standards set forth for the potential uses allowed by the request; and,
 - b. is consistent with the densities, intensities and general uses set forth in the Lee Plan; and,
 - c. is compatible with existing or planned uses in the surrounding area; and,
 - d. 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; and,
 - e. will not adversely affect environmentally critical areas or natural resources.
3. The rezoning satisfies the following criteria:
 - a. the proposed use or mix of uses is appropriate at the subject location; and
 - b. the recommended conditions to the concept plan and other applicable regulations provide sufficient safeguard to the public interest; and
 - c. the recommended conditions are reasonably related to the impacts on the public interest created by or expected from the proposed development.
4. Urban services, as defined in the Lee Plan, are, or will be, available and adequate to serve the proposed land use.

5. The approved deviations, as conditioned, enhance achievement of the planned development objectives, and preserve and promote the general intent of LDC Chapter 34, to protect the public health, safety and welfare.

The foregoing resolution was adopted by the Lee County Board of Commissioners upon the motion of Commissioner Hall, seconded by Commissioner Judah and, upon being put to a vote, the result was as follows:

Robert P. Janes	AYE
Douglas R. St. Cerny	AYE
Ray Judah	AYE
Tammy Hall	AYE
John E. Albion	AYE

DCI 2004-00090

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SEP 27 2005

DULY PASSED AND ADOPTED this 21ST day of March 2005.

PERMIT COUNTER

ATTEST:
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: *Jim A. Pierce*
Deputy Clerk

BY: *[Signature]*
Chairman

Approved as to form by:

[Signature]
Dawn E. Petty-Lehnert
County Attorney's Office



RECEIVED
MINUTES OFFICE
2005 MAY 10 PM 3:44

ROY L. MCCREA (FOR THE FIRM LB-842)
PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA CERTIFICATE NO. 6205

DATE SIGNED: _____ THE ORIGINAL RAISED
NOT VALID WITHOUT THE SIGNATURE AND
SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

PARCEL IN

SECTION 33 & 34.

SECTION 33 & 34,
TOWNSHIP 43 SOUTH, RANGE 26 EAST
LEE COUNTY, FLORIDA

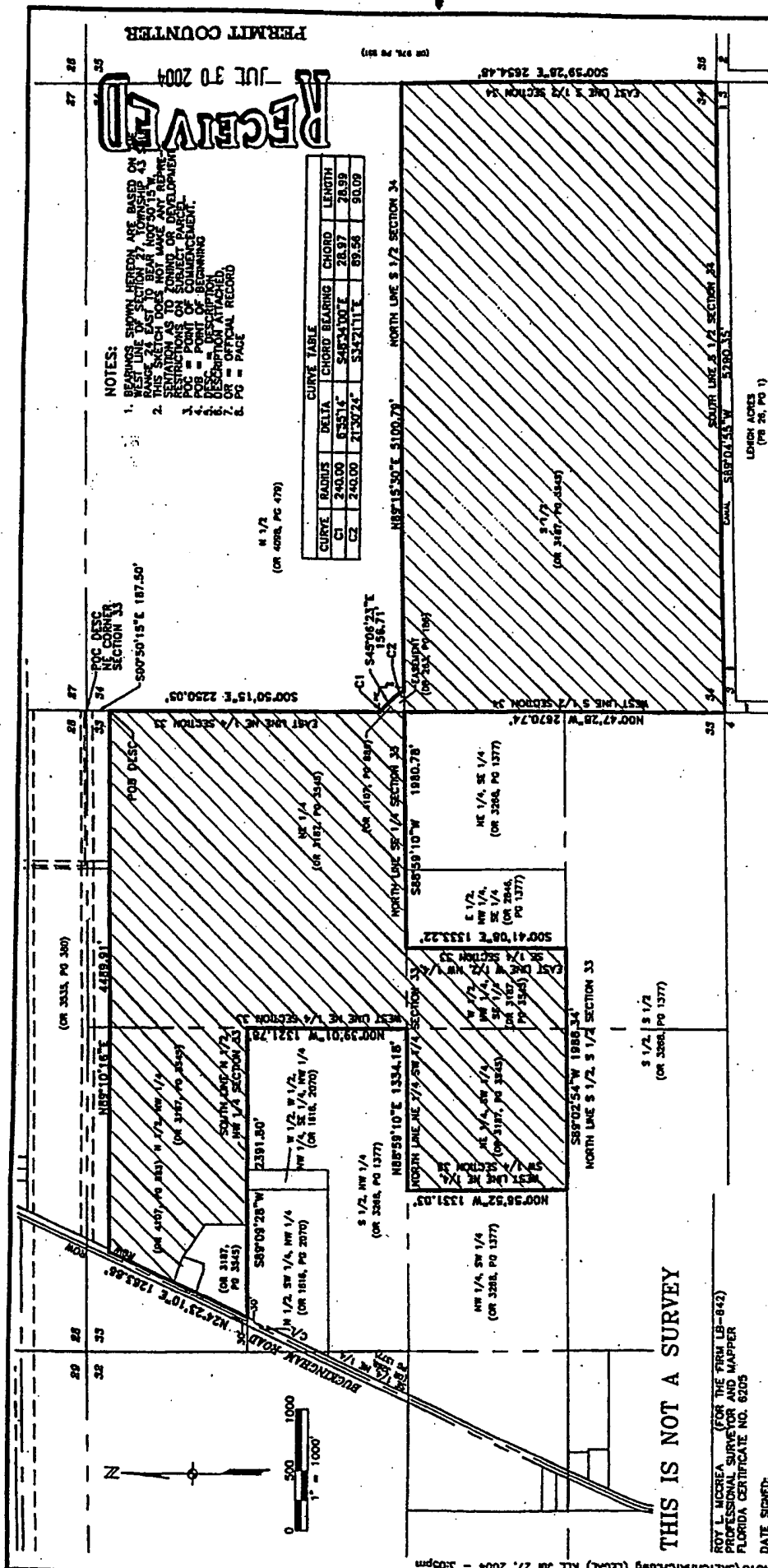
DCI 2004-00090

**JOHNSON
ENGINEERING**

2158 JOHNSTON STREET
P.O. BOX 1950
MILWAUKEE, WISCONSIN 53208
PHONE (414) 224-1111
FAX (414) 224-1111
E-MAIL: JAC@JAC-USA.COM

