



# The Orange River Property 2020 Overlay Amendment

September 29, 2000

Located in: Lee County, Florida

Prepared for: State Road 80, LLC 3451 Bonita Bay Boulevard, Suite 202 Bonita Springs, FL 34134-4395

Prepared by:
Mitchel A. Hutchcraft, ASLA, AICP
Vanasse & Daylor, LLP
12730 New Brittany Boulevard.
Suite 600
Fort Myers, Florida 33907

CPA 2000 - 00004

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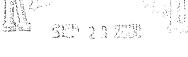
Planners • Landscape Architects • Civil Engineers • Environmental Scientists



LF FIC #300

September 29, 2000

Mr. Matt Noble, Senior Planner Lee County Department of Community Development 1500 Monroe Street Fort Myers, Florida 33901



PERMIT COUNTER

Re:

The Orange River Property 2020 Overlay Amendment

#### Dear Matt:

On behalf of Bonita Bay Properties, who will be developing the above-mentioned property, I am pleased to submit this request to amend the 2020 Overlay Allocations Table. As outlined by Lee County, this amendment is only to the Text of the Lee Plan, and does not require the amendment to any Lee Plan Maps.

Attached in support of this request is detailed documentation outlining the specific request, planning justifications, mapping and Lee Plan consistency narrative. We believe that this application provides sufficient data and analysis to support our request to amend the Residential Allocations to the Suburban Land Use Category of Planning Community 4 – Fort Myers Shores.

As you begin to evaluate this request, please feel free to contact me if you have any questions or need any additional information before you prepare your Recommendation. I look forward to working with you on this amendment, and trust that by working together, we can creatively resolve this under allocation of acreage in this Planning Community.

In advance, thank you for your attention to this matter.

Sincerely,

Vanasse & Daylor, LLP

Mitchel A. Hutchcraft, ASLA, AICP

**Executive Vice President** 

Cc: Kitty Green, Bonita Bay Properties

Margaret Emblidge, Bonita Bay Properties Neale Montgomery, Pavese Law Firm

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September 29, 2000

Mr. Matt Noble, Senior Planner Lee County Department of Community Development 1500 Monroe Street Fort Myers, Florida 33901

The Orange River Property Re:

2020 Overlay Amendment

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Kitty Green, Bonita Bay Properties Cc:

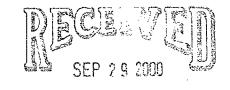
> Margaret Emblidge, Bonita Bay Properties Neale Montgomery, Pavese Law Firm



Lee County Board of County Commissioners
Department of Community Development
Division of Planning
Post Office Box 398
Fort Myers, FL 33902-0398
Telephone: (941) 479-8585
FAX: (941) 479-8519

# APPLICATION FOR A COMPREHENSIVE PLAN AMENDMENT

	(To be comple	eted at time of intake)		
DATE REC'D: $QQQ$	$\omega$	REC'D BY:	- BM()	
APPLICATION FEE: 1760	was Profesional Contraction of the Contraction of t	TIDEMAR	CNO: PA	2000-0000
THE FOLLOWING VERIFIE	ED:			5 基本 基本
Zoning		Commissic	ner District	
Designation on FLUM				
	(To be comple	 ted by Planning Staff	) <b>-</b>	
Plan Amendment Cycle:	Normal	Small Scale	DRI [	Emergency
Request No:				
APPLICANT PLEASE NOT Answer all questions compadditional space is needed, sheets in your application is Submit 6 copies of the conincluding maps, to the Leer required for Local Planning Department of Community // I, the undersigned owner of and the attached amendme provided are complete and and the attached amendment an	noletely and a number and inumber and including the county Divide Agency, Boat Affairs' packager authorized accurate to the county OF ON	attach additional  ation and amendi ision of Planning rd of County Con ges.  representative, h	sheets. The ment support Additional missioners hereby submit e information whedge.	e total number of documentation, copies may be nearings and the this application and documents
Las County Comprehensive Plan	\mandmant		Dac	70 1 of 10



#### I. APPLICANT/AGENT/OWNER INFORMATION

STATE TOAD	BO LLC	PERMIT COUNTER
3451 BONITA	Bay BLUD.	SUTE 202
TELEPHONE NUMBER	STATE (9	34134-4395 21P 41)498-1193 FAX NUMBER
SEE ATTACH	ED LIST	·
ADDRESS		·
CITY	STATE	ZIP
TELEPHONE NUMBER	75 ANNO 16 ANNO	FAX NUMBER
OWNER(s) OF RECORD	BOLLC	
ADDRESS	Bour	
CITY	STATE	ZIP
TELEPHONE NUMBER		FAX NUMBER

Name, address and qualification of additional planners, architects, engineers, environmental consultants, and other professionals providing information contained in this application.

<sup>\*</sup> This will be the person contacted for all business relative to the application.

11.	R	EQUESTED CHANGE (Please see Item 1 for Fee Schedule)
	A.	TYPE: (Check appropriate type)
		Text Amendment  [Maps 1 thru 19)  List Number(s) of Map(s) to be amended
	В.	SUMMARY OF REQUEST (Brief explanation):  AMEND THE RESIDENTIAL ACTOR  ALLOCATION TABLE (TABLE   b.) TO  PROVIDE SUFFICIENT ALLOCATIONS TO  ACCOMMODATE THE PROPOSED RESIDENTIAL  COMPONIENT OF THE BALKON MPD
III.		COPERTY SIZE AND LOCATION OF AFFECTED PROPERTY r amendments affecting development potential of property)
	A.	Property Location:
		1. Site Address: 11501 Palm BEACH BLVD.
		2. STRAP(s): SEE ATTACHED
	В.	Property Information
		Total Acreage of Property: 1400 Acres 1-
		Total Acreage included in Request: 1400 Acres #-
		Area of each Existing Future Land Use Category:
		Total Uplands: 1,150 ACRES T-
		Total Wetlands: 250 Acres 7-
		Current Zoning: AG-2, CG, CI-A, PUS
		Current Future Land Use Designation: SUBUPEN, METLANDS

	Ex	isting Land Use:	, TESIDENTIAL
C.	Sta	· • • • • • • • • • • • • • • • • • • •	in one of the following areas and if so how
	Le	high Acres Commercial Overlay:	N/A
	Aiı	rport Noise Zone 2 or 3:	N/A
	Ac	equisition Area:	N/A
			ing other jurisdictional lands):
		ommunity Redevelopment Area:	· •
D.	Pro	oposed change for the Subject Prop	perty:
E.	Po	tential development of the subject p	property:
	1.	Calculation of maximum allowable	development under existing FLUM:
		Residential Units/Density	3 Du/Ac - UPTO 3,300 Du
		Commercial intensity	VARIES 250,000-500,000 St
		Industrial intensity	NA .
	2.	Calculation of maximum allowable	development under proposed FLUM:
		Residential Units/Density	U/A
		Commercial intensity	N/A
		Industrial intensity	N/A
ΑN	IEN	IDMENT SUPPORT DOCUMENTA	TION

#### IV.

At a minimum, the application shall include the following support data and analysis. These items are based on comprehensive plan amendment submittal requirements of the State of Florida, Department of Community Affairs, and policies contained in the Lee County Comprehensive Plan. Support documentation provided by the applicant will be used by staff as a basis for evaluating this request. To assist in the preparation of amendment packets, the applicant is encouraged to provide all data and analysis electronically. (Please contact the Division of Planning for currently accepted formats)

#### A. General Information and Maps

NOTE: For <u>each</u> map submitted, the applicant will be required to provide a reduced map (8.5" x 11") for inclusion in public hearing packets.

The following pertains to all proposed amendments that will affect the development potential of properties (unless otherwise specified).

- 1. Provide any proposed text changes.
- 2. Provide a Future Land Use Map showing the boundaries of the subject property, surrounding street network, surrounding designated future land uses, and natural resources.
- 3. Map and describe existing land uses (not designations) of the subject property and surrounding properties. Description should discuss consistency of current uses with the proposed changes.
- 4. Map and describe existing zoning of the subject property and surrounding properties.
- 5. The legal description(s) for the property subject to the requested change.
- 6. A copy of the deed(s) for the property subject to the requested change.
- 7. An aerial map showing the subject property and surrounding properties.
- 8. If applicant is not the owner, a letter from the owner of the property authorizing the applicant to represent the owner.

#### B. Public Facilities Impacts

NOTE: The applicant must calculate public facilities impacts based on a maximum development scenario (see Part II.H.).

1. Traffic Circulation Analysis

The analysis is intended to determine the effect of the land use change on the Financially Feasible Transportation Plan/Map 3A (20-year horizon) and on the Capital Improvements Element (5-year horizon). Toward that end, an applicant must submit the following information:

#### Long Range – 20-year Horizon:

a. Working with Planning Division staff, identify the traffic analysis zone (TAZ) or zones that the subject property is in and the socio-economic data forecasts for that zone or zones;

- b. Determine whether the requested change requires a modification to the socio-economic data forecasts for the host zone or zones. The land uses for the proposed change should be expressed in the same format as the socio-economic forecasts (number of units by type/number of employees by type/etc.);
- c. If no modification of the forecasts is required, then no further analysis for the long range horizon is necessary. If modification is required, make the change and provide to Planning Division staff, for forwarding to DOT staff. DOT staff will rerun the FSUTMS model on the current adopted Financially Feasible Plan network and determine whether network modifications are necessary, based on a review of projected roadway conditions within a 3-mile radius of the site;
- d. If no modifications to the network are required, then no further analysis for the long range horizon is necessary. If modifications are necessary, DOT staff will determine the scope and cost of those modifications and the effect on the financial feasibility of the plan;
- e. An inability to accommodate the necessary modifications within the financially feasible limits of the plan will be a basis for denial of the requested land use change;
- f. If the proposal is based on a specific development plan, then the site plan should indicate how facilities from the current adopted Financially Feasible Plan and/or the Official Trafficways Map will be accommodated.

#### Short Range - 5-year CIP horizon:

- a. Besides the 20-year analysis, for those plan amendment proposals that include a specific and immediated development plan, identify the existing roadways serving the site and within a 3-mile radius (indicate laneage, functional classification, current LOS, and LOS standard);
- b. Identify the major road improvements within the 3-mile study area funded through the construction phase in adopted CIP's (County or Cities) and the State's adopted Five-Year Work Program;
- Projected 2020 LOS under proposed designation (calculate anticipated number of trips and distribution on roadway network, and identify resulting changes to the projected LOS);
- c. For the five-year horizon, identify the projected roadway conditions (volumes and levels of service) on the roads within the 3-mile study area with the programmed improvements in place, with and without the proposed development project. A methodology meeting with DOT staff prior to submittal is required to reach agreement on the projection methodology:
- d. Identify the additional improvements needed on the network beyond those programmed in the five-year horizon due to the development proposal.

- 2. Provide an existing and future conditions analysis for:
  - a. Sanitary Sewer
  - b. Potable Water
  - c. Surface Water/Drainage Basins
  - d. Parks, Recreation, and Open Space.

Analysis should include (but is not limited to) the following:

- Franchise Area, Basin, or District in which the property is located;
- Current LOS, and LOS standard of facilities serving the site;
- Projected 2020 LOS under existing designation;
- Projected 2020 LOS under proposed designation;
- Improvements/expansions currently programmed in 5 year CIP, 6-10 year CIP, and long range improvements; and
- Anticipated revisions to the Community Facilities and Services Element and/or Capital Improvements Element (state if these revisions are included in this amendment).
- 3. Provide a letter from the appropriate agency determining the adequacy/provision of existing/proposed support facilities, including:
  - a. Fire protection with adequate response times;
  - b. Emergency medical service (EMS) provisions;
  - c. Law enforcement;
  - c. Solid Waste;
  - d. Mass Transit; and
  - e. Schools.

In reference to above, the applicant should supply the responding agency with the information from Section's II and III for their evaluation. This application should include the applicant's correspondence to the responding agency.

C. Environmental Impacts

Provide an overall analysis of the character of the subject property and surrounding properties, and assess the site's suitability for the proposed use upon the following:

- 1. A map of the Plant Communities as defined by the Florida Land Use Cover and Classification system (FLUCCS).
- 2. A map and description of the soils found on the property (identify the source of the information).
- 3. A topographic map with property boundaries and 100-year flood prone areas

indicated (as identified by FEMA).

- 4. A map delineating wetlands, aquifer recharge areas, and rare & unique uplands.
- 5. A table of plant communities by FLUCCS with the potential to contain species (plant and animal) listed by federal, state or local agencies as endangered, threatened or species of special concern. The table must include the listed species by FLUCCS and the species status (same as FLUCCS map).

#### D. Impacts on Historic Resources

List all historic resources (including structure, districts, and/or archeologically sensitive areas) and provide an analysis of the proposed change's impact on these resources. The following should be included with the analysis:

- 1. A map of any historic districts and/or sites, listed on the Florida Master Site File, which are located on the subject property or adjacent properties.
- 2. A map showing the subject property location on the archeological sensitivity map for Lee County.

#### E. Internal Consistency with the Lee Plan

- 1. Discuss how the proposal affects established Lee County population projections, Table 1(b) (Planning Community Year 2020 Allocations), and the total population capacity of the Lee Plan Future Land Use Map.
- 2. List all goals and objectives of the Lee Plan that are affected by the proposed amendment. This analysis should include an evaluation of all relevant policies under each goal and objective.
- 3. Describe how the proposal affects adjacent local governments and their comprehensive plans.
- 4. List State Policy Plan and Regional Policy Plan goals and policies which are relevant to this plan amendment.

#### F. Additional Requirements for Specific Future Land Use Amendments

- 1. Requests involving Industrial and/or categories targeted by the Lee Plan as employment centers (to or from)
  - a. State whether the site is accessible to arterial roadways, rail lines, and cargo airport terminals,
  - b. Provide data and analysis required by Policy 2.4.4,

- c. The affect of the proposed change on county's industrial employment goal specifically policy 7.1.4.
- 2. Requests moving lands from a Non-Urban Area to a Future Urban Area
  - a. Demonstrate why the proposed change does not constitute Urban Sprawl. Indicators of sprawl may include, but are not limited to: low-intensity, low-density, or single-use development; 'leap-frog' type development; radial, strip, isolated or ribbon pattern type development; a failure to protect or conserve natural resources or agricultural land; limited accessibility; the loss of large amounts of functional open space; and the installation of costly and duplicative infrastructure when opportunities for infill and redevelopment exist.
- 3. Requests involving lands in critical areas for future water supply must be evaluated based on policy 2.4.2.
- 4. Requests moving lands from Density Reduction/Groundwater Resource must fully address Policy 2.4.3 of the Lee Plan Future Land Use Element.
- G. Justify the proposed amendment based upon sound planning principles. Be sure to support all conclusions made in this justification with adequate data and analysis.

