

LEE COUNTY BOARD OF COUNTY COMMISSIONERS
ZONING HEARING AGENDA
And
COMPREHENSIVE PLAN

Wednesday, February 19, 2014

9:30AM

DCI2010-00012
Z-13-026

CEMEX, ALICO ROAD QUARRY, PH3C

CPA2013-00009

CAPITAL IMPROVEMENT PLAN UPDATE

CPA2013-00006

CONCURRENCY AMENDMENT

**CPA2013-06
CONCURRENCY
AMENDMENT
TO THE**

LEE COUNTY COMPREHENSIVE PLAN

THE LEE PLAN

Lee County Board of County Commissioners
Sponsored Amendment and Staff Analysis

**BoCC Public Hearing Document
For the
February 19th, 2014 Transmittal Hearing**

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

February 12, 2014

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

Text Amendment

Map Amendment

This Document Contains the Following Reviews	
<input checked="" type="checkbox"/>	Staff Review
<input checked="" type="checkbox"/>	Local Planning Agency Review and Recommendation
	Board of County Commissioners Hearing for Transmittal
	Staff Response Review Agencies' Comments
	Board of County Commissioners Hearing for Adoption

STAFF REPORT PREPARATION DATE: January 17, 2014

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 the Lee Plan to make it consistent with State regulatory and non-regulatory concurrency requirements.

B. STAFF RECOMMENDATION AND FINDINGS OF FACT SUMMARY

1. RECOMMENDATION:

Staff recommends that the Board of County Commissioners *transmit* the proposed amendments as identified in Attachment 1 to this staff report, including text and map amendments. Proposed text has been depicted in strikethrough and underline format as it relates to the existing provisions of the Lee Plan.

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, amended concurrency statutes, which made concurrency for transportation facilities, parks and recreation facilities and public education facilities optional. If a local government elects to implement the optional concurrency it must be consistent with F.S. 163.3180, as revised by the legislature.
- The Lee Plan currently identifies regulatory standards for transportation facilities, parks and recreation facilities, and public education facilities which are inconsistent with Florida Statutes as amended.
- An interlocal agreement between the School District of Lee County and Lee County requires that regulatory standards are maintained for public education facilities.
- Lee County cannot terminate the interlocal agreement with the School District until March 18, 2015 and must notify the School district by November 18, 2014 if it wishes to do so.

C. BACKGROUND INFORMATION

The Community Planning Act of 2011 was adopted by the Florida Legislature and became law on June 2, 2011. The Act has revised concurrency management significantly. Parks and Recreation, Schools, and Transportation have been removed from the list of public facilities that are subject to regulatory concurrency requirements. Sanitary sewer, potable water, drainage (Stormwater management) and solid waste disposal are still subject to regulatory concurrency and it is intended that they will remain in the County's concurrency management program.

Currently Lee County has regulatory concurrency standards for Potable Water Facilities, Sanitary Sewer Facilities, Solid Waste, Stormwater Management, Regional and Community Parks, Roadway Facilities, and Public School Facilities. Lee County has non-regulatory standards for boat ramps, beach access, community recreation centers, libraries and emergency medical service.

Under the provisions of the 2011 Community Planning Act, the County now has the option to implement regulatory concurrency requirements on a local basis for Parks and Recreation, Schools, and Transportation. Should the County elect to implement concurrency requirements for these public facilities on a local basis, it must do so consistent with the requirements of Florida Statutes 163.3180.

On August 27, 2013, the Board of County Commissioners directed Staff to analyze and revise concurrency requirements for Parks and Recreation, Schools, and Transportation within The Lee Plan.

PART II - STAFF ANALYSIS

A. STAFF DISCUSSION

Staff recommends that Lee County eliminate regulatory standards for Parks and Recreation Facilities, and Transportation Facilities. These facilities are largely the responsibility of public agencies. Even though these facilities would not be regulatory staff recommends that Lee County continue to collect data in order to keep an accurate inventory for planning purposes. At this time, due to the obligations contained in the interlocal agreement between the county, five municipalities, and the School District, staff recommends that Public School facilities remain regulatory.

Details for the three public facilities types that are currently regulatory but that Lee County now has the option to review as non-regulatory are provided below.

Parks and Recreation Facilities

Florida Statutes have been amended so that local governments are no longer required to maintain concurrency for parks and recreation facilities. Staff recommends that provision of parks and recreation facilities should be made a non-regulatory standard in the Lee Plan. Now that statutes have been modified to eliminate it as a mandatory requirement, permits cannot be denied based on deficiencies of parks and recreation facilities. This change is expected to have minimal to no impact to the development process, as no project has been denied because of deficiencies in parks and recreation facilities.

Future Recreational Uses, Generalized Service Area Boundaries – Map 11

The Lee Plan has no Goals, Objectives, or Policies that refer to Map 11. Lee Plan Map 11 is also not used for any purposes outside of the Lee Plan. Planning staff recommends that Map 11 should be deleted to simplify the Lee Plan.

Transportation Facilities

Florida Statutes now allow local governments to either eliminate transportation concurrency or to continue it with modifications. If the county elects to continue with transportation concurrency it must be done in accordance with Chapter 163.3180(5).

Staff recommends that the provision of transportation facilities be made a non-regulatory standard. Transportation concurrency was initially required by the Florida legislature to place the responsibility on local government to provide infrastructure meeting adopted Level of Service (LOS) standards concurrent with new development. For transportation infrastructure

this typically referred to roadway facilities. In Lee County the LOS is based on the operation of roadway facilities during the peak season daily peak hour and peak direction. If roadway infrastructure were not available on a facility, the county had the ability to deny applications for new development that impact those roadway facilities.

The 2011 legislation removed the ability of local government to deny applications for new development based on deficient transportation infrastructure. The statutes now allow development to go forward with payment of their proportionate share of roadway capacity improvements, even if that share does not remedy the deficiencies. This legislation places the full responsibility for deficient roadways on the local jurisdiction. Development impacting already deficient roadways is not required to pay a proportionate share.

This means that the county can no longer deny development approval based solely on transportation concurrency. In addition, if Lee County were to maintain Transportation Concurrency, the county, not the developer, would be responsible for making improvements to the facility if there is an application for development on roadways identified in the Concurrency report as being, or projected to be, deficient.

Lee County 2030 Financially Feasible Highway Plan – Map 3A

As part of the Concurrency update staff recommends that the Lee County 2030 Financially Feasible Highway Plan should be updated to reflect the latest data from the Metropolitan Planning Organization. This map was last updated on March 17, 2006. On October 18 the Florida Department of Economic Opportunity (DEO) sent a letter to the Lee County Metropolitan Planning Organization identifying four road segments that were on the MPO Transportation Improvement Program that were not identified on Lee County's Future Transportation Map. The DEO recommended that Lee County should update its Future Transportation Plan to include these and other segments. Lee County Staff concurs with that recommendation.

Public Education Facilities

State statutes no longer require that School Concurrency be included in a local government comprehensive plan. To that end, staff is working with representatives of the Lee County School District to explore alternatives to the current School Concurrency Regulations. The School District has stated that it wishes to retain regulatory concurrency standards within the Lee Plan. Planning Staff understands that tracking existing and future school capacity and usage is an important planning function, however Staff believes that the Lee Plan could be modified to monitor non-regulatory levels of service. In order to effect this change, however, the County will first need to amend the Interlocal Agreement between the School District, the County, and all five municipalities that requires regulatory School Concurrency. Until that agreement is amended, Lee County cannot change the requirement for regulatory

School Concurrency. Therefore, no changes to School Concurrency regulations are recommended at this time. Those regulations can be amended after the Interlocal Agreement is amended. If an amendment cannot be agreed to, staff will look for direction from the Board of County Commissioners as whether or not to terminate the agreement.

School Concurrency was established in such a way that the three school zones, the East Zone, the South Zone and the West Zone, could all work in conjunction to calculate level of service on a county wide basis. Therefore, if capacity was lacking for a proposed development order in the East Zone, excess capacity in either the South Zone or the West Zone could be counted to achieve the required level of service standard. In effect, there is a countywide school concurrency policy. At this time there is excess capacity in all three zones and there are no foreseeable level of service issues.

Non-Regulatory Capacity Monitoring

Lee County currently publishes an annual Concurrency Report that inventories the public facilities related to solid waste, surface water management, potable water, sanitary sewer, schools, parks and recreation, and transportation. The report provides information related to facility capacity and usage. This information is used to help prioritize various potential capital improvement projects by the County. It is also been used in development review to insure that sufficient public facilities are available to support proposed development. The recent changes to Florida Statutes make concurrency for transportation and parks and recreation optional, and staff recommends that standards for these facilities should be made non-regulatory.

However, the proposed non-regulatory status of transportation and recreation facilities does not diminish the need for accurate facility inventories and capacity monitoring for planning purposes. Therefore, based on these changes, Staff recommends amending future Concurrency Reports to include only the public facilities that maintain regulatory standards. Staff will also continue to collect, inventory, and monitor non-regulatory standards for planning and capital improvement purposes only.

CONSISTENCY WITH THE LEE PLAN

Planning staff finds that allowing for the removal of the requirement for concurrency and regulatory standards for transportation and parks and recreation facilities by amending portions of the Future Land Use Element; Transportation Element; Parks, Recreation and Open Space Element, and the Capital Improvements Element is consistent with the remainder of the Lee Plan.

CONSISTENCY WITH FEDERAL AND STATE REQUIREMENTS

The amendment addresses changes to the Florida Statutes adopted by HB7207, which changed transportation and parks and recreation concurrency so that it is no longer a

statewide requirement. Concurrency for these types of public facilities is now optional. The proposed changes to the Lee plan text and maps are consistent with federal and state requirements.

B. STAFF RECOMMENDATION

County staff recommends that the Board of County Commissioners transmit the proposed amendments to the Lee Plan.

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

DATE OF PUBLIC HEARING: January 27, 2014

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 asked questions about how this amendment would affect Lee County's annual concurrency report. Staff responded that some facilities would remain regulatory and therefore remain in the report; and that non-regulatory facilities would continue to be monitored for planning purposes.

