

**CPA2011-20
FIDDLESTICKS BOULEVARD PARCEL
PRIVATELY SPONSORED
AMENDMENT
TO THE**

LEE COUNTY COMPREHENSIVE PLAN

THE LEE PLAN

Non-Transmittal Document

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October 8, 2014

**LEE COUNTY
DIVISION OF PLANNING
STAFF REPORT FOR
COMPREHENSIVE PLAN AMENDMENT
CPA2011-20**

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 Review Agencies' Comments
	Board of County Commissioners Hearing for Adoption

STAFF REPORT PREPARATION DATE: September 24, 2014

PART I - BACKGROUND AND STAFF RECOMMENDATION

A. SUMMARY OF APPLICATION

1. APPLICANT/REPRESENTATIVES:

The Jeffrey B. Freeman Trust FSM of Fort Myers, LLC, represented by Alexis Crespo, AICP/Waldrop Engineering

2. REQUEST:

Amend Lee Plan Map 1, the Future Land Use Map, for a 394 acre parcel from Rural and Wetlands future land use categories to Outlying Suburban and Wetlands future land use categories.

B. STAFF RECOMMENDATION AND FINDINGS OF FACT SUMMARY

1. RECOMMENDATION: Staff recommends that the Board of County Commissioners **not transmit** the proposed amendment.

The Local Planning Agency, in a 4 to 2 vote, disagreed with the staff recommendation. See Part III of this report for the LPA recommendation and their findings of fact.

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

- The applicant submitted an application to amend the Future Land Use Map on September 30, 2011.
- The upland portions of the subject property have been designated in the Rural future land use category since the Lee Plan was first adopted in 1984.
- The property consists of 393.68 acres. Of these, 143.85 are designated Rural (37% of the site) and 249.83 (63% of the site) are designated Wetlands by the current Future Land Use Map.
- No wetlands jurisdictional determination has been provided by the applicant.
- The plan amendment would result in isolated pockets of Outlying Suburban, an urban designation, within a wetland flowway system.
- Increasing the development potential within and adjacent to a flowway system can create additional impacts to that system.
- The subject parcel has only one point of access, located off of Fiddlesticks Boulevard near the Fiddlesticks Country Club gatehouse.
- The extension of Three Oaks Parkway is expected to cross the subject parcel. No right of way has yet been acquired on the subject property for the extension. No funds are programmed for the roadway within the 5-year timeframe of the Capital Improvement Plan (CIP). Right of Way acquisition funds have been programmed for the 6-10 year CIP planning horizon.
- Offsite improvements would be necessary to connect Three Oaks Parkway to the south which would require bridging of the airport drainage canal.
- The subject property abuts the Fiddlesticks Country Club, Old Hickory Golf and Country Club, and the Legends Golf and Country Club residential communities. The property is bordered by I-75 on the eastern side.
- The property is part of a larger Rural designated area that extends from I-75 to Michael G. Rippe Parkway. This area includes several residential communities such as Fiddlesticks Country Club, Blackhawk subdivision, Briarcliff Ridge subdivision and other rural residential communities along Briarcliff Road.
- The two nearest Lee Tran routes are approximately one mile and one and a half miles away, respectively.
- The proposed amendment does not conform to the intent of the Lee Plan Evaluation and Appraisal Report in regards to the preservation of rural communities.
- The Board of County Commissioners has previously recommended to not transmit a Plan amendment request, PAM96-07, for the subject property that would have changed the future land use designation from Rural to Suburban.

C. BACKGROUND INFORMATION

1. EXISTING CONDITIONS:

SIZE OF PROPERTY:

394 acres

PROPERTY LOCATION:

The property is located at the end of Fiddlesticks Boulevard, west of I-75, one and a half miles south of Daniels Parkway, and one and a quarter miles north of Alico Road.

EXISTING USE OF LAND:

The land is currently used for cattle grazing.

CURRENT ZONING:

The entire subject property is zoned AG-2 (Agricultural).

CURRENT FUTURE LAND USE CATEGORY:

The subject property is currently depicted on the Lee County Future Land Use Map as 249.85 acres of Wetlands and 143.85 acres of Rural.

2. COMPREHENSIVE PLAN BACKGROUND:

The upland portions of the subject parcel are in the Rural future land use category. The wetland portions are in the Wetland future land use category. This area was designated with these categories by the 1984 adoption of the original Lee Plan.