Item 1: Fee Schedule

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Map Amendment Flat Fee	\$500.00 each
Map Amendment > 20 Acres	\$500.00 and \$20.00 per 10 acres up to a maximum of \$2,255.00
Text Amendment Flat Fee	\$1,250.00 each

#### **AFFIDAVIT**

I,, certify that I am the owner or authorized representative of the
property described herein, and that all answers to the questions in this application and any sketches, data
or other supplementary matter attached to and made a part of this application, are honest and true to the
best of my knowledge and belief. I also authorize the staff of Lee County Community Development to
enter upon the property during normal working hours for the purpose of investigating and evaluating the
request made through this application.

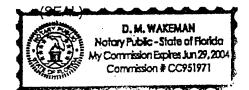
Signature of owner or owner-authorized agent

7.29.2000

Date

STATE OF FLORIDA) COUNTY OF LEE )

The foregoing instrument was certified and subscribed before me this 2000 day of Sept 19 2000 by Michel A. Hitcheraft, who is personally known to me er who has produced as identification.



D.M. WAKEMAN Printed name of notary public

Signature of notary public



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# **2020 Overlay Text Amendment Amendment Support Documentation**

For The Orange River property

Increasing the Available Residential Allocations Sufficient to Accommodate the Proposed Development

#### IV. AMENDMENT SUPPORT DOCUMENTATION:

#### A. General Information and Maps:

#### A.1. Provide any proposed text changes:

The applicant is requesting an amendment to the 2020 Overlay to increase the number of available residential acres, as reflected on Table 1(b.). A copy of the proposed Table is presented below.

Revised Table 1 (b.): 2020 Residential Allocations – Planning Community 4

	Acreage			
Residential Use by Future Land Use Category	Allocation for Year 2020	Existing	Available	
Intensive Development	89	23	66	
Central Urban	208	198	10	
Urban Community	632	389	243	
Suburban had a suburban ka a ka sa		1,220	± 583.3 ± ±	
General Commercial Interchange	6	7	-1	
Rural	454	282	172	
Wetlands	59	81	-22	
Total Residential	2,831 1	2,200 ¹	1,051.3 <sup>1</sup>	

See Section G of the Amendment Support Documentation for a detailed analysis of the proposed revisions to Table 1(b.)

#### A.2. Future Land Use Map:

A copy of the Future Land Use Map showing the boundaries of the subject property, surrounding street network, surrounding future land use map designations, and natural resources is attached as Exhibit A.2.

#### A.3 Existing Land Use Map:

A map depicting the existing land uses on a recent aerial is attached as Exhibit A.3. The proposed 2020 Overlay amendment will not change the permitted land uses or maximum densities or intensities. The Amendment is being requested to accommodate a proposed Mixed Use Planned Development. The consistency of the proposed

I:\Projects\Orange River\CPA\Narrative September 29, 2000

2020 Overlay Amendment – Planning Community 4
Planning Justification
Page 1 of 28

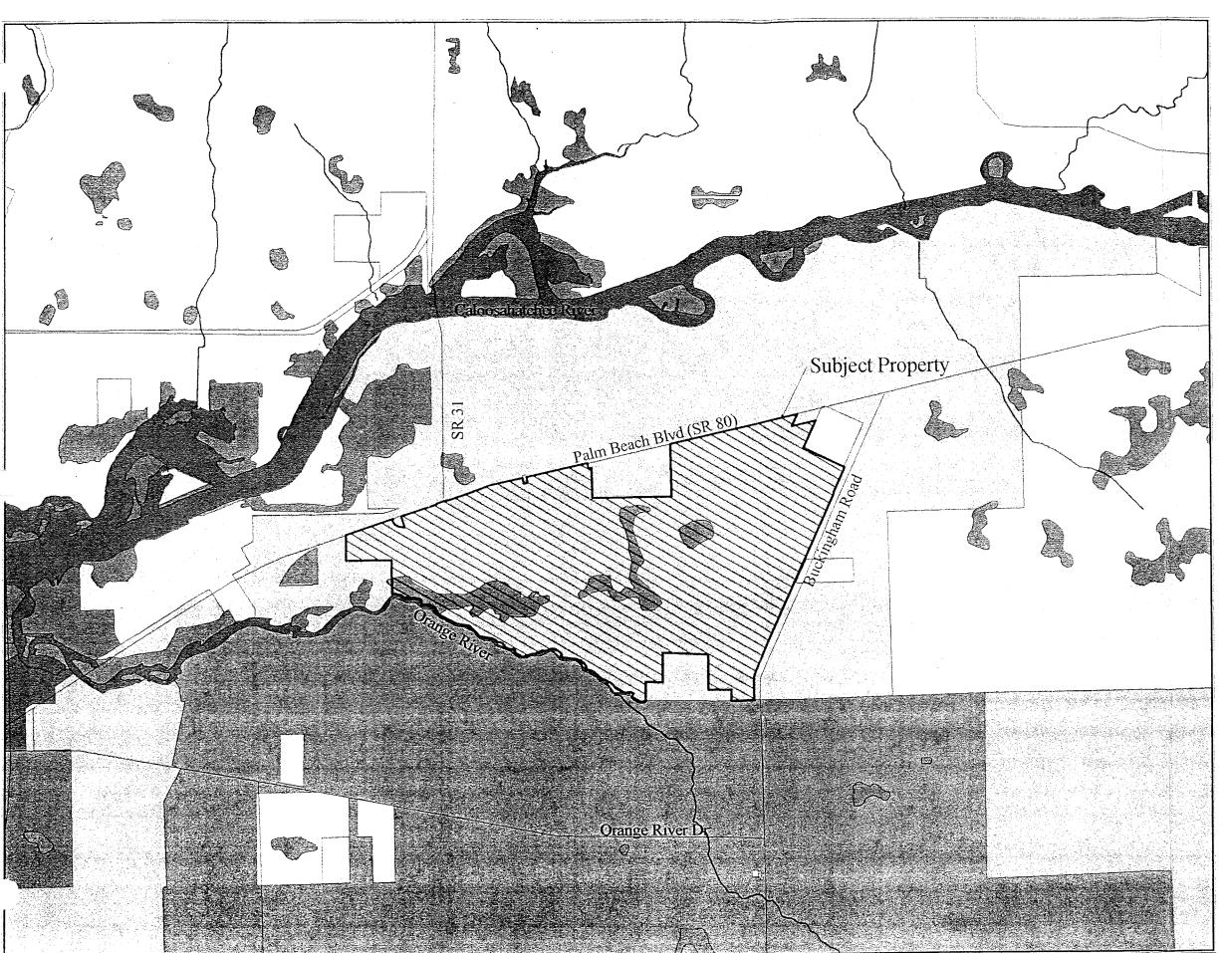


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Planned Development with the adjacent uses are discussed in detail in the Planned Development Application, which has been submitted concurrent with this application.

#### Consistency:

The existing land use of the subject property is predominantly vacant, except for a few single-family homes. The subject property is currently approved for various commercial, agricultural and residential uses. The proposed development program will result in a mixture of residential types, significant recreational areas, open space and some neighborhood commercial uses. The more intensive uses (including commercial and maintenance areas) have been located along SR 80, whereas lower density residential uses and recreational areas have been planned for the remaining perimeter to ensure compatibility with the adjacent residential uses. All uses, densities and intensities are consistent with the existing comprehensive plan and surrounding uses.



# LEE COUNTY FUTURE LAND USE MAP

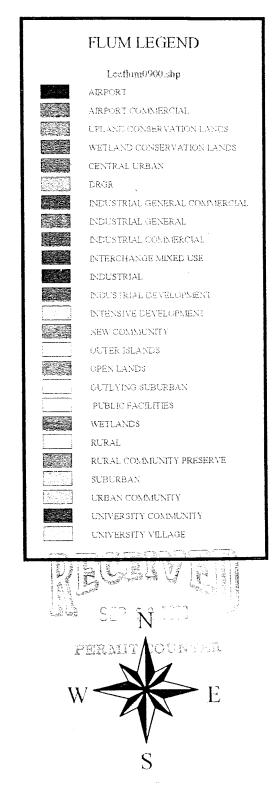
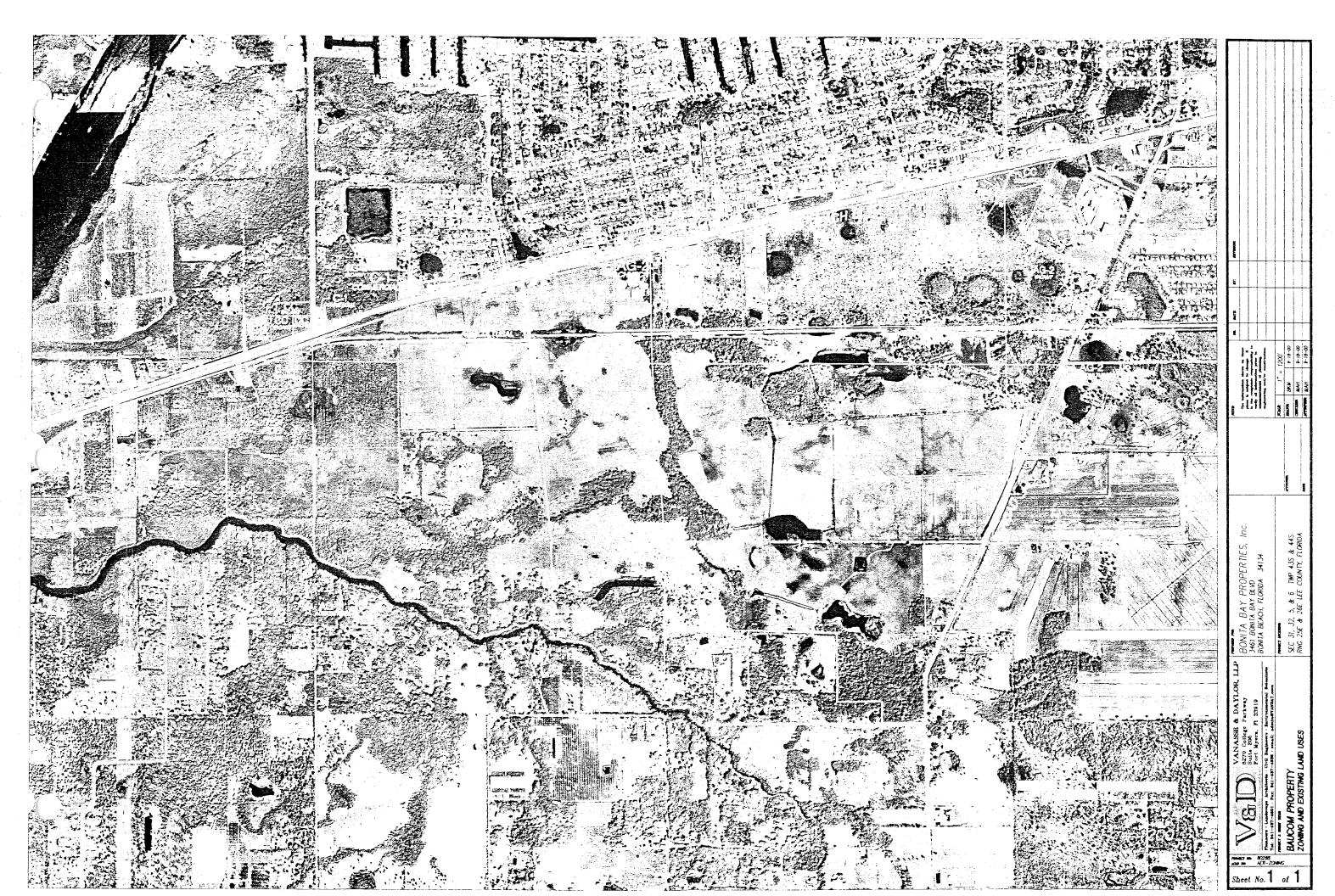


EXHIBIT A.2





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#### A.4. Existing Zoning:

A map depicting the existing zoning of the subject property and surrounding properties is attached as Exhibit A.3. A summary of the adjacent zoning is presented below:

North:

SR 82 and Riverdale High School, CC, CG, CFPD

South:

Orange River, AG-2 (Beyond the Orange River are areas of

typically low density residential)

East:

Buckingham Road, AG-2 (there are currently two zoning

applications under review by Lee County on the east side of

Buckingham Road, which are requesting RPD)

West:

AG-2

**Subject Property:** 

Currently AG-2, CC, CG, C1-A, and PUD. The applicant has

simultaneously submitted an application to rezone the entire

property to MPD.

#### A.5. Legal Description:

A copy of the legal description for the subject property is attached as Exhibit A.5.

#### A.6. Deeds:

Not Applicable. All necessary ownership information has been submitted as part of the Planned Development Application.

#### A.7. Aerial Map

An aerial map is integrated into Exhibit A.3, which also depicts the current zoning and existing land uses.

#### A.8. Authorization:

The applicant is the property owner, and therefore no additional authorization letter is required.

#### B. Public Facilities Impacts:

#### **B.1.** Traffic Circulation Analysis:

A detailed traffic impact statement has been submitted as part of the Orange River property Mixed Use Planned Development application. The requested amendment will not result in a change in the permitted use, density or intensity. The amendment will only impact the timing of the development. Prior to the "consumption" of any of the amended 2020 Overlay Allocations, a project will have to demonstrate that the project is consistent with the Lee Plan, as well as demonstrating Traffic concurrency. This analysis will be demonstrated at both the Zoning and Development Order Review phases.