One member of the LPA identified provisions of the policies proposed to be amended that should also be updated. These included specific dates identified in the park standards, DRI concurrency vesting, the term "minimum acceptable" in reference to transportation level of service, the term "INTERIM" in reference to stormwater management facilities' level of service, and references to Objective 14.2, the 810/910 rule, affecting Pine Island.

A motion was made to transmit the amendment with modifications as follows:

- 1. Bring references to Objective 14.2 (and subsequent policies) of the Pine Island Plan into compliance with Community Planning Act of 2011**
- 2. Make the DRI vesting policy, 37.5.2, past tense**
- 3. Remove dates that have past in the park standards**
- 4. Add "Regional Parks Standards" to Objective 84.1**
- 5. Delete "Interim" in reference to Stormwater Management Facilities**
- 6. Replace "minimum acceptable" in reference to transportation facility LOS with a non-regulatory term.**

The motion passed with 7 being in favor and 0 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 with the relevant changes identified in the motion.

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
DENNIS CHURCH	AYE
JIM GREEN	AYE
MITCH HUTCHCRAFT	AYE
JAMES INK	AYE
RICK JOYCE	AYE
DAVID MULICKA	AYE

D. STAFF RESPONSE TO LPA MOTION

The LPA motion to recommend transmittal of CPA2013-06, Concurrency Update, included six revisions. For the most part, staff agrees with the recommended changes.

Staff does not recommend revising the amendment to address Item number one of the LPA motion regarding the Pine Island Plan’s consistency with the Community Planning Act of 2011. The policies that accomplish these objectives, including the revisions made to the Pine Island plan in 2003, should remain in place. Eliminating or revising these policies could have unintended consequences. Discussions regarding the consistency of the Pine Island Plan are outside the scope of the CPA2013-06. Staff does not recommend making changes to other parts of the Lee Plan not material to the Amendment presented within this application specifically Objective 14.2 (and subsequent policies) of the Pine Island Plan.

The portion of the Pine Island Goals, objectives, and policies, recommended for revision by the LPA’s motion, Objective 14.2, Policy 14.2.1, and Policy 14.2.2, are an integral part of the Pine Island plan’s to recognize the constrained roadway access to the island, protect the island’s ability to evacuate in the event of a hurricane, and accommodate the thousands of already platted single family lots on the island.

Staff made a conscientious effort to ensure that these important objectives for Pine Island are maintained through this amendment. The policies that accomplish these objectives should remain in place.

Because of the forthcoming EAR based amendments, staff's original recommendation represented the minimum changes needed to make Lee County Concurrency rules comply with recent amendments to the Florida Statutes. Items 2 through 6 of the LPA motion are for changes that go beyond the minimum changes needed to make the Lee Plan consistent with Florida Statutes, but staff finds that these proposed changes are appropriate to transmit. To address items 2 through 6 of the LPA motion staff recommends the following revisions to the proposed amendment for transmittal. The revisions identified below have been incorporated into Attachment 1.

POLICY 37.4.35.2: Previously vested cConcurrency certificates vesting (i.e., a long-term concurrency certificate) ~~may be granted for DRIs under limited circumstances, in accordance with Chapter 163.3180(12), F.S., and will remain valid as long as the certificate includes the following:~~ including up to a 10-year time limitation, a limitation on changes to the DRI development parameters over time, and was the executed on as part of a local government development agreement in which the developer agrees to pay his the full proportionate share/impact fee obligation up front. (Added by Ordinance No. 00-08)

OBJECTIVE 83.1: STANDARD COMMUNITY PARK STANDARD. Lee County will provide for the active recreational needs of unincorporated Lee County in ~~standard~~ community parks by providing a minimum of 0.8 acres of developed ~~Standard~~ Community Parks open for public use per 1,000 population (minimum acceptable level of service, see Policy 95.1.3). ~~By 1996 this standard will be increased to 1.75 acres per 1,000 population (desired future level of service, see Policy 95.1.4). By 1998 the county will provide~~ However, the County strives to provide 2 or more acres per 1,000 population (desired future level of service, see Policy 95.1.4), unincorporated county only. The population used for calculating these standards is the unincorporated Lee County permanent population. The acres used in calculating these standards are improved ~~Standard~~ Community Parks acres that are open for public use. ~~The 1996 and 1998 Community parks standards are non-regulatory, desired level of service standards and are not required for concurrency purposes.~~ (Amended by Ordinance No. 93-25, 94-30, 98-09, 00-22)

OBJECTIVE 84.1: REGIONAL PARK STANDARD: Lee County ~~must~~ will provide a minimum of 6 acres per 1,000 population (minimum acceptable level of service, see Policy 95.1.3). ~~By 1998 this standard will be increased to~~ However, the County strives to provide 8 or more acres per 1,000 population (non-regulatory, desired future level of service, see Policy 95.1.4). The population used for calculating this standard is the total seasonal population for all of Lee County. The acres used in calculating this standard are improved Regional Park acres that are open for public use. Federal and state facilities in Lee County are to be counted in meeting this standard. The Regional Park standards are non-regulatory and are not required for concurrency proposes. (Amended by Ordinance No. 94-30, 98-09, 00-22)

POLICY 95.1.3: MINIMUM ACCEPTABLE LEVEL-OF-SERVICE STANDARDS

No additional changes to Paragraphs 1 to 3.

4. Stormwater Management Facilities

Minimum Acceptable Level of Service: ~~INTERIM~~

- (a) Existing Infrastructure/Interim Standard - The existing surface water management system in the unincorporated areas of the county will be sufficient to prevent the flooding of designated evacuation routes (see Map 15) from the 25-year, 3-day storm event (rainfall) for more than 24 hours.

No additional changes to Paragraphs 5 and 6.

7. Roadway Facilities

LOS "E" is the minimum acceptable standard LOS for principal and minor arterials, and major collectors on county-maintained transportation facilities. Level of service standards for the State Highway System during peak travel hours are D in urbanized areas and C outside urbanized areas.

POLICY 95.1.4: DESIRED FUTURE LEVEL-OF-SERVICE STANDARDS

No additional changes to Paragraph 1.

2. Parks and Recreation Facilities:

a. Regional Parks:

~~By 1998,~~ Lee County will provide 8 acres of improved regional park land open for public use per 1000 total seasonal population for all of Lee County.

b. Community Parks:

~~By 1996,~~ Lee County will provide ~~1.75 acres of improved standard community parks open for public use per 1000 unincorporated Lee County permanent population;~~ by September 30, 1998 the county will increase this to 2.0 acres of improved standard community parks open for public use per 1000 unincorporated Lee County permanent population.

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

DATE OF TRANSMITTAL HEARING: February 19, 2014

A. BOARD REVIEW:

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

1. BOARD ACTION:

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

C. VOTE:

BRIAN HAMMAN

LARRY KIKER

FRANK MANN

JOHN MANNING

CECIL L PENDERGRASS

TEXT AMENDMENTS:***FUTURE LAND USE ELEMENT, CHAPTER II***

POLICY 33.3.4: Owners of major DR/GR tracts without the ability to construct a Mixed-Use Community on their own land are encouraged to transfer their residential development rights to Future Urban Areas (see Objective 1.1), specifically the Mixed-Use Overlay, the Lehigh Acres Specialized Mixed-Use Nodes, and any Lee Plan designation that allows bonus density (see Table 1(a)), or to future Mixed-Use Communities, Rural Golf Course Communities, or Improved Residential Communities on land so designated on Map 17. These transfers would avoid unnecessary travel for future residents, increase housing diversity and commercial opportunities for nearby Lehigh Acres, protect existing agricultural or natural lands, and allow the conservation of larger contiguous tracts of land.

1. To these ends, Lee County will establish a program that will allow and encourage the transfer of upland and wetland development rights (TDR) to designated TDR receiving areas. This program will also allow limited development in accordance with Policy 16.2.6 and 16.2.7.
2. Within the Mixed-Use Communities shown on Map 17, significant commercial and civic uses are required. Each Mixed-Use Community adjoining S.R. 82 must be designed to include non-residential uses not only to serve its residents but also to begin offsetting the shortage of non-residential uses in adjoining Lehigh Acres. At a minimum, each community adjoining S.R. 82 must designate at least 10% of its developable land into zones for non-residential uses. Specific requirements for incorporating these uses into Mixed-Use Communities are set forth in the Land Development Code.
3. Mixed-Use Communities must be served by central water and wastewater services. All Mixed-Use Communities were added to the future water and sewer service areas for Lee County Utilities (Lee Plan Maps 6 and 7) in 2010. Development approvals for each community are contingent on availability of adequate capacity at the central plants and on developer-provided upgrades to distribution and collection systems to connect to the existing systems. Lee County Utilities has the plant capacity at this time to serve full build-out of all Mixed-Use Communities. Lee County acknowledges that the Three Oaks wastewater treatment plant does not have sufficient capacity to serve all anticipated growth within its future service area through the year 2030. Lee County commits to expand that facility or build an additional facility to meet wastewater demands. One of these improvements will be included in a future capital improvements program to ensure that sufficient capacity will be available to serve the Mixed-Use Communities and the additional development anticipated through the year 2030.