SKETCH TO ACCOMPANY DESCRIPTION

DATE	PROJECT NO.	FILE NO.	SCALE	SHEET
05/10/04	20034318	33-43-28	1" = 100'	1 OF 1



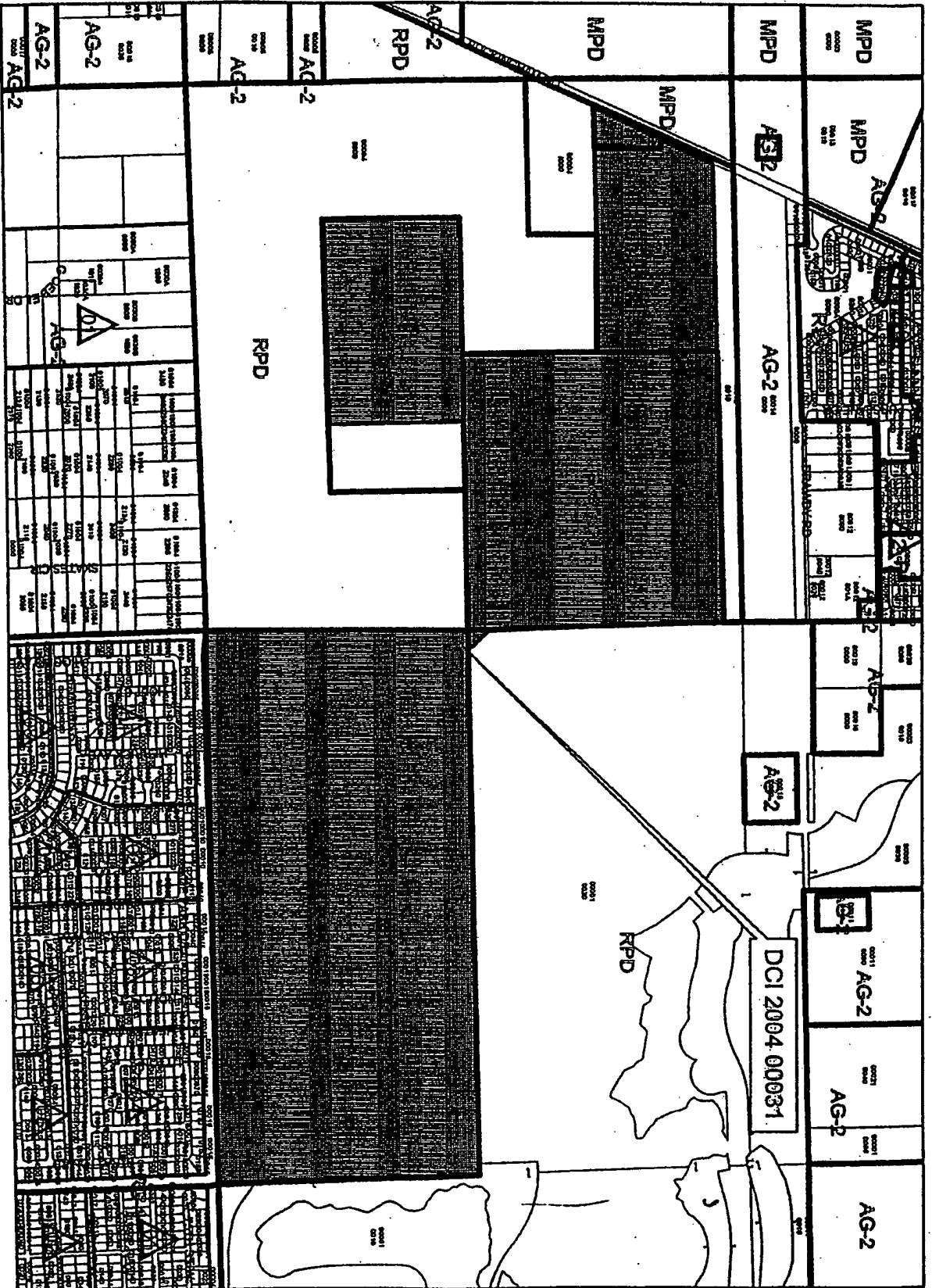
DCI2004-00031 PORTICO RPD

10/12/2004

DCI 2004-00031
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EXHIBIT C

PERMIT COUNTER



1,500 750 0 1,500 Feet

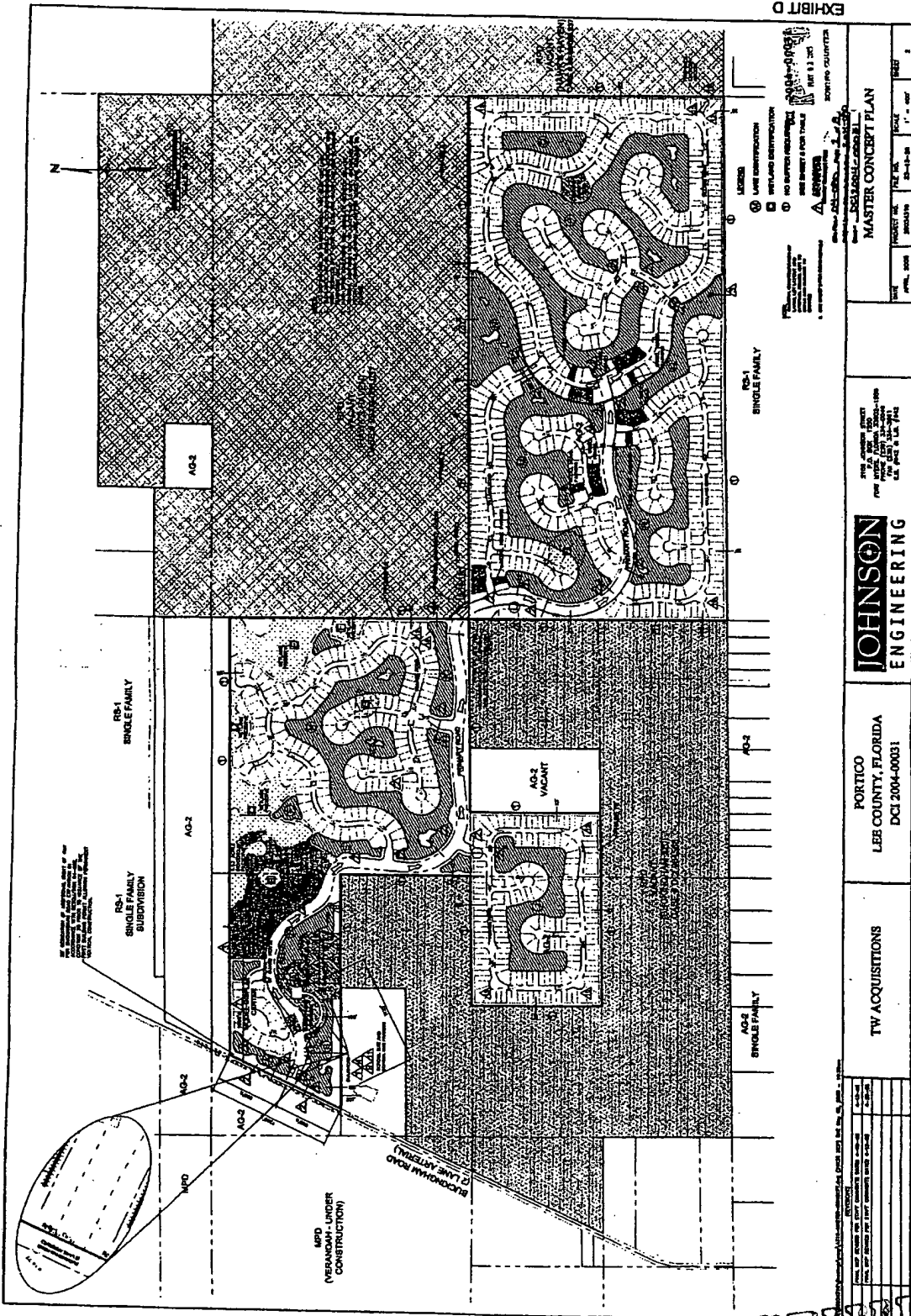
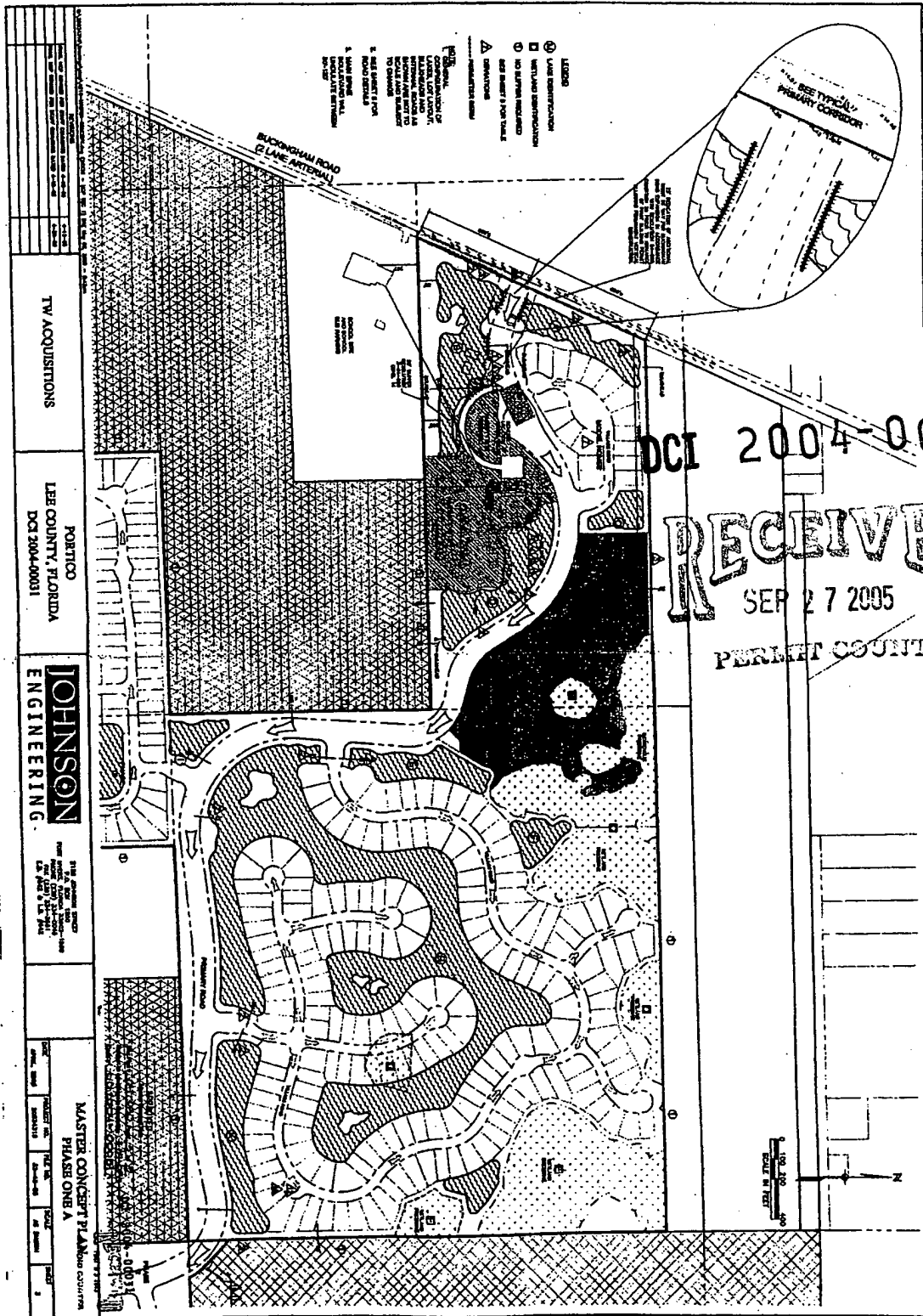


EXHIBIT D

JOHNSON ENGINEERING		PORTICO LEE COUNTY, FLORIDA DCI 2004-00031	TW ACQUISITIONS	APRIL 2004	SCALE 1" = 100'	SHEET 1
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SEP 27 2005
PERMIT COUNTER

DCI 2004-00090



SEC. 33
SEC. 34

ZONED AG-2
(LEE CO. DISTRICT SCHOOL BOARD)

ZONED MPD
(THE VERANDAH)
(AGRICULTURAL)

ZONED AG-2
(AGRICULTURAL)

