LEE COUNTY
SOUTHWEST FLORIDA
BOARD OF COUNTY COMMISSIONERS

January 28, 2014

Ray Eubanks, Plan Processing Administrator
Department of Economic Opportunity
Bureau of Community Planning
Caldwell Building
107 East Madison St. MSC 160
Tallahassee, FL. 32399-4120

Re: Amendment 13-2 and 14-1 ESR
Amendments to the Lee Plan
Adoption Submission Package

Dear Mr. Eubanks:

In accordance with the provisions of F.S. Chapter 163, this submission package constitutes the adoption of Comprehensive Plan Amendments known locally as CPA2013-02, CPA2013-03, and CPA2013-05. The Lee County Board of County Commissioners held an adoption hearing for these plan amendments on January 22, 2014 starting at 9:30 a.m.

This amendment packet includes the final action and adopting ordinance for CPA 2013-02 (Agricultural Rezoning in Suburban Areas), CPA2013-03 (Southwest Florida International Airport Layout Plan Update), and CPA2013-05 (University Community DRI Requirement). In all three cases, the changes in the proposed amendments are identical to the changes that were transmitted by the Lee County Board of County Commissioners for state review. As required by F.S. 163.3184, the final action on these amendments were completed within 180 days of the receipt of the State Land Planning Agency's review letter.

The name of the local newspaper in which the Notice of Intent should be published is The News-Press, Fort Myers, Florida.

The name, title, address, telephone number, facsimile number, and email address of the person for the local government who is most familiar with the proposed amendment is as follows:

Mr. Paul O'Connor, AICP
Lee County Planning Division Director
P.O. Box 398
Fort Myers, Florida 33902-0398
(239) 533-8585
Fax (239) 485-8319
Email: oconnops@leegov.com

Included with this package is one paper copy and two CD ROM copies, in PDF format, of the proposed amendments and supporting data and analysis. All documents and reports attendant to this submission are also being sent, by copy of this cover, to:

Comprehensive Plan Review
Department of Agriculture and Consumer Services

Tracy D. Suber
Department of Education

Jim Quinn
Department of Environmental Protection

Susan Harp
Florida Department of State

Scott Sanders
Florida Fish and Wildlife Conservation Commission

Lawrence Massey
FDOT District One

Margaret Wuerstle
Southwest Florida Regional Planning Council

Terry Manning, A.I.C.P., Senior Planner, Intergovernmental Coordination Section
South Florida Water Management District.

Sincerely,
DEPT. OF COMMUNITY DEVELOPMENT
Division of Planning

Paul O'Connor, AICP
Director

THE NEWS-PRESS
Published every morning
Daily and Sunday
Fort Myers, Florida

Affidavit of Publication

2014 JAN 17 PM 12:31

RECEIVED BY
LEE CO. ATTORNEY

STATE OF FLORIDA
COUNTY OF LEE

Before the undersigned authority, personally appeared **Shari Terrell** who on oath says that he/she is the **Legal Assistant** of the News-Press, a daily newspaper, published at Fort Myers, in Lee County, Florida; that the attached copy of advertisement, being a

Notice of Action

In the matter of:
Proposed Amendment to the Lee County Comprehensive Land Use (Adoption Hearing)

In the court was published in said newspaper in the issues of
Jan. 16, 2014

Affiant further says that the said News-Press is a paper of general circulation daily in Lee, Charlotte, Collier, Glades and Hendry Counties and published at Fort Myers, in said Lee County, Florida and that said newspaper has heretofore been continuously published in said Lee County; Florida, each day, and has been entered as a second class mail matter at the post office in Fort Myers in said Lee County, Florida, for a period of one year next preceding the first publication of the attached copy of the advertisement; and affiant further says that he/she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

Shari Terrell

Sworn to and subscribed before me this 16th day of January, 2014

by **Shari Terrell**
personally known to me or who has produced

_____

as identification, and who did or did not take an oath.

Notary Public Jessica Hanft

Print Name: **Jessica Hanft**
My commission Expires: **February 12, 2017**

JESSICA HANFT
MY COMMISSION # EE874397
EXPIRES February 12, 2017
(407) 398-0153 FloridaNotaryService.com

NOTICE OF PROPOSED AMENDMENT TO THE LEE COUNTY COMPREHENSIVE LAND USE PLAN (ADOPTION HEARING)

The Lee County Board of County Commissioners will hold a public hearing to consider the adoption of a proposed amendment to the Lee County Comprehensive Land Use Plan (Lee Plan) on Wednesday, January 22, 2014. The hearing will commence at 9:30 a.m., or as soon thereafter as can be heard, in the Board Chambers, 2120 Main Street in Downtown Fort Myers.

The Board proposes to adopt ordinances amending the Lee Plan as follows:

A. CPA2013-00002 Policy 9.2.1: Allow rezoning to Agricultural land uses in the Suburban land use categories.

B. CPA2013-00003 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.

C. CPA2013-00005 University Community DRI Requirement: Amend Policy 18.1.5, 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.

This meeting is open to the public. Interested parties may appear at the meeting and be heard with respect to the proposed plan amendment. A verbatim record of the proceeding will be necessary to appeal a decision made at this hearing. In accordance with the Americans with Disabilities Act, reasonable accommodations will be made upon request. To make arrangements or for further information contact Janet Miller at 239-533-8583.

No. 1482596
Jan. 16, 2014

LEE COUNTY ORDINANCE NO. 14-03
UNIVERSITY COMMUNITY DRI REQUIREMENT
(CPA2013-00005)

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 AMENDMENTS PERTAINING TO THE UNIVERSITY COMMUNITY DRI REQUIREMENT (CPA2013-00005) APPROVED DURING A PUBLIC HEARING; PROVIDING FOR PURPOSE, INTENT, AND SHORT TITLE; AMENDMENTS TO ADOPTED TEXT; LEGAL EFFECT OF "THE LEE PLAN"; GEOGRAPHICAL APPLICABILITY; SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.