I:\Projects\Orange River\CPA\Narrative September 29, 2000

2020 Overlay Amendment – Planning Community 4
Planning Justification
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September 18, 2000

#### **DESCRIPTION**

PARCEL IN
SECTIONS 25 AND 36, TOWNSHIP 43 SOUTH, RANGE 25 EAST,
AND

SECTIONS 28, 29, 30, 31, 32 AND 33, TOWNSHIP 43 SOUTH, RANGE 26 EAST LEE COUNTY FLORIDA

A tract or parcel of land lying in Sections 25 and 36, Township 43 South, Range 25 East, and Sections 28, 29, 30, 31, 32 and 33, Township 43 South, Range 26 East, Lee County, Florida, being more particularly described as follows:

Beginning at the southwest corner of the Northeast Quarter (NE-1/4) of the Northeast Quarter (NE-1/4) of Section 36, Township 43 South, Range 25 East run S 89° 08' 18" W along the south line of the Northwest Quarter (NW-1/4) of the Northeast Quarter (NE-1/4) of said Section 36 for 1324.04 feet; thence run N 00° 50' 29" W along the west line of said fraction for 740.15 feet to an intersection with the south line of Palm Beach Boulevard (State Road No. 80); thence run N 71° 36' 06" E along said south line for 1465.40 feet; thence run S 18° 23' 54" E for 10.00 feet; thence run S 71° 36' 06" W for 49.43 feet; thence run southerly, southeasterly and easterly along the arc of a curve to the left of radius 350.00 feet (chord bearing S 56° 17' 11" E) (chord 397.61 feet) (delta 69° 13' 26") for 422.87 feet to a point of tangency; thence run N 89° 06' 06" E for 45.96 feet; thence run N 18° 23' 54" W for 337.62 feet to an intersection with said south line of Palm Beach Boulevard; thence run N 71° 36' 06" E along said line for 95.73 feet; thence run S 18° 23' 54" E for 10.00 feet; thence run N 71° 36' 06" E along said south line for 978.51 feet to an intersection with the east line of said Section 25, Township 43 South, Range 25 East; thence run N 00° 43' 19" W along said east line for 27.29 feet; thence run N 71° 36' 06" E along the south line of Palm Beach Boulevard for 313.06 feet; thence run S 18° 23' 54" E for 16.00 feet; thence run N 71° 36' 06" E along said south line for 661.54 feet; thence run N 17° 00' 52" W for 20.00 feet; thence run easterly along said south line along the arc of a curve to the right of radius of 5609.55 feet (chord bearing N 74° 04' 21" E) (chord 196.03 feet) (delta 02° 00' 09") for 196.05 feet; thence run N 67° 44' 10" E along said south line for 299.35 feet; thence run N 77° 10' 13" E along said south line for 961.79 feet to an intersection with the westerly line of lands described in Official Record Book 1200 beginning at Page 710 of the Public Records of Lee County, Florida; thence run S 12° 49' 47" E along said west line for 175.00 feet; thence run N 77° 10' 13" E along the south line of said parcel for 125.00 feet; thence run N 12° 49' 47" W along the east line of said parcel for 175.00 feet to an intersection with the south line of said Palm Beach Boulevard; thence run N 77° 10' 13" E along said south line for 1781.13 feet to an intersection with the west line of lands described in Official Record Book 1418 beginning at Page 2194 of said public records; thence run S 12° 49' 47" E along said west line for 155.00 feet; thence run N 77° 10' 13" E along the south line of said parcel for 95.00 feet to an

intersection with the west line of lands described in Official Record Book 655 beginning at Page 407 of said public records; thence run S 01° 29' 33" E along said west line for 865.78 feet to an intersection with the north line of a Florida Power & Light Company Transmission Line Easement; thence run N 89° 02' 25" E along said north line for 2281.83 feet; thence run N 01° 29' 33" W for 1503.22 feet to an intersection with the south line of said Palm Beach Boulevard; thence run N 77° 10' 13" E along said south line for 3785.98 feet; thence run S 24° 33' 10" W for 377.20 feet; thence run N 77° 10' 13" E for 700.86 feet; thence run S 24° 33' 10" W for 882.33 feet; thence run S 65° 27' 20" E for 1320.81 feet to an intersection with the northwesterly line of Buckingham Road; thence run S 24° 32' 53" W along said northwesterly line for 687.52 feet; thence run N 89° 02' 25" E for 22.15 feet; thence run S 24° 32' 53" W along the northwesterly line of Buckingham Road for 3484.76 feet; thence run N 89° 46' 39" W for 893.56 feet; thence run S 00° 41' 52" E for 1343.62 feet; thence run N 89° 36' 23" E for 270.55 feet to an intersection with said northwesterly line of Buckingham Road; thence run S 24° 23' 10" W along said northwesterly line for 533.98 feet to a point of curvature; thence run southwesterly and southerly along the arc of a curve to the left of radius 730.00 feet (chord bearing S 11° 34' 12" W) (chord 323.87 feet) (delta 25° 37' 58") for 326.59 feet to a point of tangency; thence run S 01° 14' 47" E along the westerly line of Buckingham Road for 408.60 feet; thence run N 88° 45' 13" E for 5.00 feet; thence run S 01° 14' 47" E along said westerly line of Buckingham Road for 123.53 feet; thence run S 88° 59' 59" W for 645.57 feet; thence run N 00° 34' 58" W for 665.24 feet; thence run S 89° 09' 03" W for 659.45 feet; thence run N 00° 28' 09" W for 1018.10 feet; thence run N 87° 48' 58" W for 1311.96 feet; thence run S 00° 04' 13" E for 852.37 feet; thence run N 87° 48' 58" W for 497.77 feet; thence run S 00° 04' 13" E for 540.88 feet; thence run S 89° 45' 59" W for 40.00 feet; thence run S 00° 14' 01" E for 40.00 feet to an intersection with the south line of said Section 32, Township 43 South, Range 26 East; thence run S 89° 45' 59" W along said south line for 173 feet more or less to the waters of the Orange River; thence run northwesterly along said waters for 8400 feet more or less to an intersection with the west line of the Southeast Quarter (SE-1/4) of the Northeast Quarter (NE-1/4) of Section 36, Township 43 South, Range 25 East; thence run N 00° 46' 17" W along said west line for 984 feet more or less to the Point of Beginning.

Containing 1,453.5 acres, more or less.

Bearings hereinabove mentioned are plane coordinate for the Florida West Zone, NAD 1983 (1990 Adjustment).

W. Britt Pomeroy, Jr. (for The Pirm LB-642)

Professional Land Surveyor Florida Certificate No. 4448



### EXHIBIT C.2



#### NOTES

SOILS MAP SCANNED FROM NRCS LEE COUNTY SOIL SURVEY.

MAPPIN	G	HYDRIC/ NON-
UNIT	DESCRIPTION	HYDRIC
6	Hallandale Fine Sand	Non-hydric
10	Pompano Fine Sand	Hydric
11	Myakka Fine Sand	Non-hydric
12	Felda Fine Sand	Hydric
13	Boca Fine Sand	Non-hydric
14	Valkaria Fine Sand	Hydric
.26	Pineda Fine Sand	Hydric
28	Immokalee Fine Sand	Non-hydric
33	Oldsmar Fine Sand	Non-hydric
34	Malabar Fine Sand	Hydric
35	Wabasso Sand	Non-hydric
39	Isles Fine Sand, Depressional	Hydric
40	Anclote Sand, Depressional	Hydric
42	Wabasso Sand, Limestone Substratum	Non-hydric
45	Copeland Sandy Loam, Depressional	Hydric
49	Felda Fine Sand, Depressional	Hydric
51	Floridana Sand, Depressional	Hydric

REVISIONS	DESIGNED BY A.W.	DATE 9/22/99	HORIZONTAL SCALE N.T.S
	CHECKED BY A.W.	DATE 9/22/99	SEC./TWP./RNG. 25,36/43/25
	DRAWN BY S.L.O.	DATE 9/22/99	23,36/ <del>4</del> 3/23 28,30,31,32,33/43/26

PASSARELLA and ASSOCIATES, INC.
Consulting Ecologists
4575 Via Royale Suite 201 Ft. Myers, FL 33919

BAUCOM PROPERTY
SOILS MAP

99BBP402-2-2

EXHIBIT 2-2



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#### C.3. Topographic Map:

Appendix C.3. depicts the general topography for the subject property and surrounding areas. Johnson Engineering prepared this information. This information is preliminary in nature, but identifies Lee County Flooding Limits, as well as the FEMA flood zones and minimum floor elevations.

#### C.4. Wetlands, aquifer recharge areas, and rare and unique uplands.

The proposed amendment will not result in any changes to the Lee Plan that would allow new, unanticipated impacts. The proposed development plan and Master Concept Plan will be submitted as part of the proposed Orange River property Mixed Use Planned Development.

#### C.5. Protected Species:

The proposed amendment will not result in any changes to the Lee Plan that would allow new, unanticipated impacts. The proposed development plan, Master Concept Plan and Protected Species Survey have been submitted as part of the proposed Orange River property Mixed Use Planned Development. The zoning documentation demonstrates that the proposed development proposing minimal impacts to wetland habitat, and is preserving a significant amount of wetlands and uplands.

#### D. Impacts on Historic Resources:

In June 1999 the Archaeological and Historical Conservancy (AHC) conducted a phase one archaeological survey on the subject property. The parcel was surveyed to locate areas of possible archaeological or historical significance that could be affected by proposed development of the project parcel. The AHC conducted a pedestrian survey and dug subsurface shovel testing at particular areas within the project boundaries to locate and assess the significance of any potential archaeological or historical sites that might be present. A visit was made to the Ft. Myers USDA facility and aerial imagery dating to 1944 and 1954 were carefully examined to establish additional targets and areas of concern.

Nineteen targets of potential archaeological significance were ground-truthed by pedestrian surveys and subsurface testing. This resulted in the discovery of two archaeological sites and two areas of archaeological sensitivity that have the potential of yielding prehistoric material. In addition, seven historic features, sites, and structures were documented on the parcel. One of these, the citrus packinghouse site (8LL1984) located on the Orange River, is regarded to be of local significance.

These archaeological and historic sites and features encompass a fraction of less than 1% of the project parcel area, however, if development is proposed for the parcel then reviewing agencies may require additional documentation.

A copy of the map identifying the potential sites is attached as Exhibit D.

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#### E. Internal Consistency with the Lee Plan:

The proposed amendment is consistent with the following goals, objectives and policies of the Lee Plan, the State Comprehensive Plan, and the Strategic Regional Policy Plan.

#### Lee Plan:

#### 1.) Policy 1.1.5 – Suburban:

The proposed amendment to the 2020 Overlay will simply allow development to occur at densities already envisioned by the Lee Plan, as designated by Policy 1.1.5. The Suburban land use category accommodates residential development up to a maximum density of 6 dwelling units per acre, and Neighborhood Commercial uses. The majority of the adjacent land is similarly designated, ensuring compatibility or land uses.

#### 2.) Objective 2.1 – Development Location:

The proposed amendment is consistent with Objective 2.1 because it allows for contiguous, compact growth patterns in an area where existing infrastructure is in place and sufficient to accommodate the proposed use.

#### 3.) Policy 2.1.1:

This policy directs the majority of commercial, industrial and residential development to areas designated Future Urban on the Future Land Use Map. The proposed amendment simply allows development to occur in areas where the Lee Plan has already identified as appropriate for urban levels of development. Therefore the proposed amendment is consistent with this policy.

#### 4.) Objective 2.2. – Development Timing:

Objective 2.2 directs new growth to those areas that have sufficient public infrastructure to support the proposed development. The proposed amendment is clearly consistent with this policy, in that the requisite infrastructure to accommodate development on this property is already in place, or will be assured through the zoning and development order process. The Lee Plan has already identified this area as appropriate for urban development, and by not approving this amendment, growth will be forced to more remote areas simply because of the immediate availability of 2020 allocations. Therefore the approval of this amendment request will actually further the intent of the Lee Plan.

#### 5.) Goal 4:

Goal 4 encourages mixed-use development and integrated design. The subject property (as demonstrated in the zoning document submitted concurrent with this application) will be rezoned to a Mixed Use Planned Development. The ultimate development program provides for a mix of housing types, as well as sufficient open space, recreational opportunities and business and shopping opportunities to meet the needs of the immediate and surrounding community. The approval of the requested 2020 Amendment will result in the comprehensive Master Planning of approximately 1,400 acres. As reflected in the zoning submittal, the proposed master plan is well integrated, functionally related, and consistent with adjacent uses.

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#### 6.) Policy 5.1.1:

The amendment will allow for a coordinated planned development on approximately 1,400 acres.

#### 7.) Policy 5.1.5:

The proposed amendment allows for the development of a residential planned development that is compatible with the land uses to the north, east and west. Further, the integrated design of this project will have a significant visual improvement on over 2 miles of frontage on SR 80 and about 1.5 miles of frontage on Buckingham Road, thereby improving the overall community appearance.

#### 8.) Policy 5.1.6:

The proposed amendment will allow for a low density, golf course community which will provide a mix of residential unit types, as well as the ability to provide a significant amount of open space, buffering, landscaping and recreational amenities for its residents.

#### 9.) Standards 11.1 and 11.2:

The proposed project will be served by Lee County Utilities.

#### 10.) Standard 11.3:

The resulting project is being processed as a Mixed Use Planned Development, and has submitted a detailed TIS to document concurrency with the surrounding transportation network.

#### 11.) Objective 28.2:

The subject property is serviced by access to mass transit.

#### 12.) Policy 36.1.5:

The proposed development will be serviced by public sanitary sewer services.

#### 13.) Policy 45.2.1:

The proposed development is located in an established fire district, and in an area where public water is available.

#### 14.) Goal 52 – Development Requirements:

The proposed development will meet or exceed all required open space standards for residential developments.

#### 15.) Policy 79.1.1:

The proposed development will comply with the County's new Hurricane Mitigation program.

#### 16.) Policy 84.1.2:

The proposed project will, to the extent possible, integrate existing wetland, as well as connect historic or desired flow ways. Any impacts to jurisdictional wetlands will be in conformance with SFWMD or DEP dredge and fill permits or exemptions.

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#### 17.) Policy 100.9.5:

The proposed density and intensity of the subject property will be compatible with or improve the area's existing character.

