

PUBLIC COMMENTS

RECEIVED
JUN 27 2013

COMMUNITY DEVELOPMENT

June 25, 2013

Mr. Brandon D. Dunn, Senior Planner
Lee County Division of Planning
1500 Monroe Street
Fort Myers, FL 33902-0398

Dear Mr. Dunn:

RE: CPA2012-00001 and DCI2013-00003

I was one of two River Hall residents elected to the River Hall Community Development District Board of Supervisors (CDD) in November 2012. The remaining three seats on the CDD are held by GreenPointe owners and/or employees, including Grady Miars, who is chairman of the CDD. As I am sure you are aware, Mr. Miars is also both part owner and President of GreenPointe Communities, LLC.

Some River Hall residents received a letter from Morris Depew outlining what GreenPointe Communities is hoping to accomplish with the Comprehensive Plan and Planned Development Amendments referenced above. I believe you have a copy of the letter.

The second paragraph of the letter states that GreenPointe Communities, LLC, as representative of the owners of River Hall, received authorization from, among others, the CDD, "to undertake the Comprehensive Plan and Planned Development Amendment". Included in the file for the amendments in River Hall is an affidavit titled: PART I – AFFIDAVIT A2 (Exhibit PH-1.B.2). A copy is enclosed. The affidavit was signed on January 4, 2013 by Grady Miars, as Chairman of the CDD. There may be a problem with the validity of that document, if that is the authorization from the CDD that is referenced by the Morris Depew letter.

I asked the CDD's manager to provide me with the minutes of the meeting at which the CDD's authorization was granted. She replied that no minutes existed, since there was no meeting held to vote on providing that authorization. Therefore, Mr. Miars "did not" receive authorization from the CDD, with a formal vote, to sign the form giving GreenPointe Communities authorization to undertake the amendments. Consequently, the authorization to GreenPointe actually came from GreenPointe, through one of its owners, Grady Miars.

The CDD attorney informed me that no vote was necessary since the authorization was ministerial. Therefore, Mr. Miars could provide that authorization without CDD approval. I wholeheartedly disagree. As an attorney, I am aware that Florida law states that a ministerial act leaves no room for discretion, where the performance being required is directed by law. That is most certainly not the case in this situation.

The CDD's actions are not ministerial. As a matter of fact, it has a great deal of discretion in how it conducts its business. That includes whether it would either agree with, or oppose, at a public meeting, the requested amendments to the comprehensive plan and the zoning, especially since the proposed amendments will impact the infrastructure of the CDD. That impact could prove detrimental to both the CDD and the residents it represents. As it stands, the CDD did not have the opportunity to hear from the

residents, discuss the matter openly, and vote on it at a public meeting. There is no doubt that if the matter had been brought before the CDD for a vote, I would have voted against it.

What is even more troubling about the authorization is that it was signed on January 4, 2013, almost two months after the new members were elected. Unfortunately, the December 2012 meeting was unilaterally cancelled by Mr. Miars, and there was no scheduled meeting in January. It would have been very easy to hold the regularly scheduled December 2012 meeting and place the matter on the agenda to be discussed openly. In addition, a special meeting could have been called to discuss the issue. As a matter of fact, three regularly scheduled meetings were unilaterally cancelled by Mr. Miars following the November 2012 election. Therefore, the first time the new CDD met was in April 2013, five full months after the election.

The residents were not notified of the proposed amendments until the January 15, 2013 HOA meetings, which were postponed from December 2012. Why the form was signed without formal authorization from the CDD, at a public meeting, two weeks before GreenPointe Communities chose to disclose to the residents what it is trying to accomplish, is a question that should be answered. In addition, the Morris Depew letter is the only written communication sent by the developer, to the residents, concerning the changes. That letter was received in late May or early June by some, but not all residents. The point is that the residents were kept in the dark until the process was well underway.

Finally, I do not know the legal ramifications of the fact that Mr. Miars did not receive formal authorization from the CDD to sign the form. Nevertheless, I respectfully request that the process be halted, and hearings delayed, until the issue is clarified. I also request that the matter be forwarded to the County Attorney for review to determine what actions, if any, should be taken.

Sincerely,



Paul D. Asfour
17131 Easy Stream Court
Alva, FL 33920
239-693-6131

cc: Alvin Block

Enclosure

PART 1 - AFFIDAVIT A2
(EXHIBIT PH-1.B.2)

AFFIDAVIT FOR PUBLIC HEARING
APPLICATION IS SIGNED BY A CORPORATION, LIMITED LIABILITY COMPANY (L.L.C.),
LIMITED COMPANY (L.C.), PARTNERSHIP, LIMITED PARTNERSHIP, OR TRUSTEE

I, Graydon E. Miars, as Chairman of the River Hall Community Development District, swear or affirm under oath, that I am the owner or the authorized representative of the owner(s) of the property and that:

1. I have full authority to secure the approval(s) requested and to impose covenants and restrictions on the referenced property as a result of any action approved by the County in accordance with this application and the Land Development Code;
2. All answers to the questions in this application and any sketches, data or other supplementary matter attached hereto and made a part of this application are honest and true;
3. I have authorized 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 thru this application; and that
4. The property will not be transferred, conveyed, sold or subdivided unencumbered by the conditions and restrictions imposed by the approved action.

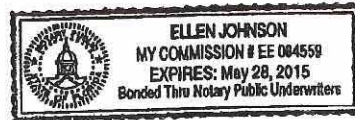
River Hall Community Development District
*Name of Entity (corporation, partnership, LLP, LC, etc.)

[Signature]
Signature

Chairman
(title of signatory)

Graydon E. Miars
(Typed or printed name)

STATE OF FLORIDA
COUNTY OF Duval



The foregoing instrument was sworn to (or affirmed) and subscribed before me on 01/04/13 (date) by Graydon E. Miars (name of person providing oath or affirmation), who is personally known to me or who has produced _____ (type of identification) as identification.

Ellen Johnson
Signature of person taking oath or affirmation

Ellen Johnson
Name typed, printed or stamped

Title or rank

Serial number, if any

*Notes:

- If the applicant is a corporation, then it is usually executed by the corp. pres. or v. pres.
- If the applicant is a Limited Liability Company (L.L.C.) or Limited Company (L.C.), then the documents should typically be signed by the Company's "Managing Member."
- If the applicant is a partnership, then typically a partner can sign on behalf of the partnership.
- If the applicant is a limited partnership, then the general partner must sign and be identified as the "general partner" of the named partnership.
- If the applicant is a trustee, then they must include their title of "trustee."
- In each instance, first determine the applicant's status, e.g., individual, corporate, trust, partnership, estate, etc., and then use the appropriate format for that ownership.

EXHIBIT PH-2.B.1
DISCLOSURE OF INTEREST FORM FOR:

Miller, Janet

From: Steveb239@aol.com
Sent: Tuesday, August 13, 2013 11:22 PM
To: Local Planning Agency
Subject: Fwd: opposition to River Hall density increase

From: h.brand@comcast.net
To: jim@jimgreenrealty.com, apiercegardner@gmail.com, mhutchcraft@cclpcitrus.com, nandress@comcast.net, happyoldfogey@aol.com, rstrelow@comcast.net, steveb239@aol.com
CC: reznitsky@comcast.net, carolbubu@comcast.net
Sent: 8/13/2013 4:54:45 P.M. Eastern Daylight Time
Subj: opposition to River Hall density increase

We are residents of the River Hall community, and live at 15364 Yellow Wood Drive. We are opposed to any increase in density within River Hall for a number of reasons, some of which are:

- (1) There is currently a serious problem exiting River Hall onto SR 80 at least twice each weekday due to the number of arrivals and departures at the Elementary School AND the fact that no traffic light exists at the intersection with SR 80. We have witnessed several accidents at that intersection, in one case involving a school bus!
- (2) We are lead to believe that such a density increase to the River Hall community would include providing an entrance to the River Hall community from the south; i.e., from Lehigh Acres. There are already problems with crime and having an easier entrance to the community for criminals from the Lehigh Acres area into River Hall would only make the existing problems worse. We do not mean in any way to demean law-abiding residents of Lehigh Acres but we all follow the local news regularly and recognize what happens there.

Harvey and Carol Brand

15364 Yellow Wood Drive

Alva, FL 33920-4610

Miller, Janet

From: Jim Green [jim@jimgreenrealty.com]
Sent: Tuesday, August 13, 2013 8:35 AM
To: Local Planning Agency
Subject: FW: Oposing GreenPointe's Request to increase the density at River Hall as per CPA 2012-00001 and DCI2013-00003

From: Joern Erdmann [mailto:joern.erdmann@edlconsulting.de]
Sent: Tuesday, August 13, 2013 1:17 AM
To: jim@jimgreenrealty.com; apiercegardner@gmail.com; mhutchcraft@cclpcitrus.com; nandress@comcast.net; happyoldfogey@aol.com; rstrelow@comcast.net; Steveb239@aol.com
Subject: Oposing GreenPointe's Request to increase the density at River Hall as per CPA 2012-00001 and DCI2013-00003

Dear Sir or Madam:

For the reasons below we , residents of Ashton Oaks at River Hall, oppose to the approval of GreenPointe's request to increase the density at River Hall:

1. Roads were not designed to handle another potential 1,500 vehicles. (1,000 units multiplied by approximately 1.5 people per unit).
2. Increased traffic at the intersection of River Hall Parkway and Palm Beach Blvd., especially since there is no traffic light.
3. Increased traffic could affect the safety of the children attending River Hall Elementary School.
4. Increase in multi-family units would lower property values and diminish the attractiveness of River Hall as a single family neighborhood.
5. Investors could purchase multi-family units and rent them for the week, month, etc., resulting in more non-residents.
6. Golf course will not handle another potential 1,500 members (1,000 units multiplied by approximately 1.5 people per unit).
7. Resident control of River Hall will take longer to occur since more lots will have to be sold to reach the 90% threshold necessary for turnover.

Sincerely,

Monika & Joern Erdmann

MONIKA & JOERN D.F. ERDMANN
ASHTON OAKS AT RIVER HALL
16570 GOLDENROD LANE 201
ALVA, FL 33920

Miller, Janet

From: Jim Green [jim@jimgreenrealty.com]
Sent: Tuesday, August 13, 2013 8:36 AM
To: Local Planning Agency
Subject: FW: GreenPoint density request

-----Original Message-----

From: Thomas Ricker [mailto:tomricker@hotmail.com]
Sent: Monday, August 12, 2013 10:38 PM
To: jim@jimgreenrealty.com
Subject: GreenPoint density request

Mr. Green, I will not be able to attend the board meeting on the above.

As a River Hall resident, I have chosen to live in this community based on the concept of 864 homesites as presented and promised from GreenPoint.

This "SIZE" development (864) is not just an arbitrary number. It is related to one, 18 hole golf course, which, by standard real estate guidelines, can support ONLY 800 homesites. The rationale for adding 1000 more homesites appears to be based purely on greed and the inability to market and promote the complex as approved. Why would anyone think they will market, promote, and SELL 2000 homesites when they haven't been able to sell more than 300 in seven years. Let's let them "try" to do what they promised before we compound the multitude of problems already existing.

Thank you for your consideration. Tom & Jeanne Ricker, 16968 Oakstead Drive, RHCC.

Sent from my iPad=

Miller, Janet

From: Steveb239@aol.com
Sent: Tuesday, August 13, 2013 11:20 PM
To: Local Planning Agency
Subject: Fwd: GreenPointe's Density Request

From: skip@seal-360.com
To: Steveb239@aol.com
Sent: 8/13/2013 10:07:33 A.M. Eastern Daylight Time
Subj: GreenPointe's Density Request

Good Morning Steve,

I respectfully ask that you please consider voting against GreenPointe's request to increase the density in Riverhall.

Lee County home values have plummeted and the density increase will only add to the inventory of home sites which could further impact values.

David Depew agrees a recent US Supreme Court ruling bottom line is: once a permit is issued, any environmental issues become the responsibility of the tax payers, *not the developer*.

The environmental impact of the current density is not a proven fact. The question then is what will the environmental impact and the increased carbon footprint be from 1000 more home sites, potentially 2500 more people and 1500 more vehicles?

There is the issue of past due taxes that went unpaid by GreenPointe. How does that show good citizenship by the company?

In view of these and other issues and the fact that there is no overriding necessity, please vote against the request.

Unfortunately, I will be traveling for the next two weeks and cannot attend the meeting on the 26th.

Thank you for your consideration in this matter.

--

Skip Seal
LEED AP, I.C.E. GB, GCS
918 607 5597
skip@seal-360.com
www.seal-360.com

Miller, Janet

From: Jim Green [jim@jimgreenrealty.com]
Sent: Tuesday, August 13, 2013 2:09 PM
To: Local Planning Agency
Subject: FW: GreenPointe's request to change the density at River Hall

From: Jill Seal [mailto:jillmseal@gmail.com]
Sent: Tuesday, August 13, 2013 12:41 PM
To: jim@jimgreenrealty.com
Subject: GreenPointe's request to change the density at River Hall

Dear Jim,

I am a year round homeowner in RiverHall and I am requesting for you to vote NO to GreenPointe's request to change the density and add 1000 new home lots.

GreenPointe has not been able to pay the required taxes due. This has caused River Hall to be called a "failed community" and therefore many banks do not want to loan to new home owners.

GreenPointe still has not been able to keep up the regular maintenance of existing buildings and developed areas.

The Clubhouse "Grill" and the Amenity Center will not accommodate another 1000 plus residents.

Builders have been discouraged by GreenPointe.

So I ask: Why would GreenPointe be awarded more lots when they have not been good stewards of the existing lots?

Thank you for your consideration,

Jill



Jill Seal

239-271-1138

Karen Asfour

From: Joern Erdmann [joern.erdmann@edlconsulting.de]
Sent: Tuesday, August 13, 2013 1:17 AM
To: jim@jimgreenrealty.com; apiercegardner@gmail.com; mhutchcraft@cclpcitrus.com; nandress@comcast.net; happyoldfogey@aol.com; rstrelow@comcast.net; Steveb239@aol.com
Subject: Oposing GreenPointe's Request to increase the density at River Hall as per CPA 2012-00001 and DCI2013-00003

Dear Sir or Madam:

For the reasons below we , residents of Ashton Oaks at River Hall, oppose to the approval of GreenPointe's request to increase the density at River Hall:

1. Roads were not designed to handle another potential 1,500 vehicles. (1,000 units multiplied by approximately 1.5 people per unit).
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4. Increase in multi-family units would lower property values and diminish the attractiveness of River Hall as a single family neighborhood.
5. Investors could purchase multi-family units and rent them for the week, month, etc., resulting in more non-residents.
6. Golf course will not handle another potential 1,500 members (1,000 units multiplied by approximately 1.5 people per unit).
7. Resident control of River Hall will take longer to occur since more lots will have to be sold to reach the 90% threshold necessary for turnover.

Sincerely,

Monika & Joern Erdmann

MONIKA & JOERN D.F. ERDMANN
ASHTON OAKS AT RIVER HALL
16570 GOLDENROD LANE 201
ALVA, FL 33920
PHONE 239-344-7524
MOBILE 239-848-6097
JERDMANN@EDLCONSULTING.DE

Miller, Janet

From: Jim Green [jim@jimgreenrealty.com]
Sent: Wednesday, August 14, 2013 9:16 AM
To: Local Planning Agency
Subject: FW: Greenpointe

From: Betsy Seligman [mailto:betsyseligman@aol.com]
Sent: Wednesday, August 14, 2013 8:46 AM
To: jim@jimgreenrealty.com
Subject: Greenpointe

In a community that will increase to another at least 2500 cars and an elementary school with children ages 5-12, there is a tremendous safety issue. We do not have a traffic light at Palm Beach Blvd and school buses and cars are going in and out into traffic going 60 miles an hour...what a dangerous situation that now exists...adding more is disastrous.

Betsy Seligman
General Manager
Olde Hickory Golf & Country Club
239-768-2400 ext. 202

Karen Asfour

From: Don Frank [Don@kanakuk.com]
Sent: Friday, August 16, 2013 12:03 PM
To: Karen Asfour (karenaz4@comcast.net)
Cc: 'Joern Erdmann' (joern.erdmann@edlconsulting.de)
Subject: River Hall Planned Development Amendment

Karen

I just finished sending this email to each of the seven board members individually. I read Paul's article first (good job Paul!) and thought I would address issues that they may not have heard about until now. Let me know if you see anything else I should do. Thanks for staying on task in this cause.

Don

Hello -----

First let me say thank you for taking your time to serve on this board. I understand the commitment it takes to invest your personal time to serve the community.

This email is intended to express my concerns with the proposed changes that Green Pointe would like to make to River Hall.

My wife and I first started visiting this area 10 years ago as a winter retreat. We rented in the area for many years as a snowbird and then purchased a home in River Hall in March of 2009. We were attracted to the spacious design and the ample green areas that we saw in the design. We felt that any growth in the development could easily be handled based on the "Planned Development Design" that we reviewed.

I understand the economic changes that have taken place over the last four years which required most companies to make adjustments. But I don't understand how the original management team who were also the principles in the former development company could buy the same company out of bankruptcy and now ask everyone to make major changes in the community to include increasing the number of lots by ~~50%~~^{70%} with little regard to the original commitments that were made to the homeowners.

I read their recent amendment letter and see that they state that they have "invested \$20 million in the community". Please understand that to my knowledge no improvements have been made in the community by Greenpointe. If they spent this money it was to restructure

loans or something not visible to any homeowner. They have made no attempt to market any lots to builders in the last two years. It appear to most homeowners that they intend to get approval from your committee for their plan and then sell the entire community to another party.

The concerns that I have are the following:

1. The gated area currently requires all homeowners to join the Country Club. The additional lots connect to the current gated area. No explanation has been offered to address the issue of how these new lots will figure into the current plan for the golf course. The existing golf course and club house could not handle ~~7~~ 1000 new members and I see no concrete commitment to add the additional 9 holes as required by the original documents.
2. The amenity center was not designed to handle an additional 2,500 people.
3. There has been no mention of what the restrictive covenants will be on the 1,000 new lots. Will they be compatible with the existing covenants? Since the new lots are 33% smaller then we can only assume the homes will be of less value and thus depreciating the value of the existing homes.
4. Can the infrastructure of roads, water and sewer handle the 50% increase in population?

Green Point has operated with no input or regard for us the original investors in this community. They control all board s and schedule their meetings when most residents will not be in the area which is usually in August. The CDD board meeting is August 16. This creates a level of mistrust between the homeowners and developers.

I ask that this board hold Green Pointe accountable for the original planned development and not make an amendment to ad 1,000 lots.

Thanks for listening.
Don Frank
16571 Goldenrod Lane.

Karen Asfour

From: Peter Manhoff [petethemaid@yahoo.com]
Sent: Friday, August 16, 2013 2:43 PM
To: apiercegardner@gmail.com
Subject: Fw: River Hall Land Use Change

Sorry, I had the wrong e-mail address on the original.

----- Forwarded Message -----

From: Peter Manhoff <petethemaid@yahoo.com>
To: "jim@greenrealty.com" <jim@greenrealty.com>; "apieriegardner@gmail.com" <apieriegardner@gmail.com>; "mhutchcraft@gmail.com" <mhutchcraft@gmail.com>; "nandress@comcast.net" <nandress@comcast.net>; "happyoldfogey@aol.com" <happyoldfogey@aol.com>; rstrelow@comcast.net; "steveb239@aol.com" <steveb239@aol.com>
Sent: Friday, August 16, 2013 2:36 PM
Subject: River Hall Land Use Change

Dear LPA Members,

My name is Peter Manhoff, and my wife and I are owners of a condo in River Hall at 16521 Goldenrod Lane #203 Alva, Florida. We presently reside in NE Ohio and spend the winters at our home in Florida. We hope to move to Florida full time in the near future.

We are writing to you to voice our opposition to the proposed land use changes of the River Hall community that are about to be voted on by your board. We believe the proposed changes would not only diminish the value of our property over time but they would also change the planned lifestyle we originally bought into. It is extremely disappointing that the developer has not lived up to their responsibility of promoting and selling homes as promised in the past with 2,000 homes planned. We do not see the benefit to home owners to add an additional 1,000 home sites, but there definitely is a profit opportunity to the developer. We do not trust the developer to develop the property and possibly they have plans to sell it once the proposal is passed. Thank you for listening and we are hopeful for a no vote on the pending proposal.

Best regards,

Peter and Dolores Manhoff

August 18, 2013

Commissioner Frank Mann
Old Lee County Courthouse
2120 Main Street, Fort Myers, Florida 33901

Cc: Commissioners - John E. Manning, Cecil L. Pendergrass, Larry Kiker, Tammy Hall
LPA – Jim Green, Ann Pierce, Mitch Hutchcraft, Noel Andress, Wayne Daltry, Roger Strelow,
Steve Brodtkin

Re: River Hall Comprehensive Plan (CPA2012-00001) and Planned Development Amendment (DCI2013-00003)

Commissioner Mann,

We are full time residents of the River Hall (Country Club) community and are writing you to express our concerns about the above referenced land usage amendment applied for by GreenPointe Communities, LLC.

As you are aware, the adopted Lee Plan policy language for the Caloosahatchee Shores Community Plan discourages amendments to Rural lands unless there is a finding by the Board that there is an “overriding public necessity” for the amendment. We have reviewed the Public Necessity Narrative transmitted by Morris-Depew Associates, as representative for GreenPointe Communities LLC, to the Lee County Division of Planning and found their “Demonstration of Necessity” lacking in any real substance or justification to support approval of the requested amendment on that basis.

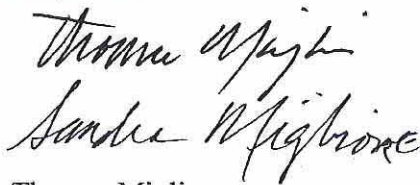
To justify the “overriding public necessity” and have the amendment approved, GreenPointe Communities has expressed a desire to:

1. Update the River Hall development plan to “establish and promote a viable, successful subdivision.” Yet, to date, they have demonstrated a total lack of interest in building homes on the lots already in place and approved. There are already sufficient building lots (units) available, without the additional 1000 units requested in the amendment, to handle population growth in our area of Lee County under the current River Hall development plan. Re-establishing the economic vitality and property values of the project (including the current and future residents) will occur when the developer shows a willingness to “develop” the property - the plan amendment notwithstanding.
2. Provision of public multi-modal trail facilities to provide non-vehicular access to amenities, recreational, shopping and school facilities. In fact, the proposed multi-use trail is a part of the existing River Hall development plan and has yet to be built – nothing new here to require an amendment. Actually, the proposed access already exists via the roadway/sidewalk infrastructure that is currently in place. As an alternative, we propose adding marked bicycle lanes to all main roads within the River Hall Community. We live directly adjacent to the designated trail location and, on numerous occasions, have witnessed trucks, motorcycles and ATV’s running back and forth on the unpaved (utility) trail. We can only imagine the increase in motorized traffic that we’ll experience when the trail is paved. Also, the River Hall CC is a gated, restricted access, community and the addition of public access on the adjacent trail raises security concerns.

3. As a component of the "overriding public necessity" justification, expediting a second access point to the south (Lehigh Acres – Ruth Ave) is proposed. This southern access point is a part of the current River Hall development plan and does not require a plan amendment to include it – it merely needs to be built. The concern we have with the southern access point is community safety and security. We routinely review the local crime reports (see attached) and are aware of the high numbers of property crimes, assaults and registered sex offenders in the Lehigh Acres community. Currently River Hall is insulated somewhat from that criminal activity by a canal system that borders the two communities. Building a southern access point across the canal, gated or not, increases the probability that River Hall residents will be victimized.
4. GreenPointe is offering to escrow funds for the construction of a stoplight at the entrance to River Hall – when warrants are met. We believe that the stoplight, when warrants are met, will eventually be added with or without GreenPointe's contribution and view this as nothing more than the developer attempting to win amendment approval by "sweetening the pot."
5. While we welcome additional paved multi-modal trails along SR 80 (eg., between the entrance to River Hall and Buckingham Road), as well as other areas of Lee County, we don't believe it meets the "overriding public necessity" litmus test required to justify granting approval of this amendment.

In summary, as detailed above, we respectfully disagree with the findings of the Lee County Planning Division Staff Report for CPA2012-00001 (dated August 16, 2013) that the current character of River Hall will not be substantially altered by the proposed amendment. As property owners and full time residents of the River Hall CC, we are requesting that the Board of County Commissioners does not approve or transmit the proposed amendment to the Lee Plan.

Respectfully,

Handwritten signatures of Thomas and Sandra Migliore in cursive script.

Thomas Migliore
Sandra Migliore
16444 Windsor Way
Alva, FL 33920
River Hall Country Club

Miller, Janet

From: Jim Green [jim@jimgreenrealty.com]
Sent: Wednesday, August 21, 2013 4:10 PM
To: Local Planning Agency
Subject: FW: Proposed River Hall Land Use Amendment

From: Raymond Seals [mailto:ray5955@hotmail.com]
Sent: Wednesday, August 21, 2013 1:23 PM
To: jim@jimgreenrealty.com
Subject: Proposed River Hall Land Use Amendment

Dear Mr. Green:

- As one of the original purchasers of property in the River Hall Community my wife and I strongly object to the proposed amendment to the River Hall development that seeks to increase the density of the community to the detriment of the residents. We purchased our property based on the original developers representations regarding the land use approved at that time. If we would have known that a new developer, GreenPointe, (its principals were a part of the original development team) would seek to change the character of the community we would not have purchased property in the development.
- There is no public interest served by granting the developer's request to amend the existing approved land use for the property. In fact, the original River Hall land use approval recognized that it was consistent with the surrounding areas. To permit GreenPointe to change the character of the community, as would occur if the proposed amendment is approved, would send a signal to every developer that the original land use approvals for projects in Lee County can be changed at the whim of the developers. This certainly is not a message that Lee County should want to send to residents and prospective home purchasers as it would only have the effect of inhibiting prospective Lee County residents from purchasing homes in the area.

Cordially,

Ray and Joanne Seals

Miller, Janet

From: Jim Green [jim@jimgreenrealty.com]
Sent: Wednesday, August 21, 2013 8:30 PM
To: Local Planning Agency
Subject: FW: Opposition to the River Hall Developer's Application to Change the Land Use Plan
Attachments: Opposition to River Hall Density Application.pdf

From: r.thornberry@comcast.net [mailto:r.thornberry@comcast.net]
Sent: Wednesday, August 21, 2013 7:32 PM
To: Jim@jimgreenrealty.com
Subject: Opposition to the River Hall Developer's Application to Change the Land Use Plan

Mr. Green,

I am a resident of River Hall. As you will probably remember from our discussions at the Alva Community Planning Meeting I am strongly opposed to the developer's applications to change the River Hall Land Use Plan and to increase the home site density by one thousand units.

The basis for my opposition is contained in my attached letter. I respectfully request that you review this letter prior to the Board meeting on 26 August. I look forward to seeing you at the meeting.

Respectfully,

Roger W. Thornberry
Colonel, U. S, Army (ret)

Karen Asfour

From: hgang1@aol.com
Sent: Thursday, August 22, 2013 5:38 PM
To: jim@jimgreenrealty.com; apiercegardner@gmail.com; mhutchcraft@ccipcitrus.com; nandress@comcast.net; happyoldfogey@aol.com; rstrelow@comcast.net; Steveb239@aol.com; karenaz4@comcast.net; hgang1@aol.com
Subject: Letter to East Lee County Land Plan Committee

To: LPA Board
From: Michele Holcomb
River Hall Community resident
Date: August 22, 2013

Reference:

Monday August 26, 2013 at 8:30 am LPA Hearing
regarding Proposal to Change River Hall Golf Community from Rural
Designation in order to Increase Density

Dear Sirs:

I have been a resident of River Hall Golf Community for 6 years.
My husband and I built in this community to enjoy the rural nature of this upscale golf community.