WHEREAS, the Lee County Comprehensive Plan ("Lee Plan") Policy 2.4.1. and Chapter XIII, provides for adoption of amendments to the Plan in compliance with State statutes and in accordance with administrative procedures adopted by the Board of County Commissioners ("Board"); and,

WHEREAS, the Board, in accordance with Section 163.3181, Florida Statutes, and Lee County Administrative Code AC-13-6 provide an opportunity for the public to participate in the plan amendment public hearing process; and,

WHEREAS, the Lee County Local Planning Agency ("LPA") held a public hearing on the proposed amendments in accordance with Florida Statutes and the Lee County Administrative Code on October 28, 2013; and,

WHEREAS, the Board held a public hearing for the transmittal of the proposed amendments on November 18, 2013. At that hearing, the Board approved a motion to send, and did later send, proposed amendments pertaining to Policies 18.1.5, 18.1.16, 18.1.16.6, and 18.2.2 (CPA2013-00005) to the reviewing agencies set forth in Section 163.3184(1)(c), F.S. for review and comment; and,

WHEREAS, at the November 18, 2013 meeting, the Board announced its intention to hold a public hearing after the receipt of the reviewing agencies' written comments; and,

WHEREAS, on January 22, 2014, the Board held a public hearing and adopted the proposed amendments to the Lee Plan set forth herein.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, THAT:

SECTION ONE: PURPOSE, INTENT AND SHORT TITLE

The Board of County Commissioners of Lee County, Florida, in compliance with Chapter 163, Part II, Florida Statutes, and with Lee County Administrative Code AC-13-6, conducted public hearings to review proposed amendments to the Lee Plan. The purpose of this ordinance is to adopt text amendments to the Lee Plan discussed at those meetings and approved by a majority of the Board of County Commissioners. The short title and proper reference for the Lee County Comprehensive Land Use Plan, as hereby amended, will continue to be the "Lee Plan." **This amending ordinance may be referred to as the "University Community DRI Requirement Ordinance (CPA2013-00005)."**

SECTION TWO: ADOPTION OF COMPREHENSIVE PLAN AMENDMENT

The Lee County Board of County Commissioners amends the existing Lee Plan, adopted by Ordinance Number 89-02, as amended, by adopting an amendment, which amends Policies 18.1.5, 18.1.16, 18.1.16.6, and 18.2.2 to Goal 18: University Community known as University Community DRI Requirement (CPA2013-00005).

The corresponding Staff Reports and Analysis, along with all attachments for this amendment are adopted as "Support Documentation" for the Lee Plan. Proposed amendments adopted by this Ordinance are attached as Exhibit A.

SECTION THREE: LEGAL EFFECT OF THE "LEE PLAN"

No public or private development will be permitted except in conformity with the Lee Plan. All land development regulations and land development orders must be consistent with the Lee Plan as amended.

SECTION FOUR: GEOGRAPHIC APPLICABILITY

The Lee Plan is applicable throughout the unincorporated area of Lee County, Florida, except in those unincorporated areas included in joint or interlocal agreements with other local governments that specifically provide otherwise.

SECTION FIVE: SEVERABILITY

The provisions of this ordinance are severable and it is the intention of the Board of County Commissioners of Lee County, Florida, to confer the whole or any part of the powers herein provided. If any of the provisions of this ordinance are held unconstitutional by a court of competent jurisdiction, the decision of that court will not affect or impair the remaining provisions of this ordinance. It is hereby declared to be the legislative intent of the Board that this ordinance would have been adopted had the unconstitutional provisions not been included therein.

SECTION SIX: INCLUSION IN CODE, CODIFICATION, SCRIVENERS' ERROR

It is the intention of the Board of County Commissioners that the provisions of this ordinance will become and be made a part of the Lee County Code. Sections of this ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section," "article," or other appropriate word or phrase in order to accomplish this intention; and regardless of whether inclusion in the code is accomplished, sections of this ordinance may be renumbered or relettered. The correction of typographical errors that do not affect the intent, may be authorized by the County Manager, or his or her designee, without need of public hearing, by filing a corrected or recodified copy with the Clerk of the Circuit Court.

SECTION SEVEN: EFFECTIVE DATE

The plan amendments adopted herein are not effective until 31 days after the State Land Planning Agency notifies the County that the plan amendment package is complete. If timely challenged, an amendment does not become effective until the State Land Planning Agency or the Administrative Commission enters a final order determining the adopted amendment to be in compliance. No development orders, development permits, or land uses dependent on this amendment may be issued or commence before the amendment has become effective. If a final order of noncompliance is issued by the Administration Commission, this amendment may nevertheless be made effective by adoption of a resolution affirming its effective status.

THE FOREGOING ORDINANCE was offered by Commissioner Manning, who moved its adoption. The motion was seconded by Commissioner Pendergrass. The vote was as follows:

John E. Manning	Aye
Cecil L Pendergrass	Aye
Larry Kiker	Aye
Brian Hamman	Aye
Frank Mann	Aye

DONE AND ADOPTED this 22nd day of January 2014.

ATTEST:
LINDA DOGGETT, CLERK

BY: Marcia Wilson
Deputy Clerk

LEE COUNTY
BOARD OF COUNTY
COMMISSIONERS

BY: Brian Hamman
For: Larry Kiker, Chair

BOARD OF COUNTY COMMISSIONERS
SEAL
LEE COUNTY, FLORIDA

DATE: 1/22/14

Approved as to form by:

Michael D. Jacob
County Attorney's Office

Exhibit A: Adopted revisions to Policies 18.1.5, 18.1.16, 18.1.16.6, and 18.2.2
(Adopted by BOCC January 22, 2014)

EXHIBIT A

Note: Text depicted with underscore represents additions to the Lee Plan. Strike-through text represents deletions from the Lee Plan.

POLICY 18.1.5: In order to create a cohesive community, site design within the University Community must utilize alternative modes of transportation such as pedestrian networks, mass transit opportunities, sidewalks, bike paths and similar facilities. Site design must link related land uses through the use of alternative modes of transportation thus reducing automobile traffic within the University Community. The county will work cooperatively with the University on these matters as the University proceeds through the Campus Master Plan Process.

Prior to local Development Order approval on property within Area 9, the University Community, the developer must demonstrate that the proposed plan of development supports pedestrian, bicycle and transit opportunities. A multi-modal interconnection between the property and the FGCU campus must be provided at no cost to Lee County. The owner/developers must dedicate the right of way for the 951 extension between Alico Road and Corkscrew Road to Lee County prior to ~~Development of Regional Impact Development Order~~ rezoning approval. The value of the right of way on the date of dedication must not reflect the added value of the lands changed from DR/GR to University Community by virtue of CPA 2009-01. The county will issue road impact fee credits for the dedication.

No changes proposed to Policy 18.1.6 through 18.1.15

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 paragraphs 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.~~

LeeClerk.ORG
LINDA DOGGETT : CLERK OF COURT

STATE OF FLORIDA

COUNTY OF LEE

I Linda Doggett, Clerk of Circuit Court, Lee County, Florida, and ex-Officio Clerk of the Board of County Commissioners, Lee County, Florida, do hereby certify that the above and foregoing, is a true and correct copy of Ordinance No. 14-03, adopted by the Board of Lee County Commissioners, at their meeting held on the 22nd day of January, 2014 and same filed in the Clerk's Office.

Given under my hand and seal, at Fort Myers, Florida, this 28th day of January, 2014.