4. Development approvals for Mixed-Use Communities are contingent on adequate capacity in the public school system (see Goal 67).
- ~~5. The state has designated S.R. 82 as an “emerging component” of Florida’s Strategic Intermodal System, a designation that establishes the levels of service Lee County must adopt for S.R. 82. Lee County will seek to include the Mixed Use Communities and appropriate adjacent urban areas in a multimodal transportation district to mitigate regulatory barriers these levels of service would impose on Lee County’s ability to accomplish Objective 33.3 and its policies. As an alternative, Lee County may pursue a comparable mechanism, such as a transportation concurrency exception area, transportation concurrency management area, transportation concurrency backlog area/plan, long term concurrency management system, or FDOT level-of-service variance, that would achieve similar results. Lee County’s planning will include the following steps:~~
 - ~~a. Actively seek advice, technical assistance, and support from Florida DOT and DCA while formulating the scope of a technical evaluation of a potential multimodal transportation district that includes the four Mixed Use Communities adjoining S.R. 82 and appropriate adjacent urban areas.~~
 - ~~b. Conduct the necessary technical studies to determine the potential for substantial trip diversion from Lehigh Acres residents, the viability of transit service to these Mixed Use Communities and appropriate adjacent urban areas, and the practicality of maintaining the adopted level of service standards on S.R. 82.~~
 - ~~c. Adopt a Lee Plan amendment establishing a multimodal transportation district (or comparable mechanism).~~
- ~~6. Lee County will complete these three steps by 2016. Until step 5.c is adopted, TDR credits may not be redeemed in the Mixed Use Communities located along S.R. 82. No redemption of TDR credits that will increase dwelling units or non residential floor area will be permitted, if these increases would cause the adopted level of service for S.R. 82 to be exceeded (see Goal 37). This restriction applies unless a Mixed Use Community addresses its transportation impacts through the DRI process consistent with F.S. 163.3180(12).~~
 - ~~a5. This temporary restriction does not prohibit Lee County encourages landowners to concentrate from concentrating development rights from contiguous DR/GR property under common ownership or control.~~
 - ~~b6. Lee County encourages the creation of TDR credits from Southeast DR/GR lands and the transfer of those credits to all other designated receiving areas, including:
 - (1) Other Mixed-Use Communities;~~

- (2) Rural Golf Course Communities;
 - (3) Improved Residential Communities
 - (4) Future Urban Area (see Objective 1.1);
 - (5) Mixed-Use Overlay;
 - (6) Lehigh Acres Specialized Mixed-Use Nodes;
 - (7) Lee Plan designation that allow bonus density (see Table 1(a)); and,
 - (8) Incorporated municipalities that have formally agreed to accept TDR credits.
- (Added by Ordinance No. 10-43, Renumbered and Amended by Ordinance No. 12-24)

TRANSPORTATION ELEMENT, CHAPTER III

POLICY 37.1.2: Link-specific service volumes (capacities) have been established for arterials and collector roadways based on specific Lee County conditions, for use in the annual ~~concurrency~~ monitoring report. Because these service volumes are heavily dependent on existing geometrics, signal timing and spacing, variables subject to considerable change over time, the link-specific service volumes are appropriate only for short-term analyses (five years or less, as measured from the date of the last update of those service volumes). Lee County has also developed generalized service volumes for future year analyses. The Lee County Department of Transportation is responsible for keeping both sets of service volumes up to date. Preparers of Traffic Impact Statements for DRIs, rezonings and development orders and other transportation analyses must use the most appropriate and up-to-date set of service volumes, as determined by the Lee County Department of Transportation. (Amended by Ordinance No. 98-09, Amended and Relocated by Ordinance No. 99-15)

OBJECTIVE 37.3: TRANSPORTATION ~~CONCURRENCY~~ MANAGEMENT CAPACITY MONITORING SYSTEM. Lee County will continue to monitor the capacity of the roadway network for planning and informational purposes in order to identify where areas of concern may be expected. ~~utilize a transportation concurrency management system consistent with the requirements of Chapter 163.3180, F.S., and Rule 9J-5.0055, F.A.C.~~ (Added by Ordinance No. 99-15, Amended by Ordinance No. 00-08)

POLICY 37.3.1: Lee County will measure ~~concurrency~~ traffic volumes and capacity on all roads on a roadway segment-by-segment basis, except for constrained roads and where alternatives are established pursuant to Chapter 163.3180, F.S., and Rule 9J-5.0055, F.A.C. ~~(i.e., transportation concurrency exception areas, transportation concurrency management areas, and multi-modal transportation districts).~~ Transportation ~~concurrency~~ for Pine Island will be governed by the policies under Objective 14.2 of this comprehensive plan. (Amended by Ordinance No. 98-09, Amended and Relocated by Ordinance No. 99-15, Amended by Ordinance No. 00-08, 07-09)

POLICY 37.3.2: Lee County will continue to annually identify roadway conditions and available capacity on major roadways as part of its capacity monitoring ~~concurrency management~~ report. The report will identify existing traffic conditions (based on the

latest year's traffic counts), a one-year projection (adding traffic from projects with approved building permits) and forecast traffic conditions (adding traffic from projects with approved local development orders). The available capacity for existing conditions will include the added capacity of roadway improvements programmed for construction in the first three years of an adopted County Capital Improvement Program or State Five-Year Work Program. (Added by Ordinance No. 00-08, Amended by Ordinance No.07-09)

POLICY 37.3.3: All proposed development activity (local development order requests); ~~except activity that affects constrained roads and roads subject to concurrency alternatives,~~ will be reviewed-inventoried against the available capacity identified in the annual concurrency-capacity monitoring report based on existing conditions. ~~If capacity is available, a concurrency certificate may be issued, good for three years; otherwise no concurrency certificate will be issued. (Amended and Relocated by Ordinance No. 99-15, Amended by Ordinance No. 00-08, 07-09)~~

~~OBJECTIVE 37.4: TRANSPORTATION CONCURRENCY ALTERNATIVES.~~ ~~Where appropriate, Lee County will employ alternatives to standard segment by segment transportation concurrency measurements consistent with the requirements of Chapter 163.3180, F.S. and Rule 9J-5.0055, F.A.C. (Added by Ordinance No. 00-08)~~

~~**POLICY 37.4.1:** Based on short term forecast conditions, Lee County by 2010 will investigate the creation of a Transportation Concurrency Exception Area in Lehigh Acres. (Added by Ordinance No. 00-08, Amended by Ordinance No. 07-09)~~

~~**POLICY 37.4.2:** Based on short term forecast conditions, Lee County by 2010 will investigate the creation of a Transportation Concurrency Management Area in Estero. (Added by Ordinance No. 99-15, Amended and Relocated by Ordinance No. 00-08, Amended by Ordinance No. 07-09)~~

~~**POLICY 37.4.4:** Lee County will continue to explore an area wide transportation concurrency approach for the entire county. (Added by Ordinance No. 07-09)~~

OBJECTIVE 37.5: PROPORTIONATE FAIR SHARE PROGRAM. Lee County will adopt maintain a Transportation Proportionate Fair Share Program, ~~consistent with the requirements of Subsection 163.3180(16), F.S., that provides a method by which the impacts of development on transportation facilities can be mitigated by the cooperative efforts of the public and private sectors. (Added by Ordinance No. 07-09)~~

~~**POLICY 37.5.2:** The Proportionate Fair Share Program will not apply until a deficiency is identified through the County's Concurrency Management System. (Added by Ordinance No. 07-09)~~

POLICY 37.4.35.2: Previously vested cConcurrency certificates vesting (i.e., a long-term concurrency certificate) ~~may be granted for DRIs under limited circumstances, in~~

~~accordance with Chapter 163.3180(12), F.S., and will remain valid as long as the certificate includes the following: including up to a 10-year time limitation, a limitation on changes to the DRI development parameters over time, and was the execution as part of a local government development agreement in which the developer agrees to pay his the full proportionate share/impact fee obligation up front. (Added by Ordinance No. 00-08)~~

PARKS, RECREATION AND OPEN SPACE ELEMENT, CHAPTER V

OBJECTIVE 83.1: STANDARD COMMUNITY PARK STANDARD. Lee County will provide for the active recreational needs of unincorporated Lee County in ~~standard~~ community parks by providing a minimum of 0.8 acres of developed ~~Standard~~ Community Parks open for public use per 1,000 population (minimum acceptable level of service, see Policy 95.1.3). ~~By 1996 this standard will be increased to 1.75 acres per 1,000 population (desired future level of service, see Policy 95.1.4). By 1998 the county will provide~~ However, the County strives to provide 2 or more acres per 1,000 population (desired future level of service, see Policy 95.1.4), unincorporated county only. The population used for calculating these standards is the unincorporated Lee County permanent population. The acres used in calculating these standards are improved ~~Standard~~ Community Parks acres that are open for public use. ~~The 1996 and 1998 Community parks standards are non-regulatory, desired level of service standards and are not required for concurrency purposes. (Amended by Ordinance No. 93-25, 94-30, 98-09, 00-22)~~

OBJECTIVE 84.1: REGIONAL PARK STANDARD: Lee County ~~must~~ will provide a minimum of 6 acres per 1,000 population (minimum acceptable level of service, see Policy 95.1.3). ~~By 1998 this standard will be increased to~~ However, the County strives to provide 8 or more acres per 1,000 population (~~non-regulatory,~~ desired future level of service, see Policy 95.1.4). The population used for calculating this standard is the total seasonal population for all of Lee County. The acres used in calculating this standard are improved Regional Park acres that are open for public use. Federal and state facilities in Lee County are to be counted in meeting this standard. The Regional Park standards are non-regulatory and are not required for concurrency proposes. (Amended by Ordinance No. 94-30, 98-09, 00-22)

CAPITAL IMPROVEMENTS ELEMENT, CHAPTER VI

POLICY 95.1.3: MINIMUM ACCEPTABLE LEVEL-OF-SERVICE STANDARDS. Level-of-service (LOS) standards will be the basis for planning the provision of required public facilities within Lee County. Some of these standards will be the basis for determining the adequacy of public facilities for the purposes of permitting new development. The "Minimum Acceptable Level of Service" will be the basis for facility design, for setting impact fees, and (where applicable) for the operation of the Concurrency Management System (CMS).

Two classes of standards are established. "Regulatory" standards are those which apply to facilities identified in state law or inter-local agreements as being essential to support development. These consist of facilities for the provision of public schools, potable water, sanitary sewer, disposal of solid waste, and stormwater management, ~~community and regional parks, and transportation.~~ (It is the intent of this element that these standards will be the same as those established in the various relevant plan elements. If there are discrepancies between standards contained in the elements and standards as set forth herein, the standards as set forth herein will govern.) The second class, "non-regulatory" standards, are those which apply to other facilities for which the county desires to set standards for its own use. These consist of facilities for the provision of community and regional parks, and transportation. ~~compliance~~ Compliance with these non-regulatory standards will not be a requirement for continued development permitting, but will be used for facility planning purposes.

REGULATORY STANDARDS

1. Potable Water Facilities:

Minimum Acceptable Level of Service:

Within certificated, franchised, or designated service areas only: supply and treatment capacity of 250 gallons per day per Equivalent Residential Connection (ERC) for the peak month, except that facilities serving only mobile home residential structures must have a capacity of 187.5 gallons per day, and facilities serving only travel trailer residential structures must have a capacity of 150 gallons per day. Where a private water utility has provided an alternate standard for application within its certificated or franchised area, and that standard has been adopted into this comprehensive plan, that will be the standard to be used for concurrency management in the respective certificated or franchised area.