I do not want the ordinances and regulations changed from rural to allow a higher density in our community. It would affect the character and rural atmosphere that initially attracted us to River Hall.

In addition, safety is a major concern, as we do not want increased density traffic for us or River Hall Elementary School that is in our community.

Thank you for your consideration.

Sincerely,

Michele A. Holcomb
16016 Herons View Dr.
Alva, FL 33920

Miller, Janet

From: Jim Green [jim@jimgreenrealty.com]
Sent: Friday, August 23, 2013 7:37 AM
To: Local Planning Agency
Subject: FW: Letter to East Lee County Land Plan Committee

From: hgang1@aol.com [mailto:hgang1@aol.com]
Sent: Thursday, August 22, 2013 5:38 PM
To: jim@jimgreenrealty.com; apiercegardner@gmail.com; mhutchcraft@ccipcitrus.com; nandress@comcast.net; happyoldfozey@aol.com; rstrelow@comcast.net; Steveb239@aol.com; karenaz4@comcast.net; hgang1@aol.com
Subject: Letter to East Lee County Land Plan Committee

To: LPA Board
From: Michele Holcomb
River Hall Community resident
Date: August 22, 2013

Reference:

Monday August 26, 2013 at 8:30 am LPA Hearing
regarding Proposal to Change River Hall Golf Community from Rural
Designation in order to Increase Density

Dear Sirs:

I have been a resident of River Hall Golf Community for 6 years.
My husband and I built in this community to enjoy the rural nature of this upscale golf community.

I do not want the ordinances and regulations changed from rural to allow a higher density in our community. It would affect the character and rural atmosphere that initially attracted us to River Hall.

In addition, safety is a major concern, as we do not want increased density traffic for us or River Hall Elementary School that is in our community.

Thank you for your consideration.

Sincerely,

Michele A. Holcomb
16016 Herons View Dr.
Alva, Fl. 33920



CONSERVANCY of Southwest Florida

OUR WATER, LAND, WILDLIFE, FUTURE.

Protecting Southwest Florida's unique natural environment and quality of life ... now and forever.

To: Lee County Land Planning Agency

Date: August 23, 2013

From: Julianne Thomas, Growth Management Specialist

Re: River Hall Privately Sponsored Amendment to the Lee County Comprehensive Plan, CPA2012-00001

The Conservancy of Southwest Florida has long been active in providing comments to protect the environment and quality of life in Southwest Florida. Our goal is not to stop all development. We understand that development will happen, and we strive to help that development occur at a time and in a location that balances the need for growth with the protection of natural resources and community character. This proposal, however, does not balance the need for growth with protection of environmental resources or community character.

Pursuant to **Objective 2.4**, modifications of the future land use map are to be made in light of new information and changed conditions. The existing map is presumed to be correct. There are no changed conditions or new information which supports this proposed change. **Policy 2.4.3** specifically states that it is Lee County's policy to not approve further urban designations. **Policy 5.1.5** states that Lee County must protect existing and future residential areas from any encroachment of uses that are potentially destructive to the character and integrity of the residential environment. This proposal does this very thing by seeking to change the existing rural character of the community.

Additionally, in 2009, the Board of County Commissioners (BoCC) adopted a text amendment specifically protecting the remaining rural lands in this planning area. This amendment prohibits amendments to the Future Land Use Map within the Caloosahatchee Shores Community Planning Area that increase the density of rural lands without a finding of "overriding public necessity". Increasing the number of buildable lots in a planned development, in Lee County is not a public necessity. There is no benefit to the public. The only entity that benefits from this is the developer.

The staff report has focused on the phrase "overriding public necessity", and while that language is important, there is other language in Policy 21.1.5 that is just as important. The stated goal is to retain rural character and rural land uses. Nothing about this proposal does this, and, in fact, this proposal would



Conservancy of Southwest Florida has been awarded Charity Navigator's prestigious 4-Star top rating for good governance, sound fiscal management and commitment to accountability and transparency. Charity Navigator is America's largest and most respected independent evaluator of charities.

provide additional erosion of existing rural lands by removing property rights and creating enclaves.

The language "overriding public necessity" is commonly used in policy statements and court decisions as meaning "no other reasonable option is available." This phrase is commonly part of eminent domain policies and proceedings, and requires that the entity wanting to change property rights literally have no other reasonable options. Additionally, the public benefit from altering the subject property must be so great that it is easily apparent and defensible. This is not true for this request.

In 2007, before the housing crash, the BoCC voted 4-1 to not adopt a proposal that would have limited development on the site to 2,800 units.

Since 2007, the need for additional housing in Lee County has dramatically decreased. There are no changed conditions that provide a reasonable basis to approve this request which is for 2,999 units. Changed ownership is not new information or changed conditions. The applicant knew or should have known what development rights were included with their purchase. Lee County should not allow the creation of enclaves or stealing the property rights of others just so one property owner can increase their residential entitlements for speculative development. It is not right. It is not fair. It is not in compliance with the Lee Plan, and it is contrary to good planning policy.

Denying this application does not impact property rights of the applicant - the purchaser knew or should have known what development rights were approved when the property was purchased. The purchaser should have based their price on approved property rights, not potential property rights. Put another way - if you purchase a piece of property, it comes with a zoning and future land use designation. It is not reasonably foreseeable that you can increase your development rights. This request is speculative, which, by its very nature cannot be a valid investment backed expectation.

Approving this action could, however, give rise to a cause of action for property owners in the community who bought their property because they wanted to live in a rural subdivision. These people invested their money with the expectation that the community they live in and the property they own would remain rural, without density increases. Their investment backed expectation is real and not speculative.

This request is also bad planning which would cause inconsistency with community character. The staff report states that because the applicant does not have unified control over all the lands, there are tracts of land that will remain rural that will be surrounded by sub-outlying suburban lands.

In annexations, enclaves are prohibited. The 2013 Florida States, Section 171.046(1) states that "[t]he Legislature recognizes that enclaves can create significant problems in planning, growth management, and service delivery, and therefore declares that it is the policy of the state to eliminate enclaves."

It is the policy of the state to eliminate enclaves. Although this is on a future land use map, and is not an annexation, it is clear that enclaves are against public policy. There is no reason to think that enclaves on a future land use map are beneficial or good public policy. Lee County should not approve the creation of new enclaves on their future land use map and should deny amendments which create enclaves such as this one.

On page 18 of the staff report, staff states that density will be utilized from Suburban areas not included in the amendment or rezoning area and that there is a question of who really owns these lands and is entitled to any currently unused density on these Suburban lands. They don't know whose density they are taking to use. This is a huge problem. If there is a question of ownership, it is irresponsible of Lee County to authorize any changes to that property. Doing so is not in the best interest of property owners or Lee County.

On page 20, staff describes additional taking of property rights to other property owners in the Fort Myers Shores Planning Community. According to the staff report, approving the change as requested would preclude vacant rural parcels from being able to utilize their as-of-right residential development, and could, in fact remove all remaining residential building rights from all rural parcels in the Fort Myers Shores Planning Community. **The applicant's proposal removes existing as of right residential development rights from other properties.** There is absolutely no reason to Lee County to be exposed to this liability by adopting this policy. It is unclear to me whether the alternate plan as proposed by staff would allow all property owners to retain their as of right residential property rights.

Please vote no, and request that Lee County staff re-evaluate their recommendation. It is not in Lee County's best interest to approve this request. Their recommendation and yours to the Board of County Commissioners should be for denial.

To: The LPA Members

August 23, 2013

From: Georgette and Joseph Lundquist

Subject: Comments relating to River Hall CPA 2012-00001

We are writing this letter to all of you to express our opposition to the above referenced zoning request by GreenPointe. We moved to River Hall for the specific reason of having quiet rural surroundings for our retirement. Gated, safe, quiet, surrounded by nature.

We were among the first residents to own property in River Hall in December 2006. We took a leap of faith when we came here as the golf course and amenities were hardly started let alone complete. At the Welcome House at the River Hall entrance there is a model of the development with all the amenities. We watched as the golf course was completed and the Town Hall amenity center was opened. Included on that model you will see the trail along the FPL power lines to Hickey's Creek for walking and biking and also a canoe/kayak out post. Beautiful artist concept pictures were presented all around the inside of the Welcome House showing the development.

In the beginning there were 6 builders within River Hall. Hampton Lakes had Pulte and Ryland. River Hall Country Club had Pulte, Ryland, David Weekley, Taylor-Woodrow and Arthur Rutenberg. Later Morrison Homes was added.

Everyone coming through the doors of the Welcome House was given this "River Hall Storybook" about the concept of River Hall. Quoting from the book "River Hall is a master-planned community designed to include three distinct villages, a school, proposed fire station, Town Hall and a Town Square. Set among 2,000 acres of oak hammocks, where half of the land is set aside for open space and lakes, our gated community is connected by meandering trails and sidewalks".

As we continue through the book you will see that everything within River Hall is geared toward nature and the rural setting we have. But if this density increase is approved this will all change to the detriment of the existing plan. From the book "In this new hometown under clear FL skies, you'll find a community built around nature. Reflecting the casual comfort of old FL, River Hall is peacefully positioned outside Fort Myers yet close enough for convenience. With just the right mix of activity and relaxation, River Hall is a recipe for the balanced life".

In these last 6 ½ years, nothing except the Town Hall Amenity Center and the golf course has been completed by the developer. We have been told many times at Annual Meetings about a builder coming to start building only to find out later it would not happen. This developer has lied to us many times and how are we as residents to believe them if they get this rezoning density increase approved. They have not lived up to any of the initial promises they made to us when we bought into this rural community.

Here are some of the things we were promised that have never happened:

1. **Community Trail** along the power lines – There was to be a secure and safe bike/walking trail accessible only to River Hall residents. Now it is being proposed again with this density change, but it is not clear who will have access, raising security issues for residents.
2. **Town Square** - This included the elementary school (completed in Sept 2006) but also the other items on the list - shops, offices, fire station and village green – have not even been started.
3. **PR and building construction-** Over the years we were promised that builders would be coming. Jan 2012 we heard 5 builders were coming in the fall. No ads or promotions have been seen as of yet. GreenPointe's own

building company was going to start building in 2013. Nothing yet. A newspaper from Feb 2007 was the last ad we have seen for promoting River Hall.

As we read on in the book we find the Landmar Story. Yes, the developer is now GreenPointe, but the same 3 principals from Landmar are the same ones in GreenPointe. The money for the restructuring might be from a hedgefund, as we are told, but the principals are the same. Landmar states in the book that **"Our record of performance and rock-solid financial strength enables us to work with the finest homebuilders, designers and construction firms."** Where are these home builders who want to build in River Hall? No one is jumping at this chance to work with this developer.

This is also the same entity that has control of the River Hall CDD, River Hall Country Club HOA, Hampton Lakes HOA and Town Hall HOA. Residents have no say or are not even informed as to what is being done, supposedly on their behalf. We pay our quarterly fees to them and do not even have a say in what they might do to jeopardize our future as River Hall residents. They can't even manage to pay the property taxes on time as all of us must. They only do things when forced to.

The developer initially stated it had permission of all landowners to pursue this amendment. As you have probably noticed by some of the emails you have received that was not the case. We as homeowners have had no say whatsoever in any of this. In fact, we were told that we would get a letter in the mail about any hearings, etc and so far to date we have received nothing. The only way we knew this meeting was being held was by contacting the county planners once we knew the developer was trying to get this density change. This is the third such change requested by Landmar/GreenPointe for River Hall. We are now finding out that GreenPointe VP on site, Grady Miars, has requested that he be able to sign documents on behalf of the CDD without even having a meeting. Yes, we have 2 homeowner board members on the 5 member developer controlled board now, but as you can see that 3 against 2 gives them the majority vote. Again we have no say in what is being done within our borders. We are just supposed to pay our money and keep our mouths shut.

In Sept 2012 the density change request was made to Lee County by GreenPointe. There was a meeting held at River Hall by the developer in Jan 2013, 4 months later. This was a meeting to convince the residents that the developer had our best interest at heart. The engineering company, Barraco, who drew up the rezoning plans and maps, made a presentation, but when some homeowners asked tough questions they were offended. Just a month ago we received an email from Tina Matte of Gravina, Smith, Matte and Arnold, a marketing and PR firm representing GreenPointe Communities. As you can see this was a gesture to get residents on board again with the rezoning, but we think it might have backfired as no one who attended had anything positive to say about the developer. The information they gleaned from the people who participated will only give GreenPointe fuel for rebuttal.

River Hall is a planned community with 2000 acres and lots of open space and wetlands. Within the community were 1999 original planned units as homes or multi family units. Of this number, 575 is in Cascades, a completely private entity now owned by someone other than GreenPointe. This leaves a total of 1424 within Hampton Lakes and River Hall Country Club. The increased density request is for an additional 1000 units of which size and composition we have no clue. This would mean an increase of 70% over the original density that we all bought into from the original plans.

Since GreenPointe principals are also the same as Landmar, these developers knew what they were buying as approved originally by the county before River Hall ever came into existence. What they want to do is not smart growth for our rural area of Lee County. Our existing roads cannot handle the traffic from at least 2500 extra people and 1500 extra vehicles.

We see potholes all the time and the only way they are fixed is if a homeowner calls the management company for repair. We only have 2 lane roads within the development. With this increased density we would need a 4 lane road going from the front entrance to the proposed rear entrance. This can only result in safety and security issues for the residents.

To go a step further for safety when the River Hall Elementary School is in session, it is a nightmare at Rt. 80 getting out of the

development at the school start and end times. There are hundreds of cars coming and going to drop off and pick up children. I personally contacted the state of Florida to request a light at the intersection. I was told there has to be 100 vehicles an hour for this to happen or maybe a death has to occur. The school buses will not even turn left onto Rt 80 now and have to turn right and then do a u-turn at the next crossover. I know of at least one accident and it is a surprise that not more accidents have occurred.

Simply stated the developer is asking the Land Planning Agency and the County Commissioners to help break a promise it made to the county, surrounding communities and residents who invested in River Hall over 7 years ago. We all bought here for the rural ambiance that was River Hall and now they want to take that away. Please vote against this rezoning/density increase.

Georgette and Joe Lundquist

17005 Sunny Lakes Court, Alva, FL 33920

239-590-6927 and 239-634-1593

SAVOR LIFE'S PLEASURES



The central gathering point for residents of River Hall will be a made-from-scratch Town Square. As this new hometown grows, residents will find quaint shops, retail services, offices and dining opportunities right in the neighborhood.



RIVER HALL. A RECIPE FOR A NEW HOMETOWN.

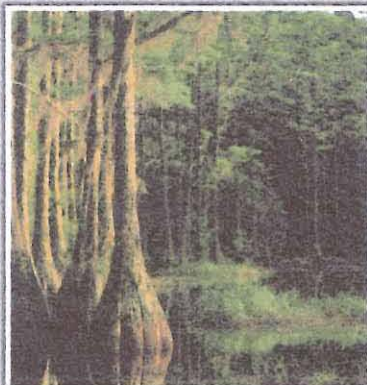
The best hometowns are a great mix of activity and relaxation. Their people and places hold your interest. It's easy to connect with others and reconnect with yourself.

- ✓ River Hall is a master-planned community designed to include three distinct villages, a school, proposed fire station, Town Hall and a Town Square. Set among 2,000 acres of oak hammocks, where half of the land is set aside for open space and lakes, our gated community is connected by meandering trails and sidewalks. Six miles east of I-75 in Lee County, River Hall is near Fort Myers but a world unto itself. River Hall feels like Old Florida – comfortable, friendly and fun.

River Hall families, active adults and golf enthusiasts will each have their own village. Like a true community, residents will interact – at our pools, clubhouse, fitness center, park, trails and golf course.

DISCOVER
YOUR TRUE

NATURE



There's a place nestled among ancient oak hammocks, wetlands and nature preserves. Here, you'll discover trails and a future direct connection to a tributary of the Caloosahatchee River.

✓ In this new hometown under clear Florida skies, you'll find a community built around nature. Reflecting the casual comfort of Old Florida, River Hall is peacefully positioned outside Fort Myers yet close enough for convenience. With just the right mix of activity and relaxation, River Hall is a recipe for the balanced life.

Prepare for your next River Hall adventure!

Stock a backpack with outdoor gear and keep it near your door.

Suggested contents:

- | | |
|---------------------------------------|--|
| ☐ Camera | ☐ Band aids |
| ☐ Water bottle | ☐ Energy bar |
| ☐ Hat | ☐ Sunscreen |
| ☐ Sunglasses | ☐ Insect repellent |
| ☐ Binoculars | ☐ Antiseptic ointment |

THE LANDMAR STORY

At LandMar Group, we built our leadership in the industry like we build our communities – with a strong foundation in quality. Since 1987, LandMar has set the quality and value standard for premier residential properties throughout Florida and the Southeast.

✓ Our record of performance and rock-solid financial strength enables us to work with the finest homebuilders, designers and construction firms. And our nationally-known golf management professionals at Hampton Golf provide unparalleled management of our top-rated courses.



Roger Postlethwaite, LandMar COO, Ed Burr, LandMar Founder, and MG Orender, Hampton Golf and PGA President

Today, as an affiliate of Crescent Resources and Duke Energy, we're expanding our leadership position with an even wider array of residential, commercial and mixed-use properties throughout the Southeast – all built with unequalled attention to the surrounding community and the environment.

CRESCENT COMMUNITIES

 **LandMar**
Creating communities for life.

Miller, Janet

From: Steveb239@aol.com
Sent: Saturday, August 24, 2013 9:34 PM
To: Local Planning Agency
Subject: Fwd: Comments on River Hall - CPA 2012-00001
Attachments: rv.1.comments.docx; hallAug.Comments.docx

From: kimelk@netzero.net
To: apiercegardner@gmail.com, mhutchcraft@cclpcritus.com, nandress@comcast.net, happyoldfogey@aol.com,
rstrelow@comcast.net, jim@jimgreenrealty.com, steveb239@aol.com, jim@jimgreenrealty.com
Sent: 8/24/2013 2:10:13 P.M. Eastern Daylight Time
Subj: Comments on River Hall - CPA 2012-00001

To All Members of the LPA,

As the President of The East Lee County Council, a consortium of four planning areas (Alva, Bayshore, Buckingham and Fort Myers Shores) , and Chairman of the Caloosahatchee Shores Planning Committee; it is my obligation to provide you with a brief summary of our rationale for NOT supporting the application,

Please see the attachments to this message for further details.

Ed Kimball

One Weird Trick

Could add \$1,000s to Your Social Security Checks! See if you Qualify...
newsmax.com

Comments relating to the River Hall CPA 2012-00001 Application:

1. Private investment performance is based on, how planned risk is managed in order to provide a successful outcome. The River Hall property venture had financially failed before the current acquisition by Greene Pointe LLC; with some of the same partnership. The application seeks to provide increased density to enhance the probability of profitability, serving a private need and not a public necessity. Every construction venture was negatively impacted by the economic turn-down in recent times and few areas more than Lee County.
2. This application is a precedent setting proposal that puts forth a concept that jeopardizes **ALL** Community Plans. It proposes utilizing the Plans as a "Bail-out" mechanism based on density increases, as a tool for attaining profitability. In essence this application, if approved, would decimate "smart growth planning" County wide. ME TOO! most certainly would be a common refrain.
3. As the Land Use Map does indicate, every land use category abuts another and contains different density parameters. Each category has an entitlement assigned to its name. The category is important in the Real Estate Market, as it has more or less value based on the entitlement. Approval of this application would have a negative Real Estate Market impact, as it would provide artificially lower building lot costs for River Hall; to the detriment of competing private ventures.
4. In recognition of the potential density attack, by development interests, and to protect the diversity of use concept; Four Community Plans in East Lee County restrict Rural Land Use changes to cases where an Overriding Public Necessity can be demonstrated.

East Lee County Community Plans Lee Plan Policy Statements
on Rural Land Use

Caloosahatchee Shores (aka Fort Myers Shores) Plan pg.124

POLICY 21.1.5: One important aspect of the Caloosahatchee Shores Community Plan goal is to retain its rural character and rural land use where it currently exists. Therefore, no land use map amendments to the remaining rural lands category will be permitted after May 15, 2009, unless a finding of overriding public necessity is made by three members of the Board of County Commissioners. (Added by Ordinance No. 09-06)

Alva Community Plan pg147

POLICY 26.2.2: Land use amendments that would increase the allowable total density of Alva are discouraged. Land use amendments that would decrease the allowable total density of the area and that are otherwise consistent with the objectives and policies of this goal are encouraged in Alva. No land use amendments to a more intensive category will be permitted unless a finding of overriding public necessity is made by a supermajority of the members of the Board of County Commissioners. (Added by Ordinance No. 11-21)

Bayshore Plan pg122

OBJECTIVE 20.1: LAND USE. The existing land use designations of the Lee Plan (as of September 30, 2001) are appropriate to achieving the goal of the Bayshore Plan. No land use map amendments to a more intensive category will be permitted after March 11, 2003, unless a finding of overriding public necessity is made by three members of the Board of County Commissioners. (Added by Ordinance No. 03-02)

Buckingham Community Plan pg106

OBJECTIVE 17.1: LAND USE. The primary land use designation for the Buckingham Community is 'Rural Community Preserve'. Other land use designations exist within the Buckingham Community, such as Rural, Sub-Outlying Suburban, Conservation Lands, and Wetlands. Public Facilities have also been designated as appropriate. No land in the Buckingham Community will be changed to a land use category more intense than Rural Community Preserve (including public facilities) unless a finding of overriding public necessity is determined by three members of the Board of County Commissioners. Land use decisions will be guided by preserving the rural and agricultural land use pattern. (Amended by Ordinance No. 00-22, 10-15)

In order to meet the "overriding public necessity" requirement, the entirety of the project would have to be providing public service functions and ancillary support facilities, as a total project. The existing River Hall project is a Residential Planned Development and was approved as such; it will continue to be under the current proposal. In its entirety it is a private enterprise for private benefit.

5. The Staff Report analysis of each of the Applicants points of contention does not use the word "necessity" to describe any subject matter in the application. (Attached is a word key that I found helpful in my evaluation).

River Hall

Word Key:

Over-all: as a whole, generally

Overriding: prevailing, dominate, above all else.

Necessity: indispensable requirement, an urgent need.

Enhancement: improvement, desirable, or attractive

Entirety: whole of something, completeness, totality

Need: a lack of something desirable or useful.

Amenities: a convenience

Adequate: lawfully and reasonably sufficient, satisfactory, and merely marginal.

Bail-out: to help from a predicament

Public: the people in a region as a whole, a group of people having common interests.

Private: restricted to a specific use or benefit to a particular group or entity.

Requirement: necessity, paramount essential condition.

John E. Manning
District One

Cecil L. Pendergrass
District Two

Larry Kiker
District Three

Tammy Hall
District Four

Frank Mann
District Five

Roger Desjarlais
County Manager

Andrea Fraser
Interim County Attorney

Laura B. Belflower
Acting Chief Hearing Examiner

August 26, 2013

Brandon D. Dunn, Senior Planner
Lee County Division of Planning
1500 Monroe Street
Ft. Myers, FL 33902-0398

Re: CPA2012-00001 and DCI2013-00003

Dear Mr. Dunn,

The purpose of this letter is to provide comments on the proposed amendments to the River Hall Planned Development.

The River Hall Development Agreement (drafted 8/14/2013) states that "Upon completion of design, the Developer will proceed with permitting and construction of the park facilities, provided, however, that Developer's maximum contribution towards permitting and construction of the park will be \$250,000.00. Any additional funding necessary for construction will be provided by the County. Operation and maintenance of the park facilities will be the responsibility of the Developer, and this obligation may be assigned to a Community Development District (CDD)..." The Lee County Department of Parks and Recreation (LCPR) would categorize this as a neighborhood park and has moved away from funding these types of parks. **As a result, any monies required for the construction of this proposed park or future maintenance will not be provided by LCPR.**

Hickey's Creek Mitigation Park (HCMP) is situated east of the River Hall Community. The park was established through the cooperative efforts of Lee County, the Florida Fish and Wildlife Conservation Commission (FWC) and the Florida Communities Trust (FCT) to establish a mitigation park for listed wildlife species, primarily gopher tortoises (*Gopherus polyphemus*), and to support FWC's off site mitigation program. Public access trails were established to provide for **public use compatible with resource protection.**

Exhibit 4 in the revised Public Necessity Narrative dated August 5, 2013 from Morris Depew inaccurately depicts the trail system within Hickey's Creek Mitigation Park (HCMP). In addition to the public access trails, this exhibit highlights service roads, firelines water bodies and the parking lot as "trails". This exhibit provides the erroneous interpretation that public access trails run haphazardly through the park. LCPR staff sent the corrected shapefile to Ms. Ekblad, Morris Depew via email on 8/21/2013. HCMP provides five miles of "hiking only" trails. The actual trail system was designed to utilize existing trails to minimize disturbance to native plant communities. Location of trails was determined with emphasis on limiting disturbances to the federally threatened Florida scrub-jay (*Aphelocoma coerulescens*) population on site. The multi-modal trails that have been proposed

by the developers (Greenpointe Communities, LLC and RH Venture I, LLC) to "eventually connect to HCMP" would not be compatible with the use of the park.

In terms of site security, LCPR has had to deal with trespass issues with motorized vehicles on the western boundary of the park. If a multi-modal trail were to end on the outside of HCMP, this could encourage more unauthorized use of the park. Public access to the park has been designated at 17980 Palm Beach Blvd. in Alva Florida. This designated entrance was designed to ensure appropriate use of the park during operational hours and to ensure that when HCMP is closed for land management activities, that the designated entrance area could be appropriately blocked.

The Right-of-Way Consent Agreement between the Florida Power and Light Company (FPL) and the Lee County Board of County Commissioners dated July 24, 2000 limits the use of the Power line Easement (see attached map) to the construction, maintenance and use of a walking trail within HCMP to the crossing of the Palmetto Pines Trail. The County does not have an agreement for any other public access trails across or on the FPL easement and would not pursue such an agreement.

Currently, the FPL crossing over the East County Water Control District canal (see attached map) just west of the boundary to HCMP is blocked by concrete structures to prevent any safe access to the site. LCPR recommends that if a multi-modal trail is constructed, that its east/ west path terminate on the western side of the canal and continue north or south on the west side of the canal.

LCPR acknowledges that the developers propose to increase density within the existing approved development footprint. The increase in density within this area will increase the number of people that may come into contact with smoke from prescribed fires conducted within HCMP – especially with the addition of multi-family units. Fire is a vital, natural process in many Florida plant communities. Prescribed fire is used to reduce fuel loads, improve wildlife habitat – especially for listed species, decrease the rate of invasion by certain exotic species, reduce pest insect populations, aid in the restoration of native fire-dependent ecosystems and reduce the risk of catastrophic wildfires. Periodic prescribed fires are essential to the proper management of HCMP. Consequently, FWC and LCPR will continue to use fire as a management tool on HCMP. Additionally, River Hall's own conservation lands, when managed with fire (or as the recipient of lightning strikes) will produce smoke that may affect the increased population of the development. LCPR requests that future home owners are made aware that they would be living in close proximity to a Conservation Area that uses prescribed fire as a management tool.