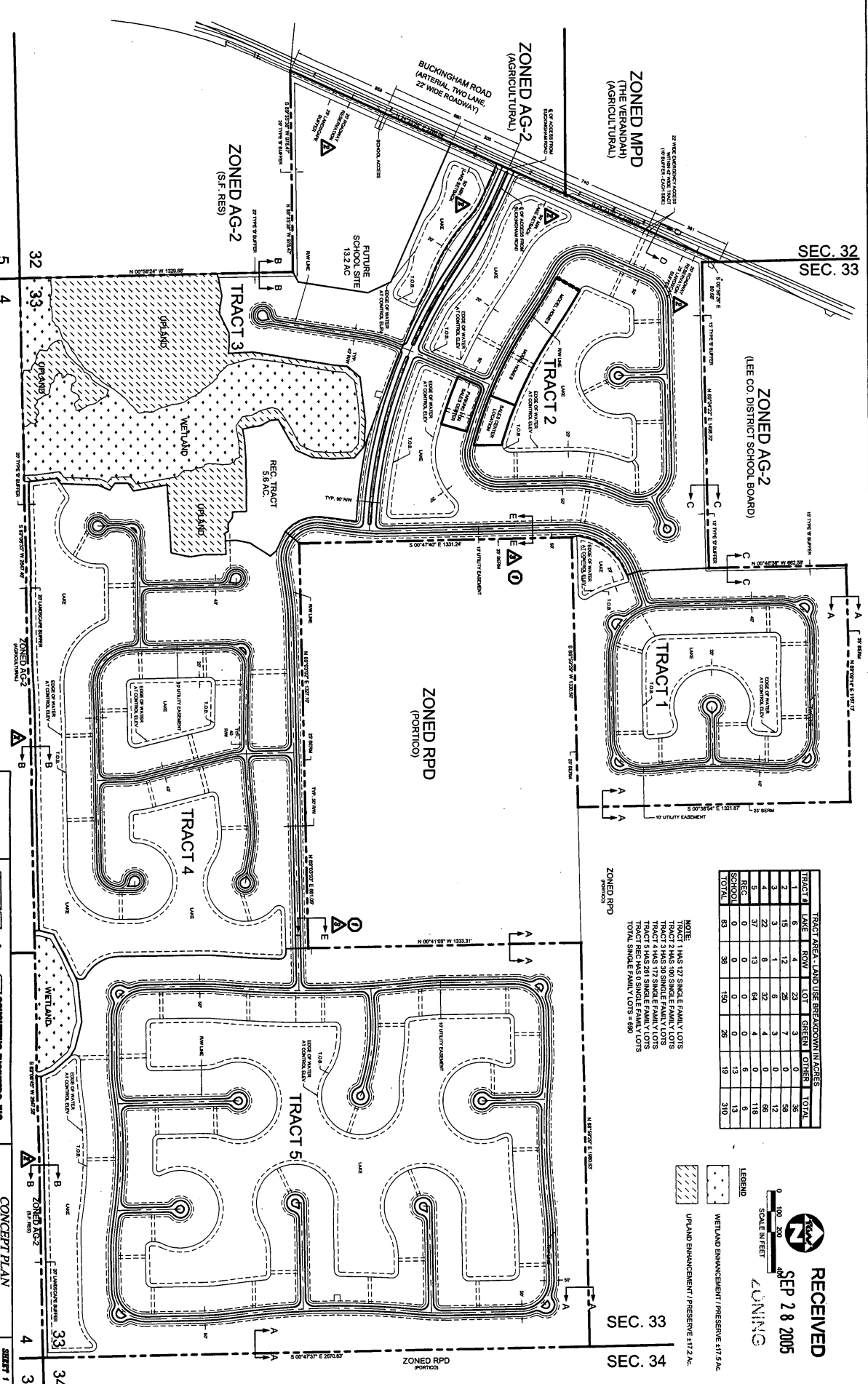
ZONED AG-2
(S.F. RES)

ZONED RPD
(PORTICO)

TRACT AREA LAND USE BREAKDOWN IN ACRES									
TRACT #	LANE	ROW	LOT	GREEN	OTHER	TOTAL	TRACT #	LANE	ROW
1	6	4	23	3	0	30	2	15	12
2	15	12	25	7	0	50	3	6	3
3	6	3	3	0	0	12	4	32	4
4	32	4	0	0	0	116	5	32	1
5	32	1	0	0	0	6	6	0	0
REG.	0	0	0	0	0	13	SCHOOL	0	0
TOTAL	53	38	150	28	19	310			

NOTE:
TRACT 1 HAS 17 SINGLE FAMILY LOTS
TRACT 2 HAS 23 SINGLE FAMILY LOTS
TRACT 3 HAS 39 SINGLE FAMILY LOTS
TRACT 4 HAS 12 SINGLE FAMILY LOTS
TRACT 5 HAS 21 SINGLE FAMILY LOTS
TRACT 6 HAS 39 SINGLE FAMILY LOTS
TOTAL SINGLE FAMILY LOTS = 880

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SCALE IN FEET
0 100 200
LEGEND
WETLAND ENHANCEMENT / PRESERVE #17.2 AC.
UPLAND ENHANCEMENT / PRESERVE #17.2 AC.



LEGEND
WETLANDS

APPROVED 8/7/05
APPROVED 8/16/05
APPROVED FOR LEE COUNTY STAFF COMMENTS

DESIGNED BY: JAY
DATE: 8/16/05
REV. CODE: 05783.00
SCALE: 1" = 500'

LEE COUNTY PLANNING DEPARTMENT
1001 BUCKINGHAM ROAD, SUITE 200
PORT WORTH, TEXAS 76133
PHONE: (214) 778-1922 • FAX: (214) 778-0222 • E-MAIL: landuse@lee.org

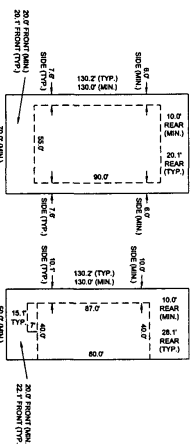
CONCEPT PLAN
BUCKINGHAM 345
A PORTION OF
SECTIONS 27 & 28, TOWNSHIP 43 SOUTH, RANGE 98 EAST
LEE COUNTY, TEXAS
DATE: NOVEMBER 2004
DRAWING: 05783.00.JTC

PROPERTY DEVELOPMENT REGULATIONS

INVEST 3.4	INVEST 3.4
MAX LOT WIDTH	MAX LOT WIDTH
3.20 D.F.T.	5.20 D.F.T.
72	97
MAX LOT DEPTH	MAX LOT DEPTH
100'	100'
MAX LOT AREA	MAX LOT AREA
4.0	6.0
MAX SIDE SETBACK	MAX SIDE SETBACK
10'	10'
MAX REAR SETBACK	MAX REAR SETBACK
10'	10'
MAX FRONTYARD SETBACK	MAX FRONTYARD SETBACK
10'	10'
MAX LOT COVERAGE	MAX LOT COVERAGE
35%	35%
MAX BUILDING HEIGHT	MAX BUILDING HEIGHT
35'	35'
MAX 3 STORES - 100' BUILDING	MAX 3 STORES - 100' BUILDING
40' 3 STORES - 100' LOT COVER	40' 3 STORES - 100' LOT COVER
MAX 3 STORES - 100' LOT COVER	MAX 3 STORES - 100' LOT COVER
AND REAR YARD FENCES	AND REAR YARD FENCES

2136.0 AC.

£15.0 AC.
 £20.7 AC.
 £17.2 AC.
 £18.1 AC.
 £78.5 AC.
 £149.5 AC.

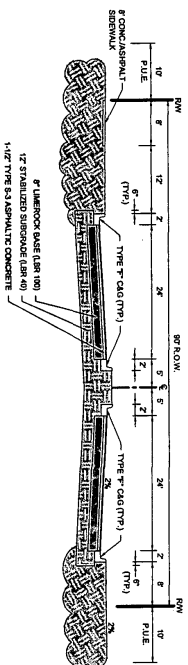


SETBACKS

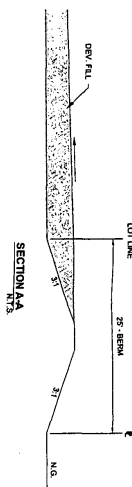
25.0' OF LOT WIDTH FOR LOTS OVER 60'	20.0' FRONT (GARAGE) 15.0' FRONT (HOUSE) 20.0' REAR (BACK TO BACK) 10.0' SIDE (OPEN SPACE) 11.9' * SIDE CORNER
25.0' OF LOT WIDTH FOR LOTS OVER 60'	20.0' FRONT (GARAGE) 15.0' FRONT (HOUSE) 20.0' REAR (BACK TO BACK) 10.0' SIDE (OPEN SPACE) 11.9' * SIDE CORNER

SETBACKS		
DIRECTION	SINGLE FAMILY	ZERO LOT LINE
FRONT (GARAGE)	20.0'	20.0'
FRONT (HOUSE)	15.0'	15.0'
REAR (BACK TO BACK)	20.0'	20.0'
REAR (OPEN SPACE)	10.0'	10.0'
SIDE	5.0'	5.0'
SIDE CORNER	17.5'	17.0'

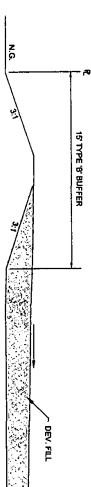
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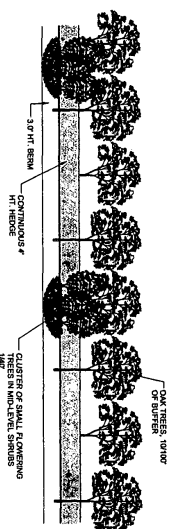
TYPICAL SECTION - 90 ft. R.O.W.
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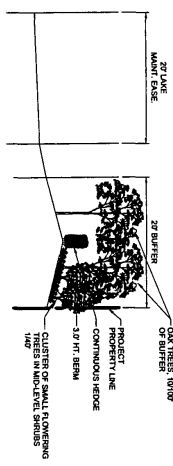
SECTION A-A