2. Sanitary Sewer Facilities:

Minimum Acceptable Level of Service:

Within certificated, franchised, or designated service areas only: average treatment and disposal capacity of 200 gallons per day per Equivalent Residential Connection (ERC) for the peak month, except that facilities serving only mobile home residential structures must have a capacity of 150 gallons per day, and facilities serving only travel trailer residential structures must have a capacity of 120 gallons per day. Where a private sewer utility has provided an alternate standard for application within its certificated or franchised area, and that standard has been adopted into this comprehensive plan, that will be the standard to be used for concurrency management in the respective certificated or franchised area.

3. Facilities for Disposal of Solid Waste:

Minimum Acceptable Level of Service:

Disposal facility capacity for 7 pounds of waste (or equivalent volume) per day per capita

4. Stormwater Management Facilities:

Minimum Acceptable Level of Service: ~~INTERIM~~

- (a) Existing Infrastructure/Interim Standard - The existing surface water management system in the unincorporated areas of the county will be sufficient to prevent the flooding of designated evacuation routes (see Map 15) from the 25-year, 3-day storm event (rainfall) for more than 24 hours.

- (b) Six Mile Cypress Watershed - The level-of-service standard for the Six Mile Cypress Watershed will be that public infrastructure remains adequate such that floor slabs for all new private and public structures which are constructed a minimum of one (1) foot above the 100-year, 3-day storm event flood plain level for Six Mile Cypress Watershed will be safe from flooding from a 100-year, 3-day storm event (rainfall). The 100-year level and watershed boundaries are as established in Volume IV of the Six Mile Cypress Watershed Plan.

- (c) Regulation of Private and Public Development - Surface water management systems in new private and public developments (excluding widening of existing roads) will be designed to SFWMD standards (to detain or retain excess stormwater to match the predevelopment discharge rate for the 25-year, 3-day storm event [rainfall]). Stormwater discharges from development must meet relevant water quality and surface water management standards as set forth in Chapters 17-3, 17-40, and 17-302, and Rule 40E-4, F.A.C. New developments will be designed to avoid increased flooding of surrounding areas. These standards are designed to minimize increases of discharge to public water management infrastructure (or to evapotranspiration) that exceed historic rates, to minimize change to the historic hydroperiod of receiving waters, to maintain the quality of receiving waters, and to eliminate the disruption of wetlands and flowways, whose preservation is deemed in the public interest.

75. Public School Facilities

The following Level of Service (LOS) standards for public schools are based upon Permanent Florida Inventory School Houses (FISH) capacity.

- (a) Elementary Schools: 100% of Permanent FISH Capacity as adjusted by the School Board annually to account for measurable programmatic changes.
 - (b) Middle Schools: 100% of Permanent FISH Capacity as adjusted by the School Board annually to account for measurable programmatic changes.
 - (c) High Schools: 100% of Permanent FISH Capacity as adjusted by the School Board annually to account for measurable programmatic changes.
 - (d) Special Purpose Facilities: 100% of Permanent FISH Capacity as adjusted by the School Board annually to account for measurable programmatic changes.
- (Added by Ordinance No. 08-17, Amended by Ordinance 08-27)

NON-REGULATORY STANDARDS

56. Parks and Recreation Facilities:

Minimum Acceptable Level of Service:

- (a) Regional Parks - 6 acres of developed regional park land open for public use per 1000 total seasonal county population.
- (b) Community Parks - 0.8 acres of developed standard community parks open for public use per 1000 permanent population, unincorporated county only.

67. Roadway Facilities:

The minimum acceptable peak hour, peak season, peak direction roadway levels of service will be as follows:

	Peak Hour/Peak Season/Peak Direction
State & County Maintained Roads (Excluding FIHS, SIS and TRIP Roads)	
Expressways (Limited Access Facilities)	D
Controlled Access Arterials	E
Arterials	E
Major Collectors	E
Minor Collectors	E
FIHS Roads⁽⁴⁾	
I 75	
Collier County to SR 78	D
SR 78 to Charlotte County	C
SR 80 (Palm Beach Boulevard)	
I 75 to Werner Dr.	D
Werner Dr. to Hendry County	C
SIS Roads	
SR 82 (Immokalee Road)	
Lee Boulevard to Commerce Lakes Dr.	D
Commerce Lakes Dr. to Hendry County	C
Airport Connector	
I 75 to Ben Hill Griffin Parkway	D
TRIP Funded Roads	
Colonial Boulevard	
I 75 to Lee Boulevard	D
Imperial Parkway	
E. Terry Street to Bonita Bill Dr.	D
Six Mile Cypress Parkway	
Daniels Parkway to Winkler Avenue	D

⁽⁴⁾ The County may seek variances to the level of service of standards for the FIHS facilities as authorized under Section 120.542, F.S. If granted, the level of service standards for I-75 and SR-80 will be as approved by FDOT in the Order Granting Petition for Variance.

LOS "E" is the minimum acceptable standard LOS for principal and minor arterials, and major collectors on county-maintained transportation facilities. Level of service standards

for the State Highway System during peak travel hours are D in urbanized areas and C outside urbanized areas.

Due to scenic, historic, environmental, aesthetic, and right-of-way characteristics and considerations, Lee County has determined that certain roadway segments will not be widened. Therefore, reduced peak hour levels of service will be accepted on those constrained roads within unincorporated Lee County as a trade-off for the preservation of the scenic, historic, environmental, and aesthetic character of the community. These constrained roads are defined in Table 2(a). ~~Growth on those constrained roads will be permitted only within the volume to capacity (v/c) ratios established in this plan and only if consistent with the Operational Improvement Program for those constrained roads.~~

The minimum ~~acceptable~~ level of service as specified above for Pine Island Road between Burnt Store Road and Stringfellow Boulevard is subject to Policy 14.2.1 and Policy 14.2.2.

For minimum ~~acceptable~~ levels of service determination, the peak season, peak hour, peak direction condition will be defined as the 100th highest volume hour of the year in the predominant traffic flow direction. The 100th highest hour approximates the typical peak hour during the peak season. Peak season, peak hour, peak direction conditions will be calculated using K-100 factors and "D" factors from the nearest, most appropriate county permanent traffic count station.

(Amended by Ordinance No. 07-09, 10-36)

~~NON-REGULATORY STANDARDS~~

8. Recreation Facilities:

- (a) Community Recreation Centers - four recreation centers of 25,000 square feet or more within unincorporated Lee County.
- (b) Boat Ramps - One boat ramp lane with adequate parking per 12,500 people, based on seasonal population.
- (c) Water (Beach) Accesses - Retain current inventory, and develop or redevelop accesses throughout Lee County.

9. Libraries:

Maintain existing per-capita inventory; provide 1.6 items and .274 square feet of library space per capita (permanent residents).

10. Emergency Medical Service:

3.18 advanced life support ambulance stations per 100,000 population with a five and one half (5 1/2) minute average response time.

(Amended by Ordinance No. 91-19, 92-35, 94-30, 99-15, 00-08, 00-22, 02-02, 07-09, [Partially] Renumbered by Ordinance No. 08-17, Amended by Ordinance No. 08-27, 10-36, 11-22)

POLICY 95.1.4: DESIRED FUTURE LEVEL-OF-SERVICE STANDARDS. For certain facilities, a second LOS standard, a "Desired Future Level of Service," is set forth. These standards represent a community goal of higher levels of public service and facility provision than can be achieved with current resources. It is the intent of Lee County to achieve these levels of facility provision by the dates prescribed in this policy. However, failure to achieve these goals will not halt the issuance of development orders under the Concurrency Management System.

1. Stormwater Management Facilities:

To be established basin by basin subsequent to the county-wide surface water management master plan. Future service standards can only be finalized upon the completion of the basin studies and will be based upon providing a defined level of flood protection, balanced with the protection of natural flow ways and associated wetland systems.

The following additional standards are hereby established for the Six Mile Cypress Watershed:

- The Six Mile Cypress Slough and its major tributaries as identified in the Six Mile Cypress Watershed Plan (February 1990) must accommodate the associated discharge from the 25-year, 3-day storm event (rainfall). (Ref: Six Mile Cypress Watershed Plan (February 1990) - Volume II, page 10-5.)
- Water quality must be improved in accordance with EPA's NPDES and Rule 17-40 F.A.C. criteria for stormwater discharges.

2. Parks and Recreation Facilities:

a. Regional Parks:

~~By 1998,~~ Lee County will provide 8 acres of improved regional park land open for public use per 1000 total seasonal population for all of Lee County.

b. Community Parks:

~~By 1996,~~ Lee County will provide ~~1.75 acres of improved standard community parks open for public use per 1000 unincorporated Lee County permanent population;~~ by September 30, 1998 the county will increase this to 2.0 acres of improved standard community parks open for public use per 1000 unincorporated Lee County permanent population.

3. Libraries:

2 items per capita (permanent residents) and .424 square feet of space per capita in 2000.