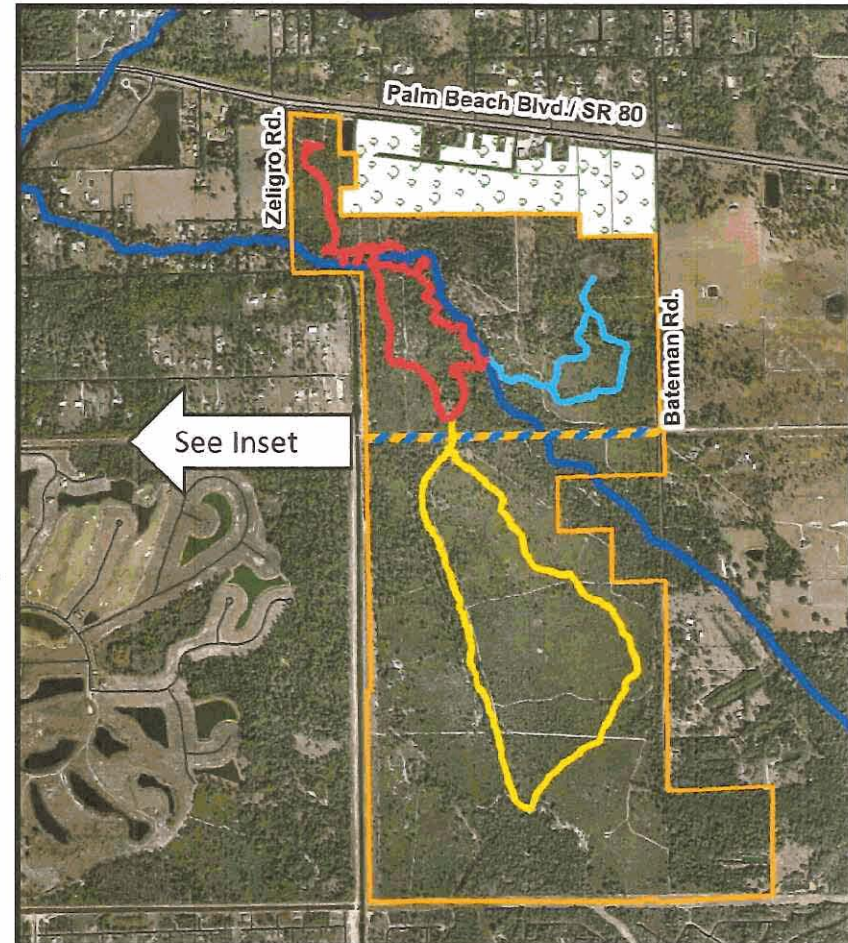
Thank you,

A handwritten signature in black ink, appearing to read 'Annisa Karim', with a horizontal line drawn through the middle of the signature.

Annisa Karim
Senior Supervisor, Conservation Lands
Lee County Department of Parks and Recreation



Hickey's Creek Mitigation Park (HCMP) and area west of the Powerline Easement



Legend

- HCMP
- Conservation 20/20 Parcels incorporated into HCMP
- Powerline Easement
- Hickey's Creek
- Hickey's Creek Trail (1.8 miles)
- North Marsh Trail (1.0 miles)
- Palmetto Pines Trail (2.2 miles)

0 0.25 0.5
Miles

This map is not a survey and is intended for informational purposes only.

H:\Hickey's Creek Mitigation Park\Map
HCMP_RiverHall-Map
Map created by Amrissa Karim
(AKarim@LeeGov.com)
Aerial image 2012
Created: August 2013

GOOD MORNING

MY NAME IS MILTON SAGER

I REPRESENT MICHAEL AND GLORIA SCHARFMAN

OF 1280 BLUFFS CIRCLE, DUNEDIN, FLORIDA

WHO OWN PROPERTY ON HIGHWAY 80

ACROSS FROM THE RIVER HALL DEVELOPMENT

HERE IS A COPY OF THE LEGAL DESCRIPTION OF THAT PROPERTY.

THEY INSTRUCTED ME TO SUPPORT THE REQUEST

FROM RIVER HALL FOR THE ADDITIONAL 1000 UNITS

TO BE ADDED IN THEIR DEVELOPMENT.



Lee County Property Appraiser

Tax Year

[Next Lower Parcel Number](#) [Next Higher Parcel Number](#) [Tax Estimator](#) [Tax Bills](#) [Print](#)

Property Data for Parcel 27-43-26-00-00001.0020

Owner Of Record

SCHARFMAN MICHAEL + GLORIA
1280 BLUFFS CIR
DUNEDIN FL 34698

Site Address

15131 PALM BEACH BLVD
ALVA FL 33920

Legal Description

PARL IN NW 1/4 OF NW 1/4
N OF SR 80 DESC
IN OR 1021 PG 255

Classification / DOR Code

VACANT COMMERCIAL / 10

[Tax Map Viewer]



[Pictometry Aerial Viewer]



Seal 360 Consulting, Inc.
16550 Goldenrod Lane #103, Alva, FL 33920

I respectfully ask that you please consider voting against GreenPointe's request to increase the density in Riverhall.

Lee County home values have plummeted and the density increase will only add to the inventory of home sites which could further impact values.

David Depew agrees a recent US Supreme Court ruling bottom line is: once a permit is issued, any environmental issues become the responsibility of the tax payers, *not the developer*.

The environmental impact of the current density is not a proven fact. The question then is what will the environmental impact and the increased carbon footprint be from 1000 more home sites, potentially 2500 more people and 1500 more vehicles?

There is the issue of past due taxes that went unpaid by GreenPointe. How does that show good citizenship by the company?

In view of these and other issues and the fact that there is no overriding necessity, please vote against the request.

Unfortunately, I will be traveling for the next two weeks and cannot attend the meeting on the 26th.

Thank you for your consideration in this matter.

Skip Seal
LEED AP, I.C.E. GB, GCS
[918 607 5597](tel:9186075597)
skip@seal-360.com
www.seal-360.com

Presentation to LPA on Monday, August 26, 2013

I am reading this for Jimmy and Peggy Savin who live at 17255 Walnut Run Drive. Jimmy had a stroke on August 18 and is presently in Lee Memorial ACUTE Rehab Center after having had the stroke while visiting with friends in Missouri.

We have lived in River Hall Country Club since 2009. We moved there to be close to nature and bought a spec home that is the farthest home back in the community. We have wildlife all around us. We walk our golden retriever several times every day in what we call "The Outback". It is a preserve area where we see panthers, bobcats, turkeys, eagles, wild boars, otters, many kinds of shore birds and ducks, great horned owls, barred owls, and burrowing owls. But most importantly we have seen panther tracks, scat and a tree stripped by a panther to designate his territory. This was confirmed by someone from Florida Wildlife who saw a photo we took of the tree. Many other River Hall residents have also reported panther sightings. Both of us have taken University of Florida courses to become certified Florida Master Naturalists. Because of our love of wildlife, we volunteer at Manatee Park, Hickey Creek Mitigation Park and Caloosahatchee Regional Park.

The management company at River Hall has been using trappers to get rid of alligators from the lakes within River Hall. We agree that larger alligators should be removed, but if we remove all of the smaller ones we will be upsetting the eco-system. In fact they are using recordings to call the alligators that we understand is highly against the law. Once the alligators are captured we were told by the trappers that they are killed and sold for their parts.

In the years that we have been in River Hall, we have not seen any promotional advertising for River Hall anywhere in newspapers, on TV or radio. The original developer Landmar, now Greenpointe, has not done anything to retain builders to develop the existing lots. In fact they have impeded getting builders to come by making it next to impossible. At least 5 builders have wanted to get into the development and have been turned away for one reason or another. The developer did allow a builder to come into the country club area, but did not make them adhere to the standards of the other existing homes, size of homes and the type and amount of landscaping around the homes. We have at least 80% of the original development that has not been built on yet. Why do they need more lots when they are not using what they already have? Why are they not promoting the development as a wonderful rural community with nature at your back door? We don't understand why the developer wants to change the entire original development concept from rural to outlying suburban.

Jimmy and Peggy Savin

17255 Walnut Run Drive

Alva, FL 33920

239-689-5151

jsps1@comcast.net

Grounded - Sandhill Crane

Sand Hill Crane - Street



Black Bear - Managed

Black Bear - Managed



The adopted policy language for the Caloosahatchee Shores Community Plan discourages amendments to Rural lands unless there is a finding by the Board of an overriding public necessity. We have reviewed the GreenPointe Communities proposal and found their demonstration of public necessity lacking in any real substance or justification to support approval of the requested amendment.

As justification for an overriding public necessity, GreenPointe has proposed the following:

1. Update the River Hall development plan to establish and promote a viable, successful subdivision. Yet, to date, they have demonstrated a total lack of interest in building homes on the lots already in place and approved. There are already sufficient building lots available at River Hall to handle population growth in East Lee County, without the additional 1000 units requested in the amendment. Re-establishing the economic vitality and property values of the project will occur when the developer shows a willingness to develop the property to the current approved plan.
2. Provide public multi-modal trail facilities for non-vehicular access to amenities, recreational, shopping and school facilities. In fact, the proposed multi-use trail is part of the existing River Hall development plan and has yet to be built – nothing new here to require an amendment. We live directly adjacent to the designated trail location which runs along the FPL utility easement and, on numerous occasions, have witnessed the unlawful use of this currently unpaved trail by operators of trucks, motorcycles and ATV's. Paving the trail will increase its unlawful use. River Hall is a gated, restricted access community and the addition of a paved, public access trail, raises serious security and safety concerns.
3. Expedite a second, southern, access point to Lehigh Acres near Ruth Avenue. The southern access is a part of the current River Hall development plan and does not require a plan amendment to include it – it merely needs to be built. Our concern again is related to community safety and security. Review of the local crime reports show high numbers of property crimes, assaults and registered sex offenders in the adjacent Lehigh Acres community. Currently River Hall is insulated somewhat from the criminal activity by a canal system that borders the two communities. Adding southern access across the canal, gated or not, increases the probability that River Hall residents will be victimized.
4. Escrow funds for the construction of a stoplight at the entrance to River Hall. We believe that the stoplight will eventually be added with or without GreenPointe's contribution and view this as nothing more than the developer attempting to win approval by sweetening the pot.

In summary we respectfully disagree with the findings of the Lee County Planning Division Staff Report that the current character of River Hall will not be substantially altered by the proposed amendment...it will be. As property owners and full time residents of the River Hall CC, we are requesting that your recommendation to the County Commissioners is for denial.

Thank you,

Tom and Sandi Migliore
16444 Windsor Way
Alva, FL 33920

Dear Board Members,

My name is Connie Dennis.

I live in Alva, I am a taxpayer, and concerned about how our county taxes are being spent. Many thousands of dollars have been allocated to community groups to create plans representative of the people in the community. I am a member of Alva Inc and a volunteer who has spent many hours working on these plans over the years. We have spent many hours consulting with county staff to develop these plans to meet the criteria of the Lee County Comprehensive Plan and ~~many~~ thousands of dollars working with a community planner. One of the most important issues that ~~we~~ ^{*like Calvert shows*} included as a rural community is not to increase density. It distresses me that a group in charge of a development that is currently only 30% filled is applying to ~~unnecessarily~~ ^{*Y*} amend a plan that so many people have worked on together, costing many tax dollars and hours of time. These are some of the reasons I object to an increase in density at River Hall that involves changes in their community plan.

*Please
note no for this proposed amendment.*

Connie Dennis

Ruby Daniels

Alva Inc is here to support the residents of Riverhall and the Planning Community of ~~Fort Myers Shores~~ ^{Caloosahatchee Shores} in their opposition to proposed amendment 2012-01. We have several issues with this proposal. The first is density. The primary motivation for community planning in rural areas is to maintain rural character and rural land use by keeping the density low, i.e., 1 unit per acre. When rural density is doubled that is urban sprawl. ^{1.0 → 1.5} ~~When the area is surrounded by other land categories that is an enclave of urban sprawl.~~ ^{It changes the character from rural to urban.} We strongly oppose taking away rural lands. We see no benefits to the residents of Riverhall and other rural communities in Lee County in this proposal.

Our next issue is the way the language "overriding public necessity" has been skewed to ~~accept~~ ^{define} enhancements as overriding public necessities.

All of the East Lee County Planning Communities have language in our plans similar to ~~Fort Myers Shores~~ ^{Caloosahatchee Shores} - no increase in density without a finding of "overriding public necessity" by the BoCC. Staff points out the Lee Plan does not provide a definition of "overriding public necessity". We say the language defines itself. All of us learned the difference between a need and a want when we took Economics 101 in college or through life experiences in our youth, commonly referred to as the School of hard knocks" A need is something that cannot be done without, it ^{prevails} ~~prevails~~ ^{priority} over everything else. Public means all of us, not a select few. And overriding means prevailing, more important than anything else. If a legal definition is desired, then look to legal proceeding that have been used to defined the term. There are other ways to provide the enhancements listed as "needs" in Riverhall than to take away the rights of the residents who live there and degrade their community. If the list of proposed needs were truly needs you would see groups of civic minded people meeting to discuss the problem and seek solutions, and perhaps people demonstrating on the streets, demanding government action to correct the problem. That is not happening. The developer has not demonstrated how the enhancements equal need. If the rural lands in Riverhall can be ~~reclassified~~ ^{designated} from rural to suburban on a made-up list of needs, then the same thing can happen to the Communnity Plans in Alva, North Olga, Buckingham, Bayshore, Pine

Ruby Daniels

Island and any other community that tries to protect its rural lands. Approval of this proposed amendment will be a precedent we should not set. .

Our third issue is the EAR amendments. What will happen to the EAR amendments if this proposal is ultimately approved. How well will a TDR program work if a developer can get ^{extra} free density by creating a list of ^{amenities and calling them needs} needs that are at best amenities. How will we write a new mobility plan that encourages development in urban areas instead of rural lands?

We ask you to stand up for our rural communities ~~and~~ uphold our Community Plans. ^{not accept such a flimsy interpretation of overriding} When a true overriding public ^{need} necessity arises, we will advocate for it as strongly as we oppose this very bad plan. Deny it, please. ^{in East Lee County}

public
need
necessity

Whenever somebody says they will or will not do something, their trustworthiness immediately comes into play. That is especially true in this case.

The developer, same people, different name, made a promise to the county, surrounding communities, and River Hall residents that it would develop River Hall based upon what had been approved, 1,999 units. Almost immediately following the approval, the developer began the process to increase the number of approved units. This makes the third attempt.

When I mentioned the credibility issue to a member of the Lee County Planning Department, he stated he would make sure anything the developer committed to would be in a legally binding document. In my opinion, that doesn't mean much.

The developer controlled CDD Board decided not to abide by a legal document it willingly signed, and which was filed with the court...a mediation settlement agreement. My wife and I had to file a lawsuit to compel the CDD to maintain a berm on our property, which is part of the stormwater drainage system in River Hall. It agreed to maintain and repair the berm in the mediated settlement agreement, but when it came time to do so, it refused, until the South Florida Water Management District threatened to fine it \$10,000 per day. Then, and only then, was the repair made.

7
1 The chairman of the CDD, also the president of GreenPointe, signed an affidavit stating that he had the authority to commit the CDD controlled property to the land use change. He did not have that authority, and when I contacted the interim county attorney to insist the process be halted because of that fact, the affidavit had to be brought back before the CDD and ratified, 7 months after it had been signed. It was ratified by a 3 to 2 vote, with the developer controlled board members voting in favor, and the two resident members voting against. Neither I nor the other resident of the CDD board was informed of the fact that CDD property had been committed to this change until it was discovered months later.

Times that are too numerous to mention, the developer made promises to the residents, only to back off those promises. The residents no longer have any faith in anything this developer says.

This developer has repeatedly demonstrated that it cannot be trusted. That is just one of the many important reasons why this request should be denied.

Paul D. Asfour, River Hall resident and member of the River Hall Community Development District.

Karen Asfour
River Hall
17131 Easy Stream Ct.

I am requesting that you oppose transmittal of this amendment.

1. First, it is in conflict with the Community Plans Ordinance 09-06, when it comes to meeting the overriding public necessity requirement.

Necessity is defined as great or imperative need; something that cannot be done without.

Public is concerning the people as a whole or the community at large.

Overriding is most important or highest in priority.

Public Necessity as defined in the Florida Administrative Code means improvements required for the protection of the health and safety of the public.

The staff report states: "The applicant has committed to a variety of improvements to address "overriding public necessity" by providing needed and desirable community amenities."

Amenities are attractive or desirable features, conveniences.

This change does not meet the meaning of necessity, much less overriding public necessity.

2. This application promotes spot planning by setting up enclaves of different Land Use categories that would eventually lead to spot zoning within one gated community. This would change the character of the community as established by the original plan. The purpose of ordinance 09-06 is to have a balance of growth and retain the rural atmosphere that attracts people to this part of the county. According to the staff report, this would remove ^{most} all rural acreage in the Ft. Myers Shores Planning Community.

These issues alone could set disastrous precedents within all Lee County.

3. There are Safety Issues concerning Emergency access, Hurricane Evacuation and school opening and dismissal. The additional entrance suggestions of Ruth and Tena are accessed by substandard roads. The Fire and Rescue efforts for River Hall are from the Ft. Myers Shores station on Palm Beach Blvd. Traveling down Buckingham Road would add miles and time for

emergency vehicles. From Buckingham Road to the Ruth entrance requires 6 turns on narrow roads.

Routing even half the residents onto this maze of substandard roads is not a smart hurricane plan. The main entrance on Highway 80 by way of River Hall Parkway would be the primary evacuation route.

Increased traffic in front of River Hall Elementary school will be terrible, especially since construction workers arrive and depart during school arrival and departure times. This makes it very dangerous, especially to those students who walk.

- 4. The developer claims that the community may fail if this change is not approved. That problem is self-imposed. While building is increasing throughout Lee County, this developer has done nothing to promote River Hall since it bought it three years ago. Happy residents with nothing but praise for the developer will do more to make it succeed than additional bike paths and walkways .**
- 5. There is concern in the state with increased human contact and pollution of endangered species and their habitat. This increase will impact the endangered, protected and managed species living in the preserves and adjacent Hickey's Creek area, specifically, the Black Bear, River Otter, Sand Hill Crane and Gopher Tortoise found on the property.**

I am requesting that you vote against transmitting CPA 2012-00001 for the following reasons.

1. This application is in conflict with the Community Plans Ordinance 09-06 that states:

“One important aspect of the Caloosahatchee Shores Community Plan goal is to retain its rural character and rural land use where it currently exists. Therefore, no land use map amendments to the remaining rural lands category will be permitted after May 15, 2009, unless a finding of **overriding public necessity** is made by three members of the Board of County Commissioners.”

Webster’s Dictionary defines Necessity as great or imperative need; something that cannot be done without.

Public is defined as concerning the people as a whole or the community at large.

Overriding is defined as most important or highest in priority.

The items listed on the applicants Demonstration of Need, are not things of imperative need or of highest priority to the community at large. They are amenities. In fact, the staff report notes that “The applicant has committed to a variety of onsite and offsite improvements to address the Board’s required finding of “overriding public necessity” by providing needed and desirable community amenities.”

Amenities, according to Webster, are attractive or desirable features, conveniences.

This change does not meet the meaning of necessity, much less overriding public necessity.

2. This application promotes spot planning by setting up enclaves of different Land Use classes that would eventually lead to spot zoning within **one** gated community. This would change the whole character of the community as established by the original plan development order. Ordinances were established with the help of civic associations to assist with proper growth in east Lee County. The purpose of ordinance 09-06 is to have a balance of growth and retain the rural atmosphere that attracts people to this part of the county.

These first two issues alone could set disastrous precedents within Lee County, generally, and East Lee County, specifically.

3. There are several Safety Issues concerning Emergency access, Hurricane Evacuation and school opening and dismissal. The additional entrance suggestions of Ruth and Tena are accessed by substandard roads. The Fire and Rescue efforts for River Hall are from the Ft. Myers Shores station on Palm Beach Blvd. Traveling down Buckingham Road would increase the Buckingham Preserve traffic and ultimately add miles and time to the trip by taking the emergency vehicles out of the way. From Buckingham Road, the Ruth entrance requires 6 turns on narrow roads. This would be the same problem with evacuating the 7,500 residents during a hurricane. Dumping even half that number of residents onto the maze of substandard roads to the South is not a smart hurricane plan. The main entrance on Highway 80 by way of River Hall Parkway would be the primary route to evacuate the residents. Also, the increased traffic in front of River Hall Elementary school will be incomprehensible. The increase in construction workers

arriving and departing during school arrival and departure times makes it even more dangerous, especially to those students who walk.

4. This developer is not a good steward to the county, the surrounding community, or River Hall residents. Taxes were not paid to the county for several years on much of the property and there is still \$140 thousand dollars overdue on the golf course alone.
The developer agreed to the development plan as previously approved and made a promise to the surrounding community to maintain this plan. However, they have tried to change it three times including this present amendment.
And finally, the residents were promised a way of life if they bought in River Hall one of "serene open spaces". Now the developer wants to break that promise by changing the character of the community from a rural setting to a suburban one.
5. The applicant stated in the application that the proposed additional units will be constructed within the development footprint that has already been approved, with no impacts to existing or approved conservation areas or community amenities.
The amendment would increase the number of residents within the River Hall community to approximately 7,500. This will definitely impact the endangered, protected and managed species living in the preserves and adjacent Hickey's Creek area by increasing human contact with them. An increase in the pollution of their habitat is inevitable. The species known to be on the River Hall property include Black Bear, River Otter, Florida Panther, Alligator, Sand Hill Crane and Gopher Tortoise.
6. The staff report states that the character of the community will not change if this amendment is approved. That is incorrect. Adding 2,500 more people to a community that was designed for 5,000 will definitely change the character of the community. The Golf Course and Amenity center will not be able to handle 7,500 people, and neither will the main roads within the community, namely River Hall Parkway and River Golf Circle on which most, if not, all residents will travel.
7. The developer claims that the community may fail if this change is not approved. But that problem is self-imposed. The developer has done nothing to promote the community since it bought it three years ago. Other developers in the area have continued to market their communities and have increased building in the last few years. Residents in River Hall are concerned about the commitment made to them upon their investment in the community. Many residents have stated that if this amendment is approved, they will not be able to trust what will happen in the future. They can't trust the developer now and they wonder if they can trust the county to uphold the ordinances made to protect residents. This question of trust will do more to "fail" a community than continuing with the previously promised development. Happy residents with nothing but praise for a development do more good than bike paths and walkways to a defunct shopping center.

Thank you,
Karen Asfour
17131 Easy Stream Ct.
River Hall







DIRECTIONS



Starting Address:

8701 Astronaut Blvd Cape Canaveral FL FL 32920

Destination Address:

5645 N Atlantic Ave 32931

Total Distance:

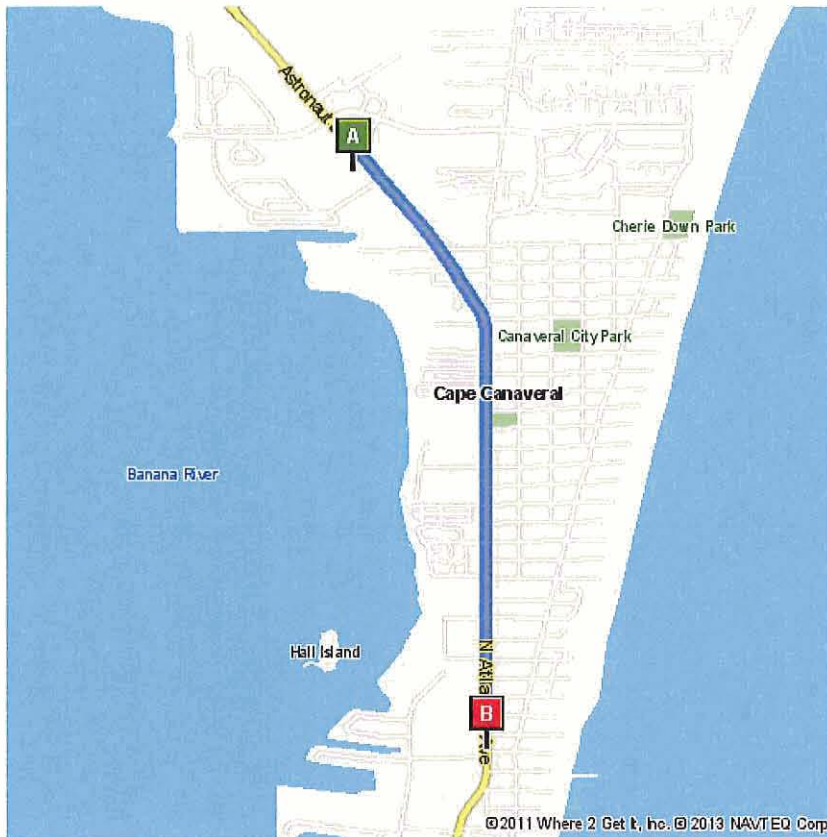
1.9 miles

Directions

1. Start out on SR-A1A (Going Southeast)

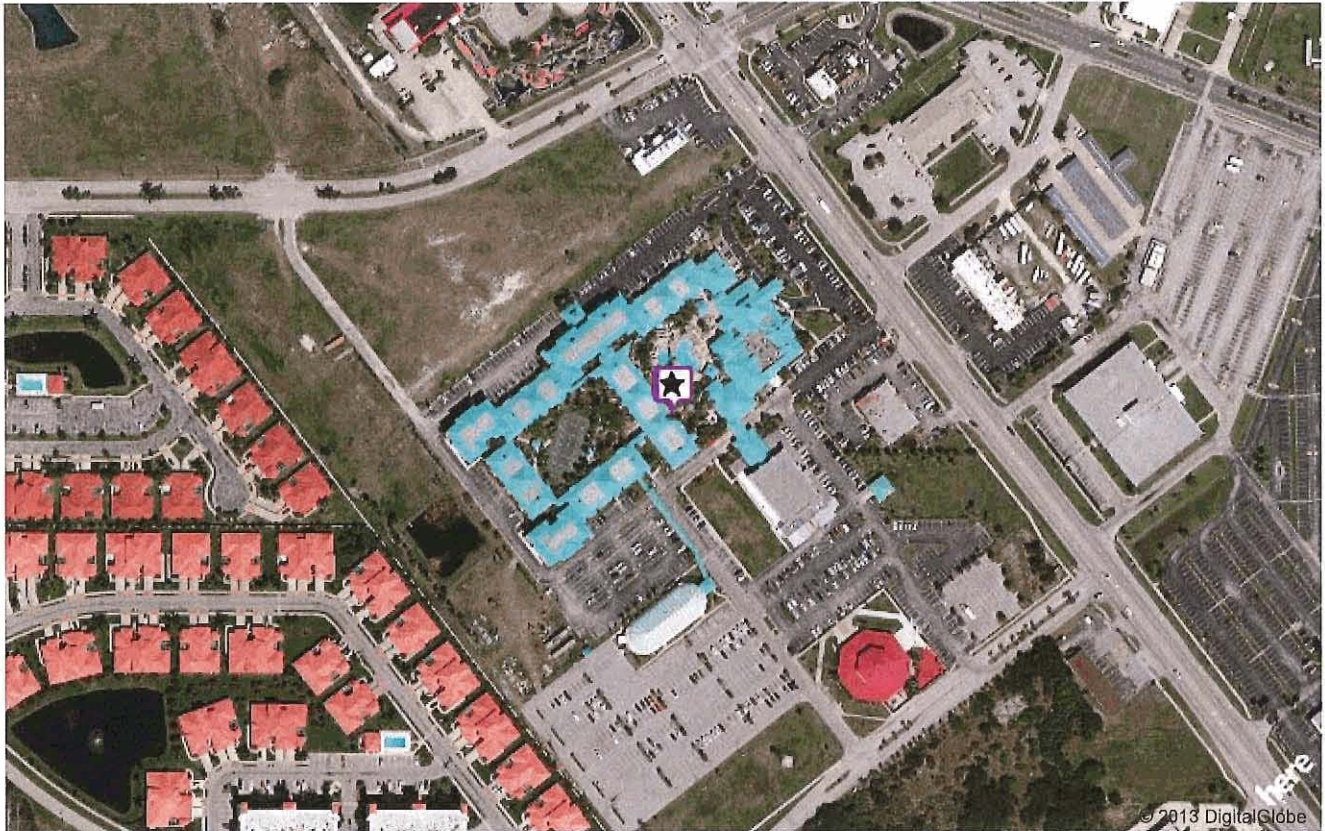
1.87 miles

Distance





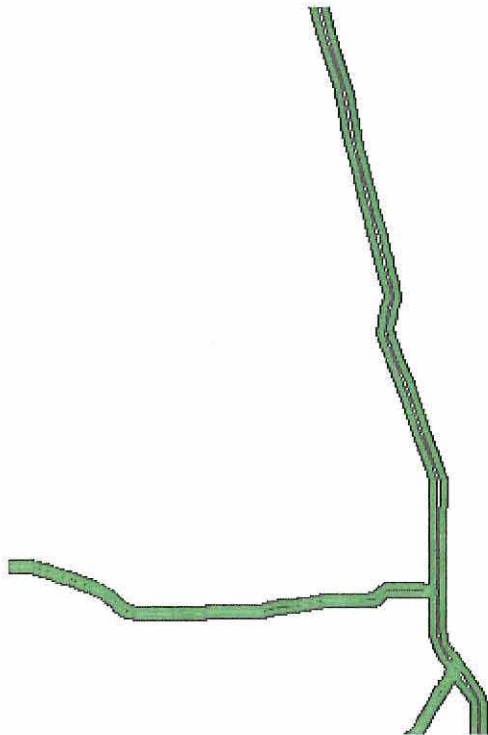
8701 Astronaut Blvd, Cape Canaveral, FL 32920-4307



When using any driving directions or map, it is a good idea to double check and make sure the road still exists, watch out for construction, and follow all traffic safety precautions. This is only to be used as an aid in planning



8701 Astronaut Blvd, Cape Canaveral, FL 32920-4307



here

When using any driving directions or map, it is a good idea to double check and make sure the road still exists, watch out for construction, and follow all traffic safety precautions. This is only to be used as an aid in planning

CPA2012-00001

Original number of units-River Hall CC, Hampton Lakes & Cascades	1,999
Cascades units - not included in CPA2012-00001	<u>575</u>
Balance of units - River Hall CC & Hampton Lakes	1,424
Additional units requested - River Hall CC & Hampton Lakes	<u>1,000</u>
Total proposed units - River Hall CC & Hampton Lakes	<u><u>2,424</u></u>
Percentage increase in units - River Hall CC & Hampton Lakes	<u><u>70.22</u></u>

Proposed emergency access - intersection



Proposed emergency access



Looking down Ruth from 75th



Narrow roads: passing cars must go off roadside.