LINDA DOGGETT
Clerk of Circuit Court
Lee County, Florida

By: Marcia Wilson
Deputy Clerk

CIRCUIT COURT
LEE COUNTY, FLORIDA

PO Box 2469, Fort Myers, FL 33902
Phone: (239) 533-2328 | FAX: (239) 239-485-2038

CPA2013-05
UNIVERSITY COMMUNITY DRI REQUIREMENT AMENDMENT TO THE

LEE COUNTY COMPREHENSIVE PLAN

THE LEE PLAN

Lee County Board of County Commissioners
Sponsored Amendment and Staff Analysis

BoCC Adoption Document

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

January 22, 2014

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

✓	**Text Amendment**
	Map Amendment

	This Document Contains the Following Reviews
✓	**Staff Review**
✓	**Local Planning Agency Review and Recommendation**
✓	**Board of County Commissioners Hearing for Transmittal**
✓	**Staff Response to the Review Agencies' Comments**
✓	**Board of County Commissioners Hearing for Adoption**

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 18.1.5, Policy 18.1.16, 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 ***adopt*** 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 18.1.5: In order to create a cohesive community, site design within the University Community must utilize alternative modes of transportation such as pedestrian networks, mass transit opportunities, sidewalks, bike paths and similar facilities. Site design must link related land uses through the use of alternative modes of transportation thus reducing automobile traffic within the University Community. The county will work cooperatively with the University on these matters as the University proceeds through the Campus Master Plan Process.

Prior to local Development Order approval on property within Area 9, the University Community, the developer must demonstrate that the proposed plan of development supports pedestrian, bicycle and transit opportunities. A multi-modal interconnection between the property and the FGCU campus must be provided at no cost to Lee County. The owner/developers must dedicate the right of way for the 951 extension between Alico Road and Corkscrew Road to Lee County prior to ~~Development of Regional Impact Development Order~~ rezoning approval. The value of the right of way on the date of dedication must not reflect the added value of the lands changed from DR/GR to University Community by virtue of CPA 2009-01. The county will issue road impact fee credits for the dedication. (Amended by Ordinance No. 94-30, 00-22, 10-40)

No changes proposed to Policy 18.1.6 to Policy 18.1.15

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 18.1.5, Policy18.1.16, 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 9th 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, Policy18.1.16 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

Staff gave a brief presentation regarding the proposed amendment. No members of the public were present to address the LPA concerning the proposed amendment. One member of the LPA expressed concern that the state's prohibition was taking away a level of review, and that it would leave surrounding property owners vulnerable to changes to the developments in the University Community. This member made a recommendation that if Lee County was to remove the DRI requirement from the University Community that it should be replaced with a requirement for rezonings to hold a community input meeting.

Another member of the LPA expressed concern that the proposed change was simply to remove a requirement for DRI review in the University Community that is inconsistent with the Florida Statutes, and that the recommendation by the other LPA member could potentially have impacts on the vesting of other DRIs. This member also thought that the regular rezoning process allowed for adequate public input. **A motion was made to transmit the amendment as recommended by staff. This motion did not receive a second.**

Two other members of the LPA also questioned language in the policies that is unrelated to the proposed amendment to remove the mandatory DRI review. Staff explained that this was not part of the current amendment and that those changes should be vetted with a separate amendment, or through the EAR process.

A motion was made to transmit the amendment with the condition that rezonings within the University Community future land use category would require a public information meeting prior to being found sufficient for public hearing.

Concern was expressed that the condition was a new requirement for rezonings within a planning community that has not itself expressed the need for additional public input.

The motion passed with 5 being in favor and 2 being opposed.

B. LOCAL PLANNING AGENCY RECOMMENDATION AND FINDINGS OF FACT SUMMARY

1. RECOMMENDATION:

The LPA recommends that the Lee County Board of County Commissioners ***transmit*** the proposed Lee Plan amendment as recommended by staff as well as requiring an informational meeting for rezonings within the University Community future land use category.

Staff has reviewed the University Community future land use category, and finds that the following modification to Policy 18.2.2 could accommodate the LPA's recommendation:

> **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, the owner or agent for any zoning request ~~all property~~ within the University Village must ~~undergo a Development of Regional Impact review~~ conduct one public informational session, within the University Village, where the agent will provide a general overview of the project for any interested citizens.
>
> .

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

The LPA accepted the basis and recommended findings of fact as advanced by staff.

C. VOTE:

NOEL ANDRESS	AYE
STEVE BRODKIN	AYE
WAYNE DALTRY	AYE
JIM GREEN	AYE
MITCH HUTCHCRAFT	NAY
ANN PIERCE	NAY
ROGER STRELOW	AYE

D. STAFF RESPONSE TO LPA RECOMMENDATION:

Staff recommends limiting the amendment to only modifying the language that is inconsistent with state statutes, and not including the condition requiring a public informational meeting as recommended by the Local Planning agency for the following reasons:

- The Lee County Board of County Commissioners initiated the proposed amendment on August 27, 2013 through Blue Sheet No. 20130718. The conditions proposed by the LPA appear to be outside of the scope of the amendment initiated by the Board of County Commissioners.

- The conditions proposed by the LPA may be beyond the scope of the amendment that was advertised in the News-Press on October 18, 2013. Staff is concerned that property owners within the University Community future land use category were not properly notified that additional requirements for their properties might be recommended by the LPA.

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

DATE OF TRANSMITTAL HEARING: November 18, 2013

A. BOARD REVIEW:

Planning staff provided a brief summary of the proposed amendment. One Board member asked a question about the Local Planning Agency motion. The Chairman next called for public input. One member of the public came forward to address the proposed amendment, and stated support for the staff recommended language to the amendment.

A motion was made to transmit the proposed amendment. The motion passed 5-0.

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

1. BOARD ACTION:

The Board of County Commissioners transmitted the proposed amendment as recommended by staff.

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

The Board of County Commissioners accepted the findings of fact as advanced by staff.

C. VOTE:

BRIAN HAMMAN	**AYE**
LARRY KIKER	**AYE**
FRANK MANN	**AYE**
JOHN MANNING	**AYE**
CECIL L PENDERGRASS	**AYE**

PART V – STATE REVIEWING AGENCIES OBJECTIONS, RECOMMENDATIONS AND COMMENTS

DATE OF REVIEWING AGENCY COMMENTS: Comments from the State Reviewing Agencies were due to Lee County by January 1, 2014.

A. OBJECTIONS, RECOMMENDATIONS AND COMMENTS:

Lee County received responses from the following review agencies addressing the transmitted amendment: Florida Departments of Agriculture and Consumer Services, Economic Opportunity, Education; and the South Florida Water Management District.

These agencies stated that they had no further comments or concerns about the proposed amendment.

B. STAFF RECOMMENDATION

Staff recommends that the Board of County Commissioners *adopt* the amendments to the Lee Plan as transmitted.