3. SURROUNDING ZONING, LAND USES, AND FUTURE LAND USE DESIGNATIONS:

Abutting the east side of the subject property is I-75. East of I-75 is vacant land zoned AG-2 located in the Tradeport future land use category. Along the west side of the subject property is the Fiddlesticks Country Club which was zoned as a Planned Unit Development by Resolution Z-79-212 for 774 units on 704 acres. This results in an overall density of 1.1 dwelling units per acre. The community is designated with the Rural future land use category. To the north is the Old Hickory Golf and Country Club, and to the northwest is the Legends Golf and Country Club. Both of these residential communities are in the Outlying Suburban and Wetlands future land use categories. Old Hickory was zoned as Residential Planned Development by Resolution Z-87-237 for 858 single family dwelling units on 313 acres for an overall density of 2.74 dwelling units per acre. The Legends was zoned as a Residential Planned Development by Resolution Z-95-051 for 1,573 dwelling units of multiple types on 657.4 acres for an overall density of 2.39 dwelling units per acre. The subject property is abutted on the south by a canal. Across the canal is vacant land that is zoned AG-2, a Mixed Use Planned Development (MPD) called 37 Acre Planned Development, and an Industrial Planned Development called Three Oaks Commerce Park. The MPD was zoned by Resolution Z-11-10 for 520,000 square feet of commercial uses and 100-unit motel/hotel. The IPD was zoned by Resolution Z-06-95 for 30,000 square feet of commercial retail and 750,000 square feet of industrial uses. Both of the planned developments and the AG-2 parcel are in the Wetlands and Industrial Development future land use categories. The completed portion

of Three Oaks Parkway currently ends south of the canal which abuts the southern property boundary.

PART II - STAFF ANALYSIS

A. STAFF DISCUSSION

The character of the subject property is predominated by a wetland flowway system and is being used as grazing lands for cattle. The current and proposed Future Land Use Map identifies approximately 250 acres of the site, or 63 percent of the site as Wetlands. The remaining 144 acres of the subject property is being asked to be redesignated to Outlying Suburban, an urban category. The uplands are located in four non-contiguous areas. The largest upland areas are located near the northeast and southwest corners of the property. The current Rural future land use category allows up to 1 dwelling unit per acre. The proposed future land use category would allow up to 3 dwelling units per acres.

The subject property is within a relatively large area of rural land between I-75 on the east and Michael G. Rippe Parkway to the west (Attachment 1). This area contains low density rural residential uses. This rural area is situated between the more intense residential development to the north and the Industrial-designated areas south of the airport canal extending south to Alico Road. This rural strip acts as a buffer between industrial uses and the more intensely populated areas to the north. An increase in residential density on the subject property would be incompatible with the existing rural community character.

Currently the property, including both the Rural and Wetlands future land use categories, would allow up to 156 dwelling units. In non-urban areas of Lee County density for the Wetlands future land use category is calculated at 1 unit per 20 acres. In urban areas wetland density, as an incentive to preserve them, is calculated at the same rate as the surrounding urban uplands. For the subject property, the redesignation from Rural (a non-urban category) to Outlying Suburban (an urban category), would result in the potential to develop up to 1,182 dwelling units if all wetlands are preserved. This is an increase of more than 750 percent. If the residential density was clustered onto the 144 acres of uplands on the subject site to avoid impacts to the Wetlands and flowway system the resulting density of the upland areas would be approximately 8.2 units per upland acre.

Staff has concerns that the requested future land use amendment would allow up to 1,182 residential dwelling units as well as the potential for commercial uses. It should be noted that the staff proposed amendments to the future land use element as part of the EAR based amendments would eliminate commercial site location standards in the County's urban future land use designations. This would increase the potential for intense commercial development on the site if the Future Land Use Map is amended as proposed by the applicant. Staff does not recommend such a significant intensification of a site that is 63 percent wetlands, part of an identified flowway, and currently has only one means of access along Fiddlesticks Boulevard, a two lane road. Staff concerns are discussed in more detail below.

