



LEE COUNTY BOARD OF COUNTY COMMISSIONERS

COMPREHENSIVE PLAN AMENDMENT  
and  
ZONING AGENDA

Wednesday, October 17, 2018  
9:30AM

**CPA2017-00009**

115 TREELINE - ADOPTION

**DCI2018-00010**

Z-18-020

GREAT SPACE STORAGE US 41

**REZ2017-00005**

Z-18-026

ARVEY REZONING

**NOTICE OF PROPOSED AMENDMENT TO THE  
LEE COUNTY COMPREHENSIVE LAND USE PLAN  
(ADOPTION HEARING)**

The Lee County Board of County Commissioners will hold a public hearing to consider the adoption of proposed amendments to the Lee County Comprehensive Land Use Plan (Lee Plan) on Wednesday, October 17, 2018. The hearing will commence at 9:30 a.m., or as soon thereafter as can be heard, in the Board Chambers, 2120 Main Street in Downtown Fort Myers.

The Board proposes to adopt an ordinance amending the Lee Plan as follows:

**CPA2017-00009, 115 Treeline:** Amend the future land use map from Tradeport and Wetlands to Urban Community and Wetlands on 115+/- acres located west of Treeline Avenue and south of Bavaria Road.

Copies of this Notice and the proposed ordinance are available for inspection or copying during regular business hours at the Minutes Office of the Clerk of Courts of Lee County, located in the Courthouse Administration Building, 2115 Second Street, Fort Myers, Florida. This meeting is open to the public. Interested parties may appear at the meeting and be heard with respect to the proposed plan amendment. A verbatim record of the proceeding will be necessary to appeal a decision made at this hearing.

It is the intent of the Board of County Commissioners that the provisions of this Ordinance may be modified as a result of consideration that may arise during Public Hearing(s). Such modifications shall be incorporated into the final version.

Lee County will not discriminate against individuals with disabilities. To request an accommodation, contact Joan LaGuardia, (239) 533-2314, Florida Relay Service 711, or [ADArequests@leegov.com](mailto:ADArequests@leegov.com), at least five business days in advance.

**CPA2017-00009**

**115 TREELINE**

**Summary Sheet  
115 Treeline  
CPA2017-09**

**Request:**

Amend Lee Plan Future Land Use Map to designate 115 acres from Tradeport and Wetlands to Urban Community and Wetlands.

**Public Comments:**

One member of the public addressed the Board concerning drainage issues caused by the construction of Treeline Avenue and requested that the applicant help resolve the water management issue as construction moves forward. The Board asked questions about water management permitting and timing. Staff and the applicant responded that the ERP applications would be reviewed concurrent with the zoning and development order applications.

**BoCC Motion:**

A motion was made to transmit CPA2017-00009 as recommended by staff. The motion was passed 5 to 0.

**VOTE:**

<b>BRIAN HAMMAN</b>	<u>AYE</u>
<b>LARRY KIKER</b>	<u>AYE</u>
<b>FRANK MANN</b>	<u>AYE</u>
<b>JOHN MANNING</b>	<u>AYE</u>
<b>CECIL L. PENDERGRASS</b>	<u>AYE</u>

**State Reviewing Agency Objections, Recommendations, and Comments:**

Lee County received responses from the following review agencies addressing the amendment: Florida Department of Economic Opportunity (DEO), South Florida Water Management District (FWMD), Florida Department of Environmental Protection (DEP), Florida Department of Agriculture and Consumer Services and Florida Fish and Wildlife Conservation Commission (FWC). There were no objections to the proposed amendments. FWC comments regarding known protected species in the area will be addressed through zoning conditions.

**Staff Recommendation:**

Staff recommends the Board of County Commissioners **Adopt** the amendment, as proposed by staff, to the state reviewing agencies.

