



**LOCAL PLANNING AGENCY  
OLD LEE COUNTY COURTHOUSE  
2120 MAIN STREET, FORT MYERS, FL 33901  
BOARD CHAMBERS  
MONDAY, OCTOBER 28, 2013  
8:30 AM**

**AGENDA**

1. Call to Order/Review of Affidavit of Publication
2. Pledge of Allegiance
3. Public Forum
4. Approval of Minutes – September 23, 2013
5. County Initiated 2013 Regular Amendments

A. [CPA2013-03 RSW Revised Airport Layout Plan – Map 3F](#)

Amend Lee Plan Map 3F, the Southwest Florida International Airport, RSW, Airport Layout Plan, to reflect the revised Airport Layout Plan approved by the Federal Aviation Administration.

B. [CPA2013-05 University Community DRI Requirement](#)

Amend Policy 18.1.16, Policy 18.1.16.6 and Policy 18.2.2 to make the Lee Plan consistent with State requirements that prohibit local governments from requiring Development of Regional Impact (DRI) review for projects that don't meet or exceed state established thresholds.

6. New Horizon 2035: Plan Amendments

A. [CPA2011-00011 – Intergovernmental Coordination](#)

B. [CPA2011-00005 – Economic](#)

C. [CPA2011-00010 – Housing](#)

7. Other Business

8. Adjournment – Next Meeting Date: Wednesday, December 4, 2013 and Wednesday, December 11, 2013

A verbatim record of the proceeding will be necessary to appeal a decision made at this hearing. Contact the Lee County Division of Planning at 239-533-8585 for further information on obtaining a record. In accordance with the Americans with Disabilities Act, reasonable accommodations will be made upon request. Contact Janet Miller at 239-533-8583.



**CPA2013-05  
UNIVERSITY COMMUNITY  
DRI REQUIREMENT  
AMENDMENT  
TO THE**

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**LEE COUNTY COMPREHENSIVE PLAN**

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**THE LEE PLAN**

Lee County Board of County Commissioners  
Sponsored Amendment and Staff Analysis

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**LPA Public Hearing Document  
For the  
October 28<sup>th</sup>, 2013 Public Hearing**

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*Lee County Planning Division  
1500 Monroe Street  
P.O. Box 398  
Fort Myers, FL 33902-0398  
(239) 533-8585*

**October 17, 2013**

**LEE COUNTY  
DIVISION OF PLANNING  
STAFF REPORT FOR  
COMPREHENSIVE PLAN AMENDMENT  
CPA2013-05**

**Text Amendment**

**Map Amendment**

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

STAFF REPORT PREPARATION DATE: October 18, 2013

**PART I - BACKGROUND AND STAFF RECOMMENDATION**

**A. SUMMARY OF APPLICATION**

**1. APPLICANT/REPRESENTATIVES:**

LEE COUNTY BOARD OF COUNTY COMMISSIONERS / LEE COUNTY DIVISION OF PLANNING

**2. REQUEST:**

Amend Policy 18.1.16, Policy 18.1.16.6 and Policy 18.2.2 to make the Lee Plan consistent with State requirements that prohibit local governments from requiring Development of Regional Impact (DRI) review for projects that don't meet or exceed state established thresholds.

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

**1. RECOMMENDATION:**

Staff recommends that the Board of County Commissioners *transmit* the proposed amendment to the Future Land Use Element of the Lee Plan as shown below. Proposed

text has been depicted in strikethrough and underline format as it relates to the existing provisions of the Lee Plan.

## **TEXT AMENDMENTS:**

**POLICY 18.1.16:** For those lands in Area 9, all development must be designed to enhance and support the University. All rezonings in this area must include a specific finding that the proposed uses qualify as Associated Support Development, as that term is defined in the glossary. The final design and components will be determined as part of the ~~DRI~~ rezoning process and must be consistent with the following development standards:

No changes proposed to Policy 18.1.16 numbered paragraph 1 through 5

**6. Development Acreage:** The previous mining and crushing operations in Area 9 have rendered a large portion of the property unsuitable for development. Some areas that were previously mined have been filled with materials left over from the crushing operations known as fines. These and other activities have left an area of approximately 350 acres that has never been mined that remains suitable for development of structures and other site improvements. Development is therefore limited to this area. The previously impacted areas may only be used for reclamations and development as unoccupied open space. Property may be designated for residential use, non-residential use, or a combination of uses classified as mixed use. Out of the 350 acres available for development, 40 acres of developable land, not including right-of-way which is intended to serve as the connection between Area 9 and FGCU, will be dedicated to FGCU concurrent with ~~DRI~~ rezoning approval. The 40 acres dedicated to FGCU will become part of the FGCU campus and development there will not be calculated against the maximum residential unit count, nor maximum commercial square footage otherwise allowed.