TRANSPORTATION/TRAFFIC CIRCULATION IMPACTS

The subject property currently only has one means of access, from Fiddlesticks Boulevard in the northwest corner of the property. There is a sixty-foot access easement between Fiddlesticks Boulevard and the northwest corner of the subject property recorded in OR Book 1715, Page 2756. This access easement is just north of the Fiddlesticks Country Club gated entrance. Currently this access is a dirt road used for agricultural purposes.

Lee County Development Services staff have reviewed the application for the proposed amendment and provided comments in a memo dated September 10, 2013. Development Services staff have stated concern with the intensity of the development with respect to the access that is provided to the parcel. The Development Services memo states:

“The Applicant has proposed a single access point to Fiddlesticks Boulevard. Lee County Land Development Code (LDC) §10-291 governs the required access to developments. According to the LDC, any residential development of greater than 5 acres or any commercial development of greater than 10 acres is required to provide two (2) or more means of ingress/egress. Approving a comprehensive plan amendment that would significantly intensify the development potential on the subject parcel without a commitment to provide more than one (1) means of ingress/egress does not seem appropriate.”

The applicant proposes to access the Three Oaks Parkway extension once it has been built on the property. However, the construction of the extension is not within the current 5-year Capital Improvement Program (CIP). The property may not be able to achieve code-compliant access for many years with or without the proposed amendment. Therefore, adopting a more intense land use category on the subject property without a second access is not appropriate.

Staff from the Lee County Department of Transportation has reviewed the amendment request and in a memo dated August 30, 2013 stated:

The short term analysis provided by the applicant indicates all the study area roadway segments (3 miles radius) are anticipated to operate at or better than the adopted LOS standard in 2016. The analysis indicates that three road segments will operate below the adopted LOS by 2035. The segments are Daniels Pkwy from I-75 to Chamberlin Pkwy, I-75 from Corkscrew Road to Alico Road and from Daniels Pkwy to Colonial Blvd. All three will be at LOS “F” with and without the proposed CPA in the year 2035.

At this time the proposed development would worsen the known level of service issues on the three road segments identified by the applicant’s analysis. Staff does not recommend intensifying land use categories when there are known roadway deficiencies.

The future alignment of Three Oaks Parkway runs through the eastern portion of the subject parcel. The applicant has created an easement for access and utilities across the subject property, recorded in OR Book 2271, Page 1755. The easement provided by the applicant does not follow the intended alignment of the future Three Oaks Parkway extension but instead connects at its northern end to the access point for Fiddlesticks Boulevard.

There are no immediate plans for the County to purchase the necessary rights of way within the five-year horizon of the Capital Improvement Plan. Such purchases are slated for the 6-10 year horizon as funding has not been identified. The section of Three Oaks Parkway to the immediate south of the subject property was constructed using funds from adjacent developers. Lee County DOT is currently acquiring rights of way on sections of Three Oaks Parkway north of the subject property just south of Daniels Parkway. Lee Plan Policy 36.1.6 encourages voluntary dedication of land and construction of road segments on Lee Plan Map 3A, the 2020 Financially Feasible Plan map.

NATURAL RESOURCES

Lee County Natural Resources staff state in a September 10, 2013 email:

According to the Lee County data base, the historical flowway runs through the site from southeast to northwest. Also, the I-75 drainage structures drain off-site flows from east onto the property. Therefore, during the PD rezoning process, the applicant shall provide a detailed analysis for (1) preserving the existing flowway and (2) mitigating any drainage impacts (on both off- and on-sites).

Historically water on this property has flowed to the north, towards the Six Mile Slough. Water flows onto the property from the east underneath Interstate 75. The land owner has altered the subject property, which has redirected water flow into the large canal running along the south edge of the property. This has functionally removed the subject property and properties to the east that drain into the site from the Six Mile Cypress watershed basin.

Policy 5.1.2 of the Lee Plan provides guidance as to where residential development should be prohibited. Policy 5.1.2 is provided below:

POLICY 5.1.2: Prohibit residential development where physical constraints or hazards exist, or require the density and design to be adjusted accordingly. Such constraints or hazards include but are not limited to flood, storm, or hurricane hazards; unstable soil or geologic conditions; environmental limitations; aircraft noise; or other characteristics that may endanger the residential community.