**LEE COUNTY ORDINANCE NO. 18-\*\***

115 Treeline  
(CPA2017-00009)

**AN ORDINANCE AMENDING THE LEE COUNTY COMPREHENSIVE PLAN, COMMONLY KNOWN AS THE “LEE PLAN,” ADOPTED BY ORDINANCE NO. 89-02, AS AMENDED, SO AS TO ADOPT AMENDMENT PERTAINING TO 115 TREELINE (CPA2017-00009) APPROVED DURING A PUBLIC HEARING; PROVIDING FOR PURPOSE, INTENT, AND SHORT TITLE; AMENDMENTS TO ADOPTED MAP; LEGAL EFFECT OF “THE LEE PLAN”; PERTAINING TO MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING; GEOGRAPHICAL APPLICABILITY; SEVERABILITY, CODIFICATION, SCRIVENER’S ERRORS, AND AN EFFECTIVE DATE.**

WHEREAS, the Lee County Comprehensive Plan (“Lee Plan”) and Chapter XIII, provides for adoption of amendments to the Plan in compliance with State statutes and in accordance with administrative procedures adopted by the Board of County Commissioners (“Board”); and,

WHEREAS, the Board, in accordance with Section 163.3181, Florida Statutes, and Lee County Administrative Code AC-13-6 provide an opportunity for the public to participate in the plan amendment public hearing process; and,

WHEREAS, the Lee County Local Planning Agency (“LPA”) held a public hearing on the proposed amendment in accordance with Florida Statutes and the Lee County Administrative Code on May 21, 2018; and,

WHEREAS, the Board held a public hearing for the transmittal of the proposed amendment on August 8, 2018. At that hearing, the Board approved a motion to send, and did later send, proposed amendment pertaining to 115 Treeline (CPA2017-00009) to the reviewing agencies set forth in Section 163.3184(1)(c), F.S. for review and comment; and,

WHEREAS, at the August 8, 2018 meeting, the Board announced its intention to hold a public hearing after the receipt of the reviewing agencies’ written comments; and,

WHEREAS, on October 17, 2018, the Board held a public hearing and adopted the proposed amendment to the Lee Plan set forth herein.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, THAT:**

## SECTION ONE: PURPOSE, INTENT AND SHORT TITLE

The Board of County Commissioners of Lee County, Florida, in compliance with Chapter 163, Part II, Florida Statutes, and with Lee County Administrative Code AC-13-6, conducted public hearings to review proposed amendments to the Lee Plan. The purpose of this ordinance is to adopt map and text amendments to the Lee Plan discussed at those meetings and approved by a majority of the Board of County Commissioners. The short title and proper reference for the Lee County Comprehensive Land Use Plan, as hereby amended, will continue to be the "Lee Plan." **This amending ordinance may be referred to as the "115 Treeline Ordinance (CPA2017-00009)."**

## SECTION TWO: ADOPTION OF COMPREHENSIVE PLAN AMENDMENT

The Lee County Board of County Commissioners amends the existing Lee Plan, adopted by Ordinance Number 89-02, as amended, by adopting an amendment, which amends the Future Land Use Map from Tradeport and Wetlands to Urban Community and Wetlands on 115± acres located west of Treeline Avenue and south of Bavaria Road, known as 115 Treeline (CPA2017-00009).

The corresponding Staff Reports and Analysis, along with all attachments and application submittals for this amendment are adopted as "Support Documentation" for the Lee Plan. Proposed amendments adopted by this Ordinance are attached as Exhibit A.

## SECTION THREE: LEGAL EFFECT OF THE "LEE PLAN"

No public or private development will be permitted except in conformity with the Lee Plan. All land development regulations and land development orders must be consistent with the Lee Plan as amended.

## SECTION FOUR: MODIFICATION

It is the intent of the Board of County Commissioners that the provisions of this Ordinance may be modified as a result of consideration that may arise during Public Hearing(s). Such modifications shall be incorporated into the final version.