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

DATE OF PUBLIC HEARING: January 22, 2014

A. BOARD REVIEW

Staff made a brief presentation to the Board of County Commissioners, providing summaries of the proposed Lee Plan amendments. Staff stated that the state reviewing agencies provided no substantive comments and therefore recommend adoption of the amendment as it was transmitted to the Department of Economic Opportunity. The Board of County Commissioners did not make any comments or have any questions concerning the proposed amendment.

No members of the public addressed the BoCC concerning the proposed Lee Plan amendment.

A motion was made to adopt the proposed amendment as recommended by staff.

The motion passed 5-0.

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY

1. BOARD ACTION: The Board of County Commissioners adopted the proposed amendment as recommended by staff.

2. BASIS AND RECOMMENDED FINDINGS OF FACT: The Board of County Commissioners accepted the findings of fact as advanced by staff.

C. VOTE:

BRIAN HAMMAN	**AYE**
LARRY KIKER	**AYE**
FRANK MANN	**AYE**
JOHN MANNING	**AYE**
CECIL L PENDERGRASS	**AYE**

AGENCY COMMENTS FOR CPA2013-05 UNIVERSITY COMMUNITY DRI REQUIREMENT

Rick Scott
GOVERNOR

FLORIDA DEPARTMENT of ECONOMIC OPPORTUNITY

Jesse Panuccio
EXECUTIVE DIRECTOR

December 16, 2013

The Honorable Cecil L. Pendergrass, Chairman
Lee County Board of County Commissioners
Post Office Box 398
Fort Myers, Florida 33902-0398

Dear Chairman Pendergrass:

The Department of Economic Opportunity has completed its review of the proposed comprehensive plan amendment for Lee County (Amendment 14-1ESR) which was received on December 2, 2013. We have reviewed the proposed amendment pursuant to Sections 163.3184(2) and (3), Florida Statutes (F.S.), and identified no comments related to important state resources and facilities within the Department of Economic Opportunity's authorized scope of review that will be adversely impacted by the amendment if adopted.

The County is reminded that pursuant to Section 163.3184(3)(b), F.S., other reviewing agencies have the authority to provide comments directly to the County. If other reviewing agencies provide comments, we recommend the County consider appropriate changes to the amendment based on those comments. If unresolved, such comments could form the basis for a challenge to the amendment after adoption.

The County should act by choosing to adopt, adopt with changes, or not adopt the proposed amendment. Also, please note that Section 163.3184(3)(c)1, F.S., provides that if the second public hearing is not held and the amendment adopted within 180 days of your receipt of agency comments, the amendment shall be deemed withdrawn unless extended by agreement with notice to the Department of Economic Opportunity and any affected party that provided comment on the amendment. For your assistance, we have attached procedures for adoption and transmittal of the comprehensive plan amendment.

If you have any questions relating to this review, please contact Scott Rogers, Planning Analyst, at (850) 717-8510, or by email at scott.rogers@deo.myflorida.com.

Sincerely,

Mike McDaniel
Comprehensive Planning Manager

MM/sr

Enclosure: Procedures for Adoption

cc: Paul O'Connor, Director, Lee County Division of Planning
Margaret Wuerstle, Executive Director, Southwest Florida Regional Planning Council

SUBMITTAL OF ADOPTED COMPREHENSIVE PLAN AMENDMENTS

FOR EXPEDITED STATE REVIEW

Section 163.3184(3), Florida Statutes

NUMBER OF COPIES TO BE SUBMITTED: Please submit three complete copies of all comprehensive plan materials, of which one complete paper copy and two complete electronic copies on CD ROM in Portable Document Format (PDF) to the Department of Economic Opportunity and one copy to each entity below that provided timely comments to the local government: the appropriate Regional Planning Council; Water Management District; Department of Transportation; Department of Environmental Protection; Department of State; the appropriate county (municipal amendments only); the Florida Fish and Wildlife Conservation Commission and the Department of Agriculture and Consumer Services (county plan amendments only); and the Department of Education (amendments relating to public schools); and for certain local governments, the appropriate military installation and any other local government or governmental agency that has filed a written request.

SUBMITTAL LETTER: Please include the following information in the cover letter transmitting the adopted amendment:

_____ Department of Economic Opportunity identification number for adopted amendment package;

_____ Summary description of the adoption package, including any amendments proposed but not adopted;

_____ Identify if concurrency has been rescinded and indicate for which public facilities. (Transportation, schools, recreation and open space).

_____ Ordinance number and adoption date;

_____ Certification that the adopted amendment(s) has been submitted to all parties that provided timely comments to the local government;

_____ Name, title, address, telephone, FAX number and e-mail address of local government contact;

_____ Letter signed by the chief elected official or the person designated by the local government.

ADOPTION AMENDMENT PACKAGE: Please include the following information in the amendment package:

_____ In the case of text amendments, changes should be shown in strike-through/underline format.

_____ In the case of future land use map amendments, an adopted future land use map, **in color format,** clearly depicting the parcel, its future land use designation, and its adopted designation.

_____ A copy of any data and analyses the local government deems appropriate.

Note: If the local government is relying on previously submitted data and analysis, no additional data and analysis is required;

_____ Copy of the executed ordinance adopting the comprehensive plan amendment(s);

Suggested effective date language for the adoption ordinance for expedited review:

> The effective date of this plan amendment, if the amendment is not timely challenged, shall be 31 days after the Department of Economic Opportunity notifies the local government that the plan amendment package is complete. If timely challenged, this amendment shall become effective on the date the Department of Economic Opportunity or the Administration Commission enters a final order determining this adopted amendment to be in compliance. No development orders, development permits, or land uses dependent on this amendment may be issued or commence before it has become effective. If a final order of noncompliance is issued by the Administration Commission, this amendment may nevertheless be made effective by adoption of a resolution affirming its effective status, a copy of which resolution shall be sent to the Department of Economic Opportunity.

_____ List of additional changes made in the adopted amendment that the Department of Economic Opportunity did not previously review;

_____ List of findings of the local governing body, if any, that were not included in the ordinance and which provided the basis of the adoption or determination not to adopt the proposed amendment;

_____ Statement indicating the relationship of the additional changes not previously reviewed by the Department of Economic Opportunity in response to the comment letter from the Department of Economic Opportunity.

Southwest Florida Regional Planning Council
Serving Charlotte, Collier, Glades, Hendry, Lee and Sarasota Counties
1926 Victoria Ave, Fort Myers, Florida 33901-3414 (239) 338-2550 FAX (239) 338-2560 www.swfrpc.org

January 7, 2013

Mr. D. Ray Eubanks
Administrator
Plan Review and Processing
Department of Economic Development
Caldwell Building
107 East Madison – MSC 160
Tallahassee, Florida 32399-0800

Re: Lee County / DEO 14-1ESR

Dear Mr. Eubanks:

The staff of the Southwest Florida Regional Planning Council has reviewed the proposed amendments (DEO 14-1ESR) to the Lee Plan. The review was performed according to the requirements of the Local Government Comprehensive Planning and Land Development Regulation Act.