SAFETY

I am requesting that you vote against transmitting this amendment because:

There are several Safety Issues concerning Emergency access, Hurricane Evacuation and school opening and dismissal.

The additional entrance suggestions of Ruth and Tena are accessed by substandard roads. The Fire and Rescue efforts for River Hall are from the Ft. Myers Shores station on Palm Beach Blvd. Traveling down Buckingham Road would increase the Buckingham Preserve traffic and ultimately add miles and time to the trip. From Buckingham Road, the Ruth entrance requires 6 turns on narrow roads.

This would be the same problem when evacuating the 7, 500 residents during a hurricane. Routing even half that number of residents onto the maze of substandard roads to the South is not a smart hurricane plan. The main entrance on Highway 80 by way of River Hall Parkway would be the primary route to evacuate the residents.

Also, the increased traffic in front of River Hall Elementary school will be incomprehensible. The increase in construction workers arriving and departing during school arrival and departure times makes it even more dangerous, especially to those students who walk.

PETITION IN OPPOSITION TO CPA 2012-00001-RIVER HALL AND REZONING REQUEST DCI2013-00003

We, the undersigned residents of the affected areas, object to the approval of both CPA 2012-00001 and DCI2013-00003 which increase the density in the River Hall development by 1,000 units.

COMMUNITY: CASCADES @ RIVER HALL

Copies

PRINTED NAME	SIGNATURE	NUMBER & STREET	STATE & ZIP CODE	TELEPHONE NO.
STEVEN REZNITSKY	<i>Steven Reznitsky</i>	3207 APPLE BLOSSOM DR	ALVA FL 33920	239-690-0059
Joseph E Metcalfe	<i>Joseph E Metcalfe</i>	15399 Yellow Wood Dr	ALVA FL 33920	239-433634
Paul D. Ravilio	<i>Paul D Ravilio</i>	15391 Yellow Wood Dr	ALVA, FL	239-694-2634
ARLENE DISTACHER	<i>Arlene Distacher</i>	15298 YELLOW WOOD DR.	ALVA, FL	239-433-9759
DAVID MORIARTY	<i>David Moriarty</i>	15312 Yellow Wood DR	ALVA, FL 33920	239-693-1981
Edward Kincke	<i>Edward Kincke</i>	15328 Yellow Wood Drive	ALVA, FL 33920	239-694-5545
SUSAN ROHREN	<i>Susan Rohren</i>	15311 Yellow Wood Drive	ALVA, FL 33920	239-4548129
KARON HERBST	<i>Karon Herbst</i>	15067 Citrus Tree Ct	ALVA, FL 33920	239-400-1956
ROBERT THEISS	<i>Robert Theiss</i>	15194 YELLOW WOOD	ALVA FL 33920	239-689-1952
VON R. KILL	<i>Von R Kill</i>	2968 Apple Blossom	ALVA, FL 33920	239-694-7754
William J Herbst	<i>William J Herbst</i>	15067 CITRUS TREE CT	ALVA FL 33920	573-552-1152
HARRY LEE	<i>Harry Lee</i>	15126 LIGUSTICA	ALVA FL 33920	302-697-1231
HARVEY BRAND	<i>Harvey Brand</i>	15364 YELLOW WOOD DR	ALVA FL 33920	239-693-9984
GREG URBANK	<i>Greg Urbank</i>	3109 Apple Blossom Dr.	ALVA FL 33920	239-560-5001
THOMAS HUGHES	<i>Thomas Hughes</i>	2281 Summersweet Dr.	ALVA FL 33920	239-691-4484
Bruce Peterson	<i>Bruce Peterson</i>	3191 Apple Blossom Dr.	ALVA, FL 33920	239-694-5111
JOE DE MARIA	<i>Joe De Maria</i>	15360 YELLOW WOOD DR	ALVA FL 33920	690-1518
Stephen Frey	<i>Stephen Frey</i>	2813 Apple Blossom Dr	ALVA FL 33920	693-5886
Helen Frey	<i>Helen Frey</i>	2813 Apple Blossom Dr	ALVA FL 33920	693-5886
BETSY SELIGMAN	<i>Betsy Seligman</i>	15360 Yellow Wood Dr	ALVA FL 33920	690-1518
Sharon Bosworth	<i>Sharon Bosworth</i>	15308 Yellow Wood Dr.	ALVA FL 33920	694-1970
IRWIN BOSWORTH	<i>Irwin Bosworth</i>	15308 YELLOW WOOD DR.	ALVA, FL 33920	694-1970
Linda McKinney	<i>Linda McKinney</i>	15375 Yellow Wood Dr	ALVA FL 33920	694-2863
HOWARD GOTTLIEB	<i>Howard Gottlieb</i>	15391 YELLOW WOOD DR	ALVA FL 33920	931-6657
CHARLES WEHLAN	<i>Charles Wehlan</i>	15298 YELLOW WOOD DR	ALVA FL 33920	239-344-9201
MARLA REZNITSKY	<i>Marla Reznitsky</i>	3207 Apple Blossom Dr	ALVA, FL 33920	239-690-0059
HARILYN GOTTLIEB	<i>Harilyn Gottlieb</i>	15391 Yellow Wood Dr	ALVA FL 33920	239-531-6657
Roger Schaffer	<i>Roger Schaffer</i>	2312 Summersweet	ALVA 33920	
Sheldon Lippman	<i>Sheldon Lippman</i>	15344 Yellow Wood	ALVA 33920	239-694-3632
Virginia Wehlan	<i>Virginia Wehlan</i>	15290 Yellow Wood Dr	ALVA 33920	239-344-9207
Ann Lippman	<i>Ann Lippman</i>	15344 Yellow Wood Dr.	ALVA 33920	239-694-3632
Rosalie Reznitsky	<i>Rosalie Reznitsky</i>	15391 Yellow Wood Dr	ALVA 33920	239-693-0822
BERNICE TURNER	<i>Bernice Turner</i>	2312 Summersweet Dr	ALVA 33920	239-693-0692
RALPH DISTACHER	<i>Ralph Distacher</i>	15298 yellow wood DR	ALVA 33920	239-433-9759
Sandra Carter	<i>Sandra Carter</i>	15251 Yellow Wood Dr.	ALVA 33920	239-690-1445
YVONNE METCALFE	<i>Yvonne Metcalfe</i>	15399 Yellow Wood Drive	ALVA 33920	239-437-6341
Jacqueline McGowan	<i>Jacqueline McGowan</i>	15294 Yellow Wood Dr	ALVA 33920	239-694-6086
JOHN J. MCGOWAN	<i>John J McGowan</i>	15294 Yellow Wood DR	ALVA 33920	239-694-6086
MARIE RANKIN	<i>Marie Rankin</i>	15391 yellow Wood Dr	ALVA 33920	239-694-2634
DIANE DOELL	<i>Diane Doell</i>	15383 YELLOW WOOD DR	ALVA 33920	239-216-0722
BARRY DOERN	<i>Barry Doern</i>	15383 Yellow Wood Dr	ALVA 33920	754-610-4113

PETITION IN OPPOSITION TO CPA 2012-00001-RIVER HALL AND REZONING REQUEST DCI2013-00003

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COMMUNITY: CASCADES @ RIVER HALL

PRINTED NAME	SIGNATURE	ADDRESS		TELEPHONE NO.
		NUMBER & STREET	STATE & ZIP CODE	
Gerald Garter	<i>G. G. Garter</i>	15251 Yellow Wood Dr.	ALVA, FL 33920	213-690-1445
GAIL PERSONS	<i>Gail Persons</i>	2232 SUMMERSWEET	ALVA FL 33920	239-693-0901
Lynthia Persons	<i>Lynthia Persons</i>	2232 SUMMERSWEET Dr.	ALVA, FL 33920	239-693-0901
JOYCE LOCKWOOD	<i>Joyce Lockwood</i>	15120 LIGUSTRUM LN	ALVA FL 33920	239-694-1218
MARYANNE TIGUREL	<i>Maryanne Tigurel</i>	2244 SUMMERSWEET DR	ALVA FL 33920	610-357-3909
ANGEL TIGUREL	<i>Angelo Tigurel</i>	2244 SUMMERSWEET DR	ALVA FL 33920	610-542-2955
Bruce J. Peterson	<i>Bruce J. Peterson</i>	3191 Apple Blossom Dr.	ALVA, FL 33920	239-694-5720
Bonnie M. Peterson	<i>Bonnie M. Peterson</i>	3191 Apple Blossom Dr.	ALVA, FL 33920	239-694-5117
Russell Grant	<i>Russell Grant</i>	15320 Yellow Wood Dr.	ALVA, FL 33920	239-693-4047
Joseph P. Grant	<i>Joe P. Grant</i>	15285 Yellow Wood Dr.	ALVA FL 33920	239-334-9585
Mary Hrent	<i>Mary Grant</i>	15320 Yellow Wood Dr.	ALVA 33920	239-693-4047

PETITION IN OPPOSITION TO CPA 2012-00001-RIVER HALL AND REZONING REQUEST DCI2013-00003

We, the undersigned residents of the affected areas, object to the approval of both CPA 2012-00001 and DCI2013-00003 which increase the density in the River Hall development by 1,000 units.

COMMUNITY: Ashton Oaks

ADDRESS		STATE & ZIP CODE		TELEPHONE NO.
PRINTED NAME	SIGNATURE	NUMBER & STREET	STATE & ZIP CODE	TELEPHONE NO.
GARY T. CARROLL	<i>[Signature]</i>	16540 Goldenrod Lane, #103	FL 33920	(239) 393-7532
RENE HANCOCK	<i>[Signature]</i>	16550 Goldenrod Lane #203	FL 33920	(306) 961-9460
Cheryl A. Gwizdala	<i>[Signature]</i>	16540 Goldenrod Lane #101	FL 33920	989-860-6015
George Mayo	<i>[Signature]</i>	16521 Goldenrod Lane #103	FL 33920	978-902-7154
JOANNE M. SEALS	<i>[Signature]</i>	16580 GOLDENROD LANE #101	FL 33920	407-480-4712
Timothy A. Clark	<i>[Signature]</i>	16571 Goldenrod Lane #101	FL 33920	740-704-9506
Kathryn Clark	<i>[Signature]</i>	16571 Goldenrod Lane #101	FL 33920	740-704-6882
Bridget Young	<i>[Signature]</i>	16571 Goldenrod Lane #201	FL 33920	239-676-1022
Monika Edmann	<i>[Signature]</i>	16570 Goldenrod Lane #101	FL 33920	239-334-2502
Charles Breeze	<i>[Signature]</i>	16581 Goldenrod Lane #103	FL 33920	239-243-8244
Nancy Breeze	<i>[Signature]</i>	16581 Goldenrod Lane #103	FL 33920	239-243-8244
Raymond S. Sells	<i>[Signature]</i>	16580 Goldenrod Lane #101	FL 33920	(239) 931-5955
Jim Pavy	<i>[Signature]</i>	16581 Goldenrod Lane #201	FL 33920	239-696-5381
DIANA CAYE	<i>[Signature]</i>	16581 Goldenrod Lane #201	FL 33920	239-696-5381

PETITION IN OPPOSITION TO CPA 2012-00001-RIVER HALL AND REZONING REQUEST DCI2013-00003

We, the undersigned residents of the affected areas, object to the approval of both CPA 2012-00001 and DCI2013-00003 which increase the density in the River Hall development by 1,000 units:

COMMUNITY:

Ashton Oaks in River Hall

[illegible]

PETITION IN OPPOSITION TO CPA 2012-00001-RIVER HALL AND REZONING REQUEST DCI2013-00003

We, the undersigned residents of the affected areas, object to the approval of both CPA 2012-00001 and DCI2013-00003 which increase the density in the River Hall development by 1,000 units.

COMMUNITY:

Ashten Oaks

ADDRESS		STATE & ZIP CODE	TELEPHONE NO.
PRINTED NAME	SIGNATURE	NUMBER & STREET	
Joseph T Lankford	<i>[Signature]</i>	16580 Goldenrod 702	FL 33920
GEORGE ARNOLD	<i>[Signature]</i>	16540 Goldenrod 202	FL 33920
Donna Peddicord	<i>[Signature]</i>	16540 Goldenrod Lane #201	FL 33920
Bill Peddicord	<i>[Signature]</i>	16540 Goldenrod Lane #201	FL 33920
MYRTLE LOUISE HILL	<i>[Signature]</i>	16560 Goldenrod Ln #203	FL 33920
JOHN EDWIN HILL	<i>[Signature]</i>	16570 Goldenrod Ln 201	FL 33920

PETITION IN OPPOSITION TO CPA 2012-00001-RIVER HALL AND REZONING REQUEST DCI2013-00003

We, the undersigned residents of the affected areas, object to the approval of both CPA 2012-00001 and DCI2013-00003 which increase the density in the River Hall development by 1,000 units.

COMMUNITY: Ashton Oaks at River Hall

[illegible]

We, the undersigned residents of the affected areas, object to the approval of both CPA 2012-00001 and DCI2013-00003 which increase the density in the River Hall development by 1,000 units.

COMMUNITY: River Hall

PRINTED NAME	SIGNATURE	ADDRESS	STATE & ZIP CODE	TELEPHONE NO.
Self Chadden Litter	Chadden Litter	16068 Herons View	FLA 33920	502 640 0781
Brian Thomas	Brian Thomas	3113 Moss Way	FL 33920	239 749 5459
Stan & Dana Koslowski	Stan Koslowski	3108 Moss Way	FL 33920	(860) 729-4894
THOMAS RICKER	Thomas Ricker	16968 OAKSTEAD DR ALVA	FL 33920	781-248-8878
Jeanne Ricker	Jeanne Ricker	16968 OAKSTEAD DR ALVA	FL 33920	978-640-0528
Jim Aubrey	Jim Aubrey	16999 OAKSTEAD DR ALVA	FL 33920	239-693-1159
Phoebe Aubrey	Phoebe Aubrey	16974 OAKSTEAD DR ALVA	FL 33920	239-693-1159
Joseph Campbell	Joseph Campbell	16980 OAKSTEAD DR ALVA	FL 33920	NA
Angela Campbell	Angela Campbell	16980 OAKSTEAD DR ALVA	FL 33920	NA
Mary Ann Liberti	Mary Ann Liberti	16998 OAKSTEAD	33920	239 913-608-8000
KAREN LETHBRIDGE	Karen Lethbridge	3113 MOSS WAY	33920	239 845 5459
Bud TREML	Bud Trembl	3124 MOSS WAY	FL 33920	920-468-1885
Jeanne Trembl	Jeanne Trembl	3124 Moss Way	FL 33920	239-357-0029
Rollie Mills	Rollie Mills	13448 Windsor Way	Alva FL 33920	239-208-2241
TRICK MILLS	Trick Mills	18448 Windsor Way	Alva FL 33920	238 238 6244
Don Lister	Don Lister	16962 OAKSTEAD DR	Alva FL 33920	239-939-2527
CAROL BLAIR	Carol Blair	3330 Chestnut Brook Dr. Alva	33920	239-313-6674
Stuart Blair	Stuart Blair	3330 Chestnut Brook Dr. Alva	33920	239-313-6674
DONALD CROWE	Donald Crowe	516087 HERONS VIEW DR	FL 33920	330-352-7180
DEBI CROWE	Debi Crowe	16087 HERONS VIEW DR	FL 33920	330 235 3378
Joel Lefson	Joel Lefson	16068 Herons View	FL 33920	502 640 0781
Brian D. Thompson	Brian D. Thompson	16024 Herons View	FL 33920	239 694 4565
Nancy M. Anderson	Nancy M. Anderson	16024 Herons View	FL 33920	239 694 4562
Robyn Hancher	Robyn Hancher	16550 GOLDEN ROD LD	FL 33920	863 832-5771
JIM MITCHELL	Jim Mitchell	2202 Summercrest	33920	693-8789
Cynthia Mitchell	Cynthia Mitchell	2202 Summercrest	FL 33920	693-8789
Bob Auld	Bob Auld	15627 Angelica	33920	288-5782
Noreen Auld	Noreen Auld	15627 Angelica	33920	288-5782
DAVID RUDGE	David Rudge	15635 Angelica DR	33920	494-8292
LARRY RUDGE	Larry Rudge	15635 Angelica	33920	494-8292
Reggie Dawson	Reggie Dawson	17255 Walnut Run Dr	33920	689-5151
Jimmy Savin	Jimmy Savin	17255 Walnut Run Dr	33920	689-5151
James Sabella	James Sabella	15509 Picklegrass Ct.	33920	470-2186
Doreen Buckles	Doreen Buckles	15509 Picklegrass Ct.	33920	863-673-1225
GERALD RACE	Gerald Race	3296 Hampton Blvd.	33920	239-464-9220
SHERY RACE	Sherry Race	3296 HAMPTON BLVD	33920	239-464-0215
Lou Ann Sutton	Lou Ann Sutton	3291 Hampton Blvd.	33920	239 694 6440
Donald Sutton	Donald Sutton	3291 Hampton Blvd.	33920	239-694-6440
Virginia Amott	Virginia Amott	15707 Angelica Dr	33920	239-313-7915
David Amott	David Amott	15707 Angelica Dr	33920	239-313-7915

We, the undersigned residents of the affected areas, object to the approval of both CPA 2012-00001 and DCI2013-00003 which increase the density in the River Hall development by 1,000 units.

River Hall Country Club

ADDRESS		STATE & ZIP CODE	TELEPHONE NO.
PRINTED NAME	SIGNATURE	NUMBER & STREET	
Karen Astour	Karen Astour	17131 Easy Stream Ct	FL 33920 239-693-6131
Paul D. Astour	Paul D. Astour	17131 Easy Stream Ct.	FL 33920 239-693-6131
J. William Corey	J. William Corey	3006 Sagittaria Lane	FL 33920 745-230-0396
Patricia Corey	Patricia Corey	3006 Sagittaria Lane	FL 33920 614-330-2613
Christian Krillkamp	Christian Krillkamp	3099 Sagittaria Lane	FL 33920 781-420-2284
John W. Roeller	John W. Roeller	3106 Sagittaria Ln	FL 33920 (612) 881-3701
Judith M. Roeller	Judith Roeller	3106 Sagittaria Lane	FL 33920 651-353-2672
Janette Mesick	Janette Mesick	3088 Sagittaria Ln	FL 33920 239-288-5258
Roger Thumler	Roger Thumler	16580 Goldenrule Lane	FL 33920 706-833-9959
Robert Giovansanti	Robert Giovansanti	3094 Sagittaria Ln	FL 33920 917-750-6198
GLENN G. GIRESI	Glenn G. Giresi	1100 Easy Stream Ct.	FL 33920 239-817-3400
Tom Fulton	Tom Fulton	3100 Sagittaria Ln	FL 33920 937-477-821
Paula Fulton	Paula Fulton	" " "	" " " 1937-477-821
Tom Olander	Tom Olander	3037 Sagittaria Lane	FL 33920 414-801-3834
Sue Olander	Sue Olander	3037 Sagittaria Lane	FL 33920 414-801-3834
Georgette Lundquist	Georgette D. Lundquist	17005 Sunny Lakes Ct.	FL 33920 239-590-6927
RALPH E. COREY	Ralph E. Corey	17001 " " "	FL 33920 239-693-8074
Joe Lundquist	Joe Lundquist	17005 " " "	FL 33920 239-590-6927
VINCENT GRUPPA	Vincent Gruppa	2974 Apple Blossom Dr	FL 33920 239-344-9762
Burger Gruppa	Burger Gruppa	" " "	" " "
Stan Kozlowski	Stan Kozlowski	3108 Moss Way	FL 33920 (860) 729-4840
TPHAGAN	TPHAGAN	16963 ORKSTEAD	FL 33920 239-690-2501
Kethner	Kethner	3113 MOSS	FL 33920 239-849-5415
Kethner	Kethner	3113 MOSS	FL 33920
Tom Mesick	Tom Mesick	3088 Sagittaria Ln	FL 33920 239-288-5258
Don Lutzer	Don Lutzer	16962 ORKSTEAD DR	FL 33920 239-339-2527

PETITION IN OPPOSITION TO CPA 2012-00001-RIVER HALL AND REZONING REQUEST DCI2013-00003

We, the undersigned residents of the affected areas, object to the approval of both CPA 2012-00001 and DCI2013-00003 which increase the density in the River Hall development by 1,000 units.

COMMUNITY: East Lee County - Alva

[illegible]

Michael and Gloria Scharfman
1280 Bluffs Cir
Dunedin, FL 34698

Our Property Data for Parcel 27-43-26-00-00001.0020
15131 Palm Beach Blvd.
Alva, FL 33920

September 9, 2013

Mr. Brandon D. Dunn
Lee County Planning Division
1500 Monroe Street
Fort Myers, FL 33901

We strongly support the application from River Hall,
to allow 1000 additional dwelling units in their development.
Enclosed please find a copy of our property on Hwy 80,
Palm Beach Blvd, Alva, Florida

Michael Scharfman



Gloria Scharfman



RECEIVED
SEP 11 2013
COMMUNITY DEVELOPMENT



Lee County Property Appraiser

Tax Year

[Next Lower Parcel Number](#) [Next Higher Parcel Number](#) [Tax Estimator](#) [Tax Bills](#) [Print](#)

Property Data for Parcel 27-43-26-00-00001.0020

Owner Of Record

SCHARFMAN MICHAEL + GLORIA
1280 BLUFFS CIR
DUNEDIN FL 34698

Site Address

15131 PALM BEACH BLVD
ALVA FL 33920

Legal Description

PARL IN NW 1/4 OF NW 1/4
N OF SR 80 DESC
IN OR 1021 PG 255

Classification / DOR Code

VACANT COMMERCIAL / 10

[Tax Map Viewer]



[Pictometry Aerial Viewer]

From: Chrissy G [mailto:themizewell@aol.com]

Sent: Monday, September 23, 2013 6:34 PM

To: Dist1, John Manning; Dist2, Cecil Pendergrass; Dist3, Larry Kiker; Dist4, Tammy Hall; Dist5, Frank Mann; Desjarlais, Roger

Subject: Approve River Hall Comp Plan Amendment

Lee County Commissioners:

Please allow this email to be part of the official record for the River Hall Comp Plan Amendment.

I have bought and sold several land holdings in Lee County and specifically in East Lee County. In fact, I was one of the original owners of a large portion of the land that is now the River Hall Development. I can tell you for a fact that this land was always expected to be developed. The original developer purchased my land for that very purpose. The land I owned is located where the comp plan change is being requested. The only reason it was not done years ago is that everyone knew that the DRI threshold would change from 1999 units to 2999 units once the population of Lee County went over 500,000 people. The original developer would not have purchased a piece of property of this size if that was not their intention.

In addition, I own the land immediately to the North of River Hall entrance and have a comp plan for a commercial node for nearly 400,000 square feet of commercial as per the Caloosahatchee Shores Comp Plan and is currently in the zoning process. In addition there is land adjacent to my land that is comp planned for an additional 100,000 approximate square feet of commercial.

It is clear that this area is a good place for Lee County to grow. There is existing and future commercial to accommodate this growth, all the intersection improvements for SR80 and I-75 interchange are being constructed and the River Hall land has always planned for this growth. They have the necessary infrastructure already in place for Lee County, the amenities are already built and can be expanded and the new development will not impact open space or the environment.

The groups that speak against this project may not fully understand that the additional units will not impact any more open space than what the development already has. If you look at the facts and keep emotions out of your decision you will quickly realize that this is a right place to put future development for Lee County and allows the county to plan long term and is consistent with Lee County's vision to reduce urban sprawl.

I urge you to vote to transmit the River Hall comp plan amendment and allow the continued growth of River Hall which will benefit the area and put the growth where it can be accommodated with existing infrastructure.

Ralph Bond
10660 Deal Road
North Fort Myers, FL 33917

Please note: Florida has a very broad public records law. Most written communications to or from County Employees and officials regarding County business are public records available to the public and media upon request. Your email communication may be subject to public disclosure.

Under Florida law, email addresses are public records. If you do not want your email address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.



Protecting Southwest Florida's unique natural environment and quality of life ... now and forever.

March 28, 2014

Via email
Mr. Larry Kiker, Chairman
Lee County Commission
2120 Main Street
Fort Myers, Florida 33901

Dear Chairman Kiker and Lee County Commissioners:

These comments are submitted regarding item number 15, regarding an agreement with GreenPointe, the developer for River Hall Privately Sponsored Amendment to the Lee County Comprehensive Plan, CPA2012-00001.

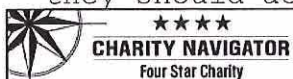
The Conservancy of Southwest Florida has long been active in providing comments to protect the environment and quality of life in Southwest Florida. Our goal is not to stop all development. We understand that development will happen, and we strive to help that development occur at a time and in a location that balances the need for growth with the protection of natural resources and community character. This proposal, however, does not balance the need for growth with protection of environmental resources or community character.