No changes proposed to Policy 18.1.16 numbered paragraph 7 to Policy 18.2.1

**POLICY 18.2.2:** The University Village is an area which provides the associated support development and synergism to create a viable University Community. This sub-category allows a mix of land uses related to and justified by the University and its development. Predominant land uses within this area are expected to be residential, commercial, office, public and quasi-public, recreation, and research and development parks. ~~In addition to complying with the Conceptual Master Plan required by Policy 18.1.10, all property within the University Village must undergo a Development of Regional Impact review.~~

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

- The Board of County Commissioners initiated this plan amendment on August 27, 2013.

- Changes to the Florida Statutes in 2011, HB7207, prohibit local governments from requiring projects to undergo Development of Regional Impact (DRI) review if they did not meet the established DRI thresholds.
- Lee Plan Policy 18.1.16, Policy18.1.16.6, and Policy 18.2.2 are inconsistent with Florida Statutes as amended. These policies are all specific to the University Community future land use category.
- Requiring DRI review for projects that are below the DRI threshold has proved to be problematic.
- Deleting a mandatory DRI review requirement will not negatively impact the original vision for the University Community area.

### C. BACKGROUND INFORMATION

The University Community future land use category was initially adopted into the Lee Plan and Future Land Use Map on October 27, 1992 by Ordinance 92-47, which adopted PAM/T 92-02, Florida's Tenth University. This Plan amendment adopted the University Community future land use category descriptor policy, Policy 1.1.9, and Goal 20 (later renumbered to Goal 18): University Community, which provided detailed descriptions of the development that was anticipated to surround what is now Florida Gulf Coast.

Since its initial adoption in 1992, all privately owned property within the University Community designation, have been required to undergo a DRI review. This requirement was put in place to help ensure that the University Community area developed as a cohesive community. The specific requirement for the DRI review was contained in Policy 20.2.4, which described the "University Village."

***POLICY 20.2.4:** The University Village is an area which provides the associated support development and synergism to create a viable University Community. This sub-category allows a-mix-of land uses related to and justified by the University and its development. Predominant land uses within this area are expected to be residential, commercial, office, public and quasi-public, recreation, and research and development parks. In addition to complying with the Conceptual Master Plan required by Policy 20.1.10, all property within the University Village shall undergo a Development of Regional Impact review. [As it was adopted by Ordinance 92-47]*

This policy has since been renumbered to Policy 18.2.2.

The University Community area was expanded in 2010 to include a 9<sup>th</sup> area. This was accomplished through an amendment to the Lee Plan adopted on October 20, 2010 by Ordinance 10-40, which adopted CPA2009-00001, Alico West. The Alico West Lee Plan amendment included details about the development of Area 9 of the University Community.

The property that was the subject of Area 9 was previously an aggregate mine and was not originally included in the University Community area because it was not consistent with the desired uses. Consistent with development requirements within the University Community area as originally adopted, development within Area 9 would be required to undergo DRI review.

## PART II - STAFF ANALYSIS

### A. STAFF DISCUSSION

The 2011 legislative amendments adopted by HB7207 changed the Development of Regional Impacts Statute to prohibit local governments from imposing DRI review on developments that do not exceed the state thresholds for DRIs. The pertinent part of the DRI Statute, F.S. 380.06(24)(u), is reproduced below:

*(u) Notwithstanding any provisions in an agreement with or among a local government, regional agency, or the state land planning agency or in a local government's comprehensive plan to the contrary, a project no longer subject to development-of-regional-impact review under revised thresholds is not required to undergo such review.*

In response to these amendments to the Florida Statutes, the County Attorney's Office has advised staff that the requirement that all development within the University Community area undergo a DRI review is no longer consistent with Florida Statutes. Staff was also advised that this requirement may not be enforced and should be removed from the Lee Plan. Lee County Planning staff has reviewed the Goals, Objectives and Policies of the Lee Plan and has identified two policies that either directly require development to undergo a DRI review or identify the DRI as a tool that can be used to implement additional requirements. These policies are Policy 18.1.16, Policy 18.1.16 numbered paragraph 6, and Policy 18.2.2.

Policy 18.1.16 is specific to Area 9 of the University Community. The policy utilizes the DRI process to assure that specific design requirements and development commitments will be addressed. Staff finds that assurance for the design requirements and development commitments can be addressed at another phase in the development process. Staff recommends the following changes to Policy 18.1.16 and paragraph 6 that recognize development within Area 9 may not undergo the DRI review process.