## SECTION FIVE: GEOGRAPHIC APPLICABILITY

The Lee Plan is applicable throughout the unincorporated area of Lee County, Florida, except in those unincorporated areas included in joint or interlocal agreements with other local governments that specifically provide otherwise.

## SECTION SIX: SEVERABILITY

The provisions of this ordinance are severable and it is the intention of the Board of County Commissioners of Lee County, Florida, to confer the whole or any part of the powers herein provided. If any of the provisions of this ordinance are held unconstitutional by a court of competent jurisdiction, the decision of that court will not affect or impair the remaining provisions of this ordinance. It is hereby declared to be the legislative intent of the Board that this ordinance would have been adopted had the unconstitutional provisions not been included therein.

## SECTION SEVEN: INCLUSION IN CODE, CODIFICATION, SCRIVENERS' ERROR

It is the intention of the Board of County Commissioners that the provisions of this ordinance will become and be made a part of the Lee County Code. Sections of this ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section," "article," or other appropriate word or phrase in order to accomplish this intention; and regardless of whether inclusion in the code is accomplished, sections of this ordinance may be renumbered or relettered. The correction of typographical errors that do not affect the intent, may be authorized by the County Manager, or his designee, without need of public hearing, by filing a corrected or recodified copy with the Clerk of the Circuit Court.

## SECTION EIGHT: EFFECTIVE DATE

The plan amendments adopted herein are not effective until 31 days after the State Land Planning Agency notifies the County that the plan amendment package is complete. If timely challenged, an amendment does not become effective until the State Land Planning Agency or the Administrative Commission enters a final order determining the adopted amendment to be in compliance. No development orders, development permits, or land uses dependent on this amendment may be issued or commence before the amendment has become effective. If a final order of noncompliance is issued by the Administration Commission, this amendment may nevertheless be made effective by adoption of a resolution affirming its effective status.

THE FOREGOING ORDINANCE was offered by Commissioner \_\_\_\_\_, who moved its adoption. The motion was seconded by Commissioner \_\_\_\_\_. The vote was as follows:

John Manning \_\_\_\_\_  
Cecil Pendergrass \_\_\_\_\_  
Larry Kiker \_\_\_\_\_  
Brian Hamman \_\_\_\_\_  
Frank Mann \_\_\_\_\_

DONE AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_.