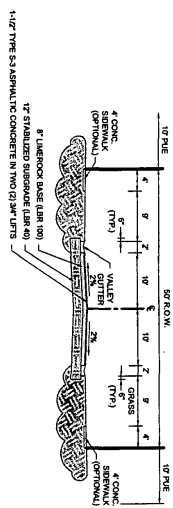
SECTION C-C
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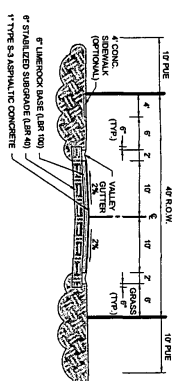
— CLUSTER OF SMALL FLOWERING TREES IN MID-LEVEL SHRUBS



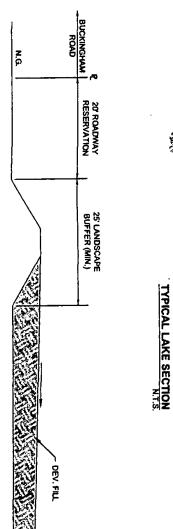
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PRIVATE / MINOR COLLECTOR ROAD CROSS SECTION



PRIVATE / LOCAL ROAD CROSS SECTION



SECTION D-D
RTS

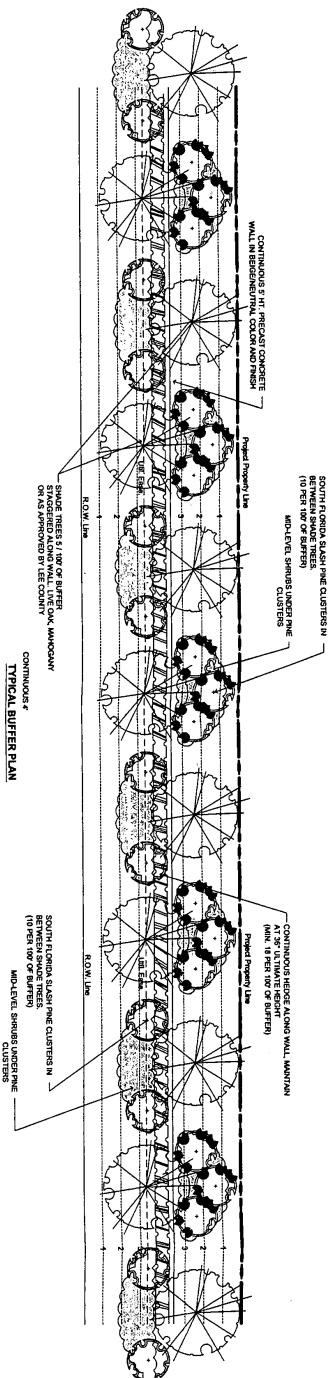
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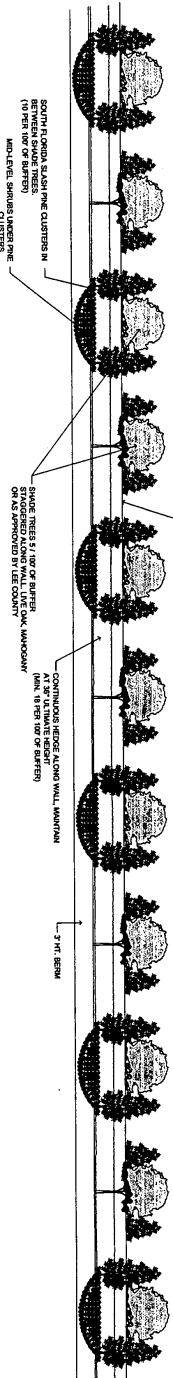
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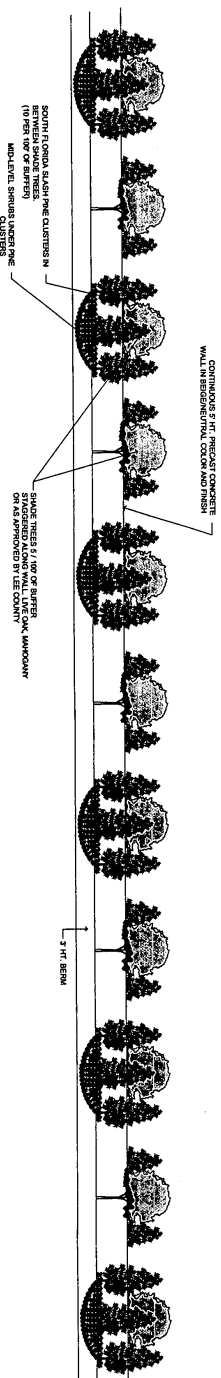
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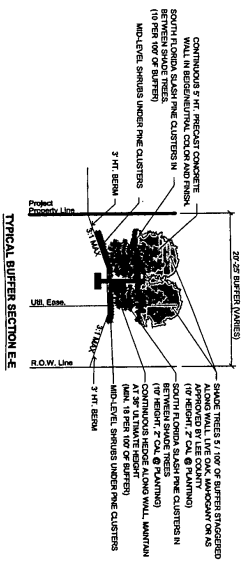
TYPICAL BUFFER PLAN



TYPICAL BUFFER ELEVATION FROM BUCKINGHAM 345



TYPICAL BUFFER ELEVATION FROM PORTICO



TYPICAL BUFFER SECTION E.E.

REVISED 8/27/05

DESIGN BY:	BUCKINGHAM 345	SHEET 3
DRAWN BY:	1. PARTITION OF	
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	91. PARTITION OF	
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	99. PARTITION OF	
	100. PARTITION OF	

(Pinus palustris) trees are encouraged for use in the ROW buffers due to their high crown, which provides tree canopy while maintaining good visibility to the development site. The clustering of trees and use of palms within the ROW buffer will add design flexibility and reduce conflicts.

4. Shrubs required by this section are intended to provide visual screening and may not be pruned to reduce height.

(5) No change.

- (6) If roads, drives, or parking areas are located less than 125 feet from an existing single family residential subdivision or single family residential lots, a solid wall or combination berm and solid wall not less than eight feet in height must be constructed not less than 25 feet from the abutting property and landscaped (between the wall and the abutting property) with a minimum of five trees and 18 shrubs per 100 lineal feet or a 30-foot wide Type F buffer with the hedge planted a minimum of 20 feet from the abutting property. Where residences will be constructed between the road, drive or parking area and the existing residential subdivision or lots, the wall or wall and berm combination are not required.

(7) and (8) No change.

- (9) *Development abutting natural waterway.* Except where a stricter standard applies for the Greater Pine Island Area (as defined in Goal 14 of the Lee Plan), there must be a 25-foot wide vegetative buffer landward from the mean high water line of all tidally influenced nonseawalled natural waterways or from the top of bank of non-tidal waterways. Where a proposed planned development or subdivision is located in the Greater Pine Island Area abutting state-designated aquatic preserves and associated natural tributaries, the width of the required buffer will be 50 feet.

Existing native vegetation within the buffer area must be retained. The natural waterway buffer must at a minimum include ten native trees per 100 linear feet, which may be met through tree credits with existing native trees. ~~The removal or control of exotic pest plants must not involve the use of heavy mechanical equipment such as bulldozers, front end loaders, or hydraulic excavators, unless approved at the time of development order.~~

(10) and (11) No change.



A LEGAL PROFESSIONAL ASSOCIATION

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bgrady@ralaw.com

June 25, 2003

Chairman Ray Judah
Commissioner John Albion
Commissioner Andy Coy
Commissioner Robert Janes
Commissioner Doug St. Cerney
2120 Main Street
Fort Myers, FL 33901

Re: Comprehensive Plan Amendment 2002-04 Coloosa Shores Community Plan

Dear Commissioners:

Please be advised that this firm represents Buckingham Development, L.L.C. which is the owner of the following parcels:

334326-00-00004.0000

324326-00-00003.0000

284326-00-00014.0000

Please be advised that the above referenced property is hereby withdrawn from Comprehensive Plan Amendment 2002-04 which proposes to change it from Suburban and Rural to Outlying Suburban with special limitations.

Buckingham Development, L.L.C. has worked closely with the East Lee County Council and Lee County staff. When reviewing this approximately 1,000 acre change you will see that the reduction shown in the staff calculation falls on the parcels identified in this correspondence as the remaining parcels actually received an increase in density by adoption of a land use map change. The owners do not want their property transmitted as part of the Caloosahatchee Shores Amendment and want no change on the land use designation.

Thank you for your consideration of this matter.

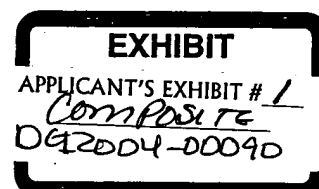
Very truly yours,

Beverly Grady

Signed electronically to expedite

Beverly Grady
For the Firm

BG/umr



CLEVELAND TOLEDO AKRON COLUMBUS CINCINNATI WASHINGTON, D.C. TALLAHASSEE FORT MYERS NAPLES

www.ralaw.com

[illegible]

This map change would create a “transitional” Land Use Category and also lead to a net reduction in the total allowable density on the Future Land Use Map. Table 6 below calculates the maximum allowable density under the current Future Land Use Map and the total allowable density with the proposed change. Please note that because we have not surveyed each property, all calculations are approximate in terms of acreage and allowable density.