(Amended by Ordinance No. 91-19, 93-25, 94-30, 98-09, 00-22)

OBJECTIVE 95.3: OTHER FINANCING POLICIES. Establish a broad-based system of revenue regulations that ensure that new development pays ~~at least 90%~~ an appropriate share of the capital costs of the public infrastructure directly attributable to that new development.
(Amended by Ordinance No. 94-30)

MAPS AMENDMENTS:




MAP 3A: Lee County 2030 Financially Feasible Highway Plan (Update)

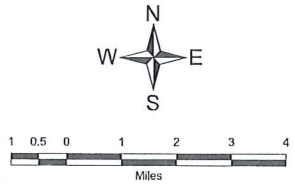
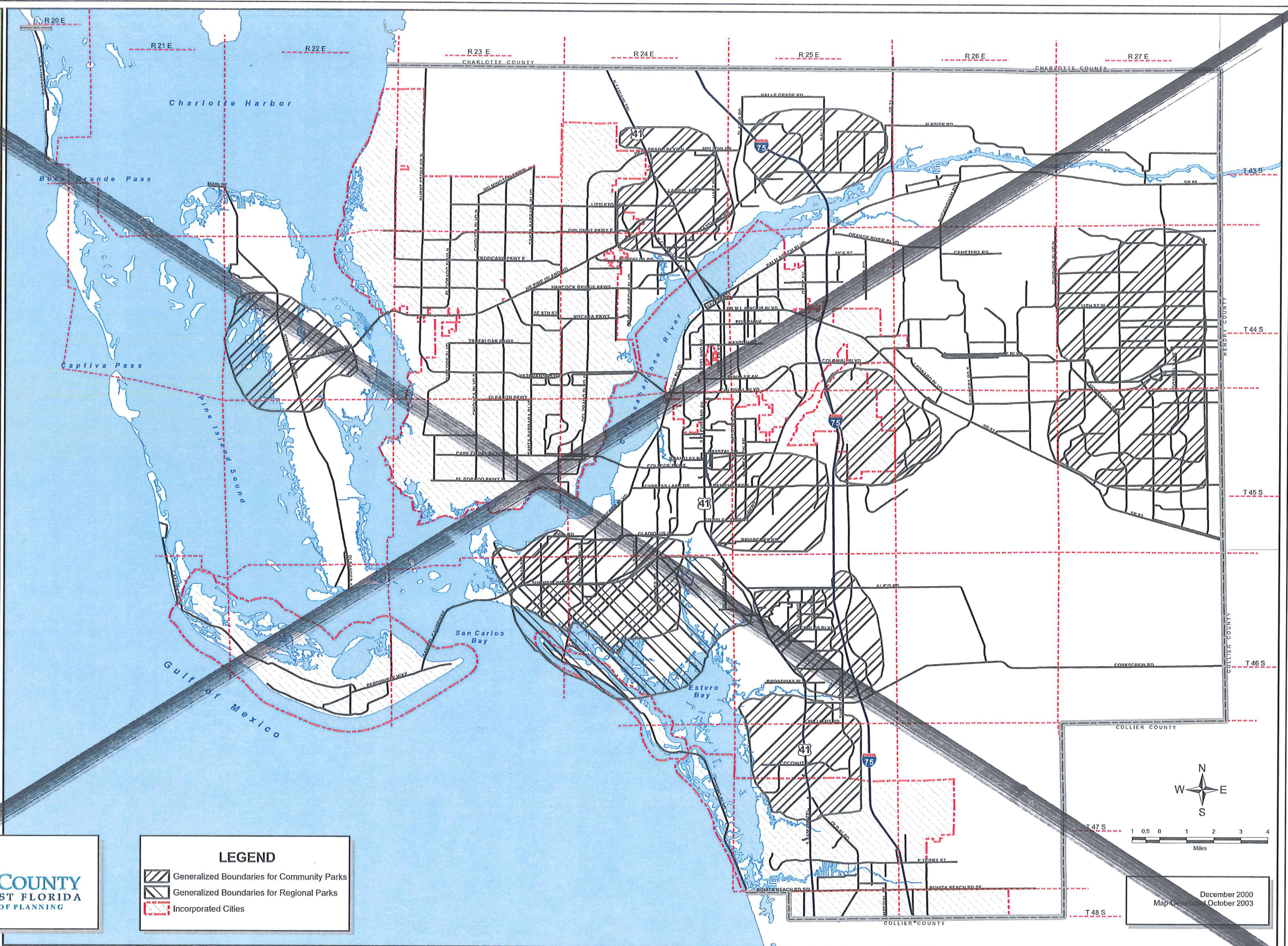
MAP 11: Future Recreational Uses, Generalized Service Area Boundaries (Delete)

**FUTURE RECREATIONAL USES
GENERALIZED SERVICE AREA BOUNDARIES**
(Lee Plan Map 11)



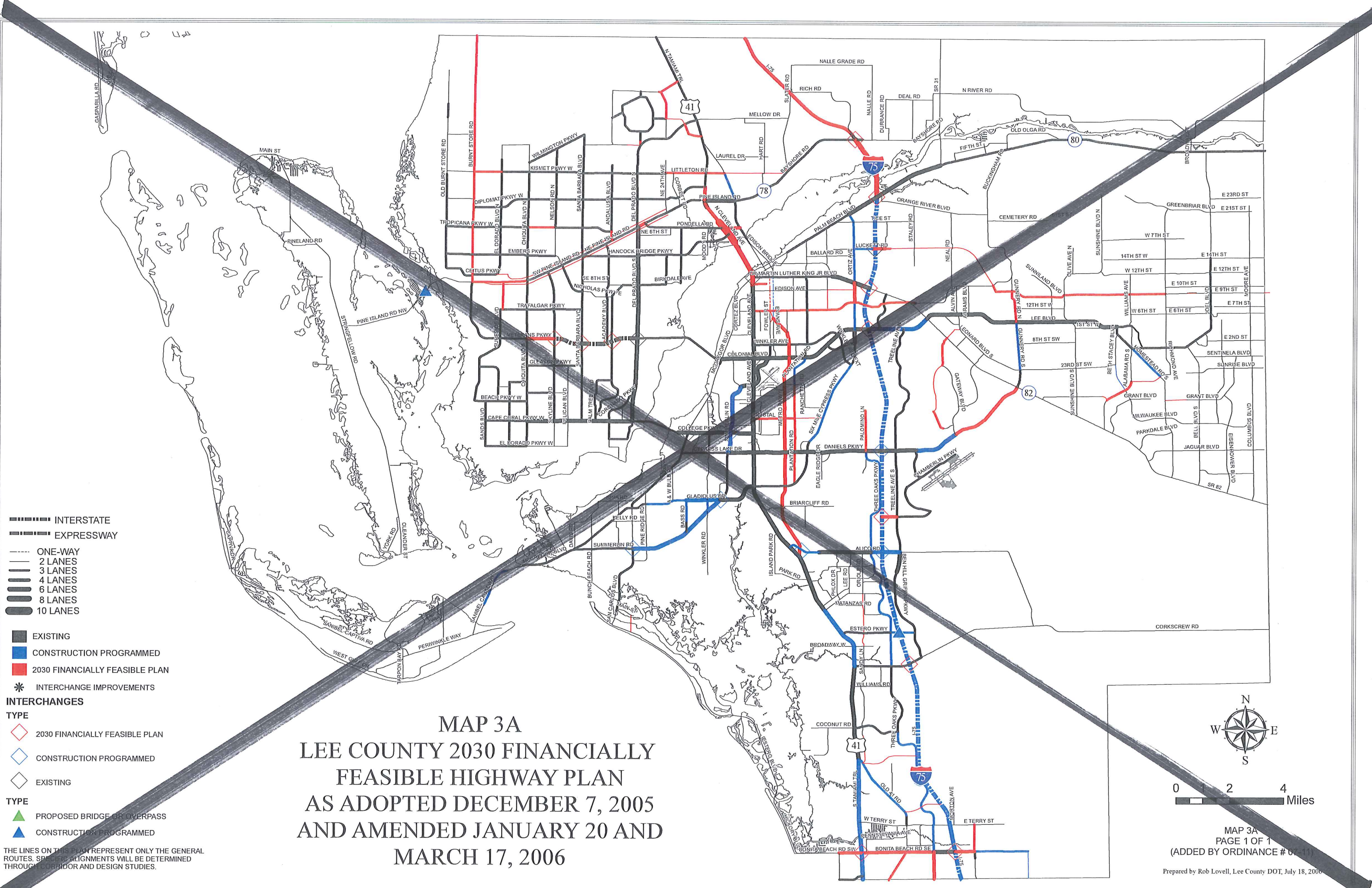
LEGEND

-  Generalized Boundaries for Community Parks
-  Generalized Boundaries for Regional Parks
-  Incorporated Cities