The subject site has approximately 394 acres. About 63 percent or 250 acres are within the Wetlands future land use category and the applicant has agreed that these areas would be reviewed as wetlands in the absence of a verified wetland jurisdictional determination from the State of Florida. These wetlands are part of a historical flowway that the South Florida Water Management District required that the applicant restore. The SFWMD has indicated that the applicant has made the required improvements and is currently monitoring the restoration areas. The subject site has physical constraints as described in Lee Plan Policy 5.1.2. Staff is not suggesting that all residential development should be prohibited on the subject site, however the policy does identify that sites with physical constraints could have their density adjusted accordingly. Staff would not recommend increasing the allowable density on the subject site which could lead to future situations where the county would have to limit or deny development during the rezoning phase based on these physical constraints.

Lee Plan Goal 60 addresses surface water management and land use planning on a watershed basis. Policy 60.1.2 urges the incorporation, utilization, and restoration of natural surface water flows. Objective 60.4 identifies the Six Mile Cypress Basin as a critical area for surface water management. The Objective states that “The County will maintain existing regulations to protect the unique environmental and water resource values of these areas.” Allowing for increased development potential in this area would be counter to Objective 60.4 because it would not protect the site’s unique environmental and water resources. Maintaining the subject property’s current future land use category would help to lessen potential impacts to the historical flowway that is on the property.

Objective 60.5 addresses the design of stormwater management systems and the incorporation of green infrastructure. Policy 60.5.1 encourages new development to use best management practices in the design of their surface water systems. Objective 61.2 and its’ policies address the design of water management features to mimic natural systems. The applicant has informed staff in meetings that they are willing to re-establish water flows to the northern boundary as part of their overall surface storm water management plan. Staff has no way of knowing if the applicants’ measures will be sufficient to address the storm water and flowway issues consistent with the Lee Plan. The applicant has stated that such work would be done during the rezoning and Water District permitting processes. Staff does not recommend increasing development potential within an historical flowway that is part of the Six Mile Cypress Basin.

ENVIRONMENTAL CONSIDERATIONS

The site is zoned AG-2 and is currently being used for agricultural purposes. The site was vegetated in 2002; however, clearing for agricultural purposes has occurred on the site since 2002. Reviewing aerial photographs, each year more clearing and land alterations have occurred on the property. The original application requested to remove the wetlands from the Wetlands future land use category (approximately 250 acres). However, the applicant did not provide a verified wetland jurisdictional determination from the State of Florida as referenced in Chapter XIII of the Lee Plan to confirm the amount of wetlands on site. In lieu of the determination, the applicant agreed to amend the proposal to use the wetland lines as currently depicted on Lee Plan Map 1, page 1 of 8, The Future Land Use Map (Attachment 2). The subject parcel is approximately 63% designated in the Wetland future land use category as currently depicted on The Future Land Use Map. These wetland areas are part of a large flowway system. The upland portions consist of several non-contiguous areas within or adjacent to this flowway.

A vegetative community assessment from 2011 and 2012 as well as a protected species survey was conducted by Passarella and Associates, Inc. in September 2011. The 2012 assessment and Florida Land Use, Cover and Classification System (FLUCCS) map provided by the applicant indicate the site is predominately improved pasture and forested areas. However, upon reviewing the 2013 Lee County aerial photography, the site appears to have undergone more clearing activities and alterations, presumably for agriculture; therefore, the current acreage of Land Use Cover and Classification System is unclear. The Lee Plan Future Land Use Map shows four non-contiguous uplands areas which are proposed for Outlying

Suburban. These four upland areas are approximately 4.3 acres, 14 acres, 54.4 acres, and 71.2 acres. These uplands are separated by the large historic flowway running from the southeast to the northwest.

Lee Plan Objective 114.1 addresses the conservation and protection of wetland and wetland systems through regulations and the goals, objectives and policies of the Lee Plan. Development of the scattered uplands will incur impacts to the wetlands, either directly or indirectly. The applicant will have to impact the existing wetlands to gain access to the uplands on the property. The applicant has not addressed how this access will be provided or how they will avoid impacts to the wetlands in order to be consistent with Lee Plan Objective 114.1.