ATTEST:  
LINDA DOGGETT, CLERK

LEE COUNTY BOARD OF  
COUNTY COMMISSIONERS

BY: \_\_\_\_\_  
Deputy Clerk

BY: \_\_\_\_\_  
Cecil Pendergrass, Chair

DATE: \_\_\_\_\_

APPROVED AS TO FORM FOR THE  
RELIANCE OF LEE COUNTY ONLY

\_\_\_\_\_  
County Attorney's Office

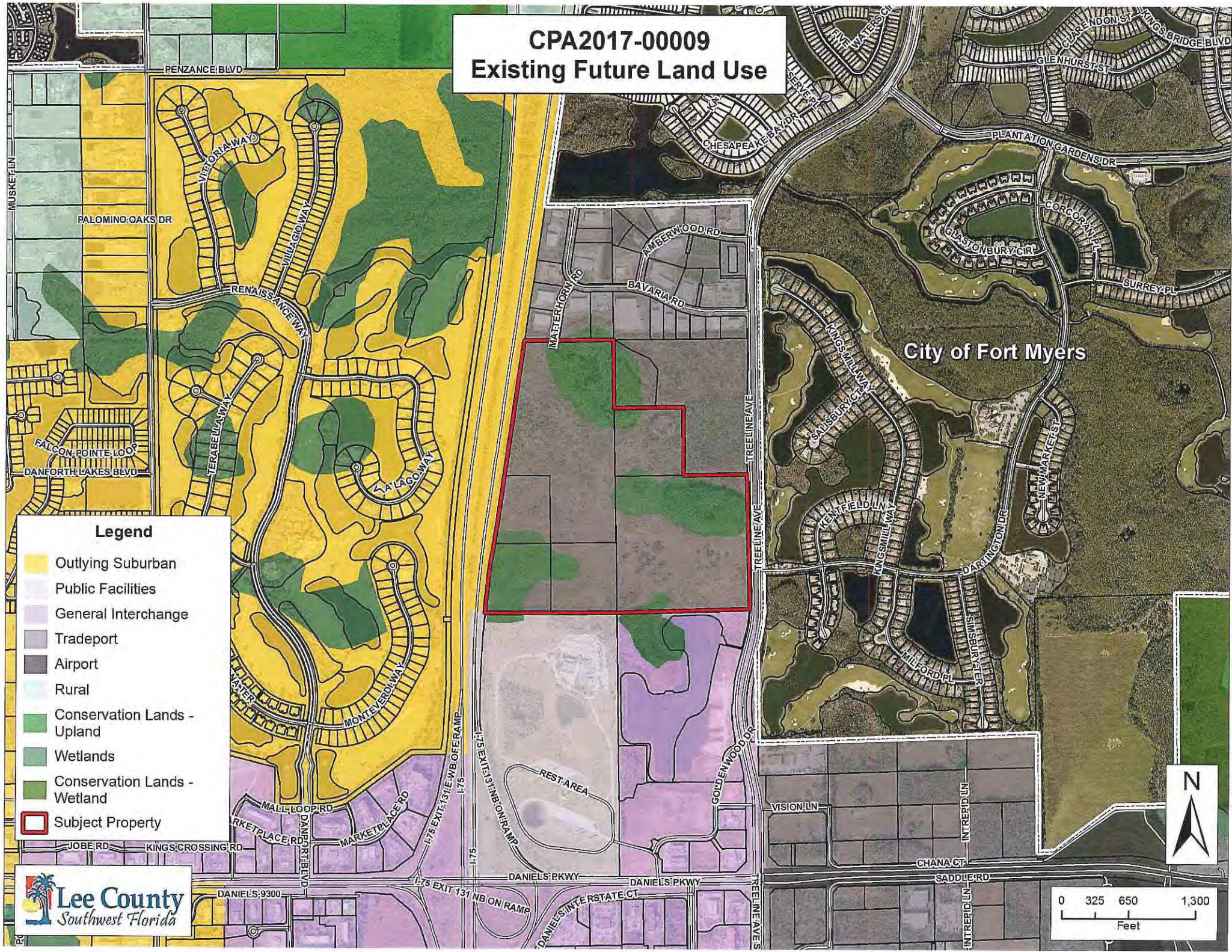
Exhibit A: Adopted revisions to Future Land Use Map (Adopted by BOCC October 17, 2018)

Existing Future Land Use Map  
Proposed Future Land Use Map



## EXHIBIT A

**CPA2017-00009**  
**Existing Future Land Use**



City of Fort Myers

**Legend**

- Outlying Suburban
- Public Facilities
- General Interchange
- Tradeport
- Airport
- Rural
- Conservation Lands - Upland
- Wetlands
- Conservation Lands - Wetland
- Subject Property