#### 18.) Policy 100.9.6:

The proposed amendment will ensure that the proposed land uses acceptably minimize adverse drainage, environmental, spatial, traffic, noise and glare impacts on adjacent uses.

#### State Plan:

#### 1.) Goal 16(a):

The project will have access to adequate public facilities, as noted in Section B.

#### 2.) Policies 16(b)1 and 3:

The amendment will allow for a mix of residential unit types, and ensure a well-integrated transition from the commercial uses along SR 80 to the residential areas to the south.

#### Regional Policy Plan:

#### 1.) Goal I-1:

This amendment will permit for a greater mix of housing types on the over all site.

#### 2.) Policies I-5.1.c. and 2:

Approval of this amendment will allow for compact, efficient and compatible development patterns.

#### 3.) Policies V-3.1 and 2:

The amendment will allow for residential uses next to an area that provides for significant business activities.

#### F. Additional Requirements for Specific Future Land Use Amendments:

The proposed amendment does not contain any provisions that require additional information under this section.

#### G. Planning Justification:

See the Attached Planning Narrative.

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#### **Exhibit IV-G: Planning Narrative**

# Orange River property 2020 Overlay Amendment

Planning Community 4

#### Introduction:

The subject property, commonly referred to as the Orange River property, is located in Planning Community 4 (Fort Myers Shores), and is situated between the Orange River and SR 80. The property runs from Buckingham road westward, beyond the intersection of SR 31. The total property is in excess of 1,400 acres.

The Future Land Use designation for the subject property is Suburban, which allows for urban levels of development, including a maximum of 6 dwelling units per acre, and commercial intensities up to Neighborhood Commercial levels.

The subject property is being developed by a subsidiary of Long Bay Partnership, and an application for a Mixed Use Planned Development has been submitted concurrent with this application to allow a maximum of 1,500 residential units, 160,000 square feet of retail, and up to 30,000 square feet of office. The resulting net density of the project will be less that 1.25 dwelling units per acre, which is clearly consistent with the existing land use category, as well as the surrounding residential uses.

In conducting the due diligence for the subject property, it was identified that there were insufficient 2020 allocations to accommodate the proposed residential component. Because this property has clearly been identified for urban levels of development, and because the proposed uses are consistent with the Lee Plan densities and intensities, and because the requisite urban infrastructure is in place to accommodate the proposed development, this application has been prepared to provide the data and analysis necessary to support an amendment to the 2020 Overlay.

#### **Overview of the Proposed Development:**

The proposed development is expected to provide a unique community experience in East Lee County. The project will contain a variety of residential products; up to 36 holes of championship golf; a village center that contains a clubhouse, recreational amenities, cultural opportunities and meeting areas; and neighborhood commercial opportunities ranging from shopping centers, to financial establishments and professional offices. The following Table details the development program requested in the zoning application for the subject property.

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Table 1:

**Orange River property Proposed Development Program:** 

Property Acreage:

+/- 1,400 acres

Maximum Residential Units:

1,500 dwelling units

Estimated Maximum Density:

1.2 dwelling units per acre

Maximum Retail Square Footage:

160,000 square feet

Maximum Office Square Footage:

30,000 square feet

#### **Current Status of the Property:**

The subject property currently has a variety of zoning categories including CC, CG, C1-A, AG-2 and PUD. The majority of the commercial zoning categories allow for strip commercial development along SR 80, while the remainder of the property is zoned AG-2, and is used for cattle grazing and agriculture.

A zoning application has been submitted to Lee County to request a rezoning to allow development in conformance with the program outlined in Table 1. It is anticipated that this rezoning application will be presented to the Hearing Examiner in early 2001, with final approval from the Board of County Commissioners being considered in late spring 2001.

#### Background Data:

This study includes a comprehensive review of numerous documents that have been used to support or illustrate the applicant's position that Planning Community 4 has not been allocated sufficient acreage to accommodate the projected growth within this area of Lee County, or to further the Goals, Objectives and Policies of the Lee Plan. These documents include the following:

- The Orange River property Zoning Application
- Surrounding Zoning Applications (Appendix G.1)
- The Lee Plan's 2020 Overlay and Allocation Tables (Appendix G.2)
- The Lee Plan
- PAM/T 96-13 Selected Attachments (Appendix G.3)
- Lee County Conservation and Land Acquisition Advisory Committee (CLASAC) (Appendix G.4)
- 1990 Census Data and Population Projections (Appendix G.5)
- ACOE Draft Environmental Impact Study
- Department of Community Affairs Community Planning Memorandums
- Recent 2020 Overlay Amendments

#### **Background Data:**

#### A. Consistency with the Lee Plan Land Use Categories:

As outlined in Section IV-E, the underlying land use category is not being amended. The proposed development scenario is consistent with the anticipated densities and intensities of this area, and the Zoning Application for Mixed Use Planned Development illustrates how the proposed use is compatible with adjacent uses.

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The approval of the 2020 Overlay Amendment will actually further implement the Lee Plan by allowing development to occur in areas designated for urban development. Further, all of the requisite infrastructure is in place or assured in conjunction with the proposed development.

#### B. Consistency with 2020 Overlay Concept:

The primary concept of the 2020 Overlay was to "designate future land use patterns to reflect the goals, objectives, and policies of the Lee Plan." This concept was required by the Department of Communities Affairs in the 1989 Settlement Agreement to ensure that the Future Land Use Map reflected the anticipated population, while also ensuring that the overlay also directed growth to those areas that were adequately serviced by infrastructure.

As presented above, the subject property is located in a designated urban area, serviced by all requisite infrastructure, surrounded by development, and was formerly included in the SR 80 Redevelopment Overlay District. Development of this property (as outlined in the zoning application) is clearly consistent with the goals, objectives and policies of the Lee Plan, as well as the Future Land Use Map. However, because the current 2020 Overlay allocations did not anticipate the shift in development to East Lee County, the 2020 allocations are insufficient to allow development consistent with the Lee Plan.

Based on the compliance with the Lee Plan, Future Land Use Map, and the intent of the 2020 Overlay, this amendment should be approved to accommodate the anticipated development within this urban area.

#### C. Consistency with Lee Plan Growth Management Provisions:

Goal 2 of the Lee Plan specifically addresses growth management. As outlined in Section IV-E, the proposed development is clearly consistent with the Growth Management provisions of the Lee Plan, as well as accepted community-planning standards. Further, by not increasing the 2020 allocations, developers will be inclined to develop smaller, piecemeal projects in reaction to the limited 2020 allocations. The result of not increasing the 2020 allocations for this Planning Community would be the underutilization of public infrastructure, and the inability to further the goals, objectives and policies of the Lee Plan.

A smarter development approach would be to encourage the master planning of larger tracts in order to preserve natural systems, retain open space, provide mixed use development, provide a variety of housing types, provide recreational opportunities and comprehensively address the provision of and impact to infrastructure. This approach is clearly established in Goals 2 and 4 of the Lee Plan, and would be implemented during the zoning approval of the proposed development. However, in order to provide some assurance to developers, the 2020 allocations need to be adjusted to ensure that development can be provided to accommodate existing and near term demand.

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PART TWO: Specific Amendments to the 2020 Overlay

#### A. Existing Allocations:

Based on the August 18, 2000 update of the 2020 Overlay, Planning Community 4 can accommodate less than 163 acres of residential development in the Suburban land use category over the next 20 years. A detailed summary of the current allocations for the entire Planning Community is presented below:

Table 2: 2020 Residential Allocations – Planning Community 4 (8/18/2000)

	Acreage		
Residential Use by Future Land Use Category	Allocation for Year 2020	Existing	Available
Intensive Development	89	23	66
Central Urban	208	198	10
Urban Community	632	389	243
Suburban	1,383	44.11 <mark>1,22</mark> 0 kg	163
General Commercial Interchange	6	7	-1
Rural	454	282	172
Wetlands	59	81	-22
Total Residential	2,831 ¹	2,200 ¹	631 ¹

Source: Lee County Department of Community Development Website.

For comparison, Table 3 has been provided to illustrate the consumption of residential acreage in Planning Community 4, since the Overlay program was modified by PAM/T 96-13. As clearly depicted by this table, there have been minimal changes in the available acreage over the last two years. Actually, there is slightly more available acreage in the 1998 Allocations than in the 2000 Allocations, due in part to more accurate mapping capabilities.

**Table 3:** 2020 Residential Allocations – Planning Community 4 (6/14/1998)

	Acreage		
Residential Use by Future Land Use Category	Allocation for Year 2020	Existing	Available
Intensive Development	89	32	57
Central Urban	208	205	3
Urban Community	633	412	220
Suburban	1,383	1,229	154
General Commercial Interchange	7	7	0
Rural	454	318	137
Wetlands	59	59	0
Total Residential	2,834	2,263	571

**Source:** PAM/T 96-13 – Support Documentation

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This total has been recalculated. The total reflected on the Website was inaccurate.



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While these Tables seem to support a modest amount of residential allocations, it is imperative to evaluate them against recent development applications that have occurred within Planning Community 4. Presented below are some of the more recent applications.

Project:	Submittal/			
	<b>HEX Date:</b>	Acres:	Units:	Net Density:
Hawks Haven RPD:	10/1999	1,797 +/-	1,598	.9 Du/Ac
Buckingham 320:	5/2000	325+/-	1,320	4.1 Du/Ac
Buckingham Gardens:	5/2000	75 +/-	300	4.0 Du/Ac
Orange River property MPD:	10/2000	1,400 +/-	1,500	1.1 Du/Ac
Totals:	•	3,597 +/-	4,718	1.3 Du/Ac

These zoning applications clearly demonstrate that since the 2020 allocations were evaluated for modification through PAM/T 98-13, growth has shifted to this portion of the county. This is due in part to the minimal environmental limitations, the availability of public services, and community planning efforts to improve the community.

#### B. Proposed Allocations:

In order to more effectively accommodate the anticipated residential component of the Orange River property (which is located wholly within Planning Community 4), the following allocations are proposed:

**Table 4:** 2020 Residential Allocations – Planning Community 4 (8/18/2000)

	Acreage			
Residential Use by Future Land Use Category	Allocation for Year 2020	Existing	Available	
Intensive Development	89	23	66	
Central Urban	208	198	10	
Urban Community	632	389	243	
Suburban New 12 14 15 16 16 16 16 16 16 16 16 16 16 16 16 16	1,803.3	1,220	583.3	
General Commercial Interchange	6	7	-1	
Rural	454	282	172	
Wetlands	59	81	-22	
Total Residential	2,831 1	2,200 ¹	1,051.3 1	

Source: Lee County Department of Community Development Website.

Based on preliminary development plans, approximately 420 acres of residential are planned for the Orange River property. This acreage has been reflected on Table 2. However, it is important to note that there are other significant projects that have been proposed in Planning Community 4, some in the Suburban land use category, and some in the Rural category. Because of this significant projected growth, additional residential allocations are justified within this Planning Community.

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#### C. Justifications:

The following pages outline justifications and potential sources for the increase in the residential allocations for Planning Community 4.

#### 1. Permitted 25% Allocation Buffer

As a result of reducing the population projections from the BEBR high-range to the BEBR midrange (see Appendix G.5 - BEBR Population Projections), Lee County applied a 25% "buffer" to the difference between the current population and the projected population. This "buffer" concept is based on accepted community planning literature, and was accepted by DCA in reviewing PAM/T 96-13 (Appendix G.3). However, since adoption of the latest 2020 Amendment, DCA has issued technical memorandums indicating that the 25% buffer may be applied to population overall, not just the projected growth. Because DCA has allowed for a greater portion of the population to be used for the buffering calculation, but Lee County based their buffer on a significantly smaller component, the 2020 Overlay should be adjusted to reflect a 25% buffer based on the total population, not just the incremental growth.

As indicated in PAM/T 96-13, the 1996 Population was estimated at 394,244, while the projected 2020 Population was 602,000. Utilizing these figures, Lee County incorporated a 25% buffer on the 207,756 person difference, equating to an additional 51,939 people. However, if even a 15% buffer (less than the permitted 25%) were applied to the updated BEBR mid-range projections, a buffer of 90,885 people could be provided. This approach would provide for additional flexibility, as well as accommodating the unique "vested community" status of Lehigh Acres.

If the difference between the buffer provided by PAM/T 96-13 and the 15% buffer calculated above were applied evenly to each of the 20 Planning Communities, it could potentially have the following impact on the Suburban land use category in Planning Community 4.

38,946 people (90,885 - 51,939) / 20 Planning Communities = 1,947 people Step 1:

Step 2: 1,947 people / 2.55 pph = 763 dwelling units

Step 3: 763 dwelling units / 3.34 units per acre (historic rate in Community 4) = 228.6

Acres in the Suburban land use category in Planning Community 4.

It is important to note that this calculation is extremely conservative, in that it only applied a 15% buffer to the overall population, rather than the accepted 25%, and it distributed the allocations evenly to the 20 Planning Communities. In reality, a number of the Planning Communities currently have adequate allocations, and do not require additional acreage.

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#### 2. Under Estimation of County Growth

PAM/T 96-13 details that the population projections used as the underpinning of the 2020 Overlay were based on BEBR mid-range projections for the year 2020. As outlined in this report, those projections showed a population of 602,000 by the year 2020. Since these projections were done, BEBR has updated its projections, and now shows a 2020 population of 605,900 (See Appendix G.5). This results in an unallocated population of 3,900.

Because the growth in Lee County is primarily in the unincorporated areas, and because Planning Community 4 is under allocated, the following analysis investigates the potential impact this variation would have on the 2020 allocations.

**Step 1:** Apply Flexibility Factor of 125%

3,900 \* 1.25 = 4,875 people

**Step 2:** Calculate Dwelling Units:

4,875 people / 2.09 people per household (PAM/T 96-13 – Attachment 9)

2,332 dwelling units

**Step 3:** Allocate to Various Planning Communities

50% to Planning Community 4 (due to significant under allocation)

.5 \* 2,332 dwelling units = 1,166 dwelling units available to Plan. Com. 4

**Step 4:** Calculate Acreage within Suburban Land Use Category

1,166 du / 3.34 du/ac (PAM/T 96-13 - Attachment 4)

349.1 Acres of Suburban Allocation

The result of this analysis demonstrates that simply by adjusting the 2020 Allocations to reflect the increase in the BEBR mid-range projections, between 349 and 523.2 acres (75% of available dwelling units) could be allocated to the Suburban land use category of Planning Community 4.