The property had been significantly altered over the past decade for agricultural purposes. On September 9, 2013, the applicant entered into a Consent Final Judgment with the South Florida Water Management District (District). This was a settlement resolution between the Jeffery B. Freeman, as successor Trustee, and the South Florida Water Management District for purposes of settling all of the outstanding issues with the District; such as dredging, filling, and installation of culverts on the subject property. As part of the Judgment, the property owner agreed to eliminate fill, restore certain areas, and remove culverts. Upon recent discussion with the District, the applicant has made the improvements per the Consent Final Judgment and is currently monitoring the restoration areas. It is unclear if the future project will incorporate these improvements in the restoration areas, or if the future development will be consistent with Lee Plan Goal 60 for a Coordinated Surface Water Management Plan to correct the surface water flows or Lee Plan Goal 61 for Protection of Water Resources to redirect the water back to the Six Mile Cypress Basin.

COMPATIBILITY WITH SURROUNDING USES

The subject property is adjacent to existing residential developments to the west and north, and vacant Industrial/Tradeport lands to the south and east. Abutting the east side of the subject property is I-75, beyond which is vacant land zoned AG-2 located in the Tradeport future land use category. The subject property is abutted on the south by a canal. Across the canal is vacant land that is zoned AG-2, a Mixed Use Planned Development (MPD), and an Industrial Planned Development. These parcels are in the Industrial Development and Wetlands future land use categories. Along the west side of the subject property, also designated Rural, is the Fiddlesticks Country Club. This development was zoned as a Planned Unit Development with an overall density of 1.1 dwelling units per acre. However, the platted area contains less units than the zoning approval allowed, leaving it with a actual density of 0.84 units per acre, which is below the maximum Rural density of 1 dwelling unit per acre. To the north and northwest are Old Hickory Golf and Country Club and the Legends Golf and Country Club communities, both in the Outlying Suburban and Wetlands future land use categories. These residential developments have densities between 2 and 3 units per acre.

The natural features of the subject property, such as the wetlands and flowway, and existing requirements of the Lee Plan, such as Goals 59, 60, and 61 which deal with surface water

management will require that a majority of any development on the site will occur within the uplands areas.

One of these areas of uplands is in the northeastern corner, adjacent to I-75 and the closest area to Southwest Florida International Airport. Another large upland area is in the southwest corner of the property, adjacent to the Fiddlesticks Country Club which is developed at 1.1 units an acre in the Rural future land use category. If all of the allowable density from the subject site were to be concentrated on the approximate 144 acres of uplands the resulting gross density of the upland areas would be greater than 8 dwelling units an acre. Concentrating all of the residential units onto the limited uplands could cause relatively high density residential development near the Fiddlesticks County Club, which has the potential to negatively impact the character of the existing adjacent residential development. Therefore, the proposed amendment is not consistent with Lee Plan Policy 5.1.5, which states that Lee County is to “Protect existing and future residential areas from any encroachments of uses that are potentially destructive to the character and integrity of the residential environment.” The subject site is currently in the Rural future land use category, and has the ability to develop at a level that is consistent with the neighboring residential development.

ALTERNATIVE TRANSPORTATION

The subject property is not served by any Lee Tran route. The closest existing transit facilities are Lee Tran Routes 50 and 60. Route 50 runs along Daniels Parkway, approximately one and a half miles to the north of the subject property. Route 60 runs along Alico Road approximately one mile south of the subject property.

There currently are no pedestrian or bicycle facilities serving the subject property. The nearest of these facilities are located in the Daniels Parkway right of way. A multiuse path along Fiddlesticks Boulevard is funded for design in 2014 with construction scheduled in 2015. This facility will provide pedestrian and bicycle access to the facilities on Daniels Parkway and also allow access to the Daniels’ Lee Tran route. The Lee County Bikeways/Walkways Facility Plan (Lee Plan Map 3D) shows a future sidewalk, shared use path, and undesignated bike lane on the future Three Oaks Parkway extension. There are currently no funds programmed for the Three Oaks Parkway alignment within the five year horizon of the CIP.

EMERGENCY MEDICAL SERVICES (EMS)

The nearest ambulance service for the subject property is LCEMS Station 23 at 9700 Treeline Avenue. In a letter dated December 6, 2011, EMS staff expressed concern about their ability to provide timely service to the subject property. The closest ambulance serving this location is 7.5 miles away and does not meet the 9-minute or less response time standard. The next closest station is also approximately 7.5 miles away.

POLICE

The property is located within the jurisdiction of the Lee County Sheriff’s Office. It is served by the Echo District station located at 12995 South Cleveland Avenue. In a letter dated December 15, 2011 Sheriff’s Office staff stated that the proposed amendment would not affect the Sheriff’s office ability to provide core levels of service.