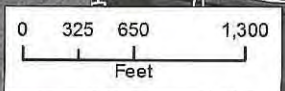
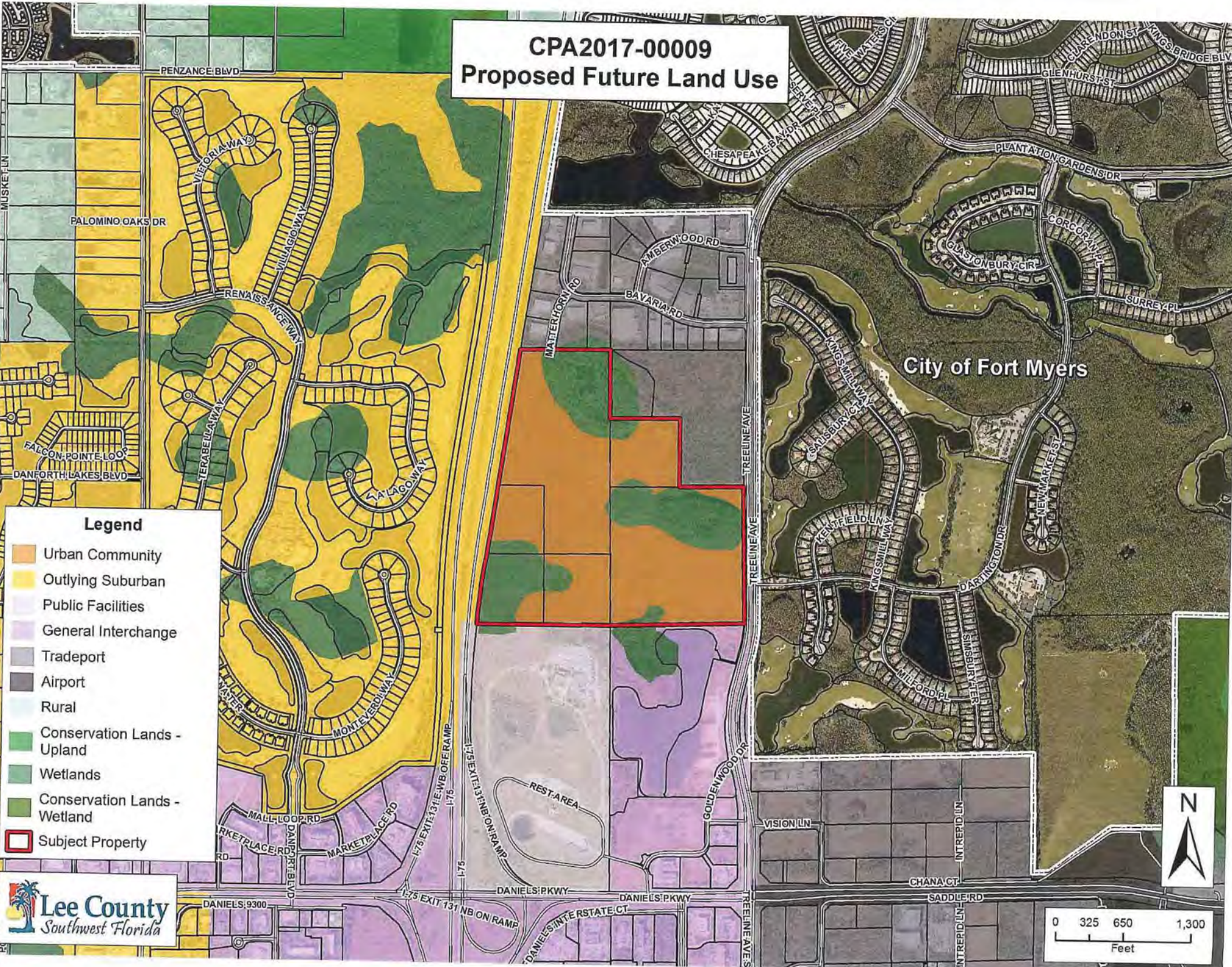


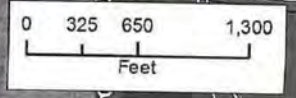
Exhibit A

**CPA2017-00009**  
**Proposed Future Land Use**



City of Fort Myers

- Legend**
- Urban Community
  - Outlying Suburban
  - Public Facilities
  - General Interchange
  - Tradeport
  - Airport
  - Rural
  - Conservation Lands - Upland
  - Wetlands
  - Conservation Lands - Wetland
  - Subject Property



**Applicant:**  
BJ Holdings of Fort  
Myers LLC

**Representative:**  
Waldrop  
Engineering

**Size:**  
115± acres

**Location:**  
Gateway/Airport  
Planning  
Community

**Commissioner**  
**District: #2**

**Attachments:**  
FLUM Existing  
FLUM Proposed

**Hearing Dates:**  
LPA: 5/21/2018  
BoCC: 8/08/2018  
BoCC: 10/17/2018

**REQUEST**

Amend Lee Plan Future Land Use Map to designate 115 acres from Tradeport and Wetlands to Urban Community and Wetlands.