Table 6: Density Reduction Under Proposed FLUM

Property	Rural Acres	Suburban Acres	Total Acres
----------	-------------	----------------	-------------

Hunter, et. al.	169	86	
	320	6	
Total	489	92	581

Buckingham Development LLC	119	176	
		49*	
		21	
Total	119	246	365

James Kuhlmann	20		
Bonnie and Ralph Cantrell		6	
William Holler		1	
David Peck		1	
Thames Hazel		19	
Ingram Cezanne		10	
Total	20	37	57

Total	628	375	1,003
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Maximum Total Units	628	2,250	2,878
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Total With Map Change*	2,055		
-------------------------------	--------------	--	--

Total Reduction	823		
------------------------	------------	--	--

* Property that is proposed for 3 du/acre. This accounted for in the "Total After Map Change."
Source: Lee County Property Appraiser

C. VOTE:

transmitted

JOHN ALBION	AYE
ANDREW COY	AYE
BOB JANES	AYE
RAY JUDAH	AYE
DOUG ST. CERNY	AYE

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

DATE OF ORC REPORT: September 5, 2003

A. DCA OBJECTIONS, RECOMMENDATIONS AND COMMENTS

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

B. STAFF RESPONSE

At the time of this writing, property owners that would be impacted by the proposal for a future land use category change for the area north of the Buckingham Rural Community Preserve and east of Buckingham Road are still negotiating the vacation of access easements and have not committed to the change. Staff's recommendation of approval of the future land use category change is contingent upon the agreement of all impacted property owners. If no agreement is reached by the October 23 adoption hearing, staff recommends that the future land use change not be approved.

With that exception, staff recommends adoption of the amendment as transmitted, as shown in Part I.B. of this report.

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

DATE OF ADOPTION HEARING: _____

A. BOARD REVIEW:

B

ROETZEL & ANDRESS
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October 15, 2003

Chairman Ray Judah
Commissioner John Albion
Commissioner Andy Coy
Commissioner Robert Janes
Commissioner Doug St. Cerney
2120 Main Street
Fort Myers, FL 33901

**Re: 2002-04 Caloosahatchee Shores Community Plan,
Amendment to Future Land Use Element of the Lee Plan**

Dear Commissioners:

Please be advised that this firm represents Buckingham Development, L.L.C. (Buckingham) which is the owner of the following parcels:

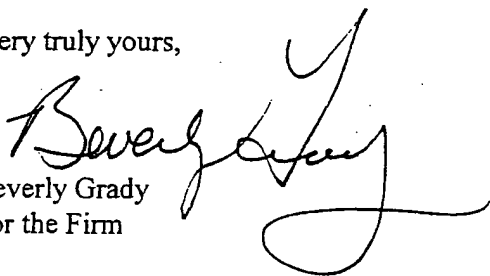
334326-00-00004.0000
324326-00-00003.0000
284326-00-00014.0000

We appeared at your hearing of June 25, 2003 and filed correspondence relating to our concern on the Comprehensive Plan Amendment. Buckingham has worked closely with the East Lee County Council and Lee County staff. Since June 25, 2003, Buckingham has worked closely with its neighbors.

Please be advised that Buckingham withdraws any objection to Comprehensive Plan Amendment 2002-04 Caloosahatchee Shores Community Plan and hereby supports the Board of County Commissioners adoption of the CPA 2002-04 Amendment for the Future Land Use element of the Lee Plan Text and Future Land Use Map which incorporates the recommendation of the Caloosahatchee Shores Community Planning effort and establishes a new goal, vision statement and objectives and policies for the area.

Thank you for your consideration of this matter.

Very truly yours,


Beverly Grady
For the Firm

BG/umr



OCTOBER 23, 2003

A Meeting of the Board of Lee County Commissioners was held this date to conduct a Public Hearing to adopt the 2002-2003 Regular Lee Plan Amendments to the Lee County Comprehensive Plan, with the following Commissioners present:

Ray Judah, Chairman
John E. Albion, Vice-Chairman
Douglas R. St. Cerny
Robert P. Janes

COMMISSIONER COY WAS ABSENT FOR THE ENTIRE MEETING, AS HE WAS OUT OF TOWN.

ON FILE IN THE MINUTES OFFICE: ALL CPA REPORTS, ALONG WITH THEIR BACKUP MATERIAL; PROPOSED ORDINANCES; THE DEPARTMENT OF COMMUNITY AFFAIRS (DCA) OBJECTIONS, RECOMMENDATIONS, AND COMMENTS REPORT (ORC); AND A MEMORANDUM FROM COMMUNITY DEVELOPMENT PLANNING DIRECTOR PAUL S. O'CONNOR, DATED OCTOBER 9, 2003.

1. Call to order; Certification of Affidavit of Publication.

The Chairman called the meeting to order at 9:32 a.m. Assistant County Attorney Donna Marie Collins approved as to legal form and sufficiency, the Affidavit of Publication regarding this item; and informed the public if anyone wished to receive a copy of the Notice of Intent from the Florida Department of Community Affairs (DCA) prior to its publication in the newspaper, a sign-up sheet had been provided at the rear of the Chambers. At this time, Community Development Planning Director Paul S. O'Connor asked that Consent Items (d) and (f) be pulled for discussion.

2. Public Comment on Consent Agenda

The Chairman called for public input; however no one came forward.

3. Consent Agenda items to be pulled for discussion by the Board:

There were no requests for Consent Agenda items to be pulled for discussion by the individual Commissioners; however items (d) and (f) were pulled as noted above.

4. Lee Plan Amendments Adoption Consent Agenda

A. CPA 2002-06 - Outlying Suburban Residential Allocations

Amend Table 1(b), Planning Community Year 2020 Allocations, by correcting the Outlying Suburban Allocation for the Alva Community.

RECOMMENDATIONS:

The Board's recommendation for CPA 2002-06 was sent to the Department of Community Affairs (DCA) on June 25, 2003.

The DCA's ORC Report, dated September 05, 2003, stated that DCA had no objections, recommendations, or comments concerning this amendment.

Staff's recommendation is to adopt the amendment as transmitted.

Commissioner Albion moved approval, seconded by Commissioner Janes, called and carried with Commissioner Coy absent.

B. CPA2002-08 - Conservation Lands

Amend the Future Land Use Map series, Map 1, by updating the Conservation Lands land use categories.

RECOMMENDATIONS:

The Board's recommendation for CPA 2002-08 was sent to the Department of Community Affairs (DCA) on June 25, 2003.



The DCA's ORC Report, dated September 05, 2003, stated that DCA had no objections, recommendations, or comments concerning this amendment.

Staff's recommendation is to adopt the amendment as transmitted.

Commissioner Albion moved approval, seconded by Commissioner Janes, called and carried with Commissioner Coy absent.

C. CPA2002-11 - Buckingham Potable Water

Amend Goal 17, Buckingham, of the Future Land Use Element by adding language that allows water lines to be extended to serve the Buckingham Rural Community Preserve on a voluntary basis, with costs of extension to be paid by the petitioner. Amend Map 6, Future Water Service Areas, to show all of the Buckingham Rural Community Preserve to be within the Future Water Service Areas of the County. Amend Map 7, Future Sewer Service Areas, to add certain public facility sites (Gulf Cost Center and Tice Fire Station) to the Future Sanitary Sewer Service Area Map.

RECOMMENDATIONS:

The Board's recommendation for CPA 2002-11 was sent to the Department of Community Affairs (DCA) on June 25, 2003.

The DCA's ORC Report, dated September 05, 2003, stated that DCA had no objections, recommendations, or comments concerning this amendment.

Staff's recommendation is to adopt the amendment as transmitted.

Commissioner Albion moved approval, seconded by Commissioner Janes, called and carried with Commissioner Coy absent.

D. CPA2002-13-M/T - Financially Feasible Transportation Maps

Amend the Transportation Maps of the Future Land Use Map Series and any related policy references to reflect the latest Lee County Metropolitan Planning Organization (MPO) 2020 Financially Feasible Transportation Plan map.

RECOMMENDATIONS:

The Board's recommendation for CPA 2002-13-M/T was sent to the Department of Community Affairs (DCA) on June 25, 2003.

The DCA's ORC Report, dated September 05, 2003, stated that DCA had no objections, recommendations, or comments concerning this amendment as transmitted; however, the transmittal reflected the MPO's 2020 Financially Feasible Plan as adopted on January 17, 2003 and the Staff write-up indicated that an additional amendment of the MPO's plan was in the works. In fact, the MPO adopted a revised plan in a public hearing process on June 20, 2003, just prior to the Board of County Commissioner's transmittal hearing. DCA noted their interest was in reflecting the most recent version of the MPO's plan in Maps 3A, 3B, and 3H, and in Policy 21.1.1. Therefore, Staff is recommending revisions to the maps and Policy 21.1.1 to reflect the June 20, 2003 MPO Plan for the adoption hearing, which can be found on page 16 of the CPA 2002-02 Public Hearing Document.

Staff's recommendation is to adopt the proposed amendment with the changes to Policy 21.1.1 as shown on Part V, Section B of the report.

PULLED FOR DISCUSSION

Community Development Planning Director Paul S. O'Connor stated that this item is an update of the transportation maps in the Lee County Comprehensive Plan; noted that the updated maps from the Metropolitan Planning Organization (MPO) plan are the most recent version of maps 3(a), 3(b), and 3(h), and there are also changes in Policy 21.1.1; and pointed out that, although the information was different than what was transmitted, Staff had indicated in the report that there would be changes through the process. Commissioner Albion asked whether the Board had approved the changes during the process. DOT Transportation Planning Manager David Loveland confirmed that the Board had approved the changes under their role as members of the MPO. Commissioner Albion moved item (d) with the changes provided by Staff, seconded by Commissioner Janes, called and carried with Commissioner Coy absent.

E. CPA2002-15-T - Constrained Roads

Update Table 2(a), Constrained Roads/State and County Roads, to eliminate Old 41, which is now a City of Bonita Springs road.

RECOMMENDATIONS:

The Board's recommendation for CPA 2002-15-T was sent to the Department of Community Affairs (DCA) on June 25, 2003.