#### 3. Unutilized CLASAC Allocations:

Lee County Ordinance No. 96-12 created the Lee County Conservation Land Acquisition and Stewardship Advisory Committee (CLASAC). The purpose of the CLASAC program is to acquire, preserve and restore environmentally critical or sensitive lands within the County. As of 8/8/2000, Lee County has acquired almost 500 acres, and is presently negotiating the acquisition of an additional 1,600 acres (See Appendix G-4).

One of the main criteria in the evaluation of these parcels is development pressure. Projects that are located in urban land use categories have intensive zoning, or development orders are given higher consideration for acquisition. Once acquired, the County has never re-evaluated the 2020 Allocations to redistribute them to more appropriate locations. This process is significant in light of several acquired or pursued properties, as outlined below.

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Table 5: CLASAC/2020 Land Acquisition Programs

Property I.D.	Acres	STRAP	Land Use	Planning Community	Potential Units
4	39	30-43-27	Central Urban	4	115
55	157	4-44-22	Wetlands	16	0
57	132.29	32-43-27	Rural	4	4
58	39	7-43-23			
62	175		DRGR	18	1.75
66	82.93	12-46-24	Suburban	13	497
69	39.51	30-45-25	Out. Suburban	11	120
73	66.55	8-44-26	Rural Comm.	20	66
75	38	17-43-23	Open Lands	6	3
77	55.45	32-45-24	Urban Comm. Wetlands	12	120
78	75.26	29-45-24	Urban Comm. Wetlands	15	300
79	8.7	20 & 21-43-26	Rural	1	8
81	47.58	32-43-27	Wetlands	3	2
82	52.4	29 & 32-43-25	Suburban Wetlands	19	120
91	5.2	13-43-22	Outlying Sub.	6	15
92	80	22-45-22	Wetlands	16	4
93	233.68	21-46-27	DRGR	18	23
95	5	13-43-22	Outlying Sub.	6	10
96	10.42	13-43-22	Outlying Sub.	6	20
99	15.67	13-43-22	Outlying Sub.	6	30
102	83.02	8-43-23	Open Land	5	8
107	66.01	5-43-23	Open Land	5	6
108	1,115	Numerous	Outlying Sub. Suburban Wetland	19 & 1	1598
Totals:	2,622.67				2951.75

While many of the potential dwelling units are estimated for each parcel, and not all of the units may be immediately deductible from the 2020 Overlay Allocation table, there is clearly a source of additional allocations resulting from the continued acquisition through the CLASAC program. For example, Parcel 108 is an approved Planned Development (River Run - #Z-93-052), which is approved for 1,598 dwelling units. These units are in similar land use categories to the Orange River property project, and are in close proximity to the Fort Myers Shores Planning Community. If you were to simply convert these units to Planning Community 4, additional acreage would be available without adjusting the capacity of the Future Land Use Map.

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**Step 1:** 1,598 units / 2.55 pph = 626 units

**Step 2:** 626 units / 3.34 du/ac = 187.6 acres

Based on these calculations, an additional 187.6 acres of 2020 residential allocations could be made available to the Suburban Land Use Category of Planning Community 4.

#### 4. Over allocation of other Planning Communities:

One of the unique challenges associated with Lee County's 2020 Overlay mechanism is the allocation of units to vested lots in Lehigh. In order to accommodate these vested lots, Lee County allocated significant 2020 residential acreage to this community, even though the amount allocated is significantly greater than what is expected by the 2020.

Presented below are population projections for the Lehigh Planning Community, recent "draws" on the allocated acreage, and a projection of how many years it will take to consume the allocated acreage at the current growth rate.

#### Population projections:

Attachment 15 of PAM/T 96-13 (See Appendix G.3) provided a running total of housing units by Community, beginning in 1918 and ending in 1997. According to this table, the number of housing units in Lehigh in 1990 was 11,573, which had grown to 12,598 by the year 1997. This equates to an approximate growth of 146 dwelling units per year.

Similarly, the 1990 census showed the 1990 population of Lehigh to be 21,731, with 10,397 dwelling units.

As determined by the Lee County Department of Community Development, the Lehigh Fire District contained 13,908 dwelling units and functional population of 29,821, as of December 1999. The increase in dwelling units from 1990 (as calculated by the Census) to the 1999 (as tracked by Fire District) is 3,511 dwelling units. This growth equates to 351 dwelling units per year over the 10-year period.

Lee County projects the Lehigh population to be 77,307 by the year 2020 (PAM/T 96-13). Based on people per household figures obtained from the 1990 Census, an additional 17,905 dwelling units are anticipated by the year 2020.

77,307 people / 2.43 pph = 31,813 dwelling units 31,813 (2020 Units) - 13,908 (1999 units) = 17,905 new units by 2020

The Lee County Department of Community Development web site contains the latest 2020 allocation table, which shows the current 2020 allocations for Lehigh are as follows:

Central Urban (CU)
Urban Community (UC)

1,405 available acres 7,885 available acres

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By applying the population and acreage rates contained in PAM/T 96-13 to the allocated acres, the following determinations can be made.

Step 1: 1,405 acres of CU \* 3.88 (historical du/ac) = 5,451 dwelling units

5,451 dwelling units \* 2.43 (1990 pph) = 13,246 people

Step 2: 7,885 acres of UC \* 2.36 (historical du/ac) = 18,608 dwelling units

18,608 dwelling units \* 2.43 = 45,218 people

**Step 3:** 13,246 people (from CU) + 45,218 people (from UC) =

58,464 new people are accommodated by the 2020 allocations.

**Step 4:** 29,821 (1999 base population) + 58,464 (2020 accommodated) = 88,285

people

**Step 5:** 77,307 (projected 2020 population) – 88,285 =

10,978 excess population accommodated in Lehigh

Step 6: This step removes the excess allocation from the Urban Community

Category in the Lehigh Planning Community, and demonstrates the potential impact it would have in the Fort Myers Shores Planning

Community, while still accommodating all of the projected growth in the

Lehigh Community.

10,978 people / 2.43 pph = 4,518 dwelling units

4,518 du / 2.36 (historical density in UC) = 1,914 acres

By removing 1,914 acres from the urban community land use category of the Lehigh Planning Community, the allocations would be as follows:

 Table 6:
 Modified 2020 Residential Allocations – Lehigh Planning Community

	Acreage			
Residential Use by Future Land Use Category	Allocation for Year 2020	Existing	Available	
Central Urban	3,804	2,399	1,405	
Urban Community	7,360	1,389	5,971	
Rural	10	1	9	
Wetlands	4	4	0	
Total Residential	11,178	3,793	7,385	

Step 7: Evaluate the potential impact of adding the excess allocations from

Lehigh to Planning Community 4.

10,978 people (excess in Lehigh) / 2.55 pph = 4,305 dwelling units 4,305 du / 3.34 (historic density) = 1,289 acres of Suburban

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The result of this exercise clearly demonstrates that there is more than sufficient acreage allocated to this vested community to accommodate the projected growth. This fact is even more obvious in light of Appendix H, which contains a map showing all of the lots in Lehigh that have significant outstanding taxes, and are subject to significant back taxes and penalties, or conversion to County assets. This conversion could eliminate approximately 14,000 lots from the available inventory in Lehigh Acres. Further, the lack of available infrastructure in Lehigh will continue to slow development in the immediate future. For these reasons, the amount of allocations in Lehigh can be adjusted without adversely impacting the vested status of the community (See Appendix G.6).

### 5. Artificial limitation on low density development

The regulatory component of the 2020 Overlay is the allocation of acreage. As a result, Lee County tracks Development Orders to monitor acreage from the 2020 Allocation Table. Actual deductions are made upon issuance of a building permit. While this approach was designed to facilitate tracking, it is not the most accurate measure of impact.

Under the current approach, the 2020 Overlay converts population projections to anticipated numbers of units. Based on the projected unit counts, the County generates acreages based on anticipated densities within Future Land Use Categories and Planning Community districts. While this process is documented in PAM/T 96-13, it is extremely complicated, and virtually impossible for a layperson to actually evaluate. Beyond being complicated, this approach inappropriately limits low-density residential developments, whereas higher density residential developments with greater impacts are allowed. For Example:

### Orange River property Scenario:

Assume the property has 1,000 net residential acres. According to Lee County, residential development in the Suburban land use category within Planning Community 4 typically occurs at a density of 3.34 units per acre. Based on that ratio, a total of 3,340 dwelling units should be anticipated.

However, if that same 1,000 net residential acres requests only 1,500 dwelling units in order to maintain the character of the community, from a 2020 Overlay perspective the draw on residential allocations is the same, even though the actual impact on infrastructure is less than half.

Another way to look at it is that the Suburban land use category in Planning Community is allocated 164 residential acres. Based on the County's unit per acre projection, that 164 acres would normally accommodate 548 dwelling units. However, a development containing 548 dwelling units at a density of 1.2 units per acre (requiring 457 acres) would be prohibited, even though the impact on infrastructure is the same.

The reality of this scenario is that even though the proposed density is well within the permitted density range for the Land Use Category, appropriate buffers and preservation areas are accommodated, and all requisite infrastructure is available, the 2020 Overlay precludes this use. The alternative is for development to be pushed to Lehigh, or other Planning Community, where the infrastructure is not in place. This would result in the need to expand infrastructure into a new area, while underutilizing existing infrastructure. Based on many definitions, forcing development to areas where infrastructure is not sufficient to accommodate growth is urban sprawl.

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### 6. Modifications due to Bonita Incorporation

Given the recent incorporation of Bonita Springs, it is mandatory that Lee County re-evaluate its 2020 Overlay program. One of the primary directives of the new Town Council is to provide greater limitations on new development. This trend is likely to significantly reduce the need for the residential acreage that was previously allocated to the Bonita Springs Planning Community. Because this Bonita Springs has not completed its Comprehensive Plan, it is difficult to specifically identify what modifications will be required to the 2020 Overlay. However, any additional acreage should be considered for allocation in the under-allocated communities such as Fort Myers Shores.

### D. Reservation of Allocation:

Currently, the 2020 Overlay is allocated on a first come, first serve basis, with the actual "draw" being taken at the time of building permit. This approach allows for more flexibility in the distribution of 2020 acreages, but provide no assurances for larger projects that have a longer-term build-out.

For example, a large-scale project could obtain approvals for 1,500 dwelling units. At the time of zoning approval, there are sufficient 2020 acres to accommodate the project, but the project has a 10-year build out. At year 3, two smaller projects (each having 400 dwelling units and 4 year build out) obtain approvals and begin developing. By the time the first project reaches its seventh year, all of the entitlements are gone, leaving it under allocated until additional acres can be placed into the Planning Community.

As part of this amendment, it is strongly recommended that allocations be reserved, on a project-by-project basis, once a project obtains Planned Development approval. These allocations must be tied to a development schedule to ensure that the project doesn't get drawn out, tying up the 2020 allocations so other timely projects can't proceed. A second approach would be for the County to accept the responsibility to automatically update the 2020 allocations for larger projects, in accordance with the development timetable established during zoning or Development Order Approval. This approach would give developers of larger projects a higher level of certainty, while not unfairly limiting smaller projects.

### E. Summary:

Based on the information presented in this application, as well as the support documentation, there is more than sufficient data and analysis to support an amendment to the 2020 Overlay, Table 1(b), to provide sufficient residential allocations to accommodate the proposed Orange River property development.

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### APPENDIX G.1



### Hawk's Haven RPD

Development Type - PD

Status - Approved

Fort Myers Shores Planning Community

### **Project Approvals**

Grand Total of Residential Uses	557.90 1,797.60	1,598 1,598	0	
Total Residential	557.90	1,598	0	Will likely contain 200-250 M.F. and the balance SF, duplex, and townhouse
Residential			- 0	
Grand Total of Uses	1,239.70		0	
Non-County Golf Course	531.00		0	36 golf holes
Open Space/Parks	644.00		0	Includes ALL forms of open space (wetland, upland, lakes, indigenous, non indigenous)
Residential Amenities	34.70		0	Golf Club, Rec. Area, and Information Center
ROW/Other	30.00		Q	Road ROW

### **Project Hearings**

Z-99-056 10/18/99 99-03-066.03Z 01.01 Yes 25.26.27.34.35.3643 Rezone AG-2 to RPD	Resolution#	Hearing Date	Hearing #	Approved	S-T-R:	Notes
-26	Z-99-056	10/18/99	99-03-066.03Z 01.01	Yes	25,26,27,34,35,3643 -26	Rezone AG-2 to RPD

### OFFICE OF THE HEARING EXAMINER, LEE COUNTY, FLORIDA

### **HEARING EXAMINER RECOMMENDATION**

REZONING:

CASE DCI964568 fka 99-10-090.03Z

APPLICANT:

**BUCKINGHAM 320** 

**HEARING DATE:** 

MAY 24, 2000

### I. APPLICATION:

This matter came before the Lee County Hearing Examiner as an Application for a Rezoning to a Residential Planned Development (RPD) pursuant to Lee County Land Development Code (LDC).

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

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

The subject property is located at 3621 Buckingham Road (approximately 1½ miles south of S.R. 80 on the east side of Buckingham Road), in S32 & 33-T43S-R26E, Lee County, FL. (District #5)

### II. STAFF REPORT AND RECOMMENDATION: APPROVE WITH CONDITIONS

The Department of Community Development Staff Report was prepared by Kay Deselem. The Staff Report is incorporated herein by this reference.

### III. RECOMMENDATION OF HEARING EXAMINER:

The undersigned Lee County Hearing Examiner recommends that the Lee County Board of County Commissioners APPROVE the Applicant's request to rezone 325± acres from AG-2 to Residential Planned Development (RPD) for the real estate described in Section IX. Legal Description WITH THE FOLLOWING CONDITIONS:

#### A. CONDITIONS:

1. The development of this project must be consistent with the one-page Master Concept Plan (MCP), entitled "Conceptual Site Plan-Buckingham 320 RPD," stamped received April 26, 2000, last revised April 26, 2000, except as modified by the conditions below. This development must comply with all requirements of the Lee County Land Development Code (LDC) at time of local Development Order Approval, except as may be granted by deviation as part of this planned development. If changes to the MCP are subsequently pursued, appropriate approvals will be necessary.