FIRE

The property is located in the South Trail Fire District. The property is served by Fire Station 62 at 13500 Sophomore Lane off Daniels Parkway. In a letter dated October 4, 2011, South Trail Fire District staff stated that current facilities, staffing and equipment are sufficient to meet the needs of the estimated maximum buildout under the proposed amendment.

SOILS

The applicant has provided a description of the soils that are found on site. For a detailed description please see the application materials. The depressional, or hydric, soils run roughly from southeast to northwest across the property, following the historic surface water flowways.

AIRPORT NOISE ZONES

Lee County Port Authority staff have reviewed the application for the proposed amendment and provided comments in a memo dated September 11, 2013. Port Authority Staff have identified that Airport Noise Zones overlay a portion of the subject property. The Port Authority memo states:

Please be advised that a portion of this property is located within Airport Noise Zone C as outlined in Lee Plan Policy 1.7.1 which requires formal notification that the property may be subject to varying levels of aircraft noise and over flights. Noise Zone C is equivalent to the 55DNL contour as determined by the 2006 14 CFR Part 150 Noise and Land Use Compatibility Study. Airport Noise Zones were established by Lee County in the late 1980's as zoning overlays to provide certain development standards within aircraft noise areas and overflight corridors. A portion of this property has fallen within a noise zone since the zones were developed.

The Lee County Port Authority is in the process of finalizing an update to the Part 150 Noise and Land Use Study. The study has been reviewed and approved by the Lee County Board of Port Commissioners and is currently under review by the Federal Aviation Administration (FAA). After the FAA approves the noise study it is the intent of the Port Authority to file a comprehensive plan amendment to update the noise zones in the Lee Plan to reflect the most recent noise contours developed as part of the Part 150 Study. Based on the most recent study, a portion of this property will remain in Noise Zone C along with an additional smaller portion (approximately 20,000 sq.ft.) which will fall within Noise Zone B, the 60DNL contour which does not allow residential units, places of worship, libraries, schools, hospitals, correctional institutions or nursing homes.

As stated in the memo, portions of the property are currently within or anticipated to be within the Airport Noise Zones.

HISTORIC RESOURCES

The subject property is within Archeological Sensitivity Zones 1 and 2. The Florida Master Site File lists no previously recorded cultural resources with Section 34, Township 45S, Range 25E. Properties within the Sensitivity Zone 2 are required to obtain a Certificate to Dig from Lee County Division of Planning as part of the Development Order process.

SCHOOL IMPACTS

An estimated 353 school-aged children would be generated by the maximum possible development under the proposed amendment. In a letter dated October 20, 2011, submitted as part of the application, the School District staff stated that there are currently sufficient seats within the district to serve the maximum potential students generated by the proposed amendment.

SOLID WASTE

The property is served by the Lee County Resource Recovery Facility and the Lee-Hendry Regional Landfill. In a letter dated November 29, 2011, Lee County Solid Waste Division staff stated that solid waste collection service is available for the subject property through franchised hauling contractors. Plans have been made to allow for growth to maintain long-term disposal capacity at these facilities.

UTILITIES

Water and sewer service lines are currently installed along Fiddlestick Boulevard to the northwest of the subject property. In a letter dated December 2, 2011, Lee County Utilities staff stated that there is currently sufficient capacity to serve the estimated maximum buildout possible under the proposed amendment. In order to provide service to the subject property, enhancements such as line extensions and off-site improvements would be necessary.

LEE PLAN TABLE 1(B)

Lee Plan Table 1(b) lists the 2030 residential allocations for each planning community. Although there is sufficient acreage available for the Daniels Parkway Planning Community in this table, the applicant has not demonstrated a need for increased residential density within Lee County.

PREVIOUS PLAN AMENDMENT

For informational purposes, a prior plan amendment, PAM 96-07, was proposed for the subject property but was not adopted. It proposed to remove the subject property from the Airport Noise Zone 3 Overlay, to reallocate residential acreage from Outlying Suburban to Suburban on the Year 2010 Overlay and to redesignate the subject parcel from Rural and Wetlands categories to the Suburban and Wetlands categories. It was not transmitted by the Board of County Commissioners based on two issues. At that time, the Board agreed with staff on the need to maintain the Airport Noise Zone 3, which was prohibited from having residential development by Lee Plan Policy 1.7.1. The Noise Zones are based on a federal noise study and are defined by recorded sound levels. The Board found that the request by the applicant for removing the property from Zone 3 was arbitrary and the applicant provided no evidence to support it. The Board also found that the applicant had not sufficiently

demonstrated the need for additional residential density on the subject property. New airport noise zones have been adopted since PAM96-07 was heard by the Board.