December 2000
Map Generated October 2003

Reserved
for
Map 11

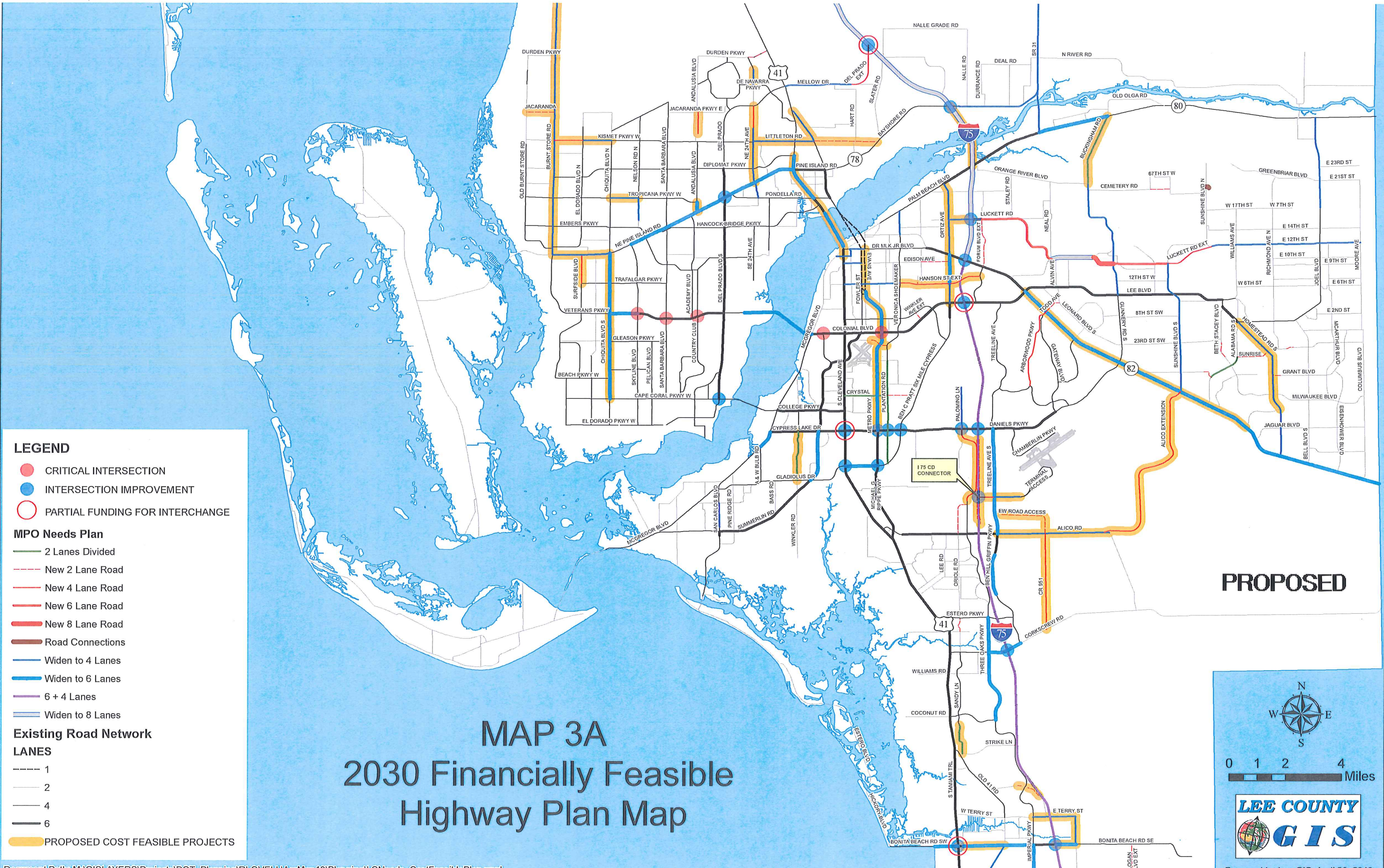


- INTERSTATE
- EXPRESSWAY
- ONE-WAY
- 2 LANES
- 3 LANES
- 4 LANES
- 6 LANES
- 8 LANES
- 10 LANES
- █ EXISTING
- █ CONSTRUCTION PROGRAMMED
- █ 2030 FINANCIALLY FEASIBLE PLAN
- * INTERCHANGE IMPROVEMENTS
- INTERCHANGES**
- ◇ TYPE
- ◇ 2030 FINANCIALLY FEASIBLE PLAN
- ◇ CONSTRUCTION PROGRAMMED
- ◇ EXISTING
- ◇ TYPE
- ▲ PROPOSED BRIDGE OR OVERPASS
- ▲ CONSTRUCTION PROGRAMMED

MAP 3A
LEE COUNTY 2030 FINANCIALLY
FEASIBLE HIGHWAY PLAN
AS ADOPTED DECEMBER 7, 2005
AND AMENDED JANUARY 20 AND
MARCH 17, 2006



THE LINES ON THIS PLAN REPRESENT ONLY THE GENERAL ROUTES. SPECIFIC ALIGNMENTS WILL BE DETERMINED THROUGH CORRIDOR AND DESIGN STUDIES.



LEGEND

- CRITICAL INTERSECTION
- INTERSECTION IMPROVEMENT
- PARTIAL FUNDING FOR INTERCHANGE

MPO Needs Plan

- 2 Lanes Divided
- New 2 Lane Road
- New 4 Lane Road
- New 6 Lane Road
- New 8 Lane Road
- Road Connections
- Widen to 4 Lanes
- Widen to 6 Lanes
- 6 + 4 Lanes
- Widen to 8 Lanes

Existing Road Network

LANES

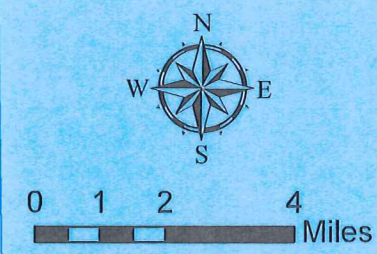
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- 2
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- 6

PROPOSED COST FEASIBLE PROJECTS

MAP 3A

2030 Financially Feasible Highway Plan Map

PROPOSED



Rick Scott
GOVERNOR



Jesse Panuccio
EXECUTIVE DIRECTOR

RECEIVED
OCT 23 2013

COMMUNITY DEVELOPMENT

October 18, 2013

Kevin Ruane, Chairman
Lee County Metropolitan Planning Organization
Post Office Box 150045
Cape Coral, Florida 33915-0045

Dear Chairman Ruane:

Thank you for submitting the Lee County MPO Transportation Improvement Program (TIP) for fiscal years 2013/2014 through 2017/2018. Pursuant to Section 339.175, Florida Statutes, the Department has reviewed the TIP for consistency with the applicable local government comprehensive plans.

Our review indicates that the TIP is generally consistent with the comprehensive plans of the County and municipalities within the MPO's area. However, Lee County's comprehensive plan does not reflect four projects on the Future Transportation Map Series. The County should update its Future Transportation Map to reflect these projects and, if the projects' construction phase is planned within the next five years, the Five-year Schedule of Capital Improvements. The following is the detailed information concerning the TIP projects:

- FPN #: 4258411, Project name: State Route 82, Project Limits: from CR 884 to Shawnee Road, Local Government Location: Lee County
- FPN #: 4258412, Project name: State Route 82, Project Limits: from Shawnee Road to Alabama Road South, Local Government Location: Lee County
- FPN#: 4258413, Project name: State Route 82, Project Limits: from Alabama Road South to Homestead Road South, Local Government Location: Lee County
- FPN#: 4258414, Project name: State Route 82, Project Limits: from Homestead Road South to Hendry County Line , Local Government Location: Lee County

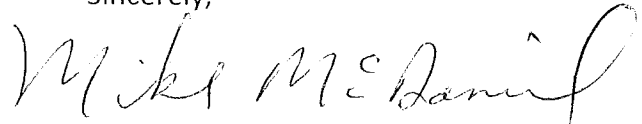
Kevin Ruane, Chairman

October 18, 2013

Page 2 of 2

We appreciate your efforts to coordinate the transportation projects in the TIP with local government comprehensive plans and have sent a copy of this letter to Lee County. Should you have any questions concerning this determination or the review process, please contact Chris A. Wigglesworth at (850) 717-8515.

Sincerely,

A handwritten signature in black ink that reads "Mike McDaniel". The signature is written in a cursive style with a large, looping initial "M".

Mike McDaniel,
Comprehensive Planning Manager

MM/caw

cc: Paul O' Conner, AICP, Lee County Planning Division Director

Rick Scott
GOVERNOR



Jesse Panuccio
EXECUTIVE DIRECTOR

February 5, 2014

RECEIVED
FEB 06 2014

Ms. Kendra Sheffield, Manager
Work Program Development and Operations
Florida Department of Transportation
605 Suwannee Street, M.S. 21
Tallahassee, Florida 32399-0450

COMMUNITY DEVELOPMENT

Re: The Florida Department of Transportation's 2014 Tentative Work Program

Dear Ms. Sheffield:

Thank you for the opportunity to review the Florida Department of Transportation's Tentative Work Program for fiscal years 2014/15 through 2018/19. In accordance with Section 339.135 (4)(f), Florida Statutes, the Department of Economic Opportunity has reviewed the Work Program projects for consistency with the local government comprehensive plans.

The Variance Report included with your letter dated January 7, 2014, included forty-nine proposed major roadway capacity projects for the Department to review. Based on the Department's review project number 4258411, in Lee County (widening State Route 82 from County Road 884 to Shawnee Road), is not consistent with the County's Comprehensive Plan. The Department recommends the County update their Comprehensive Plan to include this project.

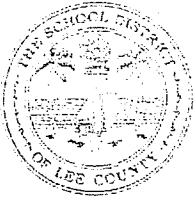
If you have any questions or comments regarding this review, please feel free to contact Chris A. Wiglesworth at (850)717-8515 or email at chris.wiglesworth@deo.myflorida.com.

Sincerely,

Ana Richmond
Comprehensive Planning Manager

AR/caw

cc: Tom DiGiacomo, Florida Transportation Commission
L.K. Saliba, Florida Department of Transportation
Paul O'Conner, Lee County



THE SCHOOL DISTRICT OF LEE COUNTY

2855 COLONIAL BLVD. ♦ FORT MYERS, FLORIDA 33966-1012 ♦ (239) 334-1102 ♦ WWW.LEESCHOOLS.NET

Copy to: Paul Holt
Gibbs
9/11

2011 SEP 16 PM 3:17

CC: DIST 1, 2, 3, 4.
Karen Haest.
Mary Gibbs
Donna Mulla
Caldine

September 14, 2011

COMM. DEV./
PUB. WRKS. CNTR.
SECOND FLOOR

- THOMAS SCOTT
CHAIRMAN, DISTRICT 5
- MARY FISCHER, M.A.
VICE CHAIRMAN, DISTRICT 1
- JEANNE S. DOZIER
DISTRICT 2
- JANE E. KUCKEL, PH.D.
DISTRICT 3
- DON H. ARMSTRONG
DISTRICT 4
- JOSEPH BURKE, ED.D.
SUPERINTENDENT
- KEITH B. MARTIN, ESQ.
BOARD ATTORNEY

Commissioner Frank Mann
Chair, Lee County Board of County Commissioners
PO Box 398
Fort Myers, FL 33902

RE: School Concurrency

Dear Commissioner Mann:

At its September 13, 2011 Briefing Meeting, information was presented to the School Board indicating that Lee County is considering the elimination of school concurrency. The School Board Members expressed a strong desire to retain school concurrency and asked that I express this desire to the Board of County Commissioners on their behalf. In Lee County, the School Board and the County Commissioners have always had a cooperative relationship and have worked together to ensure that the needs of school children in Lee County are met. During the years of intensive growth in the County, the School Board faced a number of challenges in ensuring that there were adequate facilities in place to serve the needs of the rapidly growing student population. The District was required to build a large number of school facilities in a short period of time. The Board of County Commissioners provided essential support to this District effort by adopting and implementing school impact fees. Although growth in some counties is currently stagnant, the District has seen an increase in the number of students that are being served this year and we expect that growth to continue. While it may not return to the rapid rate of growth that the County experienced a few years ago, the District will continue to have a responsibility to provide student stations for those additional students and, at the same time, provide for maintenance of existing facilities, to ensure that all of the children in Lee County have a safe environment in which to pursue their education. School Concurrency can play a vital role in ensuring that the District meets these obligations. While the school impact fee has provided valuable assistance to the District in fulfilling the needs resulting from student growth and will continue to do so in the future, the collection of the fee occurs at the time that each individual permit is pulled. Under school concurrency, if a developer is required to pay mitigation, those funds are received by the District at a time that allows the District to construct facilities in anticipation of those additional students. When the students move in to the homes in these developments, the schools will be available for them. This is especially important in a time when the revenue received from the state for capital projects continues to decline. Concurrency can also add to the District's ability to locate facilities in close proximity to developments, which will assist the District in minimizing the time that children spend on a bus travelling to and from school.