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

### a. Schedule of Uses

Administrative Office

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

Club, private

**Dwelling Units** 

- (1) A maximum of **900 units** to be comprised of single-family, duplex, townhouse, multiple-family and zero-lot-line units (densities may not be shifted between land use categories unless a new public hearing occurs and the provisions of Policy 5.1.11 of the Lee Plan are followed)
- (2) Single-family units may be located in any of the Phases/Development Areas within the Suburban land use category whether or not so indicated on the approved Master Concept Plan, PROVIDED the trips do not exceed 8,759 ADT, 648 AM peak hour, and 845 PM peak hour as set out in the Zoning Traffic Impact Study.
- (3) The number of units is also subject to compliance with concurrency requirements

Entrance Gates and Gatehouse

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

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

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

Recreational Facilities - Private, On-site only

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

Signs, in compliance with LDC Chapter 30

### b. Site Development Regulations

### Overall Project:

Setbacks:

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

**Building Height:** 

35 feet/three stories (not to exceed either

parameter)

Open Space:

40 percent minimum

10 percent must be distributed to individual dwelling units having immediate private ground

floor access.

Indigenous open space must be provided as

depicted on the MCP

Minimum Water Body Setback:

25 feet

Maximum Lot Coverage:

40 percent

Phases 1-6:

Minimum Lot Area:

5,250 square feet

Minimum Lot Width:

50 feet 105 feet

Minimum Lot Depth:
Minimum Street Setback:

20 feet

Minimum Side Setback:

zero feet and five feet for zero lot line units, 7.5 feet for all others, except that where there are two or more principal buildings on a development tract, the minimum separation of buildings will be

no less than 20 feet

Minimum Rear Setback:

20 feet

Phases 7 & 8:

Minimum Lot Area:

20,000 square feet

Minimum Lot Width: Minimum Lot Depth:

100 feet 100 feet

Minimum Street Setback:
Minimum Side Setback:

20 feet 10 feet

Minimum Rear Setback:

25 feet

- 3. The following recommendations are presented in order to mitigate future hurricane damage and/or loss of life, as well as to ensure compliance with Lee Plan objectives.
- a. The Developer must initiate the establishment of a homeowners' or residents' association. The organization must provide an educational program on an annual basis, in conjunction with the staff of Emergency Management, which will provide literature, brochures and speakers for Hurricane Awareness/Preparedness Seminars, describing the risks of natural hazards. The intent of this recommendation is to provide a mechanism to educate residents concerning the actions they should take to mitigate the dangers inherent in these hazards.
- b. The Developer must formulate an emergency hurricane notification and evacuation plan for the development, which will be subject to review and approval by the Lee County Office of Emergency Management.

- c. Hurricane preparedness and impact mitigation, if required, must comply with the provisions of Land Development Code §2-481 *et seq.*
- 4. Prior to Development Order Approval, the MCP must be revised to show compliance with the required 50-foot-minimum lake setback from Buckingham Road, an arterial roadway. Approval of this MCP does not grant any deviation from this requirement.
- 5. The developer must provide written disclosure to all potential and actual property owners within this project, of the existence of The School District of Lee County's transportation facility on the Buckingham campus and the potential for expansion of this facility.
- 6. Model units and homes are permitted in compliance with the following conditions:
- a. Each model must be a unique example. Multiple examples of the same unit are not permitted; and
- b. All model sites must be designated on the development order plans; and
- c. Prior to model home construction, the lots upon which model homes will be constructed must be shown on a preliminary plat (not the final). The preliminary plat must be filed concurrently with the local Development Order Application. The model homes must comply with the setbacks set forth in the property development regulations for this project.
  - d. Dry models are prohibited.
- 7. Multi-family uses within Phase 1 must be located north of the upland preserve area as depicted on the MCP, and no such structures may be constructed within 150 feet of the southern or western property line (excluding those areas where the western boundary abuts Buckingham Road).
- 8. A buffer 20 feet in width must be planted along the southern and western property line (excluding lands abutting Buckingham Road) prior to the approval of building permits for any dwelling units in Phases 1, 6 or 7. The vegetation in the buffer must contain, at a minimum, six native trees per 100 linear feet. All trees must be a minimum of 10 feet tall at time of planting. All shrubs must be a minimum of four feet tall at the time of planting and must create an unbroken hedge. Existing indigenous native vegetation may be counted toward the vegetation requirements of this condition, and no buffer is required in the area on the MCP shown as upland preserve areas.
- 9. Bona fide agricultural uses that are now in existence may continue in a given phase until the development of that phase commences, except for those areas designated as wetland/preserve area on the MCP, which will be specifically provided protection from intrusion by existing or continued agricultural uses prior to commencement of Phase 1. However, no development activity of any kind may occur on the property, including clearing

of vegetation or cutting of trees, unless such activity is reviewed and approved in accordance with all applicable Lee County regulations as if no agricultural use existed on the property. The purpose of this condition is to eliminate any exemption or other special considerations or procedures that might otherwise be available under Lee County regulations by virtue of the existing agricultural uses on the property.

- 10. The following conditions are included to address Lee Plan consistency issues:
- a. The portion of the property within the Rural future land use category must maintain densities of one dwelling unit per acre or less. No more than 120 dwelling units may be constructed in the Rural designated areas of the project.
- b. Given the limited existing available Suburban 2020 Planning Community Acreage Allocation at the time of rezoning, the available Suburban allocation must be determined by the Planning Division, prior to any Development Order approval for residential uses in the Suburban portions of the site. No development order will be issued or approved if the acreage, when added to the acreage contained in the updated existing land use database, exceeds the limitation established by Lee Plan Table 1(b), Acreage Allocation Table (per Lee Plan Policy 1.7.6). In that event, in order for Applicant to develop the Suburban acreage with residential uses, the Lee Plan must be amended to change the Suburban residential acreage allocation for the Fort Myers Shores planning community in Table 1(b). Adequate data and analysis to support this amendment must be submitted by the Applicant at the time of the request for the Lee Plan amendment. Development in excess of the current Table 1(b) allocations will not be permitted until Table 1(b) is amended accordingly.
- c. Approval of this rezoning does not guarantee local Development Order approval or vest present or future development rights for Lee Plan consistency. Development Order approvals must be reviewed for and found to be consistent with all other Lee Plan provisions.
- 11. Prior to Development Order approval, the MCP must be amended to depict a water retention area, no less than 100 feet wide, along the south property line (outside of the indigenous preserve areas) where such south property line is adjacent to Riverdale Ranches, Rancho Eight or Skates Circle. This condition does not include those areas of Phase 1 that are separated from Buckingham Road by the indigenous areas.
- 12. This development must comply with all of the requirements of the LDC at the time of local Development Order Approval, except as may be granted by deviations approved as part of this planned development or subsequent amendments thereto.

### IV. HEARING EXAMINER DISCUSSION:

This is a request to rezone 325± acres from AG-2 to RPD for development of 1,320 dwelling units in a mixture of single-family, multi-family and zero-lot-line housing types. The subject property is located east of Buckingham Road, about one mile south of State Road 80 (S.R. 80). It is a large, irregularly-shaped tract that is designated Suburban on the west two-thirds, and Rural on the east third. It is bordered on the north by a school and a bus

storage facility, and AG-2 zoned and used lands; on the east by a mixture of RS-1, AG-2 and RPD zoning districts and uses; and on the south and west by AG-2 zoned lands developed with very low density scattered residential uses and agricultural uses.

Applicant's Master Concept Plan (MCP) depicts eight phases of development with two access points along the 2,350-foot frontage of Buckingham Road, and a large preservation area in the southwest corner. The MCP indicates that they will be building 120 single-family units on the eastern 120 acres of the site, which are designated Rural in the Lee Plan. This works out to a density of one unit per acre for that area, which is consistent with the maximum allowable density in the Rural land use category.

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

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

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

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

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

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

The public hearing was attended by quite a few residents of the Buckingham and Alva area, who strenuously objected to the proposed density of the project, although not to the RPD zoning. They argued that the proposed density would be much greater than the existing density in the vicinity of the site and is totally incompatible with the existing and planned development for the area. They noted that the existing residential development in the immediate vicinity of the site is on larger acreage parcels, and complies with the one unit per acre density established in the Rural Preserve Area designation.

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

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

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

The objectors also pointed out that the Hawk's Haven project was approved for 1,598 dwelling units - with a maximum density of one unit per acre. They acknowledged that Hawk's Haven is located to the north and east of the subject property, in the Rural land use category - which

only allows a density of one unit per acre. Nevertheless, it was their belief that the proposed development, with its higher density and location between Hawk's Haven and the Rural Preserve Area, would have detrimental impacts on the property owners and residents of both those areas.

These folks also expressed concerns about the effect this project would have on Buckingham Road, which they believed was already too busy and quite dangerous for drivers. They noted that there are schools at either end of Buckingham Road - Lehigh Senior High on the south and Riverdale Senior High on the north end. Since the School District's bus storage facility is also located to the north of the subject property, Buckingham Road is already being subjected to numerous buses going to and from that facility, as well as other vehicles associated with that school facility or the high schools. They believed that a development of this size - with 8,759 average daily trips would greatly restrict the flow of traffic on the 2-laned Buckingham Road, and would further endanger anyone using that narrow roadway.

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

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

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

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

As noted, the Hearing Examiner is concerned about the proposed density of the project, in light of the low density - one unit per acre - mandated by the Lee Plan on both the east and south boundaries of the subject property. The Hearing Examiner understands and agrees that the density required in the Lee Plan for the Rural land use category and the Buckingham Rural Community Preserve Area does not necessitate an overall density of one unit per acre

on the subject property. Nevertheless, she finds that the requested density of 4.06 units per acre is not consistent with the BOCC's stated intent for preserving the rural character of the Buckingham area, nor with the existing or planned development and uses in the area.

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

Phase 1	(Southwest corner)	58 acres/225 units	3.8 units per acre
Phase 2	(West central)	30 acres/150 units	3.0 units per acre
Phase 3	(Northwest corner)	36 acres/324 units	8.8 units per acre
Phase 4	(North parcel)	36 acres/324 units	8.8 units per acre
Phase 5	(South central)	22 acres/88 units	4.0 units per acre
Phase 6	(South central)	22 acres/88 units	4.0 units per acre
Phase 7	(Southeast corner)	50 acres/50 units	1.0 units per acre
Phase 8	(Northeast corner)	71 acres/70 units	1.0 units per acre

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

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

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

For these reasons, it is the Hearing Examiner's recommendation that the BOCC approve only 900 units for this site - of which at least 120 will be single-family units. This works out to an

overall density of 2.77 units per acre, and a density of 3.8 units per acre for the 205 Suburban acres, which is clearly a mid-line density in the Suburban land use designation. It is further the Hearing Examiner's opinion that a density of 2.77 units per acre is an appropriate transitional density, given the facts and circumstances relating to this area.

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

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

### V. FINDINGS AND CONCLUSIONS:

Based upon the Staff Report, the testimony and exhibits presented in connection with this matter, the undersigned Hearing Examiner makes the following findings and conclusions:

- A. That the Applicant has proved entitlement to these requests, as conditioned, by demonstrating compliance with the Lee Plan, the Land Development Code, and other applicable codes or regulations.
- B. That the requests, as conditioned, will meet or exceed all performance and locational standards set forth for the potential uses allowed by the request.
- C. That the requests, as conditioned, are consistent with the densities, intensities and general uses set forth in the Lee Plan.
- D. That the requests, as conditioned, are compatible with existing or planned uses in the surrounding area.
- E. That approval of the requests, as conditioned, will not place an undue burden upon existing transportation or planned infrastructure facilities, and the development will be served by streets with the capacity to carry the traffic it generates.
- F. That the requests, as conditioned, will not adversely affect environmentally critical areas and natural resources.
- G. That the proposed mix of housing types, as conditioned, are appropriate at the subject location.
- H. That the recommended conditions to the Master Concept Plan are reasonably related to the impacts anticipated from the proposed development, and, with other regulations, will provide sufficient safeguard to the public interest.
- I. That urban services, as defined in the Lee Plan, are, or will be, available and adequate to serve the proposed land use.

### VI. LIST OF EXHIBITS:

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

### STAFF'S EXHIBITS

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

- 1 Aerial Photographs S32-T43S-R26E, Sheet No. 183D, and S33-T43S-R26E, Sheet No. 199C, dated Feb. 1999
- Zoning/Intergraph Maps S32-T45S-R26E and S33-T43S-R26E
- 3 Condition 9

### **APPLICANT'S EXHIBITS**

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

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

### VII. PRESENTATION SUMMARY:

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

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

Mr. Basinait referenced the Master Concept Plan (MCP) [Applicant's Exhibit 1], noting that it was a "bubble plan." The MCP sets out a list of uses which are all residentially oriented. The property falls within two land use categories - Suburban along the front and Rural at the rear

of the site. He indicated the dividing line between these two categories, and stated that David Depew (Applicant's planner) would go into this in much greater detail. Mr. Basinait estimated that 200+ acres is situated in the Suburban portion of the site, with a little over 120 acres designated as Rural.

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

Mr. Basinait acknowledged the presence of a number of public at the hearing, and stated that he assumed most of them were from the East Fort Myers/Buckingham area. He stated that he and Mr. Depew had met with a number of people the previous day. While they did not reach any agreements as it was more of a fact finding/exchange of information type of meeting, the Applicant did intend to meet again with the residents over the next few weeks. The residents had asked that the Applicant request a continuance in this case; however, the Applicant is too far along in the process to agree to this request. In lieu of this, the Applicant offered to have more meetings with the residents.

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

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

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

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

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

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

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

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

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

The plan shows access points in two locations on Buckingham Road to serve the proposed residential development. There is sewer service in this are with a 10-inch force main. Central water service is also within reach of this area, therefore, central utility service can be provided for this project. Buckingham Road is a 2-laned, arterial facility. He noted that there were no current plans to widen Buckingham Road, but the Applicant has discussed with Lee County

Department of Transportation (LCDOT) Staff about providing setbacks along this roadway. There are some retention areas located at the front of the site which are intended to separate any impacts associated with traffic on Buckingham Road from the residential activities. These retention areas will not encroach into the area which will ultimately be needed for the widening of Buckingham Road.