If you trust your staff, there is no need for this agreement. We all expect that staff will process applications in the order received as quickly as possible. Every applicant deserves to be treated fairly, and there is no reason to believe that GreenPointe won't be treated fairly if they submit or resubmit their application for review.

The Lee County code does not guarantee that a project will be presented to a full five member Board of County Commissioners. GreenPointe's request was heard by a quorum of the Lee County BCC. A decision was made - or not made - and it wasn't the decision GreenPointe wanted.

GreenPointe knew or should have known on September 24, 2013 - the day before the hearing- that there would be only four sitting members at the September 25, 2013 meeting. Knowing that there were going to be only four Board Members, GreenPointe knew or should have known that a tie vote was possible. GreenPointe had a decision to make - they could go to the September 25, 2013 meeting knowing that a tie was possible, or they could ask for a continuance.

The choice GreenPointe made was to present their project at the September 25, 2013 meeting. This was their business decision, and they should accept the result. GreenPointe didn't get the result



Conservancy of Southwest Florida has been awarded Charity Navigator's prestigious 4-Star top rating for good governance, sound fiscal management and commitment to accountability and transparency. Charity Navigator is America's largest and most respected independent evaluator of charities.

they wanted, so now, they are asking for special treatment. This is not fair. This is not right.

This request of GreenPointe to ask for special treatment for a business decision they made that didn't turn out as they wanted is a reflection of the entire application. The applicant is asking for the real property rights of the individual owners to be ignored so that the applicant may undertake speculative development on the River Hall site. As similar requests have been denied twice, any investment made by the applicant to make a third request is a business decision based on speculation that the BoCC would change their mind. It is not your job, or the job of citizens of Lee County to protect people from business decisions that end up not being profitable.

Lee County is not under an obligation to approve a request to transmit a comprehensive plan amendment to the state land planning agency for review, and considering that similar requests from this applicant have been refused two other times in the recent past (one in 2005 and one in 2007), the result should not have shocked the applicant.

Some counties have expedited review processes which usually come with higher fees, some counties don't. Lee County does not. If you think that creating an expedited review process is something that Lee County can benefit from, then we encourage you to develop that process in a way that will be fair to all applicants.

GreenPointe is asking that you create an expedited process just for them, however, and they have provided no basis for this special treatment other than that they wanted a different outcome from the one they got on September 25, 2013.

Unless you are going to be willing to provide an expedited process for every request you don't grant, you should think very carefully about whether to approve this agreement. Approval of this request creates the reasonable belief for any applicant who doesn't get their desired outcome that you will provide them with an expedited way to present their application again.

The action requested in this agenda item is not fair to all applicants.

We are concerned that this is being presented as a mediated agreement. This agreement was not mediated in any sense of the word.

Black's Law Dictionary defines mediation as "the act of a third person who interferes between two contending parties with a view to reconcile them or persuade them to adjust or settle their dispute."

There was no third party used.

The ninth "Whereas" clause states that the County and GreenPointe engaged in a mediation conference on March 5, 2015. There was no mediator or even a third party allowed to participate in the meeting.

Further, only formal mediation are exempt from Florida Sunshine and public records law. This meeting may not have been appropriately advertised, and there were no minutes taken at the meeting. By failing to take and keep minutes at the March 5, 2014 meeting, which exceeded fact finding and resulted in the formulation of a recommendation, the sunshine provisions were violated.

If you are going to approve special treatment for this applicant based on a mediation conference, we request an actual mediation conference actually takes place, or that the language is modified to reflect what actually happened.

We are not comfortable with the language in paragraph 1. Paragraph 1 states that this process will allow for reconsideration of the Plan Amendment.

Reconsideration is a very specific parliamentary term that should not be used in this context. A motion to reconsider can be made by a board member from the prevailing side of a decision **at the same board meeting** (emphasis added). This request to reconsider was not made by a Board member, and the request was not made at the same meeting.

The BOCC general rules of procedure are contained in County Administrative Code (AC)-1-3. Rule 1.01 of that code states: "Except as may be provided for by these rules; question of order, the methods or organization and the conduct of business of the Commission shall be governed by Robert's Rules of Order in all cases to which they are applicable."

We are concerned about the time frame. The May LPA meeting is going to be May 19, 2014. This means the staff report needs to be completed by May 5, 2014. The applicant has until April 11, 2014 to resubmit any materials. The record for the plan amendment right now, without any resubmittal is more than 2,000 pages long. The staff member who wrote the staff report no longer works for Lee County, and any staff report proffered is going to have to be able to stand up to

rigorous review. This means that someone on your staff will have three weeks to review this complicated and lengthy record and write a staff report.

We don't think this time frame is consistent with the Florida Statutes.

Florida Statutes 163.3181(1) states that it is the intent of the Legislature that the public participate in the comprehensive planning process to the fullest extent possible.

Florida Statutes 163.3181(2) states that during consideration of the proposed plan or amendments...the procedures shall provide for the broad dissemination of the proposals and alternatives, opportunity for written comments,...provisions for open discussion, and consideration of and response to public comments.

As this is a continuation or revivification of CPA12-00001, we want to make sure all the issues raised as public comments and from the public meetings in August 2013 and September 2013 are listed so that the new staff report can address them. They are numbered for easier reference.

1. Do you have proof that the River Hall Community Development District Board of Supervisors (CDD) has the authority to make this request? No record has been provided from any meeting of the CDD where this application was discussed and voted on.
2. Will the increase in multi-family units and smaller lots diminish the attractiveness of a "rural" development?
3. Once a permit is issued, any environmental issue becomes the responsibility of the tax payer, not the developer. Do we know what those issues are or how much they will cost?
4. On page 11 of the September 25, 2103 staff report, Lee County Environmental Sciences staff specifically states "that the additional units allowed by the increase in density will lead to increased and possibly negative human/wildlife interactions."
 - a. What actions will be required to mitigate these interactions?
 - b. Can these interactions be effectively mitigated?
5. There is an issue of past due taxes. Of the 843 properties owned by RH Venture or GP homes, only 2 have taxes paid up to date. Most of these properties have two or three certificates sold to a variety of companies which now have liens on almost all of the property. Does GreenPointe own enough of an interest in this property to pursue any actions or changes?
6. GreenPointe claims to be fiscally responsible, yet owes more than \$500,000 in unpaid taxes. Why provide GreenPointe with

more development rights when they are not good stewards of the rights they have?

7. Unless huge tax payments are made by April 1, 2014, additional liens will be available for the majority of the property at issue in this amendment. Do you think it is appropriate to encourage development on lands with delinquent tax bills?
8. Due to the unpaid taxes, new homebuyers in River Hall have difficulty obtaining financing as banks view River Hall as a failed community. Why aren't you requiring GreenPointe to pay the current taxes they owe before letting them subdivide the land further?
9. During the LPA meeting August 26, 2013, GreenPointe stated that some of the land included in the amendment is subject to the standards of Interstate Land Sales of the U.S. Department of Housing and Urban Development. This is a full disclosure act which contains antifraud provisions applicable to subdivisions of 25 lots or more which prohibits developers from engaging in misleading sales practices.¹ At the LPA meeting, GreenPointe stated their intention was always to increase the density. If that was their intention, wasn't it fraudulent to sell lots in a rural community?
10. The applicant only owns 65% of the development, yet, they are asking to make changes that will impact 100% of the development.
 - a. Is that legal?
 - b. Why would people buy in a planned development if they knew that at any time, the plan which they bought into could be abandoned and a new plan - different from the one they invested in - could be approved?
 - c. Does Lee County have a responsibility to protect the real property rights of the land owners who bought in River Hall expecting a rural community with 1,999 dwelling units?
11. The application states that GreenPointe has "invested \$20 million in the community". No improvements are visible to the community and the money was not used to pay property taxes leading to the belief that this money was spent to restructure loans. Please ask GreenPointe for a breakdown of how this \$20 million has been invested in the community over the past 7 years, and provide this breakdown as part of the staff report.
12. The applicant has states that the community may fail if this change is not approved. Please request the applicant to show what they have done to promote the existing community and to attract builders and buyers to River Hall over the past seven years.
13. There are questions about the Country Club.

¹ <http://portal.hud.gov/hudportal/HUD?src=/hudprograms/ils>

- a. Will the additional residents be required to join the Country Club?
 - b. If yes, is the Country Club being expanded in order to be able to serve the additional residents?
 - c. If no, who is going to be required to join?
 - d. If no one is going to be required to join, how likely is the Country Club to remain solvent?
14. Property Values and smaller lots.
- a. How will the new restrictive covenants be structured? Since the new lots are 33% smaller than the existing lots, those homes will likely be of less value.
 - b. How do we know that allowing these smaller units isn't going to depress the value of the existing larger homes?
15. There is no benefit to the homeowners to subdivide and create more lots. Why is the benefit to the developer more important than the rights of the residents and taxpayers?
16. River Hall is only 16% built out.
- a. Why would you consider additional lots when there has not been a good faith effort or success in selling the lots which exist today?
 - b. Why does GreenPointe think additional lots are needed?
17. Lee County should be protecting the rights of the existing residents. These residents bought homes in a rural community as represented by GreenPointe.
- a. Why is it more important to increase development rights to the developer rather than protecting the rights of the existing owners?
 - b. Doesn't changing the density break a promise to the landowners who have invested in the community for the past 7 years?
 - c. These landowners pay their taxes....shouldn't their property rights and investment backed expectations to live in a rural community be protected?
18. The proposed increase in density changes the character of the community from rural to suburban. Why are you allowing that?
19. The Florida Statutes (163.3177(1)) require that Lee County have a comprehensive plan which creates predictable and reliable standards.
- a. If homeowners cannot rely on the density of their community remaining the same as when they purchased property, does the comp plan actually create predictable and reliable standards?
 - b. Do you think that Lee County should protect the rights of someone who purchases a home in a rural subdivision to reasonably be able to expect that they will live in a rural

- subdivision, at the density and intensity presented at time of purchase?
- c. Doesn't this call into question the finality of planned developments which could cause a measure of unreliability and destabilize the housing market?
 - d. What is the benefit of buying in a planned community if the plans for that community can change over your objections?
20. Please identify the new information and changed conditions which are required by Objective 2.4 of the Lee Plan which would permit a change to be made to the FLUM.
21. Please identify the differences between this request and the requests for higher density made in CPA2004-10 and CPA2005-07.
22. The support letter from Ralph Bond states that "the only reason it [the increased development] was not done years ago is that everyone knew the DRI threshold would change from 1999 units to 2999 units once the population of Lee County went over 500,000 people". During the LPA meeting on August 26, 2013, the applicant stated that the developer laid out the community to reflect a higher density based on a hope that eventually, despite earlier denials, that this higher density would be approved.
- a. While the DRI threshold may change, isn't it speculation on the part of the applicant to assume that Lee County would increase development just because the DRI threshold changed?
 - b. Does Lee County consider this request to be speculative?
 - c. Does Lee County consider requests based on a hope for a different outcome to be speculative?
 - d. Should Lee County be responsible for speculative business decisions?
23. **Policy 2.4.3** specifically states that it is Lee County's policy to not approve further urban designations. This request is seeking to change a rural designation to a more urban designation. How is removing 27% of the total rural designation in the Fort Myers Shores Community Plan consistent with Policy 2.4.3?
24. **Policy 5.1.5** states that Lee County must protect existing and future residential areas from any encroachment of uses that are potentially destructive to the character and integrity of the residential environment. Isn't changing the community character from rural to suburban potentially destructive to the character and integrity of the rural residential environment?
25. **Policy 21.1.5** was adopted in 2009 in response to the last time there was an application to increase density for the River Hall projects. The Board of County Commissioners (BoCC) adopted a text amendment specifically protecting the remaining rural

lands in this planning area. How can an act that only benefits the developer (the public has said they don't want this change) meet the requirement of "overriding public necessity"?

26. A need is something that cannot be done without, a priority over other options. Overriding mean more important than anything else. Doesn't the phrase "overriding public necessity" define itself?
27. Is Lee County going to allow the applicant to use enhancements not even desired by the River Hall residents as justification of an "overriding public necessity"?
28. **Policy 21.1.5** also states that its purpose is to retain rural character and rural land uses. How does approving an amendment that takes 27% of the rural designated lands out of a rural designation retaining rural character and rural land uses?
29. The Caloosahatchee Shores adopted a policy specifically in response to the last density increase to River Hall.
 - a. Why is that being ignored?
 - b. Doesn't the failure to Lee County staff to protect the planning principles and community standards of a planning area undermine all community plans?
30. The September 25, 2013 staff report states that approval of this request will create enclaves of future land uses². Creating enclaves is against public policy and not consistent with good planning practices. Do you think creating enclaves of future land uses is a good idea? If yes, why? If no, why not?
31. Page 18 of the September 25, 2013 staff report states that density will be utilized from Suburban areas **not included in the amendment or rezoning area even though those landowners have not joined in with this request.**
 - a. Is there a question of who really owns these lands and is entitled to any currently unused density on these Suburban lands?
 - b. Does Lee County think it is good planning practices to take property rights from other landowners without their consent?
32. In the letters of opposition, there are petitions signed by 147 residents of River Hall asking that Lee County not approve this request. Ms. Amy Snyder details how Ashton Oaks at River Hall - the only homeowner controlled community in River Hall - has not been consulted about these changes and does not support the changes. Does Lee County think it is appropriate to ignore the wishes of individual property owners to provide entitlement to a large developer? If no, considering the near 100% disapproval of the residents of River Hall, why would the recommendation before transmittal?

² See pages 3, 4, and 12 of the staff report dated September 25, 2013.

Conclusion

We are requesting you not approve this agreement. It isn't fair. It isn't mediated. And it doesn't provide enough time to adequate review and response to the complicated issues which are part of this request.

It is your responsibility to have standards that create meaningful and predictable results (See Florida Statutes 163.3177(1)). That means protecting the rights of the landowners who bought their individual lots based on the representation of a rural community as presented by the applicant. Part of those predictable and reliable standards is to hold all applicants and parties to the same standards. Allowing exceptions for one undermines the reliability and predictability for everyone.

We strongly urge you to reject this agreement. There are legal and ethical reasons to require GreenPointe to be treated like all other applicants. If, however, you decide to grant the request, we request the following:

1. That the public be allowed to attend and participate in the meeting between staff and GreenPointe that is to take place on or before April 4, 2014.
2. That additional materials submitted for the application be made available for public review on or before April 14, 2014.
3. That the new staff report address all the questions listed above, and that staff will meet with the public by April 30 with a draft staff report to go over the response to the public questions and comments.

The Florida Statutes are clear that the intent of the legislature is that the public participate in the comprehensive planning process to the fullest extent possible. If you're going to approve a compressed time frame, it is imperative that other mechanisms are identified to allow for full public participation. We're sure you agree that any process should be as fair as possible.

Thank you for your time in consideration of these issues. If you have further questions or need additional information, please contact me at (239) 262-0304 x 252 or by email at juliannet@conservancy.org.

Sincerely,

Julianne Thomas

Julianne Thomas
Growth Management Specialist

Miller, Janet

From: Dunn, Brandon
Sent: Monday, June 09, 2014 2:03 PM
To: Miller, Janet
Subject: FW: River Hall Amendment 2012-00001(expedited)
Attachments: download on Oct. 16 002.JPG; DSC_0196.JPG

From: Karen Asfour [mailto:karenaz4@comcast.net]
Sent: Thursday, April 17, 2014 12:05 PM
To: Mgibbss@leegov.com
Cc: Dist5, Frank Mann; Dunn, Brandon; Dist4, Brian Hamman; Dist3, Larry Kiker; Dist2, Cecil Pendergrass; Dist1, John Manning; O'Connor, Paul; Jacob, Michael; Wesch, Richard
Subject: River Hall Amendment 2012-00001(expedited)

Dear Ms. Gibbs,

I am sending you a few of my concerns on several issues with regards to CPA2012-00001.

1. The expedited timeline for CPA2012-00001 does not include an expedited timeline to change the Lee Plan by amending the Caloosahatchee Shores Community Plan. THAT was not mediated. Only the request submitted in September 2012 can be expedited. Nothing new. To change the Community Plan would be doing so without the proper procedure that all amendments must go through in order to make a change to the Lee Plan.

To adopt the proposed amendment, the Board of County Commissioners must make a determination that the amendment to the Future Land Use Map, including the proposed **amenities** (*emphasis added*), constitute an “overriding public necessity.” *from staff report 8/16/13*

2. The overriding public necessity language is used in instances of eminent domain, which is granted to governmental agencies only...NOT private corporations or developers. The items listed as public necessities are either amenities or are items that have already been included in the original plan for this development.

If the county determines that the park and trail are overriding public necessities, then ONLY that portion of River Hall can be changed from rural, if needed. In other words, only the part of the land that will accommodate the “necessities” can have a land use change, not a different section of acreage in which housing units will be built.

There are 4 county parks within 5 minutes of the developer proposed River Hall park. The River Hall residents also have several parks within the community. There is a fifth park in Alva that is less than 10 minutes away. The park is not a necessity.

The trail within River Hall and the second entrance were already a part of the original plan as was the commercial designation at the Route 80 entrance area.

The county, by approving the amendment with these two items will be imposing an additional burden on the individual, resident landowners within River Hall. As stated in the draft agreement between GreenPointe and the county, the residents will pay for the maintenance of the park and trail that will be used by the general public. This was also brought up at the Board of County Commissioners meeting on September 25, 2013.

The traffic signal at Palm Beach Blvd. and River Hall Pkwy. will be installed by the state when it is deemed necessary according to the state's guidelines. Nothing this developer does will expedite or affect this in any way.

3. The addition of 2,500 residents to River Hall will alter the character of this community. The end result will be approximately 7,500 people using two main roads to traverse the community. This will also add to an evacuation nightmare. Check the proposed second entry at Ruth Ave. with eyes and mind wide open and you will see this is not a viable evacuation exit.
4. The Lee Development Code protected species list is indicative of many species that live in or traverse the River Hall property. We residents have evidence of Florida Panther, Florida Black Bear, Florida Sandhill Crane, Alligator, Gopher tortoise, snowy and/or reddish egret, burrowing owls, etc. I have taken pictures of several of these wonderful animals in my yard. I have attached two of those pictures. The first is of a pair of Sandhill Cranes and the second is a Black Bear. I also have pictures of alligators, what I think is a falcon and other wildlife species.

This amendment will allow 7,500 River Hall residents to live up close and personal to these protected species. The wildlife are at risk for harm and residents could be at risk also. There have been several instances in the news lately about bears, panthers, etc. interacting with residents because of the encroachment of human dwellings on their habitat. These interactions led to either animal or human harm or death.

As I mentioned above, these are only a few of the many concerns and problems with this amendment. There is NOTHING good about this request as evidenced by the fact that three previous requests for the increased density have been denied.

We are relying on the county staff to look at the law (codes, ordinances, etc.) of the county and write a report that is based on the law and not smoke and mirror promises by a developer that has no permanent connection to Lee County. In order to represent the citizens of Lee County, the staff report must recommend – NO TRANSMITTAL.

Thank you,

Karen Asfour
17131 Easy Stream Ct.
Alva, FL 33920
239-693-6131



Miller, Janet

From: Dunn, Brandon
Sent: Monday, June 09, 2014 1:47 PM
To: Miller, Janet
Cc: O'Connor, Paul
Subject: FW: River Hall CPA2012-00001 Reconsideration Issues

From: Tom Migliore [mailto:tommymigs@comcast.net]
Sent: Thursday, April 24, 2014 12:44 PM
To: Dunn, Brandon
Cc: Gibbs, Mary
Subject: River Hall CPA2012-00001 Reconsideration Issues

River Hall Comprehensive Plan Amendment Reconsideration questions/comments/concerns:

1. The proposed public park and trail are not wanted by the residents of River Hall nor are they needed by the residents of East Lee County. GreenPointe added it to their amendment request solely in an attempt to demonstrate the required overriding public necessity for their amendment request (per Lee Plan Policy 21.1.5, a finding of an "overriding public necessity" by three Commissioners is required to change River Hall's rural land use category). The overriding public necessity language was added to the Lee Plan specifically to protect and preserve the remaining rural land use category acreage within the Caloosahatchee Shores Community.

In the Staff Analysis section of the Staff report dated September 25th, 2013 it is stated that the "proposal meets the public necessity criteria". However, in the Staff Recommendation and Findings of Fact Summary section, a determination is made that "the Board of County Commissioners must weigh these improvements and determine whether or not they satisfy an overriding public necessity. This finding must be made to assure consistency with Lee Plan Policy 21.1.5 which is part of the Caloosahatchee Shores Community Plan." This is a contradiction. Staff cannot on one hand defer to the BoCC to decide a finding of an "overriding public necessity" and then recommend transmittal based on Staff's determination that the criteria has been met. If Staff is saying it is up to the BoCC to make a determination of an "overriding public necessity", then Staff must refrain from making recommendations based on whether or not they believe the items offered in the request have satisfied the requirements.

The Developer's Agreement specifies that the public park and multi-modal trail will be transferred to the CDD. When the transfer occurs, the CDD would be required to pay for maintenance costs through increased assessments and the CDD (property owners) will be exposed to litigation for any injury's to and/or property damage incurred by person(s) using them. This is unacceptable to the residents.

2. GreenPointe Communities, in its Comprehensive Plan Amendment request (CPA2012-00001), calculates the requested new density at 1.5 units per acre. However, the 1000 requested new units would actually be placed on approximately 373 acres on the southern portion of the River Hall project that is directly adjacent to Hickey Creek Mitigation Park. That equates to a density of 2.7 units per acre. The 1.5 units per acre would be a cumulative density for the entire RH project that also requires transferring density from the preserve areas within RH. The CDD properties along with the 373 acre subject property were already used in the calculation to comply with the 1.0 unit per acre requirement of the rural land use category. Again, the actual real density on the parcel of land that would contain the 1000 additional units would be **2.7** units per acre. The manipulation of land use categories and transfer of densities is wrong and should not be allowed.

If approved, this request will have the undesirable affect of creating enclaves of future land use classifications. One lot is rural while an adjacent lot could be suburban.

The requested Future Land Use Map amendment would remove approximately 27 percent of the Rural lands category from the total Rural designation in the Fort Myers Shores Planning Community.

There is not a need for the additional dwelling units that the applicant is requesting.

3. The additional density will lead to increased traffic on Palm Beach Boulevard and the failure of the intersection of River Hall Parkway and S.R. 80 and possible failure of the intersection of Buckingham Road and S.R. 80. The addition of the gated south entrance will not mitigate the traffic issues because it will not be used (the applicant has conceded this point at the residents informational meeting on April 17,2014).

4. It has been previously stated, by Grady Miars, that GreenPointe Communities has \$100 million invested in the project...the implication is that they need the additional units to make further development of the project financially feasible. This is simply not true. The original developer (Crescent Resources/LandMar) may have had that level of investment, but they filed for bankruptcy protection in 2009 effectively wiping the slate clean (with the exception of delinquent taxes). According to a law suit filed against Mr. Burr by the Crescent Resources Litigation Trust, in 2010 GreenPointe Communities purchased River Hall (including the golf course) and Southern Hills (two projects) out of bankruptcy for just \$1.65 million.

At the April 17th meeting, Ed Burr stated that GreenPointe has paid off the CDD bonds on their properties. Again, this is not an accurate statement. The RH CDD assessments are still listed on the 2013 tax bills for numerous GreenPointe lots. The bonds on the lots GreenPointe purchased out of the Crescent Resources bankruptcy were paid off in 2009 by Crescent Resources -- not GreenPointe. Also, GreenPointe (RH Golf) still has almost \$150,000 in 2008 tax certificates outstanding on the River Hall Golf Course and is currently delinquent on 2013 taxes for 53 of the Country Club lots it owns. If there are outstanding tax certificates on the golf course when turnover occurs, the Country Club HOA members (residents) would then become responsible for their redemption (payment).

Before any additional Development Orders can be issued for the River Hall Project, Section 10-108.1 of the Lee County Development Code requires that there are no delinquent taxes or outstanding tax certificates for the project properties...GreenPointe (RH Ventures) must pay their delinquent taxes and redeem the outstanding tax certificates on the subject properties before any new Development Orders can be issued by the County. Since GreenPointe purchased the River Hall Project significantly below it's market value, they **do not** require the additional density to realize a reasonable return on their investment...that can be accomplished by building on the already platted lot inventory (they currently own over 800 vacant lots) and developing the existing commercial property they currently own (and have promised to develop) within in the River Hall Project. Now that GreenPointe Homes has the financial backing of IHP capital Partners, they're in a position to move forward with this option.

5. At the time River Hall was purchased out of bankruptcy (2010) its land use category was designated as rural with a density of one unit per acre. It should not have been purchased with the expectation that the land use category could be changed...what you see, is what you get. Even without the additional 1000 units, GreenPointe got a bargain when they purchased River Hall and stand to make a significant profit from its development or sale.

6. Country Club membership status for the additional units requested: Last August (prior to the LPA meeting), we met with Greenpointe representatives and Depew Associates to discuss our concerns. We specifically asked if the 600 new units proposed for the RHCC (the remaining 400 proposed units would be located in Hampton Lakes) would be required to pay bundled golf fees. We were told by David Depew that golf would not be

bundled on the additional Country Club units. Current RHCC residents cannot opt out of the mandatory golf dues.

At the community meeting on April 17th, Ed Burr stated that, under their proposal, there will be approximately 1400 units within the RHCC community and that memberships would be required. This is contradictory to what his planner told us in August. He further stated that mandatory golf would be required on a first build basis until the 800 member threshold is met -- at that point the additional nine holes would be built only if "the market dictates" (subjective) . Potentially there could be 1400 CC units at build out with only eighteen holes of golf. Those 600 units may not be required to pay mandatory golf dues because the developer is allowed to make a determination when the "market dictates ", whether or not the additional nine holes are required.

7. This density increase has been applied for and failed multiple times. We question why, this time around, GreenPointe is receiving special consideration and, it appears, special treatment. This smacks of cronyism and political favoritism...and that road leads to Tallahassee. We are aware of Mr. Burr's relationship with Governor Scott and his significant contributions to the Republican Party and Republican candidates on the State and National level. From 2000-2014, his contributions to candidates, committees and PACs totaled \$201,279¹. The appearance is that these contributions and his relationship with the Governor are buying him special treatment in Lee County. It also appears that some officials, in position to decide the fate of this amendment request, are actually advocating for the applicant and looking for any justification to approve it.

8. River Hall will be the first domino to fall. Land speculators throughout Lee County are already lining up to take advantage of the overtly pro-developer climate that seems to now exist. If this density increase is approved, the floodgates will be opened and every land speculator and developer in the County will be making similar demands to allow them to squeeze even greater profits out of their properties.

9. Developer rights should not trump the rights of real property owners. GreenPointe owns a relatively small portion of the properties in the River Hall Community yet they are requesting a change that affects ALL of the River Hall property owners. They claim to have the support of and speak for the members of the HOAs and CDD. They do not. They have controlled the boards of these entities because, by law, they are allowed to appoint a majority of board members. They **do not** speak for us nor do they act in our best interest...the developer does what's best for the developer.

10. Environmental issues: No additional protection measures have been proposed by GreenPointe to minimize the probability and frequency of potentially negative human/wildlife interactions. The loss of habitat for protected and endangered wildlife.