The DCA's ORC Report, dated September 05, 2003, stated that DCA had no objections, recommendations, or comments concerning this amendment.

Staff's recommendation is to adopt the amendment as transmitted.

Commissioner Albion moved approval, seconded by Commissioner Janes, called and carried with Commissioner Coy absent.

F. CPA2002-19 - Capital Improvements Program

Amend the Capital Improvements Element (Tables 3 and 4) to reflect the latest adopted Capital Improvement Program.

RECOMMENDATIONS:

The Board's recommendation for CPA 2002-19 was sent to the Department of Community Affairs (DCA) on June 25, 2003.

The DCA's ORC Report, dated September 05, 2003, stated that DCA had no objections, recommendations, or comments concerning this amendment.

Staff's recommendation is to adopt the amendment as transmitted.

PULLED FOR DISCUSSION

Community Development Planning Director Paul S. O'Connor reviewed the item, and clarified the reason for pulling this item for discussion was to make certain the plan contained the most recent tables (copy on file in the Minutes Office). Commissioner Albion moved item (f) with the changes submitted by Staff, seconded by Commissioner Janes, called and carried with Commissioner Coy absent.

G. CPA2002-22 - Policy 100.2.3 Text Update

Amend Policy 100.2.3. of the Housing Element by replacing the outdated reference to the approval process of "Special Permit" with the current process of "Special Exception".

RECOMMENDATIONS:

The Board's recommendation for CPA 2002-22 was sent to the Department of Community Affairs (DCA) on June 25, 2003.

The DCA's ORC Report, dated September 05, 2003, stated that DCA had no objections, recommendations, or comments concerning this amendment.

Staff's recommendation is to adopt the amendment as transmitted.

Commissioner Albion moved approval, seconded by Commissioner Janes, called and carried with Commissioner Coy absent.

5. Adopt an Ordinance which adopts the Consent Agenda Items (Proposed Draft Ordinance)

Commissioner Albion moved approval, seconded by Commissioner Janes, called and carried with Commissioner Coy absent. The Ordinance adopted by the Board and filed was LEE COUNTY ORDINANCE NO. 03-19, ENTITLED:

AN ORDINANCE AMENDING THE LEE COUNTY COMPREHENSIVE LAND USE PLAN, COMMONLY KNOWN AS THE "LEE PLAN" ADOPTED BY THE ORDINANCE NO. 89-02, AS AMENDED, SO AS TO ADOPT AMENDMENTS APPROVED ON THE CONSENT AGENDA DURING THE COUNTY'S 2002/2003 REGULAR COMPREHENSIVE PLAN AMENDMENT CYCLE; PROVIDING FOR AMENDMENTS TO ADOPTED TEXT, MAPS

AND TABLES; PURPOSE AND SHORT TITLE; LEGAL EFFECT;
GEOGRAPHICAL APPLICABILITY; SEVERABILITY, CODIFICATION,
SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.

6. Lee Plan Amendments Adoption Administrative Agenda

A. CPA2002-02 - Estero 60

Amend the Future Land Use Map series for a portion of a specified parcel of land located in Section 20, Township 46 South, Range 25 East to change the classification shown on Map 1, the Future Land Use Map, from "Rural" to "Outlying Suburban". Amend Lee Plan Policy 1.1.6 by limiting the density in the reclassified area to two dwelling units per acre. Also, amend Table 1(a), Note 6 to require central sewer service for development in the subject property.

RECOMMENDATIONS:

The Board's recommendation for CPA 2002-02 was sent to the Department of Community Affairs (DCA) on June 25, 2003.

The DCA's ORC Report, dated September 05, 2003, along with its objections and recommendations, can be found on page 16 of the CPA 2002-02 Public Hearing Document.

Staff's recommendation is to adopt the proposed amendment with the amended language as shown on Part V, Section B of the report.

Planning Division Planner Pete Blackwell reviewed the proposed amendment; stated that Table 1(a), Note 6, requires the utilization of clustering in any planning development processing for future development; and noted that new language submitted by the Applicant has addressed several of Staff's concerns on issues such as increased density on the property and the provision of central water and sewer system to the site. He mentioned that the Applicant addressed clustering of the future development which allows the southern portion of the subject site to be preserved in its original condition and to be purchased by a government agency; and recommended that the Board adopt the proposed amendment with the revised language. In response to Commissioner Judah's inquiry regarding the balance of the property set aside other than the slough to be purchased by the County, State, or Federal Government; Community Development Planning Director Paul S. O'Connor stated that Staff has drafted language included in the policy that addresses clustering the development in the northwest portion of the site ±32 acres, having a preserve area in the southern portion of the site, and preserving the slough with the exception of the crossing to access the site. He remarked that the language provides assurance that that would be the plan approved for the site; and noted that the current language doubles the density from 60 to 120, but the plan is for 90 of the units to be developed in the northwestern part of the site, and that the remaining 30 units to be attached to the conservation land so it can have value to be purchased. In response to Commissioner Judah's question, Mr. O'Connor apprised that the County cannot require the State to purchase the property through the Comp Plan; noted that the Department of Environmental Protection (DEP) desires to acquire this portion of the property; and pointed out that the 10-acre Smith parcel was swapped out through DEP for a smaller portion of land with commercial development and more value. He mentioned that the swap has left the southern portion of Estero 60 surrounded by the aquatic preserve buffer on three sides. In response to Commissioner St. Cerny's question whether DCA would agree with the changes, Mr. O'Connor replied that DCA was included in several of the negotiations concerning this language, and noted that the Applicant prepared a document that addressed all of DCA's concerns. Attorney Neale Montgomery, of the law firm of Pavese, Haverfield, et al., representing the Applicant, expressed appreciation to Staff for their help; stated that the Applicant has addressed the ORC report's clustering issue by putting development on 35 acres and preserving the remaining area; and pointed out that several reviews by environmental consultants have determined that there are no scrub habitat or endangered species on the property. The Chairman called for public input; however, no one came forward. Mr. O'Connor stated that Policy 1.1.6, under subparagraph 1(b) should be corrected to read: "...The remainder of the property shall will be designated as preserve/open space..."; and also added the "±" sign to any specific acreages in the policy to give reasonable amount of leeway. Commissioner Albion moved the amendment as modified, seconded by Commissioner Janes. At this time, the individual Commissioners thanked Staff for their great job and teamwork with the Applicant; and expressed hope that the DCA will approve the amendment. The motion was called and carried with Commissioner Coy absent.

B. Adopt an Ordinance which adopts CPA2002-02 (Proposed Draft Ordinance)

Commissioner Janes moved to adopt the ordinance, seconded by Commissioner Albion, called and carried with Commissioner Coy absent. The Ordinance adopted by the Board and filed was LEE COUNTY ORDINANCE NO. 03-20, ENTITLED:

AN ORDINANCE AMENDING THE LEE COUNTY COMPREHENSIVE PLAN, COMMONLY KNOWN AS THE "LEE PLAN", ADOPTED BY ORDINANCE NO. 89-02, AS AMENDED, SO AS TO ADOPT AMENDMENT CPA2002-02 (PERTAINING TO ESTERO 60) APPROVED DURING THE COUNTY'S 2002/2003 REGULAR COMPREHENSIVE PLAN AMENDMENT CYCLE; PROVIDING FOR AMENDMENTS TO ADOPTED TEXT, FUTURE LAND USE MAP AND TABLES; PURPOSE AND SHORT TITLE; LEGAL EFFECT OF "THE LEE PLAN"; GEOGRAPHICAL APPLICABILITY; SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.

C. CPA2002-04 - Caloosahatchee Shores Community Plan

Amend the Future Land Use Element of the Lee Plan, text and Future Land Use Map series, to incorporate the recommendations of the Caloosahatchee Shores Community Planning effort, establish a new Goal, Vision Statement, and subsequent Objectives and Policies.

RECOMMENDATIONS:

The Board's recommendation for CPA 2002-04 was sent to the Department of Community Affairs (DCA) on June 25, 2003.

The DCA's ORC Report, dated September 05, 2003, stated that DCA had no objections, recommendations, or comments concerning this amendment.

Staff's recommendation is to adopt the amendment as transmitted, as shown in Part V, Section B of the report, contingent upon the agreement of all impacted property owners.

Planning Division Community Planner James Mudd, with the use of an aerial map, indicated the future land use map changes for State Road 80 and State Route 31 from Suburban to Urban Community that would allow large retail uses, and for Buckingham 320 area from Suburban/Rural to the Outlying Suburban (OS) Land Use category; and stated that there is a lack of 2020 allocation for the outlying suburban area in the Caloosahatchee Shores Planning area. Community Development Planning Director Paul S. O'Connor apprised that the issues among the property owners affected by the amendment were resolved; explained that the changes propose the OS category at a reduced density and spreads it over more land; and noted that the remaining issue is the 2020 allocation for OS within the planning community. After referencing a memorandum provided to the Board dated June 25, 2003 (copy on file in the Minutes Office), Mr. O'Connor stated that Staff located 85 acres that could be converted from other residential categories to the OS category; remarked that Staff would be looking at the entire 2020 allocation in the amendment process following the Evaluation and Appraisal Report (EAR); and noted that the City of Fort Myers' large annexations has skewed Staff's numbers in the allocation table and that the tables would be reevaluated. Mr. O'Connor noted that the affected property owners were assured that the allocation has never been used or intended to be punitive or to stop development; remarked that the allocation numbers should accurately reflect the zoning activity or development order activity in the different planning areas, as the projections and the allocation table are used for long-term planning in traffic analysis zones; and commented that, although the property owners are not completely comfortable with the level of allocation of the OS, they are willing to go forward with the table until the next amendment process. East Lee County Council Task Force Chairman Mike Roeder, representing the Applicant, stated that this is a successful community planning effort; noted that there are no other pending issues besides the allocation issue; and asked the Board to assure that Staff makes the evaluation of the allocation table a priority. He noted that several landowners and architects want to implement the vision on State Road 80; mentioned that Policy 13.4.1 limits the multi-family density to four units per acre along State Road 80, unless it is a mixed-use development; and pointed out that Staff had suggested that the landowners with zoning impacted by this plan could add commercial uses to the residential density to meet the policy and preserve the density. The Chairman called for public input, and the following individuals came forward to withdraw any objections and express support for the amendment, and request that the Board direct Staff to prioritize the evaluation of the allocation table:

Attorney Beverly Grady, of the law firm of Roetzel Andress, representing Buckingham Development LLC

Attorney Russell P. Schropp, of the law firm of Henderson, Franklin, Starnes and Holt, representing the Hunter Family (copy of Attorney Grady's letter withdrawing objections is on file in the Minutes Office)

Mr. O'Connor requested that the motion include that the changes discussed in the memorandum to be implemented into Table 1(b). Assistant County Attorney Timothy Jones advised the Board that there are provisions within the amendment that could raise a Burt Harris (BH) Act claim, mentioned that he was not sure that the support and consensus of the landowners was sufficient to waive any claims under the Act, and apprised that he did not know what

the actual financial exposure would be if someone were to raise a claim. Brief discussion was held among the Commissioners, Attorney Jones, and Mr. Roeder regarding the Attorney's recommendation to conduct an analysis that would provide a clear idea of the potential liability, and an analysis that would determine every possible landowner that could be affected and have a claim and get them to waive their claim effectively; the fact that the notice provided to the landowners by the Applicant is not sufficient to waive a claim; and the fact that Buckingham 320 decision did not raise a BH claim because it was based on regulations that existed before the BH Act became effective. Commissioner Albion stated that the Board is now aware of the potential claims; and noted that, if there are problems in the future, the legitimacy and the level of concern would be reviewed and appropriate action taken at that time. Commissioner Judah stated that the Board would make a separate motion to incorporate direction to Staff on the prioritization of the allocation table. In response to Commissioner St. Cerny's question, Attorney Jones replied that the County Attorney's Office can respond to the lawsuit and defend the County, and the County can decide at that time to repeal the provisions in the plan; mentioned that the Board cannot adopt amendments that are inconsistent with the plan to settle a BH claim, but can amend the plan as to the particular property and revert it back to its original state. Commissioner Albion moved the amendment, seconded by Commissioner Janes. Commissioner Albion commented on the County's trust to the landowners by approving an amendment with possible BH claims. The motion was called and carried with Commissioner Coy absent.

D. Adopt an Ordinance which adopts CPA2002-04 (Proposed Draft Ordinance)

Commissioner Albion moved approval, seconded by Commissioner Janes, called and carried with Commissioner Coy absent. The Ordinance adopted by the Board and filed was LEE COUNTY ORDINANCE NO. 03-21, ENTITLED:

AN ORDINANCE AMENDING THE LEE COUNTY COMPREHENSIVE PLAN, COMMONLY KNOWN AS THE "LEE PLAN", ADOPTED BY ORDINANCE NO. 89-02, AS AMENDED, SO AS TO ADOPT AMENDMENT CPA2002-04 (PERTAINING TO THE CALOOSAHATCHEE SHORES COMMUNITY PLAN) APPROVED DURING THE COUNTY'S 2002/2003 REGULAR COMPREHENSIVE PLAN AMENDMENT CYCLE; PROVIDING FOR AMENDMENTS TO ADOPTED TEXT AND MAPS; PURPOSE AND SHORT TITLE; LEGAL EFFECT OF "THE LEE PLAN"; GEOGRAPHICAL APPLICABILITY; SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.

The Chairman requested a separate motion to give direction to Staff to prioritize the 2020 allocation table as discussed with the rest of Caloosahatchee Shores planning. Commissioner Janes so moved, seconded by Commissioner St. Cerny, called and carried with Commissioner Coy absent.

The Chairman thanked Community Development Planning Director Paul S. O'Connor and Staff for the smooth and efficient way the amendments have moved forward.

The Chairman adjourned the meeting at 10:15 a.m.

ATTEST:
CHARLIE GREEN, CLERK

Deputy Clerk

Chairman, Lee County Commission

Table 1(b)
Planning Community Year 2020 Allocations

Future Land Use Category		Lee County Totals	Alva	Boca Grande	Bonita Springs	Fort Myers Shores	Burnt Store	Cape Coral	Captiva	Fort Myers	Fort Myers Beach	Gateway/ Airport	Daniels Parkway
Residential By Future Land Use Category	Intensive Development	1,493				89		27		297			
	Central Urban	9,558				208				545			
	Urban Community	13,077	519	437		633							
	Suburban	15,448				1,803				206			
	Outlying Suburban	4,931	15			20	2	435					1,352
	Industrial	96								48		18	
	Public Facilities	2		1					1				
	University Community	860											
	Industrial Interchange												
	General Interchange	53											2
	General Commercial Interchange	7				7							
	Industrial Commercial Interchange												
	University Village Interchange												
	Mixed Use Interchange												
	New Community	1,644								360		1,284	
	Tradeport	9										9	
	Airport												
	Rural	8,977	1,419			783	633			184		111	1,255
	Rural Community Preserve	3,046											
	Outer Island	215	5						172				
	Open Lands	2,091	175				588						47
	Density Reduction/ Groundwater Resource	5,544	40									94	
	Wetlands												
Unincorporated County Total Residential		67,051	2,173	438		3,523	1,241	29	608	1,640		1,516	2,656
Commercial		9,460	46	56		257	26	17	112	153		824	398
Industrial		6,311	26	14		391	5	26		733		3,096	10
Non-Regulatory Allocations													
Public		58,676	3,587	537		1,724	1,193	6	1,981	750		6,136	1,854
Active AG		34,145	6,098			620				279		569	254
Passive AG		65,522	14,633			4,483	6,987	10		631		3,580	575
Conservation		79,488	2,236	296		1,125	3,672		1,347	1,006		3,482	1,918
Vacant		44,720	1,525	2		33	1,569	25	5	495		792	578
Total		365,373	30,324	1,343		12,156	14,693	113	4,053	5,687		19,995	8,243

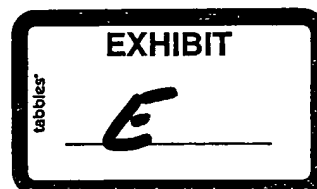


Table 1(b)
Planning Community Year 2020 Allocations

Future Land Use Category		Iona/ McGregor	San Carlos	Sanibel	South Fort Myers	Pine Island	Lehigh Acres	Southeast Lee County	North Fort Myers	Buckingham	Estero	Bayshore
Residential By Future Land Use Category	Intensive Development				704	5			371			
	Central Urban	462	15		2,778		3,052		2,498			
	Urban Community	697	930		920	526	8,037			51	327	
	Suburban	2,471	2,250		1,217	636			5,293		1,572	
	Outlying Suburban	396				466			610	49	837	749
	Industrial	7	13		10							
	Public Facilities											
	University Community		860									
	Industrial Interchange											
	General Interchange							15	9		15	12
	General Commercial Interchange											
	Industrial Commercial Interchange											
	University Village Interchange											
	Mixed Use Interchange											
	New Community											
	Tradeport											
	Airport											
	Rural		160			1,129	10	702	383	57	900	1,251
	Rural Community Preserve									3,046		
	Outer Island	1				37						
	Open Lands								45			1,236
	Density Reduction/ Groundwater Resource							3,573				1,837
	Wetlands											
Unincorporated County Total Residential		4,034	4,228		5,629	2,799	11,099	4,290	9,209	3,203	3,651	5,085
Commercial		782	1,613		1,849	165	452	31	1,158	18	1,399	104
Industrial		298	350		723	64	216	55	209	5	87	3
Non Regulatory Allocations:												
Public		2,970	1,085		3,394	1,722	13,738	7,700	2,015	2,114	4,708	1,462
Active AG						2,313		21,066	381	411	833	1,321
Passive AG			90			960		21,110	4,113	3,867	90	4,393
Conservation		8,879	3,283		128	13,703	1,455	30,882	1,293	359	3,626	798
Vacant		1,912	11		690	4,577	19,561	321	4,242	1,278	5,794	1,310
Total		18,875	10,660		12,413	26,303	46,521	85,455	22,620	11,255	20,188	14,476

A HERITAGE HONORED BY TIME
EMBRACED BY THE FUTURE



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APPLICANT'S EXHIBIT #5
D40001-00045

BUCKINGHAM AND FORT MYERS SHORES Cozy, Country Living

Known for their rich history and quiet county lifestyle, Buckingham and Fort Myers Shores epitomize the "Old Florida" feel. Lush, green pastures with grazing horses and cattle, beautiful equestrian farms and carefully preserved natural landscaping offer residents a welcome escape from the city life.

Tucked between Fort Myers and Lehigh Acres and bordered on the north by the Orange River, Buckingham is off the beaten trail yet still a short distance to the convenience of I-75 and Palm Beach Boulevard (SR 80). Abundant preserve areas show off the timeless beauty of ageless trees and native plants, carefully formed by nature over the years. Built in 1895, the Buckingham Schoolhouse (pictured left) stands proud as the oldest schoolhouse in Lee County. Everywhere you look, the natural beauty of Buckingham is a county showplace.