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

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

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

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

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

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

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

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

With regard to the Lee Plan land use designations, Mr. Depew noted that the Suburban category covers the western portion of the site with approximately 203 acres, and then approximately 121 acres in the Rural category on the eastern portion of the site. The Suburban category is one which is intended to be predominantly residential, and is a category which is on the fringe of the Central Urban or Urban Community areas. Suburban areas are intended to provide housing near the more urban areas, but not provide the full mix of land uses typical in urban areas. The proposed project is a classic Suburban proposal, and will provide a mixture of residential activities, but not the full mix of land uses which one would associate with urban areas.

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

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

He referred to Attachment A to the Staff Report. This zoning and land map shows the subject property as well as many of the surrounding areas and uses. He pointed out that, when you refer to this map, it is clear that there is significant residential activity in this area. The RS-1 zoned properties to the southeast of the subject property are in Lehigh Acres. The Riverdale Ranches subdivision is located to the south. Hawk's Haven is to the northeast. Riverdale Shores, a U.S. Home development is just to the north. He pointed out the adjacent School

District property [Buckingham Exceptional School, and the bus facility], as well as Riverdale High School further to the north (on the west side of Buckingham Road). At the intersection of Buckingham Road and S.R. 80 is rather significant commercial development, including a couple of shopping centers, fast food restaurants; etc.

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

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

Policy 4.1.1 sets out that development designs need to be evaluated to ensure that land uses and structures are well integrated, properly oriented, and functionally related to the topographic and natural features of the site. Mr. Depew pointed out that the subject property had essentially been scraped clean as part of the agricultural activities occurring on this site for a number of years. The exception to this is the southwest corner, which is a forested area and will be included in the overall preservation efforts on this site. The Applicant recognizes the need to preserve the natural areas and indigenous vegetation that exists on the site. Environmental Sciences Staff has reviewed this area, and has proposed certain conditions (Attachment D to the Staff Report). Staff has acknowledged that there really isn't much to be preserved, but the Applicant has committed to additional buffering and setbacks along the perimeter of the site. The development design will take into consideration what exists in this area and on the site, as well as what will be occurring in this area in the future.

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

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

as one which could provide a product in demand for young families and others looking in the \$120,000-\$130,000 price range. Mr. Depew believed that the 4-bedroom/2½-bath units would sell out quite quickly as these types of units were in fairly high demand for young families.

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

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

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

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

The Applicant would propose a modified condition for Condition 2.a.(2) to provide more flexibility than the language proposed by Staff. Mr. Basinait submitted Applicant's Exhibit 2, containing the proposed modified language for Condition 2.a.(2). Mr. Depew explained that this condition would allow the Applicant to develop any mixture of units. He noted that, obviously, this was only on the Suburban portion as the portion located in the Rural area

would be single-family as limited by the Lee Plan. This condition would allow for a mixture of uses on the Suburban portion which could equate up to the overall impact described in the Traffic Impact Statement (TIS), i.e., 8,759 average daily trips. This is the maximum number of trips that the TIS projects under the scenario of 120 single-family units, 400 zero-lot-line units, and 800 multi-family units. This revised condition would allow this unit mix, so long as no Lee Plan policies were violated, and up to this total projected traffic impact.

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

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

With regard to Condition 9, Mr. Depew pointed out that the site currently had active agricultural activities. Mr. Basinait submitted Applicant's Exhibit 3, with revised language for Condition 9. Mr. Depew referenced the MCP, noting that the project is to be a phased project. The Applicant would like to maintain the agricultural activities, on a phase-by-phase basis, until such time as development is opened up within a phase. He interpreted Staff's condition such that agricultural activities were allowed until development activities commence; however, once development begins, they lose the ability to have these agricultural activities/uses. The Applicant would like to maintain these agricultural uses.

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

The Applicant would, therefore, request that the first sentence of Condition 9 be modified to state that "bona fide agricultural uses that are now in existence may continue<u>in a given phase</u> until the development of that phase commences." This would mean that, as each phase is

opened up, any agricultural activities/production would be shut down, and active development of that phase would begin. The Applicant believes that this is a reasonable approach to development on this site, and would request this modification of the language in Condition 9.

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

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

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

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

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

The only outstanding issues or disagreements relate to three conditions, or portions thereof. Ms. Deselem indicated that an element which had given Staff some concern was the fact that the Applicant's site plan is a "bubble plan." This provides the Applicant with extreme flexibility, although the Applicant isn't asking for any deviations. No "product" is shown on the site plan. The Applicant has noted how many dwelling units will be in each phase. That is the only detail that has been provided. The Applicant provided the same information in the TIS, and Staff

merely adopted, into their proposed conditions, what the Applicant had provided. The Applicant was now indicating that they didn't want this information/restriction, that this was counter-productive. Staff needs something, in an application, on which they can rely, and they relied on the information submitted by the Applicant. Staff would request that Condition 2.a.(2), as set out in the Staff Report, be retained "as is."

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

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

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

Mr. Basinait asked if there is some reason why the timing of the phases was important? Ms. Deselem indicated that Staff was concerned that the areas shown as preserve areas be maintained as such, and that agricultural uses be kept out of those areas. Referencing the site plan, she pointed to the indigenous areas included as part of Phase I. Although that area is named "Phase I," there are no indications as to which phase the Applicant was planning to develop first. Environmental Sciences Staff wanted to maintain the preserve area and ensure that there were no agricultural uses in those areas. Staff doesn't know what is in there now, but believe there could have been some cattle grazing. They wanted to make sure that the cattle grazing activity ceased as part of Phase I. Without a phasing plan, the Applicant might begin development on any part/phase of the subject property. Without a phasing plan, Staff doesn't know where development is going to begin because the Applicant has the flexibility to come in at any portion, or sub-phase it through the development order stage.

The Hearing Examiner asked Mr. Basinait to clarify whether there were already cattle grazing on the subject property, and that the Applicant would stop these grazing activities when development commenced? Mr. Basinait explained that the property is being used as a hay farm. Ms. Deselem commented that the zoning application designated the use as "agriculture" and that is all the information Staff had to go on. During her conversation with Ms. Trebatoski there was some indication that there might have been cattle grazing on the subject property. Staff was concerned that cattle would trample or further degrade the indigenous areas of the

property and that could go on for 10 years (until buildout of the property). Right now, there is no phasing plan. Staff has been told that buildout is proposed in 10 years and that is all they have to go on.

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

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

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

Mr. Basinait indicated that there was no problem in agreeing to Staff's condition that under no circumstance would this proposal impact that preserve area. The Applicant had no intentions of impacting the preserve area anyway. There are wetland areas and other areas designated for preservation as shown on the Master Concept Plan. As Mr. Depew stated during his testimony, the plan is to leave those areas virtually intact. He could not foresee any agricultural activities impacting that.

The Hearing Examiner noted that Condition 8 of the Staff Report requires that a 20-foot-wide buffer ". . . be planted along the southern and western property line (excluding lands abutting Buckingham Road) prior to the approval of the building permits. . . ." She questioned why this condition was tied to the approval of the building permits, rather than the actual commencement of development? Ms. Deselem explained that, in this manner, the vegetation would already be in place and would have had a chance to grow prior to actually having structures on-site. Referring to the MCP, she indicated the area along the southern-western property line near Buckingham Road that Staff was concerned about. The Hearing Examiner observed that it is actually the property line near the preserve areas that concerns Staff, and

not the entire southern boundary. Ms. Deselem agreed, adding that there are homes in that area. Mr. Basinait agreed that the Applicant would include that 20-foot-wide buffer area as part of their development order for those sections.

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

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

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

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

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

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

The first speaker was Dr. Sam Watkins, who stated that he lives on the property on the southwest side. At the Hearing Examiner's request, Dr. Watkins pointed out the location of his property on the aerial photograph. The Hearing Examiner noted that he owned a large amount of acreage, to which Dr. Watkins replied that his total acreage is 26 acres. His daughter also owned a 6.6-acre piece of the property in the vicinity of the subject property.

He stated that he was concerned about the density of the project, i.e., the density of the buildings and the density of the population. He is not opposed to the development, just opposed to the density.

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

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

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

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

Mr. Depew recalled that Mrs. Keyes had mentioned that they were seeing significant growth in the east. He presumed that this was based on information provided to Mrs. Keyes by personnel at the School District who are responsible for counting these types of things, and that what they were telling Mrs. Keyes was that there is, in fact, significant growth occurring in the eastern part of the county. Mrs. Keyes agreed, adding that eastern Lee County is one of the fastest growing areas with regard to children and the need for new school facilities.

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

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

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

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

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

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

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

She and her husband moved from Lehigh Acres because they had problems with teenagers trespassing. They keep animals on their property and they have had animals killed and things stolen. So they decided to move to a bigger piece of land where they could have privacy and security for their animals.

Currently, they were in the process of developing a herd of Brahmas. These are large animals which can be dangerous. If a teenager should get onto her property, climb into one of the pens and get injured, she could be sued. At her age she does not want another lawsuit. She has to work two jobs to pay for this property and didn't want any problems. In order to prevent

people from intruding onto her property, she would like to see the buffer zone near her property changed from a Type "B" buffer to either a Type "C" or a Type "E" buffer because that would place a block wall between her property and the proposed development. That way, while there may be a certain percentage of teenagers that will scale the wall and come onto her property anyway, a wall will keep out a great percentage of people just wandering around on her property looking for a place to party in the woods on the back of her property. A Type "C," or preferably a Type "E," buffer would give her the privacy and the security for which she originally bought into this piece of property.

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

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

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

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

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

She stated that first she would address the density issue. While this project is outside the Buckingham Rural Community Preserve Area, it is adjacent to and directly north of the Area. This Preserve Area is intended to preserve the rural area and its characteristics, with one dwelling per acre the maximum allowed density. This project does not allow for any transition

toward the commercial corridor of S.R. 80 for that type of density, particularly in the Suburban land use category, which is the Buckingham side of this development. While there is an area in the back that is designated as Rural, the development of this 375-acre property with 1,320 units is much too intense for the developing pattern of the area. Hawk's Haven is developing 1,500 units on 1,800 acres, which is density slightly less than one unit per acre. Bonita Bay has represented to the community, and in the newspapers, that they intend to have a similar density, i.e., one unit per acre on their 1,500 acres; whereas, the development in the instant case is seeking a density of approximately four units per acre.

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

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

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

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

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

Mr. Basinait objected, stating that Ms. Cella had obviously misrepresented the facts to the SWFRPC. He stated that he found that a bit distasteful and was surprised she would do that. The two projects did not have common infrastructure, and did not have common marketing;

they had none of those things. He stated that he was somewhat aggravated by her attempt to join two projects that are not the same project. They do have the same developer, but he could not see what that had to do with this particular request.

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

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

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

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

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

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

Mr. Basinait noted that Ms. Cella had stated that Bonita Bay has indicated to her that they were looking at developing one unit per acre. Ms. Cella responded that there had been an article in the newspaper reporting that information. Mr. Basinait asked whether or not Ms. Cella had actually talked to representatives for Bonita Bay? Ms. Cella stated that she had. Mr. Basinait asked whether they had filed anything with the County, at this point? Ms. Cella replied, "no," and agreed that they could come in with something totally different from what they had represented.

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### **B.2** Project Infrastructure:

### a. Sanitary Sewer Analysis:

The property is located within the Lee County Utilities franchise area. There is a large pump station with 50 HP pumps located on the north side of the property across from Parker Avenue. A 24" force main connect the lift station to a series of gravity sewer and pump stations leading to the city of Fort Myers Central Advanced Wastewater Treatment Plan on Raleigh Street (Central AWWTP). The plan is permitted for 11 MGD, with an annual average daily flow for the Central AWWTP between 7 and 8 MGD.

Based on preliminary due diligence contacts with representatives of Lee County Utilities, it was indicated that there would be adequate capacity for a project of 3,000 units. A letter of willingness to provide service has been requested from Lee County Utilities.

Because the amendment does not result in an increase in land use density or intensity, and because there is adequate infrastructure currently in place to accommodate the proposed Orange River property MPD no improvements will be necessary to accommodate this amendment. Similarly, this amendment will not require any revisions to the sanitary sewer sub-element or CIE.

### b. Potable Water Analysis:

The property is located within the Lee County Utilities franchise area and is served by the Olga Water Plant. There is a 24" water main running all along the north side of the property on the north side of SR 80. The Olga Water Plant treats water taken from the Caloosahatchee River and pumps it into this line. The Olga Water Plant's current capacity is 5 MGD, and is anticipated to increase to 10 MGD. Even without the expansion in capacity, the subject property is adequately served. Recent fire flow tests from hydrants along the 24" line in front of the property indicate flows between 3900 gpm and 4900 gpm at 20 psi.

The result is that no improvements in the system will be required, and no amendments to the potable water sub-element or CIE will be required.

### c. Drainage/Surface Water Management Analysis:

The proposed water management system for the Orange River property will consist of multiple sub-basins with up to eight (8) discharge points. The basins are designed to follow the existing condition on the property wherever practical. Lakes, wetlands, ditches and culverts will be utilized to convey and store the runoff on the subject property until it is discharged from the site. The majority of the existing wetlands and lakes will be used in the water management system.

I:\Projects\Orange River\CPA\Narrative September 29, 2000

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Most of the property discharges into the Orange River, as such it is allowed a peak discharge rate of 55 csm. To comply with water quality requirements, all site runoff will be routed through the lakes within the water management system before entering any preserved wetlands. More intensive uses, such as commercial, would require additional water management systems, including but not limited to dry pretreatment.

The proposed project will require approval from SFWMD and also compliance with Lee County's Level of Service Policy 70.1.3 for storm water management facilities. This amendment will not require any revisions to the surface water management sub-element or to the CIE.

### d. Parks/Recreation/Open Space Analysis:

The property is located in Park Impact Fee District 3, and according to the analysis prepared by Lee County for the year 1999-2000, there are 126 acres of community parks in this district, with an additional 21 acres of parks programmed for the year 2000, bringing the total to 147 acres. Further, the County is planning on future expansions of Veterans Park, which would bring the community park acreage to 201.