Sandi and Tom Migliore
16444 Windsor Way
Alva, FL 33920

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<http://www.campaignmoney.com/advanced.asp?searchtype=contributors&cycle1=08&lname=Burr&fname=edward&work=&occup=&zipcodes=&fdate=&tdate=&state=FL&cycle2=14&cmtetype=&cmtename=&cmteorg=&igc=&cmteparty=&cycle3=14&cndoffice=&cndtype=&cndlname=&cndfname=&cndstate=&cndparty=&orderby=BDunn@leegov.com>

Max Forgey, AICP
FORGEY PLANNING SERVICES
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(239) 560-5864
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June 9, 2014

Mr. Paul O'Connor, AICP
Planning Director
Lee County Department
of Community Development
PO Box 398
Fort Myers, FL 33902-0398

SUBJECT: RIVER HALL PLAN AMENDMENT CPA2012-00001

Dear Mr. O'Connor:

Purpose of this letter. In this letter, and in the attached report (Attachment A), I propose to set forth the objections of my client, the East Lee County Council (ELCC), to the approval of the above-referenced amendment to the Lee County Comprehensive Plan (Lee Plan) proposed by GreenPointe Communities as detailed in the May 12, 2014 letter by Russell P. Schropp, Esq., to Mary Gibbs, AICP, Community Development Director. It is my understanding that the Local Planning Agency (LPA) is tentatively scheduled to hear this case on June 23, 2014. Because there are no scheduled meetings of the Board of County Commissioners in July, the earliest possible date for a transmittal hearing will be in August 2014.

We also understand that County staff does not intend to send this amended application to the people of Caloosahatchee Shores to be reviewed for consistency with the Lee Plan as it relates to their Community Plan, and specifically to newly proposed text amendments to Lee Plan Policy 21.1.5, which imposes the "overriding public necessity" standard applied to Future Land Use Map (FLUM) amendments affecting the Rural Lands category in the Community Plans of Caloosahatchee Shores and three other communities. This report will address these topics:

- History of the River Hall project.
- Consistency with the Lee Plan.
- Impact on the community planning process in general.
- Procedural defects with CPA2012-00001, specifically:
 - The current application is substantially different from the original CPA2012-00001, and should not be heard as if it were the continuation of an existing case.
 - The application failed to obtain a majority vote at the BCC transmittal hearing, the application was denied, and cannot be heard by Lee County unless it is filed as a new application.

- o No review of the application has been conducted by ELCC or by the Caloosahatchee Shores Panel, and a new application should begin with a public meeting under their auspices.

On behalf of the ELCC, I respectfully request that the Lee County Department of Community Development recommend denial of CPA2012-00001, and I ask that this letter and its attachments be entered into the record of the case when it is heard by the Local Planning Agency and by the Board of County Commissioners.

Sincerely,

A handwritten signature in cursive script that reads "Max Forgey".

Max Forgey, AICP

cc: Ed Kimball, ELCC
Ralf Brookes, Esq.
Julianne Thomas, Conservancy of SW Florida
Ken Gooderham, Captiva Community Panel

Attachment A
EAST LEE COUNTY COUNCIL REPORT
ON THE RIVER HALL DEVELOPMENT

History of the River Hall development.¹ River Hall (a portion of which was previously called “Hawk’s Haven”) is a 1,978-acre development located within the Caloosahatchee Shores Planning district and subject to the provisions of Lee Plan Policy 5.1.10, Goal 21 and Policy 21.1.5. The property now known as River Hall has been historically rural, and the majority of the property was designated on the FLUM of the 1984 Lee Plan—the County’s first comprehensive plan to feature a FLUM—as ‘Rural’ with a maximum density of one dwelling unit per acre (1 du/ac.). An additional 223 acres were designated on the 1984 FLUM as ‘Wetland’ with a maximum density of one dwelling unit per 20 acres (1 du/ac). On September 19, 2005, the Lee County Board of County Commissioners (BCC) adopted Zoning Resolution Z-05-051 which amended the zoning on the Hawk’s Haven property and additional AG-2-zoned lands to their current designations of Residential Planned Development (RPD) and Commercial Planned Development (CPD). **Resolution Z-05-051 limits development to a maximum of 1,999 dwelling units, 15,000 square feet of office, and 30,000 square feet of retail.**

Since 2005, there have been three developer-initiated efforts to amend the FLUM and zoning designations on this property to increase residential entitlements at River Hall. The first two proposed actions are recounted at length in the CPA2012-00001 staff report.

1. **CPA2004-00010 (Hawk’s Haven).** A proposed amendment to the Lee Plan which would have changed 1,623 +/- acres of ‘Rural’ and 79 +/- acres of ‘Outlying Suburban’ with a maximum density of two units per acre (2 du/ac) and a change to ‘Public Facilities’ on a 20 acre school site. On May 23, 2005, the Local Planning Agency voted 5-2 not to transmit. The applicant withdrew the application at the BCC transmittal hearing on June 1, 2005 after a motion to not transmit was made and seconded.
2. **CPA2005-00007 (River Hall).** The applicant proposed to amend the Lee Plan to change 1,647 acres from ‘Rural’ to ‘Outlying Suburban’ subject to a text amendment to increase the maximum number of residential units from 1,999 to 2,800. As documented by the August 13, 2013 staff report for CPA2012-00001, the following actions were taken by the LPA and BCC:

¹Information for this narrative is supported by the August 16, 2013 report for case CPA2012-00001, prepared by Lee County Planning Division, unless otherwise indicated.

- On November 27, 2006, LPA voted 3-2 not to transmit.
- On December 13, 2006, the BCC voted 4-1 to transmit an alternative staff-generated version of the amendment to the Florida Department of Community Affairs (DCA) for interagency review.
- On May 16, 2007, the BCC voted 4-1 not to adopt the amendment with alternative language.

3. **CPA2012-00001 (River Hall)—the Current Application.** GreenPointe Communities, LLC, the successor to the original River Hall developer, applied for CPA2012-00001, an amendment to the Lee Plan, which was summarized in the August 16, 2013 staff report as follows:

Amend the future land use category of 1,064 acres of land within the Rural Future Land Use Category and 223 acres of land within the Wetlands Future Land Use Category to 153 acres of Conservation Lands Wetlands, 264 acres of Conservation Lands Uplands, and 870 acres of Sub-Outlying Suburban.

Amend Policy 5.1.10 to allow density from lands designated as Conservation Lands Uplands to be located to contiguous developable uplands at the same underlying density as the developable uplands.

Also amend Table 1(b), Year 2030 Allocations, to adjust the acreage allocations for the Fort Myers Shores Planning Community to provide an allocation for the Sub-Outlying Suburban future land use category by lowering the allocation to the Rural future land use category.

The chronology of this case to date is as follows:

- A. Lee County Planning Division released a **staff report on August 16, 2013**. The report recommended transmittal of the amendment with modified text amendments. Notwithstanding the recommendation of approval, the staff report reads as if it were composed in contemplation of a recommendation for denial.
- B. The Lee County LPA conducted a **public hearing on August 26, 2013**. After extensive public comment, the LPA recommended by a 6-0 vote that the Board of County Commissioners **not transmit** the amendment.

- C. The Lee County BCC conducted a **transmittal hearing on September 25, 2013**. The motion to approve failed by a 2-2 vote. The applicant did not withdraw the application or request postponement prior to the vote by the BCC.
- D. On **January 9, 2014**, GreenPointe requested **informal alternative dispute resolution** (mediation) under Sec. 164.3181(4), FS.
- E. On **February 4, 2014**, BCC authorized mediation.
- F. On **March 5, 2014**, Lee County conducted an **informal meeting with the applicant's representatives**. No record or minutes of this meeting was made, although the results were memorialized in the April 1, 2014 Mediated Agreement.
- G. On **April 1, 2014**, the BCC voted 3-2 to **approve a Mediated Agreement** between GreenPointe and Lee County, effectively reopening the River Hall case (See Blue Sheet #20140137) with assurance by County Attorney Richard Wesch that they were voting only for an expedited review process, and not on the substance of the application. See:

<http://www.naplesnews.com/news/2014/apr/01>

See also:

<http://www.leecounty.com/gov/dept/dcd/Planning/Amendments/Documents/RA2012-2013/CPA2012-00001/CPA201201BCCMedAgr04012014.pdf>

The Mediated Agreement established several deadlines for deliverables by GreenPointe. One important deadline pledged that “[o]n or before April 11, 2014, GreenPointe will submit to the County modifications (if any) that it desires to make to the Plan Amendment.”

- H. Pursuant to the BCC's action on April 1, a **meeting was held between GreenPointe and Lee County staff on April 4, 2014**. The ostensible purpose of this meeting, as explained in BCC Blue Sheet No. 20140137, was to “discuss possible modifications to its Plan Amendment that address issues raised during the transmittal hearing on September 25, 2013.”

- I. Russell Schropp, in an **April 11, 2014 letter** to Mary Gibbs, set forth GreenPointe's **proposed modifications** to CPA2012-00001. While contending that "GreenPointe does not believe that any modifications to CPA2012-00001 are needed at this time, Mr. Schropp proposed two modifications: (1) **express limitation on total dwelling units** (i.e. to a maximum of 2,999), which would be accomplished by an amendment to the text of Lee Plan Policy 21.1.5 and (2) **elimination of text amendment to existing Policy 5.1.10 or proposed Policy 5.1.11.**
- J. GreenPointe conducted **public and homeowner meetings** with River Hall residents and interested persons on **April 17, 2014.**
- K. Mr. Schropp, ostensibly due to input received at the two meetings on April 17, 2014, in a **May 12, 2014 letter** to Mary Gibbs, proposed **modifications to the modifications in the April 11th letter.** Among the modifications were (1) a reduction in the request for additional units from 1000 (i.e. 2,999) to 851 (i.e. 2,850); (2) GreenPointe agreed to fund the signal at the intersection of SR 80 and River Hall Parkway; (3) modifications concerning bicycle and pedestrian facilities along SR 80; (4) GreenPointe agreed to provide a park 'n trail trailhead facility inside the commercial parcel on the east side of River Hall Parkway; (5) GreenPointe, citing public resistance, receded from its earlier proposal to provide public bicycle/pedestrian access through the River Hall development between Buckingham Road and the Hickey's Creek Mitigation Park. **The May 12, 2014 letter is the current form of the application.**

Consistency with the Lee Plan.

Goal 21 of the Lee Plan articulates Lee County's vision for the Caloosahatchee Shores community, of which the River Hall development is a part:

GOAL 21: CALOOSAHATCHEE SHORES: *To protect the existing character, natural resources and quality of life in Caloosahatchee Shores, while promoting new development, redevelopment and maintaining a more rural identity for the neighborhoods east of I-75 by establishing minimum aesthetic requirements, planning the location and intensity of future commercial and residential uses, and providing incentives for redevelopment, mixed use development and pedestrian safe environments. This Goal and subsequent objectives and policies apply to the Caloosahatchee Shores boundaries as depicted on Map 1, page 2 of 8 in the Appendix. (Added by Ordinance No. 03-21)*

For more than a decade, the Lee Plan has set a goal for "maintaining a more rural identity" for Caloosahatchee Shores/River Hall. The ELCC and its constituent community panels, including Alva, Bayshore, and Buckingham, find the proposed addition of 851 residential units to be

completely inconsistent with this goal. There is simply no way that that an increase in overall density to an existing rural community can result in “maintaining a more rural identity.”

Objective 21.1 addresses the issue of community character in Caloosahatchee Shores:

OBJECTIVE 21.1: COMMUNITY CHARACTER. *The Caloosahatchee Shores community will draft and submit regulations, policies and discretionary actions affecting the character and aesthetic appearance of the Caloosahatchee Shores for Lee County to consider for adoption and enforcement to help create a visually attractive community. (Added by Ordinance No. 03-21).*

Although the Lee Plan does not specifically designate the Caloosahatchee Shores Community Panel as its advisor in land use matters relating to this community, the BCC has historically placed great weight upon recommendations of all of its community panels, and has delegated the preparation of community plans and land development regulations to the Community Panel. The leadership of the Panel, and the ELCC of which it is a constituent member, find the GreenPointe application to be inconsistent with the Lee Plan because GreenPointe has not brought the amended changes to the Caloosahatchee Shores community for consultation regarding the potential impacts of the expanded River Hall development upon the character and aesthetic appearance of Caloosahatchee Shores. Policy 21.1.5 establishes a clear standard for amending the FLUM in this case:

POLICY 21.1.5: *One important aspect of the Caloosahatchee Shores Community Plan goal is to retain its' rural character and rural land use where it currently exists. Therefore no land use map amendments to the remaining rural lands category will be permitted after May 15, 2009, unless a finding of overriding public necessity is made by three members of the Board of County Commissioners. (Added by Ordinance No. 09-06)*

This policy, which has been a part of the Lee Plan since 2009, requires a “finding of overriding public necessity” by three members of the Board of County Commissioners before an amendment can be made to the “remaining rural lands category.” By referring to lands, such as River Hall and Caloosahatchee Shores in general, as “remaining rural lands” the BCC telegraphed their intent with great clarity. Land of a rural character, once so plentiful in Lee County, has been disappearing at a rapid rate for decades, and deserves special attention. Much has been made of the phrase “overriding public necessity” and the purported need for a definition. We contend that there is nothing particularly challenging about this expression. The noun is “necessity”—a vital or indispensable need. An “overriding” necessity is one that must be provided, even at the cost of other things that may be desirable. Finally, a “public” necessity is one that serves the people of a particular community, and not merely the private interests of a few. It follows that a public necessity will be identified as such by the public, and not by a private applicant. This application fails to meet this crucial test.

Impact on the Community Planning Process.

Lee County has a robust tradition of community planning that has not been embraced by all Florida communities. Past County Commissions have not delegated their decision-making in land use matters to neighborhood residents, but they have consistently consulted with these bodies, as individuals and through community organizations, and they have diverted a small portion of public funds to support planning on a neighborhood level. Not surprisingly, these community plans have tended to focus on issues peculiar to the community—for example, building heights on Captiva Island and rural character and aesthetics in Caloosahatchee Shores. In both of the examples, the result has been a positive one for the community. Community planning offers a rare opportunity for creative engagement, as has been the case in Lehigh Acres, combining the energy of local residents, the experience of County staff and the specific knowledge of private consultants.

We contend that this tradition is worth maintaining, and we caution that it may lose its viability if the amendment to the end of Policy 21.1.5 proposed by GreenPointe. This proposed addition to the text reads as follows:

For the River Hall development located in Sections 25, 26, 27, 34, 35, and 36, Township 43 South, Range 26 East, Lee County, Florida, total density for the development shall not exceed 2,850 dwelling units.

This new language, if adopted as proposed, would create a dangerous precedent by amending a policy specific to the Caloosahatchee Shores community without engaging the people of that community in a public meeting under the auspices of the Panel or other citizen body. More significantly, it completely bypasses the “overriding public necessity” test. Because this provision appears in other community plans, we are concerned that future developers will attempt to bypass this and other provisions with a simple one-sentence text amendment.

Procedural Defects with CPA2012-00001.

1. *The current application is substantially different from the original CPA2012-00001, and should not be heard as if it were the continuation of an existing case.* The chronology of this case shows the contorted history of this case. The applicant had a development order that was consistent with the Lee Plan and chose to use every procedural means available to obtain more entitlements. The requests proposed in the April 11 and May 12, 2014 letters are new applications and should be applied for as such.
2. *The application failed to obtain a majority vote at the BCC transmittal hearing, the application was denied. This case should not be heard by Lee County unless it is filed as a new application.* The County Attorney has clearly stated in the April 1, 2014 blue sheet that “[t]he effect of Board’s action [i.e. the 2-2 vote] at the transmittal hearing on September 25,

2013, was to deny the Plan Amendment.” GreenPointe then sought mediation, invoking Sec. 163.3184(4), *Florida Statutes*:

If a local government denies an owner’s request for an amendment to the comprehensive plan which is applicable to the property of the owner, the local government must afford an opportunity to the owner for informal mediation or other alternative dispute resolution. The costs of the mediation or other alternative dispute resolution shall be borne equally by the local government and the owner. If the owner requests mediation, the time for bringing a judicial action is tolled until the completion of the mediation or 120 days, whichever is earlier.

The statute provides no guidance to local governments as to the extent of mediation—whether it was meant to embrace procedural matters only, or whether the mediation is the appropriate venue for interpreting the comprehensive plan, for the *de novo* consideration of evidence not entered on the record at the LPA, BCC transmittal level, or whether the statute was ever meant to facilitate skipping a vital process previously required by Lee County land development regulations—review by the local planning advisory body—in this case, the Caloosahatchee Shores Planning Panel. We contend that a strict construction of this paragraph does not allow County government to bypass its own processes. A mediation is not the time or place for introducing major changes to the comprehensive plan, but is merely the appropriate venue for resolving procedural errors and anomalies.

- 3 *No review of the application has been conducted by ELCC or by the Caloosahatchee Shores Panel, and a new application should begin with a public meeting under their auspices.*

Attachment B:
Lee Plan Provisions
Relating to Caloosahatchee Shores

GOAL 21: CALOOSAHATCHEE SHORES: To protect the existing character, natural resources and quality of life in Caloosahatchee Shores, while promoting new development, redevelopment and maintaining a more rural identity for the neighborhoods east of I-75 by establishing minimum aesthetic requirements, planning the location and intensity of future commercial and residential uses, and providing incentives for redevelopment, mixed use development and pedestrian safe environments. This Goal and subsequent objectives and policies apply to the Caloosahatchee Shores boundaries as depicted on Map 1, page 2 of 8 in the Appendix. (Added by Ordinance No. 03-21)

OBJECTIVE 21.1: COMMUNITY CHARACTER. The Caloosahatchee Shores community will draft and submit regulations, policies and discretionary actions affecting the character and aesthetic appearance of the Caloosahatchee Shores for Lee County to consider for adoption and enforcement to help create a visually attractive community. (Added by Ordinance No. 03-21)

POLICY 21.1.1: By the end of 2007, the Caloosahatchee Shores community will draft and submit regulations for Lee County to review and consider for amendment or adoption as Land Development Code regulations that provide for enhanced landscaping, signage and architectural standards consistent with the Community Vision. (Added by Ordinance No. 03-21, Amended by Ordinance No. 07-12)

POLICY 21.1.2: In order to maintain the Old Florida rural identity for the Caloosahatchee Shores Community, commercial developments are encouraged to use vernacular Florida architectural styles for all buildings. The use of Mediterranean styles of architecture is discouraged. (Added by Ordinance No. 03-21)

POLICY 21.1.3: Lee County is discouraged from approving any deviation that would result in a reduction of landscaping, buffering, signage guidelines or compliance with architectural standards. (Added by Ordinance No. 03-21)

POLICY 21.1.4: By the end of 2007, the Caloosahatchee Shores community will draft enhanced code enforcement standards to be considered by staff for possible inclusion in Chapter 33 of the

LDC. (Added by Ordinance No. 07-09)

POLICY 21.1.5: One important aspect of the Caloosahatchee Shores Community Plan goal is to retain its' rural character and rural land use where it currently exists. Therefore no land use map amendments to the remaining rural lands category will be permitted after May 15, 2009, unless a finding of overriding public necessity is made by three members of the Board of County Commissioners. (Added by Ordinance No. 09-06)

OBJECTIVE 21.2: COMMERCIAL LAND USES. New commercial uses will be limited to properties already zoned for commercial uses as well as commercial centers designated on Map 19, the intersection of I-75 and S.R. 80, the intersection of S.R. 31 and S.R. 80, properties located in the State Route 80 Corridor Overlay District, the Verandah Boulevard commercial node, lands with the Commercial Future Land Use designation, and Future Urban Areas including the central urban and suburban categories adjacent to S.R. 80. New commercial zoning must be approved through the Planned Development rezoning process. Existing and future county regulations, land use interpretations, policies, zoning approvals, and administrative actions should be undertaken in an effort to promote the goal of commercial redevelopment along SR 80 and increased commercial opportunities to service the needs of the Caloosahatchee Shores community and surrounding areas. County regulations should attempt to ensure that commercial areas maintain a unified and pleasing aesthetic/visual quality in landscaping, architecture, lighting and signage. Commercial land uses must be designed to be compatible with and further the historic character and identity of existing rural Old Florida and Florida Vernacular styles of architecture and the historic identity of Olga. (Added by Ordinance No. 03-21, Amended by Ordinance No. 11-24)

POLICY 21.2.1: To service the retail needs of Caloosahatchee Shores and the surrounding rural communities, the intersection of SR 80 and SR 31, north of SR 80 and east and west of SR 31 are designated as commercial nodes to allow for greater commercial intensity. Commercial nodes are intended for development or redevelopment at Community Commercial levels as defined in Policy 6.1.2 of the Lee Plan. The Verandah Boulevard commercial node is intended for Minor Commercial levels as defined in Policy 6.1.2. Office and residential uses consistent with the Suburban designation are also allowed in this Minor Commercial node. (Added by Ordinance No. 03-21, Amended by Ordinance No. 11-24)

POLICY 21.2.2: In order to protect the rural residential character of Buckingham Road, new retail uses along Buckingham Road outside the commercial node identified on Map 19, will be prohibited. (Added by Ordinance No. 03-21, Amended by Ordinance No. 11-24)

POLICY 21.2.3: The Olga Mall property, 2319 S. Olga Drive, may continue to provide minor commercial retail services for the Olga community. (Added by Ordinance No. 03-21, Amended by Ordinance No. 11-24)

POLICY 21.2.4: Commercial developments within the Caloosahatchee Shores Community must provide interconnect opportunities with adjacent commercial uses in order to minimize access points onto primary road corridors; and residential developments should provide interconnect opportunities with commercial areas, including but not limited to bike paths, pedestrian access ways and equestrian trails. (Added by Ordinance No. 03-21)

POLICY 21.2.5: To promote the redevelopment of commercial uses along SR 80, Commercial uses are encouraged to increase lot depth and size by extending north of SR 80 to First Street. Lee County will encourage the use of First Street as a reverse frontage Road to provide access. This policy hereby adopts Exhibit 1 as a conceptual redevelopment plan for this corridor. (Added by Ordinance No. 03-21)

OBJECTIVE 21.3: RESIDENTIAL USES: Lee County will protect and enhance the residential character of the Caloosahatchee Shores Community by strictly evaluating adjacent uses, natural resources, access and recreational or open space. (Added by Ordinance No. 03-21)

POLICY 21.3.1: By the end of 2007, the Caloosahatchee Shores community will draft and submit regulations and policies for Lee County to review and consider for amendment or adoption as regulations in the Land Development Code to provide for greater buffering between distinctly different adjacent commercial and residential properties, modified however when a project is of mixed use nature. (Added by Ordinance No. 03-21, Amended by Ordinance No. 07-12)

OBJECTIVE 21.4: MIXED USE DEVELOPMENT. Lee County will encourage mixed-use developments in specific areas of the Caloosahatchee Shores planning area through a variety of incentives. (Added by Ordinance No. 03-21)

POLICY 21.4.1: With the exception of mixed-use projects, residential uses fronting SR 80 and Buckingham Road are limited to no more than four dwelling units per acre. (Added by Ordinance No. 03-21)

POLICY 21.4.2: Mixed-use developments, as defined in the Lee Plan, and mixed-use developments containing both commercial and residential uses within the same structure and that provide for an integration of commercial with residential uses with pedestrian linkages are strongly encouraged at the commercial nodes of SR 80 and SR 31 and SR 80 and Buckingham Road, as well as the commercial strip between First Street and SR 80 in Fort Myers Shores. With the exception of SR 80 and SR 31, which will be allowed densities consistent with the Urban Community future land use designation, mixed-use developments will be limited to six dwelling units per acre at those locations.

- Bicycle & Pedestrian facilities will be provided throughout the development. Connections between all uses are required to facilitate these alternative modes of transportation. When possible, connections to adjacent developments will be provided.

- Vehicular connections between residential and non-residential uses will be provided to facilitate the internal capture of trips. When possible, connections to adjacent developments will be made to provide alternative access to the non-residential components of this development other than the arterial interchange of SR 80 and SR 31. Non-residential components at SR 80 and Buckingham Road should, when possible, provide alternative access off of Buckingham Road and Non-residential components at SR 80 and First Street should, when possible, provide alternative access off of First Street.

(Added by Ordinance No. 03-21)

POLICY 21.4.3: Any existing or future regulation in the Land Development Code that is shown by the applicant of a planned development to inhibit the development of a mixed-use project will be given strong consideration for a waiver. By the end of 2007, the Caloosahatchee Shores community will draft and submit regulations and policies for Lee County to review and consider for amendment or adoption as Land Development Code regulations that encourage mixed-use developments. (Added by Ordinance No. 03-21, Amended by Ordinance No. 07-12)

OBJECTIVE 21.5: COMMUNITY FACILITIES/PARKS. Lee County will work with the Caloosahatchee Shores Community to provide and facilitate the provision of a broad mix of Community Facilities. (Added by Ordinance No. 03-21)

POLICY 21.5.1: The Caloosahatchee Shores Community will work with Lee County, the State of Florida and the National Parks Service to provide appropriate passive recreational opportunities, parks,

nature, pedestrian and equestrian trails, potentially enhanced by public/private partnerships. This may include easy access, parking, trails, and other non-intrusive uses. (Added by Ordinance No. 03-21)

POLICY 21.5.2: Lee County will work with the community and private landowners to identify opportunities to maintain and enhance public access to the Caloosahatchee River, including access through the Florida Power and Light Plant. All new development of commercial, industrial or public facility properties along the Caloosahatchee River are strongly encouraged to provide for public access to the riverfront. (Added by Ordinance No. 03-21)

POLICY 21.5.3: Lee County will work with the community to ensure that the development of new parks or enhancement of existing parks meets the recreational needs of the community and are integrated into the surrounding developments and open space areas. The concept would be for a park to act as a hub, connected to other open space/recreational opportunities through pedestrian, bicycle or equestrian linkages, either along public rights of way or through adjacent developments. (Added by Ordinance No. 03-21)

POLICY 21.5.4: Lee County Department of Parks and Recreation will work with the residents of the Caloosahatchee Shores to publicize and increase the usage of existing public parks and recreation facilities. (Added by Ordinance No. 03-21)

OBJECTIVE 21.6: PUBLIC PARTICIPATION. Lee County will encourage and solicit public input and participation prior to and during the review and adoption of county regulations, Land Development Code provisions, Lee Plan provisions, and zoning approvals. (Added by Ordinance No. 03-21)

POLICY 21.6.1: As a courtesy, Lee County will register citizen groups and civic organizations within the Caloosahatchee Shores Planning Community that desire notification of pending review of Land Development Code amendments and Lee Plan amendments. Upon registration, Lee County will provide registered groups with documentation regarding these pending amendments. This notice is a courtesy only and is not jurisdictional. Accordingly, the county's failure to mail or to timely mail the notice, or failure of a group to receive mailed notice, will not constitute a defect in notice or bar a public hearing from occurring as scheduled. (Added by Ordinance No. 03-21)

POLICY 21.6.2: The Caloosahatchee Shores Community will establish a "document clearing house," where copies of selected zoning submittal documents, staff reports, Hearing Examiner recommendations and resolutions will be provided for public inspection. The County's failure to provide or to timely provide documents to the document clearing house, or failure of the document clearing house to receive documents, will not constitute a defect in notice or bar a public hearing from occurring as scheduled. (Added by Ordinance No. 03-21)

POLICY 21.6.3: The owner or agent of a requested Lee Plan amendment or zoning action (planned development, conventional rezoning, special exception, or variance requests) within the Caloosahatchee Shores Community must conduct one public informational session where the agent will provide a general overview of the project for any interested citizens. Lee County encourages zoning staff to participate in the public information session. This meeting must be conducted before the application can be found sufficient. The applicant is fully responsible for providing the meeting space, providing notice of the meeting, and providing security measures as needed. Subsequent to this meeting, the applicant must provide County staff with a meeting summary document that contains the following information: the date, time, and location of the meeting; a list of attendees; a summary of the concerns or issues that were raised at the public information session; and a proposal for how the applicant will

respond to any issues that were raised. (Added by Ordinance No. 03-21, Amended by Ordinance No. 11-24)

Attachment C

ADMINISTRATIVE CODE BOARD OF COUNTY COMMISSIONERS

CATEGORY: Development/Planning/Zoning	CODE NUMBER: AC-13-3
TITLE: Administrative Procedures Governing Community Planning Efforts Receiving Financial Support from the BOCC	ADOPTED: 06/26/01
	AMENDED: 06/28/05
	ORIGINATING DEPARTMENT: Department of Community Development

Purpose/Scope:

To provide procedures and criteria for community planning effort and to establish the minimum acceptable criteria for community plans in order to be eligible for public financial support.