The Council will review the proposed amendments to the Lee Plan and the staff recommendations at its January 16, 2014 meeting. Council staff has recommended that Council find the requested changes to the Airport Layout Plan procedural, regionally significant, and consistent with the Strategic Regional Policy Plan. Also, Council staff has recommended that the changes to the DRI review process for the University Community land use designation be found to be procedural, regionally significant, and consistent with the Strategic Regional Policy Plan. Council staff is also recommending that the proposed changes be found as not producing extra-jurisdictional impacts that are inconsistent with the comprehensive plans of other local governments.

A copy of the official staff report explaining the Council staff's recommendation is attached. If Council action differs from the staff recommendation, we will notify you.

Sincerely,
Southwest Florida Regional Planning Council

Margaret Wuerstle, AICP
Executive Director

MW/DEC
Attachment

Cc: Mr. Paul O'Connor, AICP, Director, Planning Division, Lee County

LOCAL GOVERNMENT COMPREHENSIVE PLAN AMENDMENTS
LEE COUNTY

The Council staff has reviewed proposed changes to the Lee County Growth Management Plan (DEO 14-1ESR). A synopsis of the requirements of the Act and Council responsibilities is provided as Attachment I. Comments are provided in Attachment II. Site location maps can be reviewed in Attachment III.

Staff review of the proposed amendments was based on whether they were likely to be of regional concern. This was determined through assessment of the following factors:

1. Location--in or near a regional resource or regional activity center, such that it impacts the regional resource or facility; on or within one mile of a county boundary; generally applied to sites of five acres or more; size alone is not necessarily a determinant of regional significance;
2. Magnitude--equal to or greater than the threshold for a Development of Regional Impact of the same type (a DRI-related amendment is considered regionally significant); and
3. Character--of a unique type or use, a use of regional significance, or a change in the local comprehensive plan that could be applied throughout the local jurisdiction; updates, editorial revisions, etc. are not regionally significant.

A summary of the results of the review follows:

Proposed Amendment	Factors of Regional Significance			
	Location	Magnitude	Character	Consistent
SW Florida International Airport Layout Plan (CPA 2013-03)	no	no	yes	(1) procedural (2) regionally significant; and (3) consistent with SRPP
Lee Plan Consistency for DRI Review Thresholds (CPA 2013-05)	no	no	yes	(1) procedural (2) regionally significant; and (3) consistent with SRPP

RECOMMENDED ACTION: Approve staff comments. Authorize staff to forward comments to the Department of Economic Opportunity and Lee County.

01/14

Attachment I

COMMUNITY PLANNING ACT

Local Government Comprehensive Plans

The Act requires each municipal and county government to prepare a comprehensive plan that must include at least the following nine elements:

1. Future Land Use Element;
2. Traffic Circulation Element;
   A local government with all or part of its jurisdiction within the urbanized area of a Metropolitan Planning Organization shall prepare and adopt a transportation element to replace the traffic circulation; mass transit; and ports, aviation, and related facilities elements. [9J-5.019(1), FAC]
3. General Sanitary Sewer, Solid Waste, Drainage, and Potable Water and Natural Groundwater Aquifer Recharge Element;
4. Conservation Element;
5. Recreation and Open Space Element;
6. Housing Element;
7. Coastal Management Element for coastal jurisdictions;
8. Intergovernmental Coordination Element; and
9. Capital Improvements Element.

The local government may add optional elements (e. g., community design, redevelopment, safety, historical and scenic preservation, and economic).

All local governments in Southwest Florida have adopted revised plans:
Charlotte County, Punta Gorda
Collier County, Everglades City, Marco Island, Naples
Glades County, Moore Haven
Hendry County, Clewiston, LaBelle
Lee County, Bonita Springs, Cape Coral, Fort Myers, Fort Myers Beach, Sanibel
Sarasota County, Longboat Key, North Port, Sarasota, Venice

Comprehensive Plan Amendments

A local government may amend its plan at any time during the calendar year. Six copies of the amendment are sent to the Department of Economic Opportunity (DEO) for review. A copy is also sent to the Regional Planning Council, the Water Management District, the Florida Department of Transportation, and the Florida Department of Environmental Protection.

The proposed amendments will be reviewed by DEO in two situations. In the first, there must be a written request to DEO. The request for review must be received within forty-five days after transmittal of the proposed amendment. Reviews can be requested by one of the following:

- the local government that transmits the amendment,
- the regional planning council, or
- an affected person.

In the second situation, DEO can decide to review the proposed amendment without a request. In that case, DEO must give notice within thirty days of transmittal.

Within five working days after deciding to conduct a review, DEO may forward copies to various reviewing agencies, including the Regional Planning Council.

Regional Planning Council Review

The Regional Planning Council must submit its comments in writing within thirty days of receipt of the proposed amendment from DEO. It must specify any objections and may make recommendations for changes. The review of the proposed amendment by the Regional Planning Council must be limited to "effects on regional resources or facilities identified in the Strategic Regional Policy plan and extra-jurisdictional impacts which would be inconsistent with the comprehensive plan of the affected local government.

After receipt of comments from the Regional Planning Council and other reviewing agencies, DEO has thirty days to conduct its own review and determine compliance with state law. Within that thirty-day period, DEO transmits its written comments to the local government.

NOTE: THE ABOVE IS A SIMPLIFIED VERSION OF THE LAW. REFER TO THE STATUTE (CH. 163, FS) FOR DETAILS.

Attachment II

SOUTHWEST FLORIDA REGIONAL PLANNING COUNCIL

LOCAL GOVERNMENT COMPREHENSIVE PLAN REVIEW FORM 01

Pursuant to Section 163.3184, Florida Statutes, Council review of proposed amendments to local government Comprehensive Plans is limited to adverse effects on regional resources and facilities identified in the Strategic Regional Policy Plan and extra-jurisdictional impacts that would be inconsistent with the Comprehensive Plan of any affected local government within the region. A written report containing the evaluation of these impacts, pursuant to Section 163.3184, Florida Statutes, is to be provided to the local government and the State land planning agency within 30 calendar days of receipt of the amendment.