B. CONCLUSIONS

Due to the extensive wetlands on the subject property, the proposed amendment would create pockets of increased density within an existing flowway system. The subject property is approximately 63% designated Wetland with much of the upland area in the form of isolated pockets within the wetlands. The applicant has proposed a total number of residential units based on the preservation of all the wetland upon the property. But because of the scattered nature of some of the upland pockets, the property cannot be developed without impacts to the wetland flowway system. Therefore, increasing potential residential units within these isolated pockets is incompatible with a functioning wetland system. Policy 5.1.2 prohibits residential development where physical constraints exist.

The proposed increased density would also be incompatible with the rural nature of the surrounding communities. The subject property is part of an existing Rural designated area, approximately 4 square miles in size, between I-75 and Michael G. Rippe Parkway. Increasing residential density on this subject parcel would be incompatible with this rural community. Densities concentrated on the subject site's uplands could be greater than 8 units an acre. Staff is concerned that the increased density would impact the character of adjacent residential communities.

The rural corridor situated between I-75 and Michael G. Rippe Parkway serves as a buffer between the higher-density residential development to its north and the Industrial Development designated area to the south. Increasing the density and intensity within this area would bring additional residential dwelling units in close proximity to Lee County's industrial areas. This could create additional impediments to the future development of the nearby vacant industrial parcels which requires compatibility with neighboring uses.

The currently limited access to the subject property is incompatible with increasing the potential residential density. The Lee County Land Development Code specifically requires multiple access points for large developments. Although the Three Oaks Parkway alignment across the property is intended to be completed in the future, it would be premature to adopt higher residential densities before the additional access to the property has been created. Even after Three Oaks Parkway has been constructed, the onsite wetlands and flowways will make access to accommodate the increased density a challenge.

In addition, staff has concerns with several issues regarding the subject property that the applicant has not sufficiently addressed. The flow of water onto and off of the property, the preservation of wetlands, access to each of the upland areas will requires crossing the wetlands, and the future alignment of Three Oaks Parkway are all important Lee Plan issues. The applicant has stated that they will address these issues at later stages in the development process. However, these issues are relevant to specific Lee Plan policies and need to be considered during this plan amendment process. Further, increasing the density on the subject site will exacerbate these issues. When viewed as a whole, increasing the density of

the subject site by changing the future land use category is not consistent with the Lee Plan, as it will not “further the goals, objectives and policies of the plan.”

For the reasons outlined above, staff recommends that the Board of County Commissioners **not** transmit the proposed amendment.

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

DATE OF PUBLIC HEARING: August 25, 2014

A. LOCAL PLANNING AGENCY REVIEW

Planning staff gave a brief presentation. The applicant followed with an extensive presentation. The applicants' main representative stated that the issues raised by staff were best addressed through the zoning and development order processes and not during a plan amendment. The applicant then mentioned that they provided a draft development agreement that staff had requested and described the proposed measures in the agreement. He stated that the measures proposed in the agreement would occur in conjunction with a future planned development rezoning.

The applicants' presentation included testimony from a hydrologist, an environmental planner, a transportation professional, and a land use planner.

The applicants' main representative then provided a set of their Findings of Fact. These findings are listed under section III.B.1.below. The applicant summarized the presentation by stating that staff issues would be addressed through the rezoning, development order and permitting processes. He then asked the LPA to consider whether the subject property is more appropriate in a rural character or at a higher density.

The LPA asked staff to clarify the status of Three Oaks Parkway. LCDOT staff stated that the roadway has not been given any kind of Limited Access designation by the Board other than a section in Bonita Springs. They further stated that projects in the 6-10 year CIP range did not have identified funding.

Several members of the public then addressed the LPA. The issues raised were an objection to the possibility of the subject property having an entrance onto Fiddlesticks Boulevard and how many dwelling units might be constructed on the subject property.