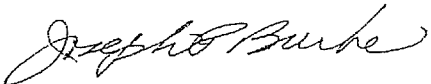
The support and assistance of the Lee County Board of County Commissioners, through the adoption of school concurrency and school impact fees, has been vital to ensuring the District has sufficient school facilities to serve all of its students. The result has been improved academic

Commissioner Frank Mann
September 14, 2011
Page 2

achievement for our students. The District has received an A grade from the Florida Department of Education for the last three years. In order to maintain this level of accomplishment, the District must continue to excel in all areas that serve the needs of students, including providing facilities that meet the needs of a growing population in a way that fosters student achievement. The continued support of the Lee County Board of County Commissioners by maintaining school concurrency and school impact fees is essential to meeting this need.

For all of the reasons mentioned above, the School Board would ask that you consider maintaining school concurrency in Lee County. If you have any questions, please feel free to contact me.

Sincerely,

A handwritten signature in cursive script, appearing to read "Joseph P. Burke".

Joseph P. Burke, Ed.D.
Superintendent

cc: Thomas Scott, Chair
Mary Fischer, Vice Chair
Jeanne Dozier, Board Member
Dr. Jane Kuckel, Board Member
Don Armstrong, Board Member

INTERLOCAL AGREEMENT
ON SCHOOL CONCURRENCY

This agreement is made this 18th day of March 2008, by and between Lee County, a political subdivision of the State of Florida, hereinafter referred to as "County," and the School Board of Lee County, a public agency of the State of Florida, hereinafter referred to as "School Board."

WHEREAS, the School Board of Lee County has constitutional and statutory obligations to provide a uniform system of free public schools on a Countywide basis; and,

WHEREAS, Lee County's land use authority includes the authority to approve or deny Comprehensive Plan amendments, zoning applications, and development orders; and,

WHEREAS, Lee County and the School Board desire to establish mechanisms for coordinating the development, adoption, and amendment of Lee County's public school facilities element with each other and the plans of the School Board to ensure a uniform district-wide school concurrency system; and,

WHEREAS, Lee County and the School Board desire to specify uniform, district-wide level-of-service standards for public schools of the same type and the process for modifying the adopted level-of-service standards; and,

WHEREAS, Lee County and the School Board desire to establish a process for the preparation, amendment, and joint approval of a financially feasible Public School Capital Facilities Program, and a process and schedule for incorporation of the Public School Capital Facilities Program into the County's Comprehensive Plan on an annual basis; and,

WHEREAS, Lee County and the School Board desire to establish a uniform district-wide procedure for implementing school concurrency that provides for:

- a. the evaluation of development applications for compliance with school concurrency requirements, including information provided by the School Board on affected schools, impacts on levels-of-service, programmed improvements for affected schools, and options to provide sufficient capacity; and,
- b. monitoring and evaluation of the School Concurrency System; and,

WHEREAS, Lee County and the School Board desire to develop a process and uniform methodology for determining proportionate share mitigation for projects that are unable to achieve public school concurrency; and,

WHEREAS, Lee County and the School Board desire to establish options for proportionate share mitigation of impacts on public school facilities as contemplated in Florida Statutes, Section 163.3180(13)(e); and,

WHEREAS, Lee County and the School Board entered into an interlocal agreement for public educational facility planning and siting on August 20, 2002, that remains in full force and effect; and,

WHEREAS, that interlocal was subsequently amended on January 11, 2005; and,

WHEREAS, Florida Statutes 163.31777 and 163.3180(g) set forth requirements for school concurrency that must be implemented through interlocal coordination between the County and the School Board; and,

WHEREAS, the County and the School Board have met and coordinated with respect to the statutory requirements for a Countywide, uniform School Concurrency Program; and,

WHEREAS, the County must amend its Comprehensive Plan and Land Development Code in 2008 in order to effectuate its obligations under this agreement and State statutes; and,

WHEREAS, this interlocal agreement does not delegate or transfer land use planning or regulatory authority to the School Board.

NOW, THEREFORE, IT IS mutually agreed between the Lee County Board of Commissioners and the School Board of Lee County that the following requirements and procedures will be followed in connection with the implementation of a School Concurrency Program in Lee County.

1. Definitions.

a. Definitions. The terms used in this subsection are defined as follows:

- i. Available school capacity – the circumstance where there is sufficient school capacity, based on LOS standards, to accommodate the demand created by a proposed development.
- ii. Capacity – “capacity” as defined in the FISH Manual.
- iii. Existing school facilities – school facilities constructed and operational at the time a School Concurrency Application is submitted to the County.

- iv. FISH Manual – the document entitled “Florida Inventory of School Houses (FISH)”, 2006 edition, that is published by the Florida Department of Education, Office of Educational Facilities.
 - v. Permanent FISH Capacity – capacity that is added by permanent buildings, as defined in the FISH manual.
 - vi. Planned school facilities – school facility capacity that will be in place or under actual construction within three (3) years after the issuance of final subdivision or site plan approval; pursuant to the School Board’s adopted Work Program.
 - vii. Previously Approved Development – development approved as follows:
 - (1) Single family lots having received final plat approval prior to the effective date of the County’s School Concurrency Ordinance.
 - (2) Multi-Family residential development having received final site plan approval prior to the effective date of the County’s respective School Concurrency Ordinance.
 - viii. Concurrency Certificate – A certificate issued by the County stating that there is sufficient capacity by school type and by CSA to adequately serve the projected impacts of a proposed Development Order.
 - ix. Total school facilities – Existing school facilities and planned school facilities.
 - x. Used capacity – School facility capacity consumed by or reserved for preexisting development.
 - xi. Work Program – the financially feasible five-year school district facilities program adopted pursuant to section 1013.35, Florida Statutes. Financial feasibility shall be determined using professionally accepted methodologies.
2. Comprehensive Plan. No later than April 1, 2008, the County will adopt Comprehensive Plan Amendments to address school concurrency matters, including:
- a. A Public Schools Facilities Element, pursuant to Sections 163.3177 (12) and 163.3180, Florida Statutes.

- b. Changes to the Intergovernmental Coordination Element necessary to effectuate school concurrency methodologies and processes, as provided herein.
 - c. Changes to the Capital Improvements Element (CIE) necessary to effectuate school concurrency methodologies and processes, as provided herein.
- 3. Land Development Code. Following the amendment of the County's Comprehensive Plan to incorporate school concurrency, the County will amend the Land Development Code to implement school concurrency consistent with the Comprehensive Plan, sections 163.3180 and 163.3202, Florida Statutes and this Agreement.
- 4. Five-Year Facilities Work Program.
 - a. Annually, following adoption of this Agreement, but no later than December 1st, the County will amend the CIE of the Comprehensive Plan to incorporate the School Board's adopted Work Program. Following a Work Program update or amendment, the County will consider further amendments to its CIE to incorporate updates or amendments during the immediately subsequent round of Comprehensive Plan Amendments.
- 5. Level of Service Standards.
 - a. Pursuant to Section 163.3180(13)(b) Florida Statutes, the Level of Service (LOS) standards set forth herein will be applied consistently throughout the County for the purposes of implementing school concurrency, including determining whether sufficient capacity exists to accommodate a particular development proposal, and determining the financial feasibility of the School Board's Work Program.
 - b. The LOS standards set forth herein will be included in the CIE and will be applied consistently by the County and the School Board districtwide to all schools of the same type.
 - c. After consultation and agreement with Lee County and the School Board, the LOS standards may be amended only pursuant to an amendment to the Lee Plan and this interlocal agreement.
 - d. The LOS standards to be used by the County and the School Board to implement school concurrency are as follows:
 - i. Elementary: 100% of permanent FISH capacity as adjusted by the School Board annually to account for measurable programmatic changes.

- ii. Middle: 100% of permanent FISH capacity as adjusted by the School Board annually to account for measurable programmatic changes.
- iii. High: 100% of permanent FISH capacity as adjusted by the School Board annually to account for measurable programmatic changes.
- iv. Special Purpose: 100% of permanent FISH capacity as adjusted by the School Board annually to account for measurable programmatic changes.

A "measurable programmatic change" means a change to the operation of a school and measurable capacity impacts including, but not limited to, double sessions, floating teachers, year-round schools and special educational programs.

- v. Relocatable classrooms will be utilized to maintain the level of service on a temporary basis when construction to increase capacity is planned and is in process. The temporary capacity provided by relocatables may not exceed 20 percent of the permanent FISH capacity and may be used for a period of not to exceed three years. Relocatables may also be used to accommodate special education programs as required by law and to provide temporary classrooms while a portion of an existing school is under renovation.

6. School Concurrency Service Areas.

- a. Pursuant to Section 163.3180 (13)(c), School Concurrency Service Areas (CSAs) are initially established to be coterminous with the existing Student Assignment Zones for elementary, middle, and high schools shown on the attached map (Exhibit A).
- b. CSAs may be subsequently modified to maximize available school capacity and make efficient use of new and existing public school facilities in accordance with the LOS standards set forth in this Agreement. The School Board may amend the CSAs only after review and comment by the County. After the initial three years of implementing school concurrency, the School District may propose an amendment to the CSAs to make them coterminous with the existing Student Assignment sub-zones. Lee County will consider and process a Lee Plan amendment accordingly.
- c. The establishment and modification of CSAs will take into account school policies to:
 - i. minimize student transportation costs;

- ii. limit maximum student travel times;
 - iii. achieve socio-economic, racial and cultural diversity objectives;
 - iv. recognize capacity commitments resulting from local governments' development approvals for the CSA; and,
 - v. recognize capacity commitments resulting from local governments' development approvals for contiguous CSAs
- d. CSAs will be described geographically in the County's Comprehensive Plan pursuant to Section 163.3180(13)(g)(5), Florida Statutes.