Policy/Procedure:

The Board of County Commissioners recognizes that unincorporated Lee County consists of many diverse communities with various visions of how their community should develop. The intent of a community plan is to propose goals, objectives, and policies applicable to a specific area of the County that may ultimately be incorporated into the Lee Plan. Upon completion of a community planning effort the information gathered and the common concerns identified will be considered for a formal amendment to the Lee Plan.

The following procedures are established by the Board of County Commissioners to assure public confidence in the grass root planning effort when public funds are provided to encourage the development of community plans by the residents of a community:

Section 1. Definitions:

- 1.1. "Community Panel" means the collection of community residents who volunteer to act as the group responsible for coordinating and overseeing the community planning effort. The Community Panel is encouraged to represent a wide variety of the community, including citizens, local business people, landowners, developers, and civic leaders. The Community Panel initiating a community planning effort must be a legal entity, either already existing or established expressly for the purpose of conducting the planning effort. The Community Panel may also be a committee or subset of a legal entity. If the Community Panel receives public funds from the Board of County Commissioners, they will be responsible for the financial accountability of the public funds granted for use in the community planning effort. The Community Panel is not an advisory body to the Board of County Commissioners. Their planning product is a compilation of the common concerns of the community containing suggested amendments to the Lee Plan and/or the Land Development Code to address those concerns.
- 1.2. "Planning Funds" means a grant that will be used for certain expenditures incurred by the Community Panel in the preparation of and the submission of: (a) a community plan, (b) land development regulations to implement a community plan, or (c) update a previously adopted community plan.

- 1.3. "Seed Money" means an initial grant of public money, authorized by the Board of County Commissioners, to be used to: (a) initiate a community plan, (b) pursue the development of land development regulations to implement a community plan, or (c) update a community plan. Seed money will be disbursed only after the Community Panel has entered into a written grant agreement with the County describing the scope of the community plan and the limitations on the use of the grant.

Section 2. Initiation of a Community Planning Effort:

- 2.1. Residents wishing to serve as a Community Panel that is eligible to receive financial support from the County, must have at least one preliminary meeting with Planning Division staff to discuss the proposed community planning effort.
- 2.2. Following initial discussion with the Planning Division, the Community Panel must develop a written Community Planning Proposal that must contain, at a minimum:
- a. The proposed name of the Community Panel including a list of the people who will act as the initial Community Panel, and information regarding its organization and composition, including, if applicable, a copy of its current budget and a list of its board of directors. (The membership of the Community Panel may be increased thereafter);
 - b. Copies of completed Form 1 "Statement of Financial Interests" for the previous year and, when applicable: Form 2 "Quarterly Client Disclosure" for the previous four quarters from those people wishing to act as the Community Panel and from any consultants that have been retained by the Community Panel to assist in the community planning effort;
 - c. A preliminary boundary description or a map of the area of the unincorporated County that the plan intends to cover;
 - d. An overview of the main issues that the planning effort intends to address and the expected resources needed to address the issues;
 - e. A preliminary timetable for the planning effort including target dates for project milestones such as completion of a visioning effort, completion of the data and analysis, workshops and public meetings, compilation of a draft study, and study completion date;
 - f. A description of the methods and procedures to be used to foster the maximum amount of public participation in the planning process;
 - g. A good faith estimate of the expected full cost of the planning effort;
 - h. A statement indicating the percentage of the projected costs that will be provided through the County funds; and,
 - i. A tangible demonstration that the planning effort will operated in a financially sound manner.

- 2.3. Planning staff will review and comment on the Community Planning Proposal to determine if it is sufficient for presentation to the Board of County Commissioners. Planning staff may require additional information, clarifications, or revisions to assure that the minimum requirements of this code have been met. Planning Staff will make a recommendation as to whether a Community Planning Proposal is sufficient to proceed before the Board of County Commissioners.

Section 3. Obtaining Seed Money and Planning Funding:

- 3.1 Once a Community Planning Proposal is determined by Planning staff to be sufficient, staff will initiate a blue sheet to bring the proposal, which includes a proposed grant agreement requesting the use of public funds, to a Public Hearing at a regularly scheduled Board of County Commissioner meeting. The grant agreement will set forth the terms and conditions that must be fulfilled prior to obtaining the Planning Funds and the seed money, if included in the request.
- 3.2. At the Public Hearing the Board of County Commissioners will solicit input from members of the community and the public in general.
- 3.3 Following public comment, the Board of County Commissioners will consider by motion whether to enter into the contract with the Community Panel.

Section 4. Seed Money, Planning Funds and Additional Grant Funding Assistance:

- 4.1. The Board of County Commissioners may initially authorize a grant of up to \$5,000 ("seed money"), to facilitate a community planning effort. No money will be disbursed by the Board until the required grant agreement is approved. The "seed money" will be disbursed pursuant to the written grant agreement between the County and the Community Panel. All disbursements of "seed money" will be deducted from the maximum amount of funds for which the Community Panel may be eligible.
- 4.2. Subsequent disbursements of public money for Planning Funds will be available in accordance with the terms and conditions of the grant agreement. The County grant will be based on the size and scope of the planning effort and the Community Panel's ability to complete the effort.
- 4.3 Each Community Panel may be eligible to receive a grant of up to \$50,000 for the development of a community plan and up to an additional \$50,000 for the preparation of land development regulations necessary to implement the community plan. The maximum amount of funds disbursed for each phase of the planning effort may not exceed \$50,000.
- 4.4. Community Panels may update community plans and the land development regulations necessary to implement the plan after five years. The County may authorize a grant of up to \$50,000 to defray the cost of the update.
- 4.5. All grants of public funds must be used solely for the creation of, or update to, the community plan and the preparation of land development regulations necessary to implement the plan. Acceptable uses of these public funds will include: payment of professional consulting services; advertising of public meetings/workshops; and copying of draft and final documents. Public funds may not be used for the rental of office space, purchase of supplies such as computers and software, or phone service. Before receiving any funds, the Community Panel must document how the funds will be utilized to the Lee County Department of Community Development, Planning Division.

AC-13-3 (Continued)

- 4.6. The County will have unrestricted access to all records of the Community Panel pertaining to the community planning effort. The County may conduct audits of the financial records of the Community Panel. Before disbursing a grant of Planning Funds, the County must independently ensure that the proposed expenditure is in accordance with the regulatory requirements set forth in this Code and may enlist the Clerk of the Courts to perform an audit of the Community Panel. The head of the Community Panel must attest that the entity has complied with the provisions of the grant agreement and this Code.
- 4.7. County Planning Staff will assist the Community Panel in identifying additional funding sources to support the community planning efforts such as state or philanthropic grants.

Section 5. Public Participation:

- 5.1. The Community Planning effort is subject to the Florida laws on Open Government. Therefore, there must be an adequate opportunity for public participation in the community planning effort, the Community Panel must encourage and allow the participation of residents, property owners, the school district, and other interested parties. In order to effectuate this purpose, reasonable notice of all meetings pertaining to the community planning effort must be provided to the public. All meetings of the Community Panel must be open to the public.
- 5.2. Proper notification of meetings of the full Community Panel will include the posting of the meeting date and time in several public places including, but not limited to local libraries, post offices, banks, supermarkets, chambers of commerce, civic associations, and community recreation areas. In addition, these public meetings must be noticed in a local paper that is published daily or weekly. All posted and published notices must provide the date, time, and location of the public meeting. In lieu of a display advertisement, the notice could take the form of an article in a similar publication that provides the date, time, and location of the public meeting.
- 5.3. The Community Panel must maintain both recorded and written minutes of all of its full meetings. All records of the Community Panel pertaining to the community planning effort will be deemed public records and open for personal inspection by any person.
- 5.4. The Community Panel may establish sub-committees consisting of members of the Community Panel and/or other community members for the purpose of information gathering, information sharing, and the exploration of common concerns. The sub-committee meetings are required to be publicly noticed and recorded. The common concerns explored by the sub-committees must be presented to the full Community Panel at an informational sharing session during a properly noticed public meeting as outlined in section 5.2 above.

Section 6. Minimum Community Plan Requirements.

- 6.1. The Community Panel's suggested additions or revisions to the Lee Plan must be based on sufficient data and analysis to support the proposed amendments. Original data collection by the Community Panel to support the vision and unique character of a community is encouraged but not required.
- 6.2. Where data augmentation, updates, or special studies or surveys are deemed necessary by the Community Panel, appropriate methodologies must be clearly described or referenced and must meet professionally accepted standards for those methodologies.

AC-13-3 (Continued)

- 6.3. The Community Panel's suggested additions or revisions to the Lee Plan must be based on resident and seasonal population estimates and projections. Resident and seasonal population estimates and projections must be those provided by the Planning Division, or can be generated by the Community Panel. If the local Community Panel chooses to base its community plan on its own projections, a detailed description of the rationale for this choice must be included in the Plan.
- 6.4. If a community plan includes suggested new Capital Expenditures or mandates County actions that will require additional or new public expenditure, the community plan must identify the funding source to achieve these expenditures.
- 6.5. County staff may make suggestions to the Community Panel regarding issues, upcoming projects, and other needs relevant to the community. The Community Panel is not obligated to incorporate those suggestions into the plan, but will recognize the suggestions as public input into the planning process.

Section 7. Submittal Requirements:

- 7.1. A completed Lee Plan Amendment Application form. (applicable comprehensive plan amendment fees will not be required.)
- 7.2. All text and maps submitted with a community plan must be in a format and size that is easily reproduced.
- 7.3. All maps included in the community plan must include major natural and man-made geographic features, and city and county lines, when applicable, and must contain a legend indicating a north arrow, map scale, and date.
- 7.4. As part of any proposed Comprehensive Plan Amendment, the Community Panel must provide a written summary on the extent of citizen participation in the planning effort. At a minimum, the citizen participation report must include the following information:
 - a. Details of methods the Community Panel used to notify and involve the public. The dates, location, and attendance of all meetings and workshops where citizens were invited to discuss the planning effort;
 - b. Copies of all published and posted notices for meetings. A copy of the letters used for mailings, as well as the dates the letters were mailed and numbers of intended recipients. Copies of newspaper articles and newsletters discussing the community planning efforts.
 - c. Copies of all Agency Minutes for all meetings and workshops;
 - d. Copies of notices, newsletters, or other written materials distributed during the community planning effort;
 - e. A tally of the number of people who participated in the process, and if possible, the names of those who attended meetings and workshops;
 - f. A summary of the issues and concerns expressed by the participants in the planning effort;
 - g. The substance of the issues and concerns;

AC-13-3 (Continued)

- h. A description of how the agency has addressed or intends to address the issues and concerns expressed during the planning effort;
- i. A description of the issues and concerns the Community Panel does not intend to address and why;
- j. Copies of correspondence, including e-mail and facsimile transmittals; and
- k. The names and addresses of the members of the Community Panel and all consultants retained to assist the Community Panel, and their additional Form 1 and Form 2 disclosures for the time periods through the date of submittal of the Community Panel's suggested additions or revisions to the Lee Plan.

Section 8. Community Plan Amendment Review Process:

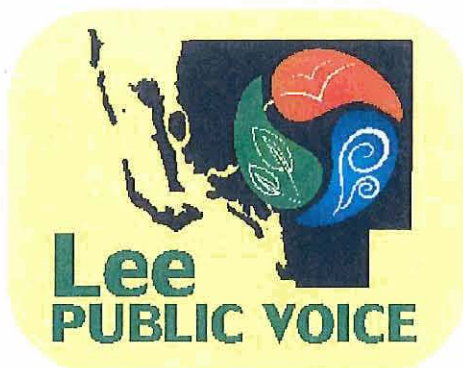
- 8.1 Following submittal of suggested amendments to the Lee Plan, Planning Division staff will conduct a complete evaluation and analysis of the proposal.
- 8.2 Lee County will consider comprehensive plan amendments suggested in community plans as part of the regular yearly amendment process. Those amendments will be reviewed, evaluated and considered in the same manner as any other proposed Lee Plan amendment. This review will follow the procedures and public notification required by Florida Statutes section 163.3187 and Lee County Administrative Code 13-6: Annual Plan Amendment Procedure to the Lee Plan.
- 8.3 The Board of County Commissioners reserves the right to adopt, not adopt or modify any and all of the community plan's suggestions.

PETITION IN OPPOSITION TO CPA 2012-00001-RIVER HALL AND REZONING REQUEST DCI2013-00003

We, the undersigned residents of Lee County, object to the approval of both CPA 2012-00001 and DC(2013-00003 which increase the density in the River Hall development by 1,000 units.

COMMUNITY: CONCERNED CITIZENS OF BAYSHORE COMMUNITY

PRINTED NAME	SIGNATURE	ADDRESS	STATE & ZIP CODE	TELEPHONE NO.
CAROLYN MORTON	Carolyn Morton	11480 Bayshore Rd.	N.F.M. 33917	543-4806
KAREN KAMENER	Karen Kamener	20777 BRADLEY Rd.	FL 33917	239-543-1435
CHRIS CAGLIOTI	Chris Caglioti	20301 BURN RD	N.F.M. 33913	239-823-6213
Sara Lengyel	Sara Lengyel	20150 W. Wynn Dr.	N.F.T. Myers, FL	239-887-7671
Steven Brodtkin	Steven Brodtkin	17720 Durance Rd.	N.F.T. Myers FL	239-543-6032
Pam Leppala	Pam Leppala	20400 Kula Ln.	N.F.M. 33917	543-3121
Jim Wiggins	Jim Wiggins	20400 Kula Ln.	N.F.L. 33922	543-3121
Randy Nisbet	Randy Nisbet	18800 Linn Dr	N.F.T. 33917	731-2000
DEBBIE JACKOW	Debbie Jackow	19450 Meredith Rd	N.F.T. Myers	543-5402
LOUI KAMMER	Lou Kamm	20777 Bradley Rd.	N.F.T. Myers	543-1435
Nathaniel Kammer	Nathaniel Kammer	1515 Hough Street	FL 33901	239-603-9284



Lee Public Voice is a network of organizations and associations that have come together with the purpose of working for more inclusive governance and meaningful public engagement, consistent with the county's motto of "community, transparency, and accountability." Our mission is to advocate and educate both elected official and the public in Lee County on issues that affect our sensitive natural resources, exceptional quality of life and a growing, diversified economy.

June 15, 2014

Dear Local Planning Agency Member,

Lee Public Voice wholeheartedly supports the staff recommendation to deny and not transmit the pending Green Pointe's plan amendment for the River Hall development based at least in large part on the community plan policy that states density will not be increased in the rural area.

As the staff report states the plan amendment causes the remaining River Hall rural lands, which are not included in the amendment, to exceed the allowable density.

The staff report notes that the Caloosahatchee Shores community plan goal is to retain its rural character and rural land use where it currently exists. In violation of the goal the plan amendment would redesignate almost 27% of the planning community's rural lands to an urban category. If approved this would set an unfortunate precedent for other rural areas of Lee County.

This policy, which has been a part of the Lee Plan since 2009, requires a "finding of overriding public necessity" by three members of the Board of County Commissioners before an amendment can be made to the "remaining rural lands category."

The staff report finds that the amendment does not qualify as an "overriding public necessity."

It further states:

"The term "overriding public necessity" was intended to have a strict meaning designed to protect the rural character of the community from amendments that will intensify development."

"Staff's analysis defines "overriding public necessity" as an unavoidable or indispensable need of all the people of Caloosahatchee Shores that requires precedence over other considerations or interests."

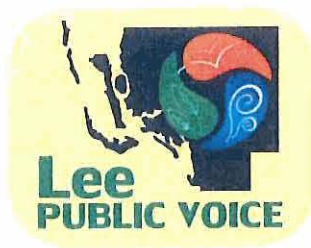
"The "overriding public necessity" requirement seeks an analysis of the need for the actual land use amendment that is being requested and not the need for public amenities offered."

By referring to lands, such as River Hall and Caloosahatchee Shores in general, as "remaining rural lands" the Community planning panel stated their intent with great clarity. Land of a rural character, once so plentiful in Lee County, has been disappearing at a rapid rate for decades, and deserves special attention.

We agree wholeheartedly with these recommendations and findings and urge the Local Planning Agency to recommend denial of the application to the Board of Commissioners.

Very truly yours,

Donald Eslick
Acting Chair
Lee Public Voice



Lee Public Voice is a network of organizations and associations that have come together with the purpose of working for more inclusive County governance and meaningful public engagement, consistent with the county's motto of "community, transparency, and accountability." Our mission is to advocate and educate both elected official and the public in Lee County on issues that affect our sensitive natural resources, exceptional quality of life and a growing, diversified economy.

Several of our members have many years of experience as advisors and observers of Lee County government. Their knowledge, experience and research is incorporated in the following perspectives on the history of Lee County governance, recent changes and present conditions and the changes that are needed if the county is to once again be on a path to achieving its long term goals.

Lee County Community Planning

Background

- Community plans date all the way back to the origins of the Lee Plan in the early 1980s, when Pine Island's initial efforts at local input over land use and zoning were included in the county's first comprehensive land use plan.
- The county authorized establishing Community Redevelopment Agencies (CRAs) in the late 1980s as a means for communities to have more control over development/redevelopment and to fund these efforts using a method dubbed Tax Increment Financing, which captured property tax increases above a baseline established at the CRA's formation to fund the redevelopment efforts. Many communities adopted the CRA approach, modified it somewhat, or remained focused on strict community planning. However, within a decade the county withdrew support for the CRAs due to the loss in tax revenue, leaving community planning as the only option (short of municipal incorporation) for communities to have a say in their land use and zoning.
- By 2000, three such community plans were formally under way in various stages, and county financial support was being sought for this effort.
- Lee County Administrative Code 13-3 was approved June 26, 2001, to establish formal procedures for community planning panels receiving financial support from Lee County. An additional planner was hired to act as liaison with the panels.

Community planning efforts have been undertaken in 15 of the 22 unincorporated Lee County planning areas:

- Alva (Northeast Lee County)
- Bayshore
- Boca Grande
- Buckingham
- Caloosahatchee Shores
- Captiva
- College Parkway
- Estero
- Greater Pine Island/Matlacha
- Lehigh Acres
- North Fort Myers
- North Olga
- Page Park
- Tice Historic Community (Palm Beach Boulevard)
- Upper (North) Captiva

Some of these are mature and active, some have established their regulations and gone dormant, and some are still in the formative phase.

Reasons for establishing community planning:

- Gave communities more autonomy over their land use and zoning – something almost every community has fought for at one time or another against a county planning effort that often applies a “one size fits all” approach to land use issues.
- The rationale for community planning varies according to the community and includes:
 - Maintaining rural character... Pine Island, Buckingham, Bayshore, Upper Captiva, Alva/Olga, Caloosahatchee Shores
 - Controlling redevelopment and other coastal issues... Captiva and Boca Grande
 - Controlling and supporting new development or redevelopment... Estero, North Fort Myers, Lehigh Acres, Tice, Page Park, College Parkway
- Community planning offers a means for local input and involvement where county leadership is lagging, but simpler than municipal incorporation, which many of these areas either could not achieve due to legal restrictions or could not afford without considerable tax increases to fund the nascent city.

Benefits of community planning:

- More local control over land use, zoning and development – a long-term point of contention in almost any community that used to have limited options for action.
- More engagement with county staff and officials (since the communities have a stake in the decisions now) and better understanding of county issues, concerns and obstacles (since the process forces communities to look at both sides of the issues being explored in order to win approval).
- Conversely, county planning and building staff has more sensitivity for local issues and concerns, especially since they’re now codified in the plan and code staff must enforce and implement.

- Affected municipal incorporation... Community planning and CRAs arguably provided the infrastructure for two areas to incorporate as municipalities (Fort Myers Beach in 1995 and Bonita Springs in 1999). The revised community planning process likely slowed or prevented desire for additional municipal incorporations until the decision by Estero leaders to pursue municipal incorporation due to issues with its neighboring city encroaching on its boundaries as well as Estero maturing as a community with a standalone identity and commercial core.
- It promotes more understanding of planning and land use among general public who engage in the process. By bringing the process to the neighborhood level (literally), it also encourages participation in planning meetings – which rarely happened when all the action was downtown.
- Enhances community building among planning areas and (perhaps) better understanding of other areas in terms of unique issues and concerns.
- Panels act as an incubator for innovation, as communities create new ways to solve issues that other communities may then want to adopt.

Costs of community planning:

- It does add another layer of rule-making to the zoning and development process.
- Some rules are no longer applied county-wide, but are specific to communities – so compliance takes a little more work for both applicants and staff.
- Adds one additional planning staff position, and some additional review for Lee Plan and LDC amendments.
- From FY 2001-2002 through FY 2012-2013 the county allocated approx. \$150,000 annually to fund community planning efforts via a grant program with local panels. In addition, a major planning study of Lehigh Acres was funded separately by the county.

Consequences if community planning is eliminated:

- Important conduit for dialogue between county government and communities will be lost.
- Could spur new incorporations, further balkanizing county governance and eroding tax base if wealthy communities remove their revenues from the Unincorporated MSTU millage.
- Will make development easier in theory, but loss could energize local activists to more aggressively oppose proposals that go against existing community character.
- If the county simply opts to ignore or countermand existing Lee Plan policies, a legal challenge to that county position by the communities being impacted is likely (since many of these communities are not intimidated by legal threats), would be expensive (something the county seems to use as an excuse now not to act) and, if history is any guide, would probably be doomed to failure given the continuing legal strength of comp plans in the courts.
- All planning/land use fights go back downtown, either in front of Local Planning Agency or Board of County Commissioners, rather than the county being able to force consensus from the community before issues are brought forward. Expect more hearings and more contentious crowds for the big issues... something most of the current commissioners have not had the opportunity to experience up close and personal.

- Would somewhat impact county staffing, since the need for planning staff would be reduced if there's no planning being done.
- It would not be unreasonable to expect a particularly strong backlash from communities with active planning efforts and/or more to lose with unregulated development. Once they're gotten used to having some say in their own affairs, it's going to be hard to un-ring that bell.
- It would also be feasible to see development self-select in a pattern that overall could be harmful for the county... i.e. quality development (or residents/businesses seeking a better quality of life) would opt for cities with healthy and sane planning efforts (thanks to all the benefits that smart growth accrues to those areas), while lesser-quality development would be drawn to unincorporated Lee County, where a laxity in planning and enforcement allows them to maximize profits over product... the kind of development that got this county in trouble in the 1950s and 1960s to begin with.



CONSERVANCY of Southwest Florida

OUR WATER, LAND, WILDLIFE, FUTURE.

Protecting Southwest Florida's unique natural environment and quality of life ... now and forever.

Via email

June 20, 2014

Lee County Land Planning Agency
Lee County
2120 Main Street
Fort Myer, FL 33901

Dear LPA members,

On behalf of our over 6,000 members and supporters, the Conservancy of Southwest Florida thanks the Lee County staff for their hard work on the staff report for the River Hall amendment dated June 13, 2014. As a regional organization dedicated to protection of our land, water, wildlife and future, we have been actively participating in meeting and providing comments and concerns about this project since August 2013.

We support the staff recommendations and findings of fact in the June 13, 2014 staff report. It is clear that staff has scoured the Lee Plan to determine consistency, as well as listened to and researched concerns expressed by River Hall residents and other interested parties. In this case, this application has been found to be inconsistent with the Lee Plan.

We note that pursuant to the agreement based on Section 163.3184(4), Florida Statutes between Lee County and GreenPointe approved on April 1, 2014, that this application is a continuation of the 2012 application. This agreement means that prior staff reports would be treated as drafts. This is due in part to the fact that GreenPointe submitted new information to Lee County staff, met with Lee County staff, and held public meetings. For a more detailed review of past county staff reports regarding River Hall, please see Attachment A.

This application represents the third time there has been an attempt to increase density on this property. Following the second request



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for additional units¹, in 2005 - 2007, the Caloosahatchee Shores Community amended their comprehensive plan in order to require a higher standard to redesignate land to a more intense land use category. That higher standard is that a minimum of three county commissioners find that there would be "overriding public necessity" for a land use change.

We agree with staff that the proposed amendment to Policy 5.1.10 would broaden the application of this policy, and that no analysis has been done to determine what impact and unintended consequences will occur, and thus, it is not in Lee County's interest to approve such a change.

We also had concerns about the proposed amendment to Policy 21.1.5. It seems incompatible that a policy adopted to make sure River Hall could not increase density would then be amended in order to increase density. If Lee County intends to back up their support of community planning, it is not in Lee County's interest to approve this requested change.

We agree with staff that the uncertainty of who within River Hall would have legal rights to the units is problematic. We agree with staff that if there is a question of legality in obtaining or using additional units, those legal questions must be answered before anything else happens. Thus, it is not in Lee County's interest to approve the requested change.

We believe that staff has crafted an appropriate definition for "overriding public necessity" to be used in the comprehensive plan process. The application does not meet this definition, and thus, Lee County should not recommend transmittal to the BoCC.

Speculative Development means no taking of property rights.

This is an important decision that deals with more than just this request. In 1999, the applicant asked for more units than were

¹ Please note that this request was for 2,800 units, fifty fewer than requested in this application

approved, and their request was approved for 1,999 units. In 2004, property owner asked for 1,000 additional units, and this request was not approved. In 2005, the property owner again asked for additional units, and was denied. In 2007, the Caloosahatchee Shores Community changed their community plan and amended the Lee County Comprehensive Plan to make it more difficult to increase density where the River Hall development is located.

In 2012, the applicant asked again for additional units. Part of their justification for approval is that they (River Hall) always planned to develop more than 1,999 units so there is no change in the development footprint.

The fact that the developer put "future development area" on their property map and installed utility fixtures that could accommodate additional development does not mean that Lee County is required to approve additional development. These additional units requested by GreenPointe are based on speculation from the developer that eventually, Lee County would change their mind.

Speculative development cannot be turned into a Bert Harris claim. The Bert Harris Act requires that the development be based on reasonably foreseeable, nonspeculative land uses.²

Lee County told GreenPointe (or GreenPointe investors under a different LLC) twice prior to the 2012 application that additional units would not be permitted on the River Hall site, and then adopted an amendment to the comprehensive plan requiring "overriding public necessity" to increase development in the area where River Hall is located. The message seems pretty clear and consistent: no additional units.

Any purchaser of the property should have performed appropriate due diligence and known that additional units had been denied twice and then noted that the comprehensive plan was changed to make it even more difficult to increase the number of units in the River Hall

² Section 70.001(3)(b)2

development. These facts make it seem highly unlikely that any entity or person could claim reasonable investment backed expectation to increase building entitlements on the River Hall property.