Another member of the public then spoke on the amendment. He described some of the development history of the area of the subject property. He stated that the issues raised by staff do not preclude a plan amendment. He stated that the subject property is not rural in character and is infill because it is surrounded by non-rural uses.

The applicant then spoke to the LPA and stated that the County FLUM is not a jurisdictional determination and that the final number of units will be determined through the rezoning

process. He then disagreed with staff about the definition of rural and future-urban levels of density.

The LPA then expressed their view and issues regarding the amendment. See attached minutes of the LPA Meeting.

An LPA member moved to recommend that the Board transmit the proposed amendment with the Findings of Fact provided by the applicant. The motion was seconded, discussed, and passed with a 4-2 vote.

B. LOCAL PLANNING AGENCY RECOMMENDATION AND FINDINGS OF FACT SUMMARY

1. RECOMMENDATION: The LPA voted to recommend that the Board transmit the proposed amendment with the following findings of fact provided by the applicant.

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

The LPA accepted the findings of fact as presented by the applicant below:

- *The subject property consists of 393.68 acres. The current Lee Plan future land use map designation is Rural (143.85 ac.) and Wetlands (249.83 ac.).*
- *The applicant proposes to amend the lands designated Rural to Outlying Suburban, which will increase the maximum allowable density from one d-u. per acre to 3 d.u. per acre.*
- *The subject property is bordered on three sides by urban development and urban land use classifications (Outlying Suburban, Tradeport, and Industrial). On the fourth side, the subject property is bordered by the Rural land use classification, but the development of the property to the west exceeds the density permitted by the Rural land use classification and is considered an urban density under the Lee Plan.*
- *The subject property is located within the central sewer and water service areas of Lee Plan Maps 6 and 7, and sewer and water service is available and adequate to serve the property, as amended.*
- *The plan amendment is not projected to create any additional deficiencies in the 2035 transportation network.*
- *The subject property currently has access to Fiddlesticks Boulevard (a local road) and can access Three Oaks Parkway (a 4-laned arterial) by bridging the airport drainage canal.*
- *The extension of Three Oaks Parkway as a 4-laned arterial through the subject property north to Daniels Parkway is designed and permitted by Lee County. Right-of-way acquisition is underway and construction funding is programmed for the 6-10 year CIP planning horizon.*
- *A bike-ped facility in Fiddlesticks Boulevard is presently programmed for construction in FY2014-15 that will provide alternative transportation access to the*

subject property. This bike-ped facility will also provide access to the existing Lee Tran stop at Daniels and Fiddlesticks.

- The plan amendment will facilitate development under the planned development zoning process, which will require the developer to address restoration of historic drainage patterns, protection of wetland systems, accommodation of the right-of-way for Three Oaks Parkway Extension, compatibility with adjacent uses, access, and other matters.*
- Table l(b) of the Lee Plan will accommodate the plan amendment.*

C. VOTE:

NOEL ANDRESS	NAY
DENNIS CHURCH	AYE
JIM GREEN	NAY
MITCH HUTCHCRAFT	ABSENT
JAMES INK	AYE
RICK JOYCE	AYE
DAVID MULICKA	AYE

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

DATE OF PUBLIC HEARING: October 8, 2014

A. BOARD REVIEW

Staff gave a brief presentation on the proposed amendment. The applicants' representative then made a presentation to the Board. Fifteen members of the public spoke about the proposed amendment. Of these, four recommended that the Board transmit the amendment as proposed, two recommended that the applicant come back with revised plans prior to Board transmittal, and the rest recommended that the Board not transmit the amendment. The County Attorney answered Board questions on procedural details.

Members of the Board, Staff, and the public raised concerns regarding the impact of the proposed project and its consistency with the Plan. The primary concerns included: the effect of increased density on flow ways and wetlands on the subject property, the increased traffic generated by any increased density, and the lack of specific details in the request.

After brief deliberation, the Board made a motion to not transmit the proposed amendment.

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY

1. RECOMMENDATION:

The Lee County Board of County Commissioners did *not transmit* the proposed Lee Plan amendment.

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

The Board of County Commissioners accepted the basis and recommended findings of fact as advanced by staff and did not agree with the findings of fact advanced by the applicant and LPA.

C. VOTE:

1. Motion Not to Transmit:

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