7. Demand Monitoring and Evaluation.

- a. The County will provide the following information to the School Board on an annual basis to facilitate the projection of demand and student generation rate trends:
 - i. Geo-referenced building permit and certificate of occupancy data;
 - ii. Summary of actions on preliminary and final plats;
 - iii. Summary of site development plan approvals for multi-family projects; and,
 - iv. Summary of other actions that affect demands for public school facilities.
- b. The School Board will provide the County with a copy of each concurrency determination letter issued to a municipality. The County will reflect the data from the letters in the forecasted capacity commitments for the corresponding CSA.

8. Applicability.

- a. Except as provided in subsection b. below, school concurrency applies to residential uses that generate demands for public school facilities and are proposed or established after the effective date of the LDC amendments incorporating school concurrency.
- b. The following residential uses are exempt from the requirements of school concurrency:

- i. Single family lots having received final plat approval prior to the effective date of the applicable School Concurrency Ordinance.
- ii. Multi-family residential development having received final site plan approval prior to the effective date of the applicable amendments to the LDC incorporating school concurrency.
- iii. Amendments to residential development approvals issued prior to the effective date of the Lee Plan, that do not increase the number of residential units or change the type of residential units proposed.
- iv. Other uses as provided for in the Land Development Code.

9. Process for Determining School Facilities Concurrency.

- a. The School Board will annually compile a School Concurrency Inventory Report. The School Board will inventory current school capacity and current occupancy by school type and by CSA. Current capacity will be adjusted by adding in the expected capacity increase from new or expanded planned school facilities for the next three years, in accordance with the adopted School Board Capital Improvements Program. Current occupancy will then be subtracted from existing and expected capacity to calculate the available capacity by school type by CSA. The School Concurrency Inventory will then be transmitted to the County.
- b. Upon the receipt of a complete School Concurrency Inventory the County will formally incorporate the Inventory in the County's Concurrency Report. This information will be utilized to determine whether there is available school capacity for each level of school, to accommodate the proposed development, based on the LOS standards, CSAs, and other standards set forth herein and in the respective land development codes.
- c. Upon receipt of a Development Order application, the County will review the application and, based on the standards set forth in this Agreement and the information in the County's current Concurrency Report, make a determination as to:
 - i. whether adequate school capacity exists for each level of school, based on the standards set forth in this Agreement; or
 - ii. if adequate capacity does not exist, whether appropriate mitigation can be accepted, and, if so, acceptable options for mitigation, consistent with this Agreement.

- d. If the County determines that adequate capacity will not be in place or under actual construction within three years after the issuance of final subdivision or site plan approval and mitigation is not an acceptable alternative, the County will not issue a School Concurrency Certificate and will not approve the development application.
- e. If the County determines that adequate capacity does not exist but that mitigation is an acceptable alternative, the development application will remain active pending the conclusion of the mitigation negotiation period described below.
- f. The County will issue a School Concurrency Certificate only upon:
 - i. A determination that adequate school capacity for each level of school will be in place or under actual construction within three years after the issuance of the final subdivision or plat approval without mitigation; or,
 - ii. The execution of a legally binding mitigation agreement between the applicant and the School Board, as provided by this Agreement.

10. Rezoning Review.

When reviewing a proposed rezoning, the County will consider whether the CSA in which the proposed rezoning is situated has available school capacity.

- a. If the CSA where the proposed rezoning is situated does not have available school capacity, the County will determine whether a contiguous CSA (i.e. East Zone, West Zone or South Zone) has available school capacity by identifying the contiguous CSA with the most available school capacity for the particular type of school and assigning the demand from the proposed development to that CSA.
- b. If there is not sufficient capacity in the CSA where the proposed rezoning is situated and there is not sufficient capacity in a contiguous CSA, the County will not issue a concurrency certificate until capacity is in place as contemplated by the agreement, or the applicant provides appropriate mitigation consistent with this agreement.

11. Mitigation Alternatives. If the School Board reports that mitigation may be accepted in order to offset the impacts of a proposed development, the following procedure will be used.

- a. The applicant must initiate, in writing, mitigation negotiation with the School Board to establish an acceptable form of mitigation, pursuant to Section 163.3180(13)(e), Florida Statutes, the Lee Plan, LDC, and this Agreement.
- b. Acceptable forms of mitigation may include:
 - i. The donation of land or funding for land acquisition or construction of a public school facility sufficient to offset the demand for public school facilities anticipated from the proposed development; and,
 - ii. Establishment of a Charter School with facilities constructed in accordance with the State Requirements for Educational Facilities (SREF) on a site that meets the minimum acreage provided in SREF and subject to guarantees that the facility will be conveyed to the School Board at no cost if the Charter School ceases to operate.
- c. The following standards apply to mitigation accepted by the School Board:
 - i. Mitigation must be directed towards a permanent school capacity improvement identified in the School Board's financially feasible Work Program and satisfy the demands created by the proposed development.
 - ii. Relocatable classrooms will not be accepted as mitigation.
- d. In accordance with section 163.3180(13)(e), Florida Statutes, the applicant's proportionate-share mitigation obligation to resolve a capacity deficiency will be based on the following formula, for each school level: Multiply the number of new student stations required to serve the new development by the average cost per student station. The average cost per student station must include school facility development costs and land costs. Pursuant to Section 163.3180(13)(e)(2), Florida Statutes, the applicant's proportionate share mitigation obligation will be credited toward impact fees or exaction imposed by local ordinance for the same need, on a dollar-for-dollar basis, at fair market value.
- e. If within 90 days of the date the applicant initiates mitigation negotiation, the applicant and the School Board agrees to an acceptable form of mitigation, the parties will execute a legally binding mitigation agreement. The mitigation agreement must include the terms of the mitigation, including the amount, nature and timing of donations or funding to be provided by the developer, and any other matter necessary to effectuate mitigation in accordance with this Agreement. The mitigation agreement must specify the

amount and timing of any impact fee credits or reimbursements that will be provided as required by state law.

- f. If, after 90 days, the applicant and the School Board are not able to agree to an acceptable form of mitigation, the School Board will report an impasse to the County in writing. The County will not issue a Concurrency Certificate for the proposed development.
 - g. Mitigation must be proportionate to the demand for public school facilities to anticipated from development of the property.
12. Amendments. This agreement may be amended only by the written consent of the Lee County School Board and the Lee County Board of Commissioners.
13. Oversight. The School Board and the County may appoint citizens to serve on an Oversight Committee to monitor the implementation of this agreement. The Committee may appoint a chairperson and meet annually to report to the County and the School Board and the general public on the effectiveness of the implementation of this interlocal agreement.
14. Termination. Pursuant to Section 1013.33, Florida Statutes, this agreement will be effective on the date it has been executed by all parties, and will continue in full force and affect thereafter. The agreement will automatically be renewed for one-year periods unless the County or the School Board signifies in writing its intent to terminate the agreement at least 120 days prior to the annual renewal date. Notice of Intent to Terminate must be in writing.
15. Dispute Resolution. The adjudication of disputes and disagreements under this agreement will be resolved in accordance with the Government Conflict Resolution Procedures specified in Chapters 164 and 186 of the Florida Statutes.
16. Supplement. This agreement is intended to supplement the interlocal agreement between the County and the School Board dated August 20, 2002, and later amended on January 11, 2005.
17. Counterpart Execution. This agreement may be executed in any number of counterparts, each of which will be deemed an original; but, which together, will constitute one and the same instrument and be the agreement of the parties.
18. Notice. All notices and other communications provided for in this agreement must be in writing. Such notices will be deemed properly delivered when delivered:
- a. Personally;

- b. By facsimile transmission providing the sending party received electronic confirmation thereof; or,
- c. By the mailing of such notice by registered or certified mail to the following address:
 - i. If to the School Board:
Office of the Superintendent
Lee County School District
2855 Colonial Boulevard
Fort Myers, FL 33966
Telephone - 239-337-8512
Fax - 239-337-8683
 - ii. If to the County:
Office of the Lee County Attorney
2115 Second Street, Sixth Floor
Fort Myers, FL 33901
Telephone - 239-533-2236
Fax - 239-485-2106

IN WITNESS WHEREOF, this Interlocal Agreement has been executed on March 18, 2008.

ATTEST:
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: Marcia Wilson
Deputy Clerk

By: Ry Judd
Chair

(Seal)

Date: 3/18/08

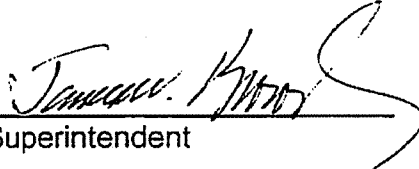



APPROVED AS TO FORM:

By: Donna Marie Collins
Donna Marie Collins
Lee County Attorney's Office

ATTEST:

THE SCHOOL BOARD OF LEE COUNTY,
FLORIDA

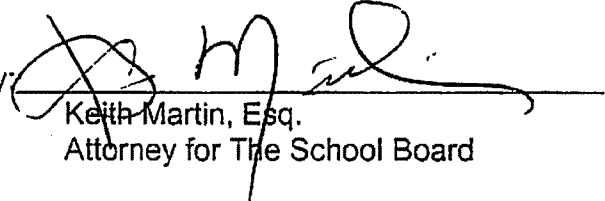
By: 
Superintendent

By: 
Chairman of the Board

Date: _____

APPROVED

FEB 26 2008
SCHOOL BOARD OF
LEE COUNTY

APPROVED AS TO FORM:
By: 
Keith Martin, Esq.
Attorney for The School Board

Exhibits: School Attendance Zones

STUDENT ASSIGNMENT ZONES
2007-2008

- Legend**
- ASSIGNMENT ZONES
 - EAST
 - SOUTH
 - WEST
 - Sub-Zones
- SCHOOLS**
- ★ Staging
 - Elementary
 - Middle
 - High

Please read:
All information taken from this map should be verified by the Parent Information Center.

MAP DISCLAIMER:
Map and associated data available to the public by the Lee County Property Appraiser's Office are not liability certified maps as surveys and courses are not intended to be used as such. The map and documents are created as part of a Geographic Information System (GIS) that receives, stores, information, and data from various departments, such as, county, state and federal agencies. The names, dates and other items shown on this map are intended to represent the information associated with the data on which this map is based for information related to accuracy, currency, and boundaries.

