

**Lee Plan Amendment CPA2006-01 for “The Fountains”
Lee County Port Authority Revised Substantive Comments – December 22,
2008**

If approved, “The Fountains” mixed use development will be located directly under the Southwest Florida International Airport’s close-in approach and departure aircraft flight tracks. Low-flying aircraft and aircraft noise will be very annoying to many future residents and some businesses. The Fountains will be the closest housing development off the ends of the existing runway and the planned second runway at the Airport. It will also be the first recent residential development in the county to be covered significantly by the County’s 55+ DNL (Day/Night Average Noise Level) noise overlay zones. The DNL noise metric is required by the Federal Aviation Administration (FAA) for use in airport-sponsored voluntary F.A.R. Part 150 noise studies and represents a 24-hour annualized average. Therefore, there will be single event noise episodes which are significantly louder than this metric and will be more intrusive. Nearly all of the noise complaints currently being received by the Port Authority are from areas exposed to less than 55 DNL.

Potential off-site obstructions represent a second major airport issue. Future communication towers, buildings, temporary construction equipment and other tall structures will require review and approval by the Lee County Port Authority and possibly by the FAA. Completion and approval of a review application will be required by Lee County and possibly the FAA for projects exceeding a required height threshold.

The final major issue for the Port Authority and the FAA concerns the potential creation of bird and other wildlife attractants near airports. The location of the development off the ends of the runways will raise the risk of an aircraft bird strike. Lakes and other water features have the potential to become bird attractants. Littoral plants can be attractive to wildlife for use in foraging, loafing and nesting. The Port Authority recommends that the applicant design any facilities off the approaches to the existing and future south runway, which may constitute bird attractants (potentially including storm water management features), to minimize this attractant potential.

The issues above create operational concerns for the Port Authority.

To partially address the noise and overflight concerns, the developer has voluntarily committed to provide an Aircraft Overflight and Noise Easement (also known as an “avigation easement”) over the parcel. Coordination is on-going to develop this easement and other notice procedures for future purchasers. Our ultimate recommendations will be dependent on the results of these on-going discussions. The developer has committed to provide various means of notifying potential property purchasers in all advertising and project homeowner documents of the project’s proximity to the Airport and the likelihood of aircraft noise and

overflights. Port Authority staff recommends that, if approved, the following comments/conditions apply to the development:

1. The Port Authority must review and approve any aviation easement for this property and the easement must apply to the entire project. An Aviation Easement acceptable to the Port Authority must be recorded in the public records along with an "Aircraft Overflight and Noise Disclosure Statement" in substantially the following form:

Aircraft Overflights and Noise Disclosure: Each owner, by accepting a deed to a unit located within the Property, acknowledges that the Property is located in the vicinity of the Southwest Florida International Airport, a commercial service airport with offices located at 11000 Terminal Access Road, Suite 8671, Fort Myers, Florida, 33913 and operated by the Lee County Port Authority. In addition, each owner acknowledges that the Property is located under the extended aeronautical center lines of Airport Runway 6-24 (and the future south Runway 6R-24L) and will be subject to increasing aircraft noise and aircraft overflights now and in the future.

It is our experience that however well worded these Aviation Easements and Disclosure Statements are on paper, the reality is, once people move into these communities these easements do not lessen the noise problems that arise and the airport will be left to deal with the noise issues in the future.

3. We also strongly recommend the use of sound insulating materials in the construction of any homes or noise-sensitive businesses. Even these measures will not prevent aircraft noise from impacting outdoor activities.
4. The proposed development will be subject to the provisions of the Lee County Land Development Code Sec. 34-1001 through 1008. Depending on the height and location of the proposed structures, an application may need to be submitted for review and approval to the Lee County Port Authority and the FAA to determine airspace impacts of proposed permanent buildings, communication towers, and any temporary construction equipment within the site. Height of buildings, towers, and temporary construction equipment such as cranes at this location will be dependent on approval by these agencies.
5. Federal Communication Commission review will be required for any wireless communication facilities to ensure that signals from the wireless communication facilities do not interfere with electronic communication facilities at the Southwest Florida International Airport.

6. Per FAA Advisory Circular 150/5200-33B, "Hazardous Wildlife on or near Airports," it is strongly recommended that off-airport lakes and storm water management systems located within a 10,000 foot separation distance from the airport be designed to control wildlife that would be hazardous to aircraft operations. Large portions of "The Fountains" are located within this 10,000 foot separation distance. It is recommended that the basins within this area be steep-sided, rip-rap lined, and should be narrow and linearly-shaped. Without such controls, ponds at the current project location may encourage native littoral plants to thrive, whether planted or by natural recruitment. Littoral plants can be attractive to wildlife for use in foraging, loafing and nesting. The lakes should be designed with steeper side slopes and no littoral vegetation.
7. Prior to local approval, the development order plans must depict storm water lake littoral plantings designed in a manner to best limit wading bird species while still providing adequate lake shading. The planting plan must include use of only vegetation from the most current Port Authority recommended compatible vegetation list. If vegetation is proposed which is not on the list, the applicant must provide evidence of compatibility for review and approval by Lee County Division of Environmental Sciences and Port Authority staff. Use of native wetland trees and/or shrubs to be substituted for up to 50 percent of the total required littoral plantings per lake. One tree or shrub is required for every ten herbaceous littoral plants. Trees and shrubs must meet the requirements of LDC Section 10-418 (2)(b) plant standard requirements with herbaceous littorals clustered at the outfalls and inlets; and a maximum two species of littorals. Recommended species include Pickerelweed *Pontederia cordata*, Duck Potato *Sagittaria lancifolia*, Yellow Canna Lily *Canna flaccida*, Iris *Iris virginica*, Lizards Tail *Saururus cernuus* or similar species.
8. The Port Authority also recommends landscaping with native plants that are not major bird attractants.