LOCAL GOVERMENT:

Lee County

DATE AMENDMENT RECIEVED:

December 2, 2013

DATE AMENDMENT MAILED TO LOCAL GOVERNMENT AND STATE:

January 6, 2014

1. AMENDMENT NAME

Southwest Florida International Airport – Airport Layout Plan
Lee Plan Consistency for DRI Review Thresholds

2. DESCRIPTION OF AMENDMENT(S):

Southwest Florida International Airport – Airport Layout Plan (CPA 2013-03)

The Lee County Port Authority staff, on May 7, 2013, submitted to the Lee County Division of Planning a request to change the Lee Plan to reflect changes that the Airport Authority desired to make to the Airport Layout Plan (ALP), Map 3F. The request stated that the Lee County Port Authority had recently completed a multi-year planning and design analysis and that during that analysis a modification to the proposed runway layout and associated facilities as depicted on the 2004 ALP had changed. The changes were determined by the analysis to provide the most flexibility for the future and the ultimate development of the airport. The changes were submitted to the FAA and approved by the FAA on August 27, 2013.

The airport's land use designations have changed over time as the airport has been expanded. The current land use designations for the airport property are Airport and Wetlands.

Recent changes to the ALP, which was adopted into the Lee Plan as Map 3F by Comprehensive Plan amendment CPA2003-02. It incorporated the results of the Airport Master Plan process that was ongoing at the time. Lee Plan amendments CPA2005-10 amended the Airport Noise Zones. CPA2007-57 and CPA2010-08 amended policies relating to future development within the airport boundaries. The Regional Planning Council has reviewed and approved these past amendments.

The revised ALP contains five changes from what is currently depicted on Map 3F of the Lee Plan. The first change is the shift of the new parallel runway (6R/24L) eighty feet to the south from it proposed location on the existing ALP. The second change is the addition of a third crossfield taxiway for commercial aircraft. This additional taxiway will allow the airport to maintain unrestricted commercial operations. The third and fourth changes include shifting the location of the fire department and control tower facilities as currently depicted on Map 3F. The changes will accommodate the additional crossfield taxiway. The proposed new location of the control tower is intended to provide proper visibility of the airport after completion of the second runway. The proposed new location of the fire department will allow for rapid access to both the existing and future parallel runway. The fifth change to the ALP now depicts existing facilities that have been constructed on site since the adoption of the 2004 ALP. This includes the midfield terminal and its apron and taxiway, long term and employee parking, stormwater detention areas and other airport related facilities.

Lee Plan Consistency for DRI Review Thresholds (CPA2013-05)

These text amendments will change Policy 18.1.5, Policy 18.1.16, Policy 18.1.16.6, and Policy 18.2.2 in order to make the Lee Plan consistent with the State requirements that prohibit local governments from requiring Development of Regional Impact (DRI) review of projects that do not meet or exceed the established State thresholds for large scale developments.

The proposed text changes are as follows:

- **Policy 18.1.5**
  In order to create a cohesive community, site design within the University Community must ut8lize alternative modes of transportation such as pedestrian networks, mass transit opportunities, sidewalks, bike paths and similar facilities. Site design must link related land uses through the use of alternative modes of transportation thus reducing automobile traffic within the University Community. The county will work cooperatively with the University on these matters as the University proceeds through the Campus Master Plan process.

  Prior to local Development Order approval on property within Area 9, the University Community, the developer must demonstrate that the proposed plan of development supports pedestrian, bicycle and transit opportunities. A multi-modal interconnection between the property and the FGCU campus must be provided at no cost to Lee

County. The owner/developer must dedicate the right-of-way for the 951 extension between Alico road and Corkscrew Road to Lee County prior to ~~Development of Regional Impact Development Order~~ rezoning approval. The value of the right-of-way on the date of dedication must not reflect the added value of the lands changed from DR/GR to University Community by virtue of CPA 2009-01. The county will issue road impact fee credits for the dedication. (Amended by Ordinance No. 94-30, 00-22, 10-40)

- **Policy 18.1.16**
  For those lands in Area 9, all development must be designed to enhance and support the University. All rezoning in this area must include a specific finding that the proposed sues 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 number paragraphs 1 through 5.]

- **Policy 18.1.16.6**
  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 know as fines. These and other activities have left an area of approx 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 be calculated against the maximum residential unit count, nor maximum commercial square footage otherwise allowed. [No changes proposed to Policy 18.1.16 number 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.~~

3. ADVERSE EFFECTS TO SIGNIFICANT REGIONAL RESOURCES AND FACILITIES IDENTIFIED IN THE STRATEGIC REGIONAL POLICY PLAN:

Southwest Florida International Airport – Airport Layout Plan (CPA 2013-03)

The proposed changes to the ALP will bring the airport plan up to date and provide for the future changes proposed for the continued development of this major regional facility. The proposed shift in the location of the new runway will provide the airport with an unconstrained commercial aircraft runway and parallel taxiway. The eighty foot shift also creates more area for the future Concourse A terminal at the airport. Although the new runway location moves it closer to the FPL power lines, an analysis performed during the design process showed no conflict was produced by making this change. The relocation of the control tower and fire department facilities will allow them to operate more effectively within the airport. None of the changes will increase any off site impacts.

Council staff has reviewed the proposed ALP amendments to the Lee County Comprehensive Plan and finds that the proposed changes are provided for an updated ALP in order to properly manage the airport. The proposed changes are important for the health, safety and welfare of population of the region. Based on the fact that the requested policy changes to the Lee Plan have been approved by the FAA and in order to bring the airport plan into consistency with the Lee Plan, Council staff finds the proposed amendments are procedural in nature, are regionally important, but do not adversely affect any significant regional resources or facilities that are identified in the Strategic Regional Policy Plan.

Lee Plan Consistency for DRI Review Thresholds (CPA2013-05)

The University Community future land use designation was initially adopted into the Lee Plan and Future Land Use Map (FLUM) on October 27, 1992 by Ordinance 92-47, which adopted PAM/T92-02, Florida's Tenth University. This plan amendment adopted the University Community 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 not FGCU.

Since its initial adoption in 1992, all privately owned property with 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. (Later renumbered to Policy 18.2.2.)

The University Community area was expanded in 2010 to include a 9th 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 with the University Community

area as originally adopted, development within Area 9 would be required to undergo DRI review.

The 2011 legislative amendments adopted by HB7207 changed the DRI 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 as follows:

> *(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 review.*

In response to this change in the Florida Statutes, the Lee County Attorney's Office has advised the County planning staff that the requirement that all development within the University Community area undergo DRI review is no longer consistent with the Florida Statutes and that the requirement may not be enforced and should be removed from the Lee Plan.

Council staff has reviewed the proposed amendments to the Lee County Comprehensive Plan and finds that the proposed changes are provided for an updated DRI review requirements of the lands located in the University Community land use designation. The proposed changes are important in order to provide consistency between State law and the Lee Plan. Based on the fact that the requested policy changes to the Lee Plan provides consistency with the Lee Plan, Council staff finds the proposed amendments are procedural in nature, are regionally important because it addresses the region reviews of project, but does not adversely affect any significant regional resources or facilities that are identified in the Strategic Regional Policy Plan.