Conclusion

While this application has a long and storied past, the decision you need to make is pretty straight forward. The June 13, 2014 staff report shows that this application is not consistent with the Lee County Comprehensive Plan. It doesn't make sense to forward an application clearly inconsistent with the Lee County Comprehensive Plan to the state land planning agency. Therefore, we are asking you to recommend to the BoCC that they DO NOT TRANSMIT this application to the state land planning agency.

Thank you for your time in consideration of our issues and concerns. If you have further questions or need additional information, please contact me at (239) 262-0304 x 252 or by email at juliannet@conservancy.org.

Sincerely,

Julianne Thomas

Julianne Thomas
Growth Management Specialist

ATTACHMENT A

We understand that the applicant has provided you with a copy of the staff report dated September 25, 2013, however, we aren't sure why.

If the applicant is interested in looking at past staff reports, there are several others that should also be considered:

- CPA2004-00010 which asked for 1,000 proposed residential dwelling units had a recommendation to not transmit to the Board of County Commissioners (BoCC). The application was withdrawn prior to a BoCC vote.
- CPA2005-00007 asked for a change to allow up to 2,800 dwelling units. In May 16, 2007, the BoCC voted not to adopt this amendment.
- CPA2007-00001 is also relevant to this amendment. Following the second request from the owners of River Hall to increase the number of dwelling units, the Caloosahatchee Shores Community Plan amended their community plan to make it more difficult to increase density in the Caloosahatchee Shores area. The BoCC voted unanimously to adopt this change.

As noted in our comments and in the comments of many other participants, the September 25, 2013 staff report was lacking in data and analysis. Many of the issues raised in the public meetings on August 26, 2013, September 25, 2013 and April 17, 2014 have been addressed in the June 13, 2014 staff report.

RECEIVED
OCT 14 2014
COMMUNITY DEVELOPMENT

Michael and Gloria Scharfman
1280 Bluffs Cir
Dunedin, FL 34698

Our Property Data for Parcel 27-43-26-00-00001.0020
15131 Palm Beach Blvd.
Alva, FL 33920

— **October 12th., 2014** —

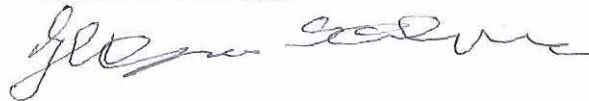
Mr. Brandon D. Dunn
Lee County Planning Division
1500 Monroe Street
Fort Myers, FL 33901

We strongly support the application from River Hall,
to allow 1000 additional dwelling units in their development.
Enclosed please find a copy of our property on Hwy 80,
Palm Beach Blvd, Alva, Florida

Michael Scharfman



Gloria Scharfman





Lee County Property Appraiser

Tax Year

[Next Lower Parcel Number](#) [Next Higher Parcel Number](#) [Tax Estimator](#) [Tax Bills](#) [Print](#)

Property Data for Parcel 27-43-26-00-00001.0020

Owner Of Record

SCHARFMAN MICHAEL + GLORIA
1280 BLUFFS CIR
DUNEDIN FL 34698

Site Address

15131 PALM BEACH BLVD
ALVA FL 33920

Legal Description

PARL IN NW 1/4 OF NW 1/4
N OF SR 80 DESC
IN OR 1021 PG 255

Classification / DOR Code

VACANT COMMERCIAL / 10

[Tax Map Viewer]



[Pictometry Aerial Viewer]



Protecting Southwest Florida's unique natural environment and quality of life ... now and forever.

Larry Kiker, Chair
Cecil L. Pendergrass
Frank Mann
John E. Manning
Brian Hamman
Board of County Commissioners
Lee County
2120 Main Street
Fort Myers, FL 33901

Re: Agenda item #42, Blue Sheet No. 20140610 for October 7, 2014 BCC meeting

Dear Chair Kiker and Lee County Commissioners,

On behalf of our 6000 members and supporters, the Conservancy of Southwest Florida is writing to ask you to vote no on agenda item 42 at this time. We object to any specific decisions concerning the River Hall plan amendment. Decisions regarding the application for a future land use map change for the River Hall property have been not been advertised for public hearing until Oct 22nd, 2014. We and others have been involved in the public hearing process for Greenpointe River Hall's plan amendment and the time to speak about and make decisions on River Hall will be on October 22, 2014 unless deferred to a later date.

Defining Overriding Public Necessity

The direction given to the county attorney office for this agenda item was to provide a starting point for defining "overriding public necessity". This term is found in four different community plans.

We believed that the county would only create a definition after holding public meetings with the four community planning panels. Only through the community planning process can the County further define what the community groups intended to accomplish by including "overriding public necessity" in each of their community planning policies.

This did not happen. Instead, the county attorney office has, on its own, drafted policies that are not consistent with what was intended by the communities. If, as a commission, you believe that defining overriding public necessity is necessary then we ask that you instruct the county attorney office to meet with the four community groups and Lee County planning staff so that a definition which will



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clarify rather than complicate the meaning of "overriding public necessity".

Tie-Vote Procedure

The blue sheet also states that one of the actions requested is "to provide procedure for cases that result in a tie vote". We do not recall the BCC asking for this.

There is a procedure for cases that result in a tie vote. If a motion to approve an application for a plan amendment fails to gain a majority of votes, that motion and the application for a plan amendment fails. If there is a tie, the motion fails. Rules of parliamentary procedure are clear on this, and there is no reason to create new procedures for tie votes that will prolong the application bringing it back time and time again to the BOCC month after month.

If an applicant wishes for their application to be heard by the full five member board, and they show up to the meeting to find that there are fewer than five members at a meeting for any reason, that applicant has the option of continuing their item to a time date certain (the next meeting) and presenting their application in front of the full commission.

If an applicant chooses to present their application to a board with four members, presumably that applicant is aware that there is a possibility of a tie vote. The applicant can either choose to proceed with the possibility of a tie vote or ask that their agenda item be continued to a time-date certain.

There is no reason to automatically continue meetings ad infinitum under such a tie-vote procedure, and we object to continuing applications that fail to obtain a majority vote for approval.

The applicant should only get to make their case at one meeting. To allow an applicant with a tie vote to revise their application, provide additional information and lobby board members before a new board meeting provides an unfair advantage to those applicants. We do not recall the Board instructing that such a procedure be created.

River Hall IS Rural Land

We are also concerned that the county attorney appears to include an un-noticed, un-advertised item in this blue sheet specifically addressing Greenpointe River Hall's plan amendment. This exceeded the scope of their direction and this topic is improper to address publicly outside of a properly advertised land use planning meeting.

We object to discussion of this item and urge the commission to defer this portion of the blue sheet request to the noticed public hearing. We respectfully remind the commission that the Florida Statutes Chapter 163 requirements for plan amendments have very specific public notice and map requirements for land use hearings. We believe it is contrary to the statute to hold discussion specifically on the Greenpointe River Hall's plan amendment during this blue sheet item.

We would also remind the commission that Policy 21.1.5 was created by Caloosahatchee Shore Community Planning Panel. It is improper for the county attorney to substitute their judgment for that of the community planning panel and the county planning staff.

The lands included in the Greenpointe River Hall plan amendment are designated as rural on the future land use map. This makes them legally, rural, and as such, subject to the requirements in Policy 21.1.5. To find otherwise - particularly to find otherwise and address this issue outside of the confines of a properly noticed land use hearing - would be to undermine the entire planning process and the comprehensive plan.

The purpose of the land use hearing, which is scheduled and advertised for October 22, 2014, is to determine whether or not rural is the appropriate designation.

Allowing the county attorney office to decide when "rural" really means "rural" and when it does not based primarily on whether or not the "r" in rural is capitalized or not capitalized is the opposite of predictable or reliable or meaningful and as such, is not consistent with Section 163.3177(1) of the Florida Statutes. Rural lands are shown on the FLUM and are therefore within the rural land use category.

It is your job as commissioners to protect the citizens of Lee County who have relied on the plan meaning of future land use map and the comprehensive plan.

Those citizens and the planning boards around the entire county all believe that land designated as "rural" on the future land use map will be considered "rural" in the context of the comprehensive plan.

It is imperative you protect the citizens of Lee County from legal arguments that will lead to confusion in both process and form when it comes to the comprehensive plan. It is your responsibility to maintain meaningful, predictable and reliable standards for the Lee County comprehensive plan.

We request that you ignore the portion of the blue sheet that improperly addresses issues that should only be discussed in a properly advertised land use hearing.

Conclusion

We are requesting you reject the proposed definition for "overriding public necessity" proposed as part of Agenda 42. We also request that any other issues discussed in this blue sheet be rejected.

Thank you for your time in consideration of these issues. If you have further questions or need additional information, please contact me at (239) 262-0304 x 252 or by email at juliannet@conservancy.org.

Sincerely,

Julianne Thomas

Julianne Thomas
Growth Management Specialist



CONSERVANCY
of Southwest Florida
OUR WATER, LAND, WILDLIFE, FUTURE.

Protecting Southwest Florida's unique natural environment and quality of life ... now and forever.

November 26, 2014

Mr. Ray Eubanks, Plan Processing Administrator
Department of Economic Opportunity
Division of Community Development
107 East Madison Street Caldwell Bldg, MSC 160
Tallahassee, Florida 32399

RECEIVED
DEC 02 2014

COMMUNITY DEVELOPMENT

Dear Mr. Eubanks,

On behalf of our over 6,000 members and supporters, the Conservancy of Southwest Florida is providing comment on CPA2012-01 from Lee County known as the River Hall Comprehensive Amendment. We attended and spoke at several Planning and Zoning meetings and Board of County Commissioner meetings. The most recent Planning and Zoning meeting was held June 23, 2014. The most recent Board of County Commissioner meeting was held on October 22, 2014. We have attended public meetings held by the applicant and many other meetings held by those who live in the River Hall community as well as other areas in Northeast Lee County.

The proposed changes are not consistent with the Lee County comprehensive plan, and are not "in compliance" with Florida Statutes. Many of the proposed changes are countervailing to appropriate and accepted professionally accepted planning methodologies, data and analysis. Some of the proposed changes adversely impact important state resources and facilities, including wetlands and listed species in the adjacent Hickey Creek Mitigation area.

The Community Planning Act, beginning at Section 163.3161

Section 163.3177(1), Florida Statutes

Balanced Commitments

Section 163.3177(1) of the Florida Statutes requires that a comprehensive plan, and any amendments, provide the principles, guidelines, standards and strategies for the orderly and balanced future economic, social, physical, environmental and fiscal development of the area that reflects community commitments.

In this case, we know the community planning commitments because these commitments are specifically delineated in the Lee Comprehensive Plan and community plan adopted as part of the Comprehensive Plan.



Conservancy of Southwest Florida has been awarded Charity Navigator's prestigious 4-Star top rating for good governance, sound fiscal management and commitment to accountability and transparency. Charity Navigator is America's largest and most respected independent evaluator of charities.

The main commitment for this planning area within Lee County, the Caloosahatchee Shores Planning Area, is to retain the rural land uses and rural character in this area.

Goal 21 of the Lee Comprehensive Plan is the Caloosahatchee Shore Community Plan. Goal 21 states that the goal of the Caloosahatchee Shores area is "to protect the existing character, natural resources and quality of life" and "maintaining a more rural identity for the neighborhoods east of I-75".

The **CALOOSAHATCHEE SHORES COMMUNITY PLAN** further states in **Lee Plan POLICY 21.1.5**: One important aspect of the Caloosahatchee Shores Community Plan goal is to retain its' rural character and rural land use where it currently exists. Therefore no land use map amendments to the remaining rural lands category will be permitted after May 15, 2009, unless a finding of **overriding public necessity** is made by three members of the Board of County Commissioners.

No finding of overriding public necessity was ever made. Thus, this proposed change is internally inconsistent with the Lee County Comprehensive Plan.

Additionally, this plan amendment is internally inconsistent with Goal 21 and Policy 21.1.5. This community planning area is located east of I-75. This request is to take land out of the "Rural" future land use district; in fact, this request would change the designation of 27% of the Caloosahatchee Shores Planning Area from Rural to an urban or suburban category. This re-designation is certainly not consistent with the commitments made by this planning area of Lee County codified in the Lee County Comprehensive Plan.

Predictable & Reliable Standards

The last sentence of Section 163.3177(1) of the Florida Statutes requires that Lee County establish meaningful and predictable standards for the use and development of land. This means that someone who purchases a home in a rural subdivision should reasonably be able to expect that they will live in a rural subdivision, at the density and intensity presented at time of purchase.

This request disregards these prior commitments, allows development of new suburban growth patterns on adjoining parcels that will be developed at different densities, with different lot sizes. The River Hall planned developments was not just "planned for now" but planned for the future. The comprehensive plan amendments will change the densities and lot sizes within River Hall in a manner that is not consistent with the existing development in a manner that existing River Hall residents could not predict. DEO and Lee County should not allow an applicant who owns less than 100% of a development (this applicant owns 65% of the River Hall development) to make changes which impact the entire development and impacts all land owners does not create meaningful and predictable standards for the use or development of land.

People would not buy in a planned development if they knew that at any time, the plan which they bought into could be abandoned and a new plan – different from the one they invested in – could be approved. This interferes with their investment backed expectations. **Their investment backed- expectation is real, not speculative.** The plan amendment does not maintain the previously established predictable and reliable standards for development of land, and as such, is not consistent with Section 163.3177(1) of the Florida Statutes. Allowing this type of change to an

entire community without the agreement of all who own property in that community in a manner that is internally inconsistent with the Lee Plan also undermines the "predictability" of growth management in Lee County.

The applicant's plan amendment will adversely affect the real property rights of the individual owners in order for the applicant may undertake speculative additional development on the River Hall site. **This request by the applicant is speculative.** The applicant said this was speculative development at a community meeting held in April 2014. Similar requests for this specific development area have been denied twice, any investment made by the applicant toward this request is a business decision based on *speculation* that the BOCC would change their mind and speculation that additional lots could be sold in River Hall which is less than 35% built out.

DEO should protect property rights of individual land owners who have not given permission or owner's authorization to apply for this plan amendment. Lee County should be required to protect property rights of individual land owners who specifically purchased lots in a rural subdivision, and based their investments on the development plan and density adopted by Lee County that represented and designated as rural with a maximum build out of 1999 units. This is called creating certainty in the marketplace, and maintaining predictable reliable standards.

A maximum of 1999 dwelling units is what the developer agreed to, what is reflected in the comprehensive plan, and is what the current applicant purchased. These owners purchased property with specific and distinct "investment backed expectations" that development of 1999 units would occur in the manner approved. Absent an "overriding public necessity", the Lee Plan is clear that there would be no additional density on lands designated rural in the Future Land Use Map within Caloosahatchee Shores Community Planning Area. These standards must be protected in order for Lee County to have and maintain meaningful and predictable land use regulations.

The applicant knew or should have known about the comprehensive plan density restrictions on this property. The applicant knows or should know the expectations of the other land owners in the River Hall development. The applicant wants additional entitlements with no consideration to the real property rights to these other owners in River Hall.

An additional failure to provide predictable and reliable standards is found on page 16 of the staff report (Attachment 9).

Staff states that density will be utilized from Suburban areas not included in the amendment or rezoning area **even though those landowners have not joined in with this request**. The applicant does not own these lands and is not entitled to any currently unused density on these Suburban lands. **Neither staff nor applicant know whose density they are taking to use for this applicant. This results in a taking of private property rights owned by others**. If there is no ownership, Lee County should not authorize any changes to that property or use of that density. DEO should not allow Lee County to use density that belongs to other people without their permission. There must be a responsibility to protect citizens from this type unscrupulous business practice.

Additionally, this same page of the Lee County staff report notes that approving this change will create internal inconsistency as the lands which remain designated as rural will have a density of 1.32 units each¹. Rural lands cannot have density greater than 1 unit per acre. Changes which increase or create internal inconsistencies with other policies in the duly adopted Comprehensive Plan should be found not in compliance.

The proposed amendment is not consistent with **163.3177(1)(f)**: All mandatory and optional elements of the comprehensive plan and plan amendments shall be based on relevant and appropriate data and analysis by the local government....to be based on data means to react to it in an appropriate way and to the extent necessary indicated by the data available on that particular subject at the time of adoptions or the plan or plan amendment at issue. In this case, the Lee Board of County Commissioners did not base their October 22, 2014 decision regarding the plan amendment on appropriate data and analysis.

The subject parcels of land in River Hall are designated as "rural". Therefore, the land must be considered "rural" in all of the analysis, including the requirement that in order for a change to occur that three members of the Board must make a finding of "overriding public necessity." To allow land designated as "rural" to follow regulations for anything other than rural lands is inappropriate.

In this case, the Lee County BCC did not react to the existing "rural" designation appropriately. There can be NO CHANGE to rural lands in the Caloosahatchee Shores Planning Area absent a finding of "overriding public necessity" by at least three commissioners. The Lee County determination that rural lands clearly designed on the future land use map of the future land use element of the comprehensive plan are not rural is unsupportable and is in direct opposition to the Future Land Use Map (FLUM).

Lands designated as rural on the future land use map should always, in the context of the comprehensive plan, be considered to be part of the rural land use category. To legitimize any reading of a future land use map that designates an area as rural to be treated in way other than the prescribed method to treat rural lands would be grossly inconsistent with these Florida Statutes, which require comprehensive plans and comprehensive planning decisions to be based on relevant and appropriate data.

This plan amendment will lead to negative environmental impacts to the Hickey Creek Mitigation Area, which is a regional resource. The Lee County Environmental Sciences staff specifically states "that the additional units allowed by the increase in density will lead to increased and possibly negative human/wildlife interactions." Lee County staff notes that the proposed Comprehensive Plan amendment "does not propose any additional protection of preserved habitat or protection of listed species then the current existing zoning approvals and conservation easements. Lee

¹ See page 16 of the staff report, attachment 9.

County Environmental Sciences staff is also concerned that the amendment will allow the applicant to add 851 residential units to areas that are adjacent to documented gopher tortoise, burrowing owl, American Alligator, Florida Sandhill Crane, listed wading birds and Florida Scrub Jays; and areas that have suitable habitat for the Florida Panther and Black Bear.”

The Southwest Florida Regional Planning Council also expressed concerns about the impacts to the Hickey Creek Mitigation Park. This park is a regional resource that several counties have paid into in order to mitigate development in other areas. As Dr. James Beever explained at the November 20, 2014 meeting, the Hickey Creek Mitigation Park is adjacent to and directly east of River Hall and is a regional resource for species-of-concern (including gopher tortoise and scrub jay) with regards to relocation, mitigation, and preservation. The Park uses prescribed burns as part of its management plan. Increased residential density has the potential to create conflicts between residents and the Park’s management plan. Increased conflicts could jeopardize the management, operation, and/or function of the Park as a regional mitigation resource.

Therefore, this amendment is not consistent with **163.3177(6)(a)3.f**: The future land use element shall include criteria to be used to ensure the protection of natural and historic resources. This amendment is also not consistent with **163.3177(6)(a)3.g**: The future land use element shall include criteria to be used to provide for compatibility of adjacent land uses. Additionally this amendment is not consistent with **163.3177(6)(a)9.a.(IV)** The future land use and any amendment to the future land use shall discourage the proliferation of urban sprawl. A primary indicator of urban sprawl is a policy which “fails to adequately protect and conserve natural resources such as wetlands, floodplains, native vegetation, environmentally sensitive areas, natural groundwater aquifer recharge areas, lakes, rivers, shorelines, beaches, bays, estuarine systems, and other significant natural systems.

The amendment is not consistent with **163.3177(6)(a)9.a.(IX)** The future land use and any amendment to the future land use shall discourage the proliferation of urban sprawl. A primary indicator of urban sprawl is a policy which “fails to provide a clear separation between rural and urban uses.” This amendment removes 27% of the rural lands from the Caloosahatchee Shores Planning Area. Right now, this area separates rural and urban uses. If this rural designation is changed from rural to Suburban, there will be significantly less separation between rural and urban uses. This amendment is a dangerous precedent which encourages sprawl and could easily lead to the premature conversion of rural lands to other more urban uses.

Lee County Staff has concerns that the additional residential units, regardless of where they are constructed, will cause additional traffic/transportation issues. Additional units will generate additional vehicle trips, which will increase level of service deficiencies at the project entrance on S.R. 80, and could cause level of service deficiencies at nearby intersections such as Buckingham Road/S.R. 80 and S.R. 31/S.R. 80. LeeTran, which does not currently provide service to this area, has expressed concern that the redesignation of this land to an urban future land use category, may necessitate that urban types of services, such as transit, are provided. LeeTran states that

this would result in additional unfunded needs because those type of improvement were never planned for these rural lands. Additional public improvements and services may be necessary for future residents if the amendment is approved.

Spot Zoning and Enclaves

On two different pages, the staff report states that approval of this request will create enclaves of future land uses². In addition, this request will result in spot zoning (or reverse spot zoning) in the concurrent rezoning application. "Enclave" is a term used in annexations³. The same concept in zoning is called spot zoning. Both practices – annexation of enclaves and spot zoning – are prohibited. Enclaves are prohibited by Florida statutes, case law finds against spot zoning. Future land use map enclaves (FLUMES) undermine comprehensive planning. The creation of FLUMES allows for special benefit of a limited group of property owners at the expense of others and is inconsistent with the community plan. Case law and planning principles are against this type of classification. Spot zoning is the common law name given to the piecemeal rezoning of land to a greater density, leading to disharmony with the surrounding area. Spot zoning is generally considered as giving preferential treatment to one parcel at the expense of another, or of the zoning scheme as a whole.⁴ Another definition found in Florida case law for "spot zoning" is a rezoning which creates pockets of different uses solely for the benefit of a particular property owner.⁵ The courts have consistently found that spot zoning does not comply with established zoning law, and that spot zoning leads to disintegration of established zoning districts.⁶

In the staff report, as a reason to not transmit, staff states that this amendment will create "enclaves of future land use classifications."⁷ ⁸ This request represents similar bad planning policy which would cause inconsistency within community character. The staff report states that because the applicant does not have unified control over all the lands, there are tracts of land that will remain rural that will be surrounded by sub-outlying suburban lands. Page 21 of the transmittal package shows the enclaves that will be created if this amendment is adopted.

Although this is on a future land use map, not an annexation, it is clear that enclaves are against public policy in the state of Florida and contrary to professionally accepted planning practices, methodology and analysis and public policy. There is no reason to think that enclaves on a future land use map are beneficial or good public policy. Lee County and the State of Florida should not

² See pages 5 and 13 of the staff report (Attachment 9).

³ To draw an analogy, in annexations, enclaves are prohibited because of public policy planning concerns. The 2013 Florida Statutes, Section 171.046(1) states that "[t]he Legislature recognizes that enclaves can create significant problems in planning, growth management, and service delivery, and therefore declares that it is the policy of the state to eliminate enclaves."

⁴ Bird-Kendall Homeowners Associates et. al vs. Metropolitan Dade County Board of County Commissioners, 695 So. 2d 9081 1997 Fla. App. LEXIS 7194

⁵ Southwest Ranches Homeowner Assoc. v. Broward Count, 502 So. 2d 931,935 (Fla. 4th DCA 1987)

⁶ Bird-Kendall Homeowners Associates et. al vs. Metropolitan Dade County Board of County Commissioners, 695 So. 2d 9081 1997 Fla. App. LEXIS 7194 stating that the change would impact the character of the entire neighborhood but only benefit the applicant.

⁷ Creating enclaves of future land use categories is also one of the findings of fact on page 5 (Attachment 9).

⁸ Page 13 (Attachment 9) of the staff report states that the proposed amendment will create enclaves of land that would not match future land use category of the surrounding property in the development because the applicant does not have unified control of the land.

approve the creation of enclaves on their future land use map and should find amendments which create enclaves such as this one "not in compliance".

Conclusion

There are many planning reasons to find this plan amendment, which affects regional resources, "not in compliance" with the Community Planning Act. The amendment is internally inconsistent with the duly adopted Lee Plan, and did not follow the appropriate procedure laid out in the Lee County Comprehensive Plan for changes to rural areas of the Caloosahatchee Shores planning area. This amendment creates internal inconsistencies, not only in terms of density, but also creates future land use map enclaves, which are contrary to professionally accepted planning policies and procedures.

We have attempted to highlight some of the issues for you, though we know more exist. We believe the changes are countervailing to accepted and acceptable planning policies, do not properly protect significant regional resources, specifically the adjacent Hickey Creek Mitigation Park. We ask that the Department of Economic Opportunity find that this amendment adversely affects significant regional resources, and further recommend and find this plan amendment not in compliance with the Community Planning Act for the reasons stated herein.

Thank you for your time in consideration of these issues. Please feel free to contact me if you have any questions, concerns or would like additional information. I can be reached by email at juliannet@conservancy.org or by phone at 239-262-0304 x 252.

Sincerely,



Julianne Thomas, Growth Management Specialist

Cc: Ana Richmond, DEO

Brenda Winningham, DEO

Larry Kiker, Chair, Lee County Commissioner

Brian Hammqn, Vice Chair, Lee County Commissioner

Frank Mann, Lee County Commissioner

John Manning, Lee County Commissioner

Cecil Pendergrass, Lee County Commissioner

Paul O'Connor, Director, Lee County Planning Division

May 28, 2015

17131 Easy Stream Court
Alva, FL 33920

Mr. Brian Hamman, Chairman
Lee County Board of County Commissioners
2120 Main Street
Fort Myers, FL 33901

Dear Mr. Hamman:

Re: Lee County Comprehensive Plan Amendment - CPA2012-00001

I am a resident of River Hall, and the Chairman of the River Hall Community Development District (District) Board of Supervisors (Board). The purpose of this letter is to inform you of what I believe are the negative consequences of the above referenced plan amendment to the District and, more significantly, to its residents. Although the Board took official action to oppose the passage of CPA2012-00001, I am writing this letter on my own behalf.

As you know, CPA2012-00001 is the developer's request to change the land use classification of River Hall from Rural, which allows one unit per acre, to a land use classification that will allow for more than one unit per acre.

As you also know, government infrastructure must be maintained, repaired and eventually replaced. The more people who use the infrastructure, the more maintenance and repairs will have to be performed to keep it functioning properly. In addition, the more infrastructure is used, the sooner it will have to be replaced. Infrastructure maintenance, repair and replacement costs are a major part of a government's budget, with taxpayers bearing the burden.

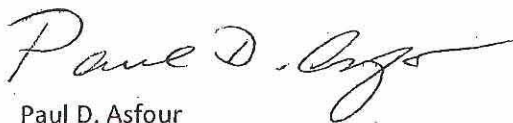
The District assesses its residents for the operation, maintenance and replacement of its infrastructure, without financial assistance from Lee County. With that in mind, approval of CPA2012-00001 will obligate the District to incur additional costs to maintain and repair its infrastructure due to increased usage caused by the added units. That additional usage will also result in replacement of the infrastructure sooner than anticipated. Consequently, those additional costs will place a burden on the residents within the District who will have to pay those costs.

I am quite sure that if the State of Florida obligated Lee County to incur additional costs on a project, without financial assistance from the State, the Board of County Commissioners would cry foul and point to Article VII, Section 18 of the Florida Constitution to prohibit that obligation without financial assistance from the State. I see no difference between an unfunded financial burden placed on a county by the state and this one. Both obligate a separate governmental entity to incur additional costs, without financial assistance from the governmental entity creating the obligation.

Please bear in mind that CPA2012-00001 is not just an agreement between Lee County and a developer attempting to get his project approved. It now involves the District, a separate governmental entity, with a majority of the Board (four of the five seats) consisting of River Hall residents elected by other River Hall residents to represent their interests.

Therefore, I respectfully request that you consider the additional financial obligation the Lee County Board of County Commissioners will be placing on the District's residents with the passage of CPA2012-00001, and vote not to approve.

Sincerely,


Paul D. Asfour