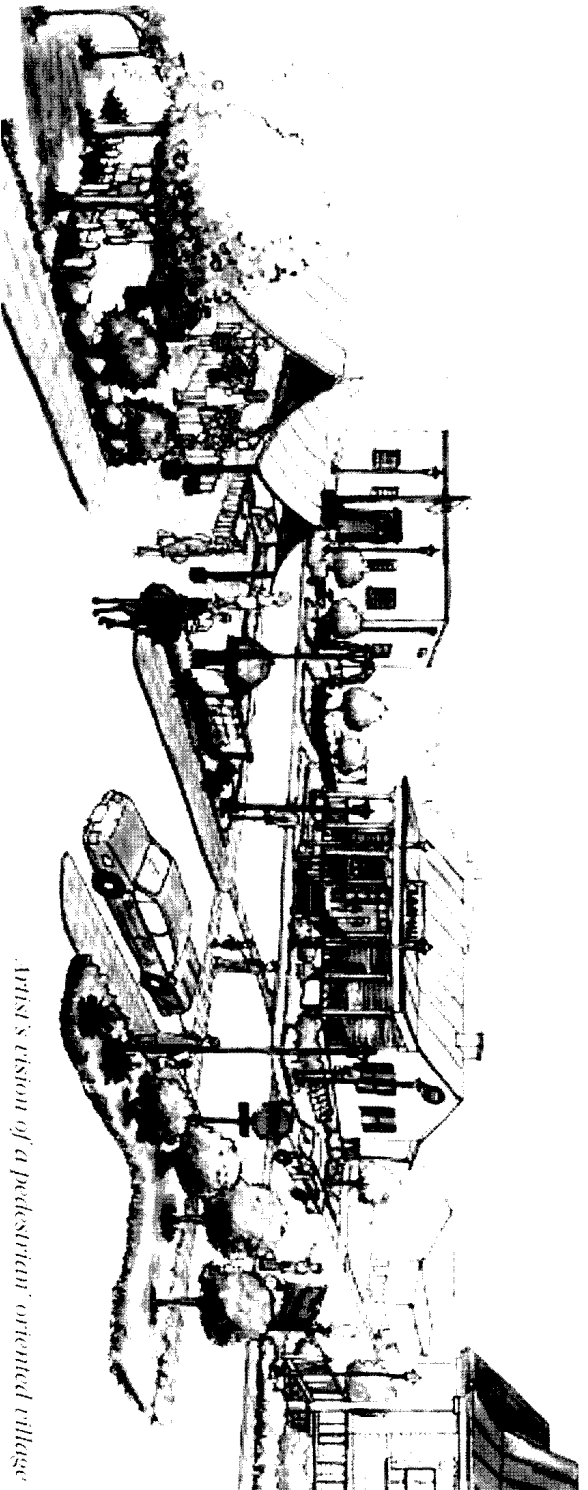
Bordered on the north by the Caloosahatchee River and the south by Buckingham, Fort Myers Shores is a continuation of east Lee County's natural beauty. In 2003,

all of Fort Myers Shores and part of western Buckingham were renamed Caloosahatchee Shores and now represent a merging of these two grand areas. Yesterday's Fort Myers Shores is today's Caloosahatchee Shores—specially formed as a distinct area just to be certain that the heritage and beauty handed down from the past are protected from tomorrow's growth. With its new community in Caloosahatchee Shores, G.L. Homes is strongly committed to this preservation of the natural beauty of these lands.

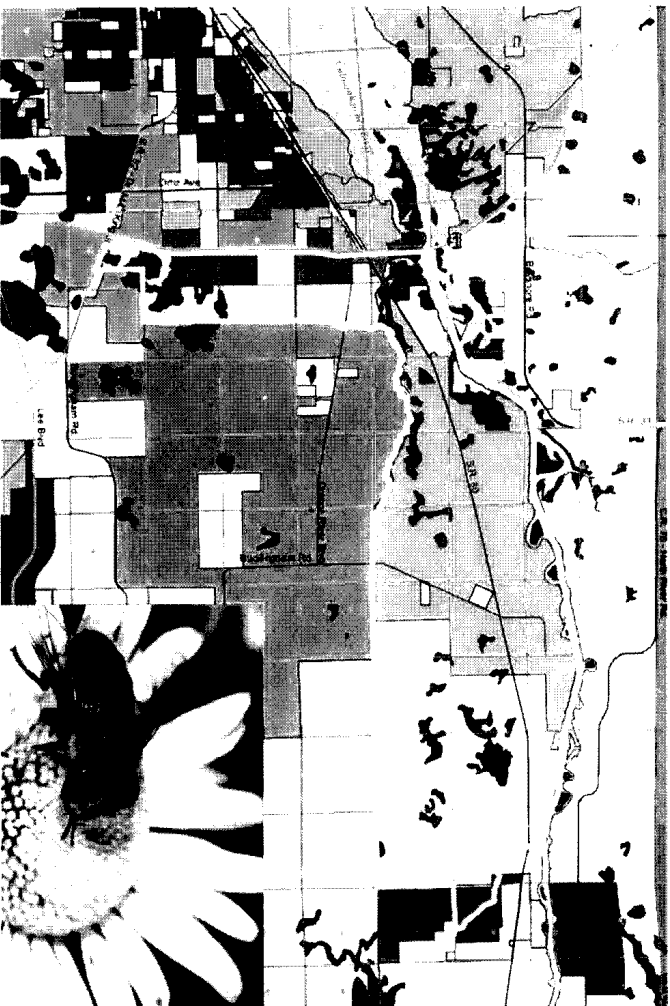


The Buckingham Schoolhouse stands proud as the oldest schoolhouse in Lee County.





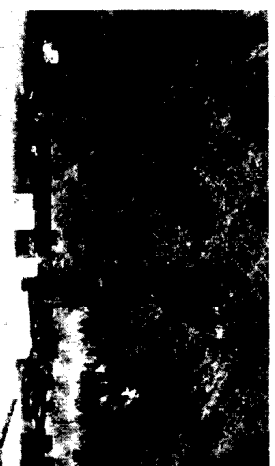
Artist's vision of a pedestrian-oriented village



Green spouts wetland areas



Buckingham Air Field



New Prospect Cemetery

Recognizing that new development was inevitable, the citizens of Caloosahatchee Shores created specific guidelines for carefully channeling the growth and redevelopment of their homeland, while still preserving the country ambience of these historic lands. These guidelines are:

- Enhance the landscaping with only native plants.
- Maintain the "Old Florida" identity by discouraging Mediterranean styles and continuing the Florida Vernacular architecture with traditional wooden facades flanked by breezy front porches and shady roof overhangs.
- Control commercial land use with standards for landscaping, lighting, architecture and signage to continue the historic character of "Old Florida."
- Promote the vision of a pedestrian-oriented village using minor commercial areas inter-connected by bike paths, pedestrian access ways and equestrian trails.
- Increase public access and use of the riverfront to make the Caloosahatchee River a larger part of the community just as it was historically.
- Strictly protect the abundant wetlands, native upland habitats and natural water bodies. Showcasing Cypress, Pine, Red Maple and Brazilian Pepper trees coupled with native birds and wildlife, these wetlands will be preserved with a strict conservation easement so that none of the new expansion will impact these natural areas.
- Maximize water conservation by using non-potable water for alternate irrigation sources.



- Preserve the existing historic structures and uses that give Caloosahatchee Shores its county charm, such as:

Olga Mall

In the 1800s, the Caloosahatchee River was a major transportation corridor. Historic Olga was one of several areas used as a trading stop along the River. The Olga Mall is an example of the size of these trading posts.

Olga Community Center

Built in 1927, the historic Olga Community Center was first used as a schoolhouse until 1939. Today, it still serves the community with recreation programs, camps, sports activities and social events.

New Prospect Cemetery

The Samsville Cemetery, as it was first called, has confederate and civilian graves dating back to 1898. Later it became the Bayshore Cemetery and today it is known as the New Prospect Cemetery. This historic cemetery is still used today.

Buckingham Air Field

During World War II, Buckingham Air Field was known as the Army Air Force's Southeast Training Center and Gunnery School. In the 1940s, it was a hub of activity with its own hospital, theater and PX for airmen and soldiers. Today, many of the "Boys from Buckingham" as they were known, have come back to live and retire here in the local area with its rich history.

Caloosahatchee Shores is strongly committed to preserving its legendary history and "Old Florida" charm, as is G.I. Homes. Native vegetation, preserves and wildlife are protected and exist in harmony with the carefully channeled growth of this prosperous community.





Caloosahatchee Shores (outlined in yellow)



Scenes from the Caloosahatchee River

CALOOSAHATCHEE SHORES

Yesterday's History Invented for the Future

Caloosahatchee Shores has a great story to tell. Nestled below the historic Caloosahatchee River, hence its name, this fertile corridor boasts of lush, natural land. Long ago, famed inventors Thomas Alva Edison and Henry Ford made their home along the serene Caloosahatchee River where they were inspired to create legendary inventions. Likewise, the people of Caloosahatchee Shores literally "invented" the future of this historic community.

Their vision of the future of Caloosahatchee Shores is actually to keep it in the past! The many details of the Caloosahatchee Shores Land Plan provide for the protection of historic structures and lush preserves and clearly dictate the styles of all future growth and development.

The Caloosahatchee Shores story is unique because the Land Plan was actually created from the wishes of its people — so much so, that the State of Florida Planning and Zoning Association presented an Award of Excellence for the planning process that was based on so much citizen involvement.

The Land Plan was coordinated by the East Lee County Council, a coalition organization of many neighborhood civic organizations. So that Caloosahatchee Shores residents could create the ideal vision of the future of their community, the Council directed numerous personal interviews of key citizens, held extensive community workshops and tabulated a detailed questionnaire. All citizens had the opportunity for sharing in the invention of the future of Caloosahatchee Shores.

*This fertile corridor
boasts of lush,
natural land.*



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