4. EXTRA-JURISDICTIONAL IMPACTS INCONSISTENT WITH THE COMPREHENSIVE PLANS OF LOCAL GOVERNMENTS WITHIN THE REGION

Council staff has reviewed the proposed amendments with respect to extra-jurisdictional impacts on surrounding local government Comprehensive Plans and finds that the proposed amendments do not negatively impact and are not inconsistent with adjacent local governmental Comprehensive Plans.

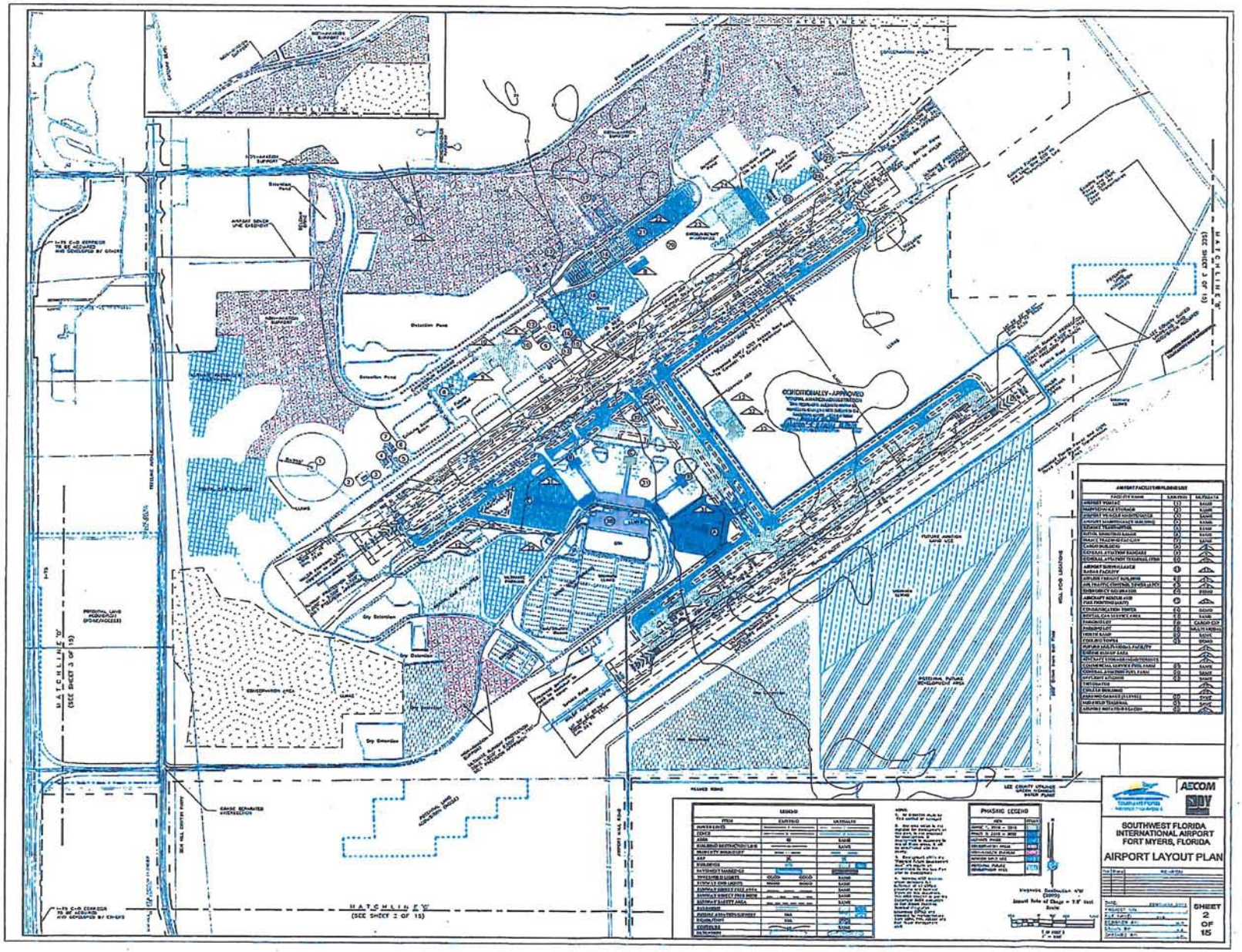
Request a copy of the adopted version of the amendment? _X_ Yes ___ No

Attachment III

Maps

Lee County
DEO 14-1ESR

Growth Management Plan
Comprehensive Plan Amendments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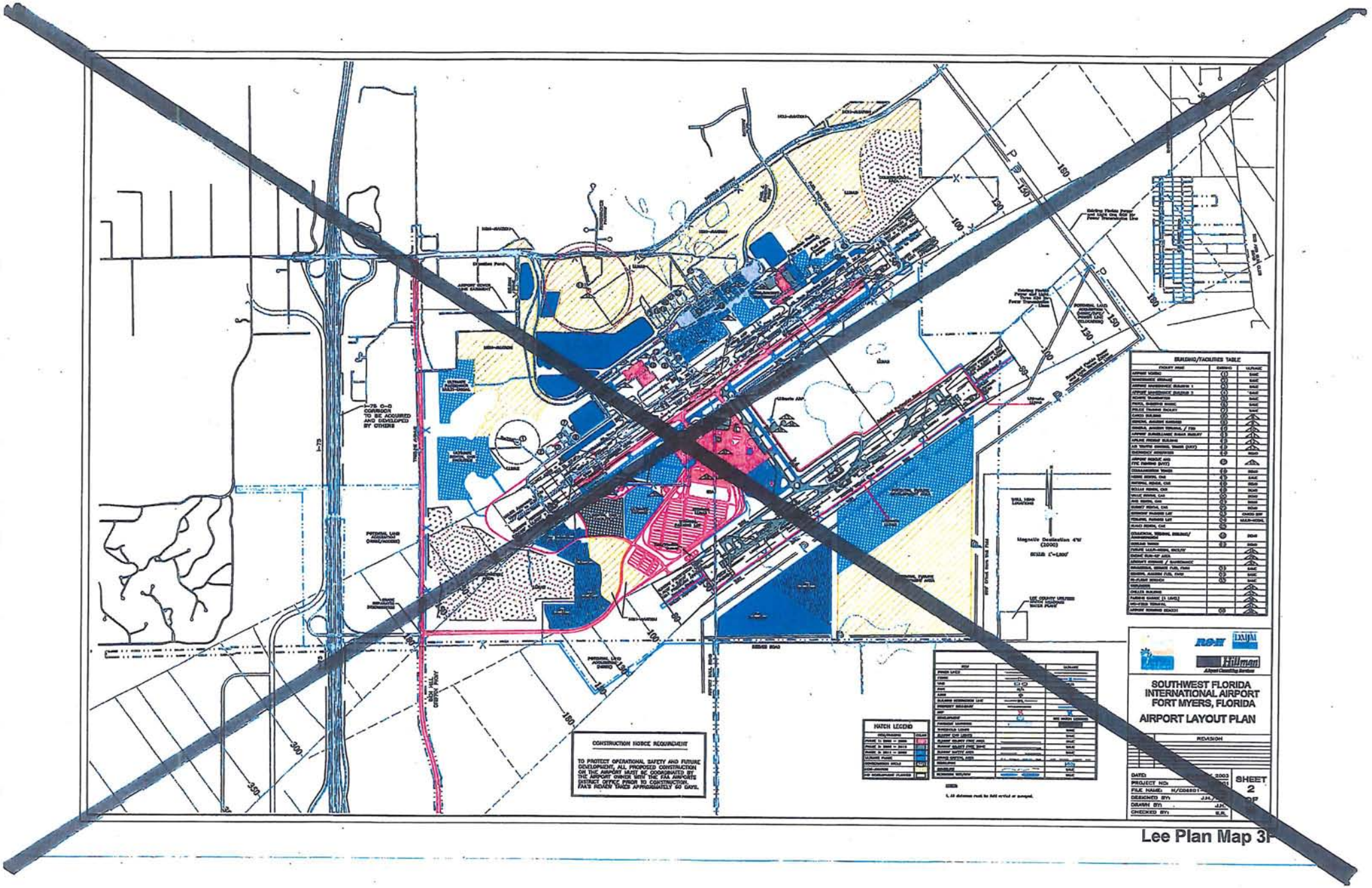
FORT MYERS, FLORIDA
AIRPORT LAYOUT PLAN
SHEET 2 OF 15
AECOM
MATCHLINE "A" (SEE SHEET 3 OF 15)
MATCHLINE "B" (SEE SHEET 2 OF 15)
MATCHLINE "C" (SEE SHEET 2 OF 15)
CONDITIONALLY APPROVED
Detention Pond
Dry Detention
FUTURE AVIATION RELATED USE
POTENTIAL FUTURE DEVELOPMENT AREA
LEGEND
PHASING LEGEND