***POLICY 18.1.16:*** *For those lands in Area 9, all development must be designed to enhance and support the University. All rezonings in this area must include a specific finding that the proposed uses qualify as Associated Support Development, as that term is defined in the glossary. The final design and components will be determined as part of the ~~DRI~~ rezoning process and must be consistent with the following development standards:*

**6. Development Acreage:** *The previous mining and crushing operations in Area 9 have rendered a large portion of the property unsuitable for development. Some areas that were previously mined have been filled with materials left over from the crushing operations known as fines. These and other activities have left an area of approximately 350 acres that has never been mined that remains suitable for development of structures and other site improvements. Development is therefore limited to this area. The previously impacted areas may only be used for reclamations and development as unoccupied open space. Property may be designated for residential use, non-residential use, or a combination of uses classified as mixed use. Out of the 350 acres available for development, 40 acres of developable land, not including right-of-way which is intended to serve as the connection between Area 9 and FGCU, will be dedicated to FGCU concurrent with ~~DRI~~ rezoning approval. The 40 acres dedicated to FGCU will become part of the FGCU campus and development there will not be calculated against the maximum residential unit count, nor maximum commercial square footage otherwise allowed.*

Policy 18.2.2 directly requires that development within the University Community area undergo a DRI review. Staff suggests that Policy 18.2.2 should be amended to delete the requirement to undergo a DRI review as follows:

**POLICY 18.2.2:** *The University Village is an area which provides the associated support development and synergism to create a viable University Community. This sub-category allows a mix of land uses related to and justified by the University and its development. Predominant land uses within this area are expected to be residential, commercial, office, public and quasi-public, recreation, and research and development parks. ~~In addition to complying with the Conceptual Master Plan required by Policy 18.1.10, all property within the University Village must undergo a Development of Regional Impact review.~~*

## **CONSISTENCY WITH THE LEE PLAN**

Planning staff finds that allowing for the removal of the requirement that all development within the University Community area undergo DRI review by amending Policy 18.2.2, and recognizing in Policy 18.1.16 that development within Area 9 may not require DRI review is consistent with the remainder of the Lee Plan.

Goal 18: University Community and its subsequent objectives and policies provide guidance for development within the University Community. Goal 18 of the Lee Plan states that Lee County will:

*“ensure that development within the University Community land use category protects and enhances the ability of Florida's tenth university to provide secondary education as described in the Mission Statement of that institution and to assure that land uses or development activities do not interfere with, disrupt, or impede the efficient operation of that institution...”*

Objective 18.1 speaks more specifically to land use, and states that:

*“In order to ensure that the location and timing of development within the University Community is coordinated with the development of the University and the provision of necessary infrastructure; and, that all associated support development within the University Community is designed to enhance the University; all development within the University Community will be subject to cooperative master planning...”*

Policy 18.1.10 specifically requires that development within the University Community area is consistent with the Generalized Land Use Map and (9) area descriptions within the University Community Conceptual Master Plan.

Staff finds that deleting a mandatory DRI review requirement will not negatively impact the original vision for the University Community area. Lee Plan Goal 18 and its subsequent objectives and policies and the University Community Conceptual Master Plan will continue to assure that development within the University Community area will be developed as a cohesive community that provides the “associated support development and synergism” anticipated in Policy 18.2.2.

#### **CONSISTENCY WITH FEDERAL AND STATE REQUIREMENTS**

The amendment addresses changes to the Florida Statutes adopted by HB7207, which prohibit local governments from requiring projects to undergo Development of Regional Impact (DRI) review if they did not meet the DRI thresholds. The proposed amendment is consistent with federal and state requirements.

#### **B. STAFF RECOMMENDATION**

County staff recommends that the Board of County Commissioners transmit the proposed amendments to Policy 18.1.16, Policy 18.1.16.6 and Policy 18.2.2 of the Lee Plan.



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

DATE OF PUBLIC HEARING: October 28, 2013

**A. LOCAL PLANNING AGENCY REVIEW**

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

**1. RECOMMENDATION:**

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

**C. VOTE:**

<b>NOEL ANDRESS</b>	_____
<b>STEVE BRODKIN</b>	_____
<b>WAYNE DALTRY</b>	_____
<b>JIM GREEN</b>	_____
<b>MITCH HUTCHCRAFT</b>	_____
<b>ANN PIERCE</b>	_____
<b>ROGER STRELOW</b>	_____