The current level of service for Community Parks is .8 acres per 1,000 persons, with a "desirable" standard of 1.75 acres per 1,000 persons. The regulatory Level of Service Standard will be met through the year 2000. As identified by the County, a future community park will be required in order to achieve the "desired" LOS.

The proposed amendment will not increase the permitted density over what is currently allowed. Further, the proposed project's internal recreational amenities will more than off-set any recreational demand created by this project. For this reason, the project will comply with the required "Desired" Level of Service Standard. Therefore, no amendments to the Parks and Open Space or CIE element are required.

### B.3. Letters of Willingness to Provide Service:

### a. Fire Protection with Adequate Response Times:

The subject property is located in the Fort Myers Shores Fire District, and is immediately adjacent to the existing fire station. A letter from the Fort Myers Shores Fire District has been requested. Preliminary discussions have indicated that they are willing to provide service with adequate response times.

### b. Emergency Medical Service:

The subject property is located in the Fort Myers Shores Fire District, and is located within approximately one mile from the nearest EMS Station. A letter from Lee County's EMS Program Manager is attached in Appendix B3.

I:\Projects\Orange River\CPA\Narrative September 29, 2000

2020 Overlay Amendment – Planning Community 4
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### **EXHIBIT B.3**

#### BOARD OF COUNTY COMMISSIONERS

*	
Writer's Direct Dial Number:	·

John E. Manning District One

Douglas R. St. Cerny District Two

Ray Judah District Three

Andrew W. Coy District Four September 15, 2000

Re:

John E. Albion District Five

Donald D. Stilwell County Manager

James G. Yaeger County Attorney

Diana M. Parker County Hearing Examiner Mitch Hutchcraft, ASLA, AICP Vanasse & Daylor, LLP 8270 College Parkway, Suite 205 Fort Myers, Florida 33919

Comprehensive Plan Amendment for Baucom Ranch

Dear Mr. Hutchcraft:

As requested, I am pleased to provide you with an assessment of the impact to EMS related services in the area mentioned above. Lee County EMS is the licensed provider of pre-hospital emergency care to the residents and visitors in this area.

Given that this proposal would allow for 1,500 residential units and with a two (2) person per residence occupancy, this would result in a build out population of 3,000 persons. Based on 126 calls per 1,000 of population, the estimated annual call volume for EMS will be 378 emergency calls.

If you would like to discuss this further, please call me at the above referenced number.

Respectfully submitted,

DIVISION OF PUBLIC SAFETY

H.C. "Chris" Hansen EMS Program Manager



### THE SCHOOL DISTRICT OF LEE COUNTY

2055 CENTRAL AVENUE • FORT MYERS, FLORIDA 33901-3988 • (941) 334-1102 • FAX (941) 337-8378

PATRICIA ANN RILEY

KATHERINE BOREN VICE CHAIRMAN • DISTRICT 4

TERRI K. WAMPLER

LANNY MOORE, SR.

LISA POCKBUS

BRUCE HARTER, PH.D.

KEITH B. MARTIN

September 22, 2000

Mr. Mitch Hutchcraft, AICP Executive Vice President Vanasse & Daylor, LLP 8270 College Parkway, Suite 205 Fort Myers, FL 33919

Re:

Request for Determination of Adequacy

Comprehensive Plan Amendment for Baucom Ranch

Dear Mr. Hutchcraft:

This letter is in response to your request for a determination of adequacy from the Lee County School District on a plan amendment that will be submitted to Lee County. According to your letter, the proposed change will be on a parcel located on the south side of SR 80 between SR 31 and Buckingham Road. This is within the District's East Choice Zone. The proposal is to accommodate 1,500 residential units. These units could generate approximately 465 public school students, based on an estimated student generation rate of .31 per dwelling unit.

According to the FY 00-01 District budget, expenditures per Full Time Equivalent (FTE) student are \$5,907.00, so the proposed project could create a financial impact of up to \$2,746,755.00 to the District. This proposal could create the need for up to 19 new classrooms along with additional staff and core facilities. The schools in this East region that would serve this development are operating at or above permanent student capacity levels. Those schools that exceed permanent student capacity levels are operating through the use of portable classroom buildings. The growth generated by this development will require either the addition of permanent student and auxiliary space or the placement of portable buildings, as well as additional staff and increased District resources. Clearly, the fiscal impacts are significant and the applicant will need to mitigate the increased demands the development will place upon the Lee County School District.

Baucom9-19-00.doc

In addition, this development is in close proximity to three District facilities, Riverdale High School, Buckingham Exceptional School, and the East County Transportation complex located on the Buckingham campus. The impact from the proposal to these facilities in terms of traffic congestion and compatibility should also be addressed.

If you have any further questions or comments, please do not hesitate to give me a call.

Sincerely,

Stephanie Keyes, AICP, Facilities Planner

Construction Services

cc: Frederick R. Gutknecht, Director, Construction Services

file

### FORT MYERS SHORES FIRE DEPT.

# 12345 PALM BEACH BLVD. S.E. FORT MYERS, FLA. 33905

September 18, 2000

Mr. Mitch Hutchcraft, ASLA, AICP VANASSE & DAYLOR, L.L.P. 12730 New Brittany Blvd. Ste. 600 Ft. Myers, Fl. 33907

RE: COMP. PLAN AMENDMENT FOR BAUCOM RANCH

Dear Mr. Hutchcraft,

Your request fro the amendment to the 2020 overlay should only have minimal effect on level of service. The Ft. Myers Shores Fire District provides an I.S.O. class 4 protection class to this area.

With fire impact fees in place and the moderate build out rate of the project, this should allow for ad valorem taxes on the new units to be in place to increase or upgrade service as needed.

Please feel free to contact me if you should require any additional information. I look forward to working with you and with Bonita Bay Properties.

Sincerely,

Douglas R. McGeachie, Chief

# Florida Recycling Services, Inc.

September 18, 2000

Dear Mr. Hutchcraft

This letter concerns the parcel of land located on the south side of SR 80 between its junction with SR 31 and Buckingham Road.. Effective 10-01-2000 this area will be serviced by Florida Recycling Services for solid waste collection. FRS sends combustible wastes to the County's Waste to Energy Facility and non- combustible waste to the Gulf Coast Land fill. There will be no impact on FRS and we will be able and have the ability to provide the service that will be needed. If you have any questions please fill free to call me at 407-332-8500.

Sincerely,

Rodgers Wilkinson Area Manager.

Rodgus Wilhum

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#### c. Law Enforcement:

The subject property is located in Unincorporated Lee County where the Lee County Sheriff's Office provides law enforcement. A letter of willingness to provide service has been requested.

### d. Solid Waste:

Lee County began operation of the Waste-to-Energy Facility on August 24, 1994. All combustible waste is sent to this facility. The remaining residue is transported to the Gulf Coast Landfill on State Road 82.

The Gulf Coast Landfill will continue to receive construction and demolition material for the next 3—4 years, after which time, the Lee/Hendry Disposal Facility will be available for use in the year 2002.

The capacity of the waste to energy plant and landfills exceed the standard of 7.0 pounds per capita established by the Lee Plan.

#### e. Mass Transit

Route 100 provides access to the subject property, as well as connection to the remainder of the Lee Tran service area. Exhibit B.3.(e) shows the Lee Tran Route Map for this area.

### f. Schools:

The proposed development is anticipated to be a high-end residential development, which typically generates minimal demand on school resources. Further, the anticipated product type is expected to range from a low of \$250,000 - \$1,000,000 and higher. Because of the increase in property values and the low generation of school demand, it is anticipated that the project will have a positive net impact on the school system. Attached in Appendix "B3" is a copy of the letter provided by the Lee County School District.

### C. Environmental Impacts:

### C.1. FLUCCS Mapping:

The subject property is predominated by agriculture or impacted FLUCCS categories, with minimal wetland areas. A copy of the FLUCCS Mapping prepared by Passarella and Associates it attached as Appendix C.1. A detailed environmental evaluation will be submitted as part of the Orange River property Mixed Use Planned Development.

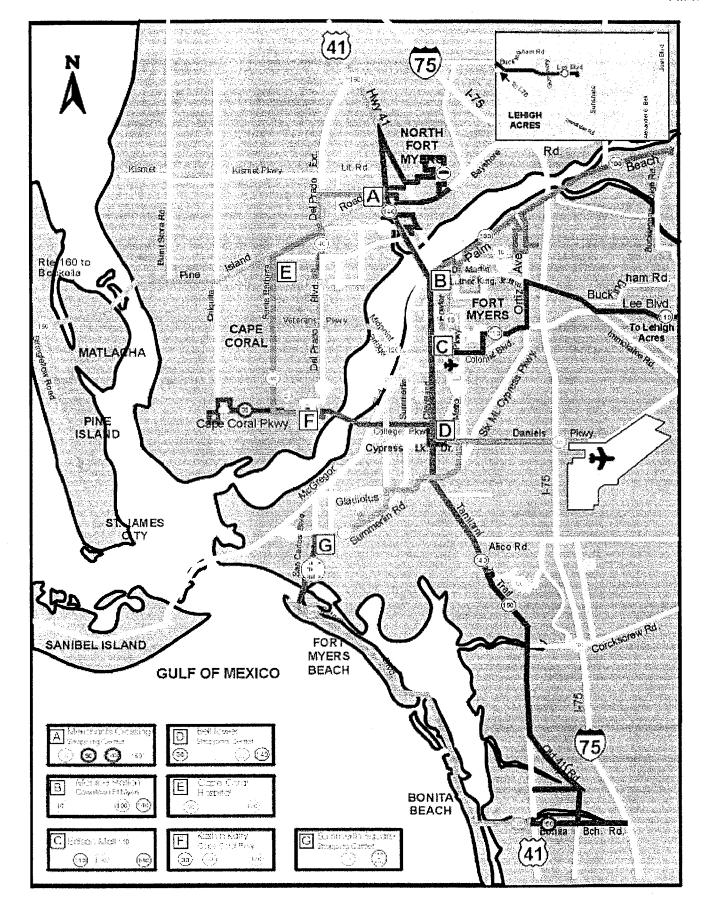
#### C.2. Soils:

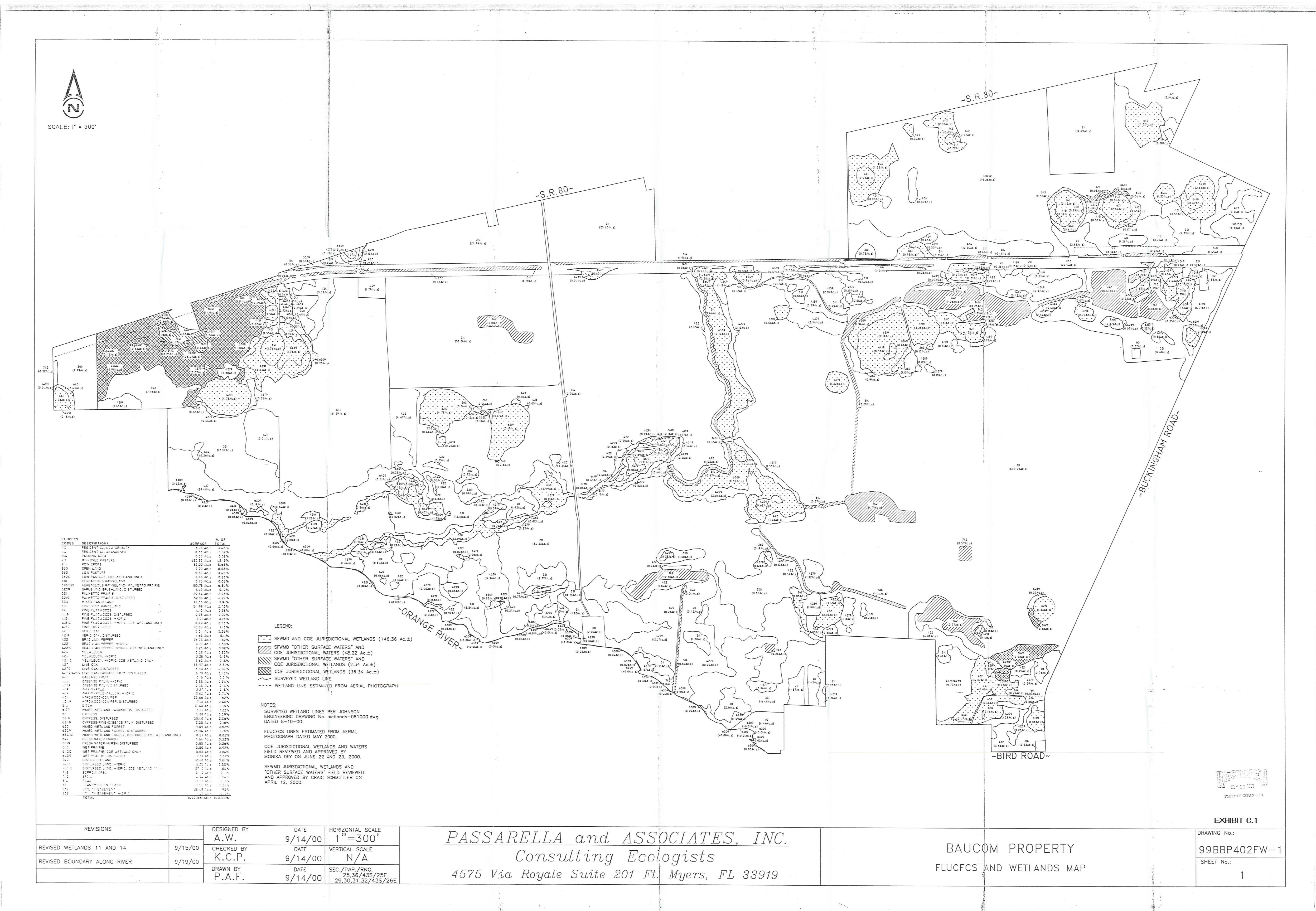
The subject property is currently designated for urban development based on its designation of "Suburban" land use category. The proposed amendment will not have any adverse impact on the Soils of the subject property, nor will it allow development of greater intensity or density than is already approved.

If necessary, site-specific information, such as soils, will be provided during the Orange River property Planned Development Application review process. However, a copy of the Lee County Soil Survey for the subject property has been provided as Exhibit C.2.

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