MAP 3F


SOUTHWEST FLORIDA INTERNATIONAL AIRPORT
FORT MYERS, FLORIDA
AIRPORT LAYOUT PLAN
SHEET 2
CONSTRUCTION FENCE REQUIREMENT
HATCH LEGEND
BUILDING/FACILITIES TABLE
Lee Plan Map 3F

OFFICE OF THE COMMISSIONER
(850) 617-7700

THE CAPITOL
400 SOUTH MONROE STREET
TALLAHASSEE, FLORIDA 32399-0800

FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
COMMISSIONER ADAM H. PUTNAM

December 17, 2013

VIA EMAIL (oconnops@leegov.com)

Lee County Planning Division
Attn: Paul O'Connor
P.O. Box 398
Fort Myers, Florida 33902-0398

Re: DACS Docket # -- 20131202-313
Lee County CPA 2013-03 & CPA 2013-05
Submission dated November 25, 2013

Dear Mr. O'Connor:

The Florida Department of Agriculture and Consumer Services (the "Department") received the above-referenced proposed comprehensive plan amendment on December 2, 2013 and has reviewed it pursuant to the provisions of Chapter 163, Florida Statutes to address any potential adverse impacts to important state resources or facilities related to agricultural, aquacultural, or forestry resources in Florida if the proposed amendment(s) are adopted. Based on our review of your county's submission, the Department has no comment on the proposal.

If we may be of further assistance, please do not hesitate to contact me at 850-410-2289.

Sincerely,

Stormie Knight
Sr. Management Analyst I
Office of Policy and Budget

cc: Florida Department of Economic Opportunity
(SLPA #: Lee County 14-1ESR)

SOUTH FLORIDA WATER MANAGEMENT DISTRICT

December 30, 2013

Mr. Paul O'Connor, AICP
Lee County Planning Division Director
P.O. Box 398
Fort Myers, FL 33902-0398

Subject: Lee County, DEO #14-1ESR
Comments on Proposed Comprehensive Plan Amendment Package

Dear Mr. O'Connor:

The South Florida Water Management District (District) has completed its review of the proposed amendment package submitted by Lee County (County). The package amends the Lee Plan Map 3F, Airport Layout Plan for Southwest Florida International Airport, and amends Future Land Use Element Policies by removing requirements for Development of Regional Impact review for projects not meeting state established thresholds. There appear to be no regionally significant water resource issues; therefore, the District forwards no comments on the proposed amendment package.

The District offers its technical assistance to the County and the Department of Economic Opportunity in developing sound, sustainable solutions to meet the County's future water supply needs and to protect the region's water resources. Please forward a copy of adopted amendments to the District. For assistance or additional information, please contact Deborah Oblaczynski, Policy and Planning Analyst, at (561) 682-2544 or doblaczy@sfwmd.gov.

Sincerely,

for

Dean Powell
Water Supply Bureau Chief

DP/do

c: Ray Eubanks, DEO
Deborah Oblaczynski, SFWMD
Brenda Winningham, DEO
Margaret Wuerstle, SWFRPC

FLORIDA DEPARTMENT OF EDUCATION

Pam Stewart
Commissioner of Education

January 6, 2014

Mr. Paul O'Connor, AICP
Lee County Planning Division Director
P.O. Box 398
Fort Myers, Florida 33902-0398
Via E-mail: oconnops@leegov.com

Dear Mr. O'Connor:

Re: Lee County 14-1 ESR

Thank you for the opportunity to review the Lee County 14-1 ESR amendment package, which the Florida Department of Education received on December 2, 2013. According to the department's responsibilities under section 163.3184(3), Florida Statutes, I reviewed the amendment considering provisions of chapter 163, part II, F.S., and to determine whether the proposal, if adopted, would have potential to create significant adverse effects on public school facilities.

The proposal would amend Lee Plan Map 3F to reflect a revised airport layout plan and policies 18.1.5, 18.1.6 and 18.2.2 (related to the University Village) to make the Lee Plan consistent with State requirements that prohibit local governments from requiring development of regional impact review for projects that don't meet or exceed state established thresholds. Because the amendments do not appear to create adverse effects on educational facilities or sites, I offer no comment.

Again, thank you for the opportunity to review the amendment package. If I may be of assistance, please contact me at (850) 245-9312 or Tracy.Suber@fldoe.org.

Sincerely,

Tracy D. Suber
Growth Management and Facilities Policy Liaison

TDS/

cc: Ms. Dawn Huff, Lee County School District
Mr. Scott Rogers and Ms. Brenda Winningham, DEO/State Land Planning Agency

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