**PROJECT LOCATION**

The subject property is located on the west side of Treeline Avenue, about a half-mile north of Daniels Parkway and approximately 1,600 feet south of Bavaria Road.

**FIGURE A: AERIAL LOCATION MAP**



**RECOMMENDATION**

Staff recommends that the Board of County Commissioners **adopt** the amendment to designate the subject property to Urban Community and Wetlands based on the analysis and findings in this staff report.

FIGURE B: EXISTING FUTURE LAND USE MAP

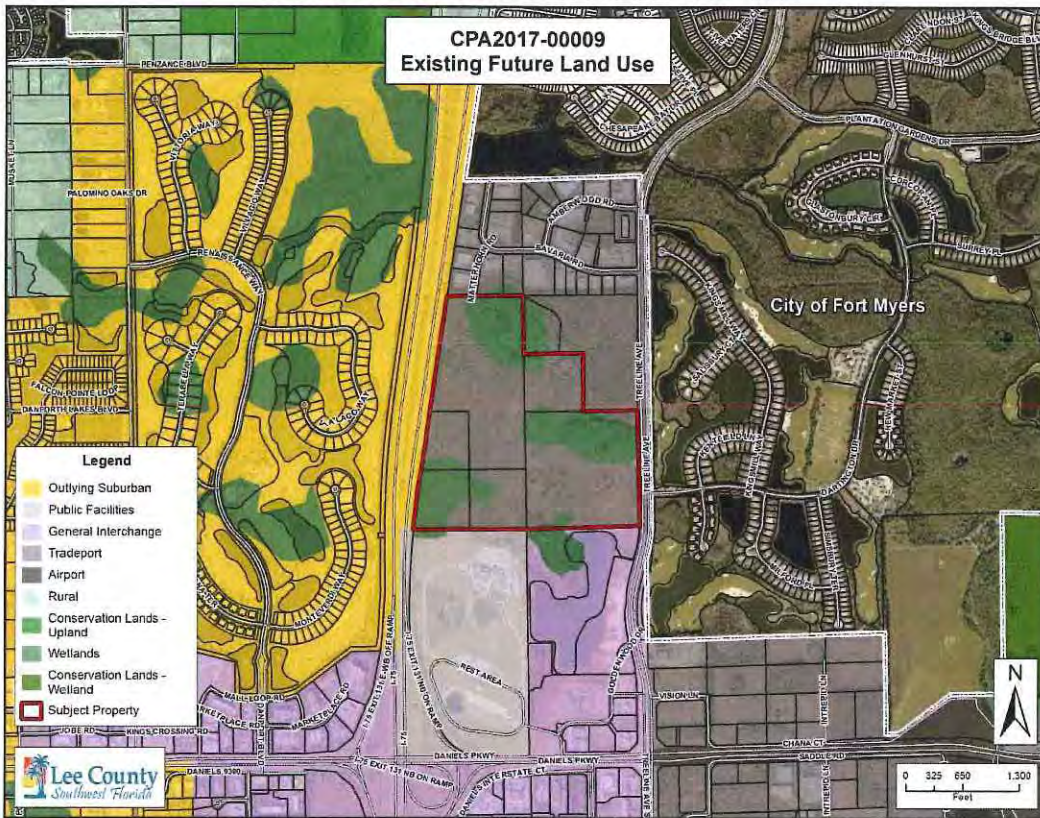
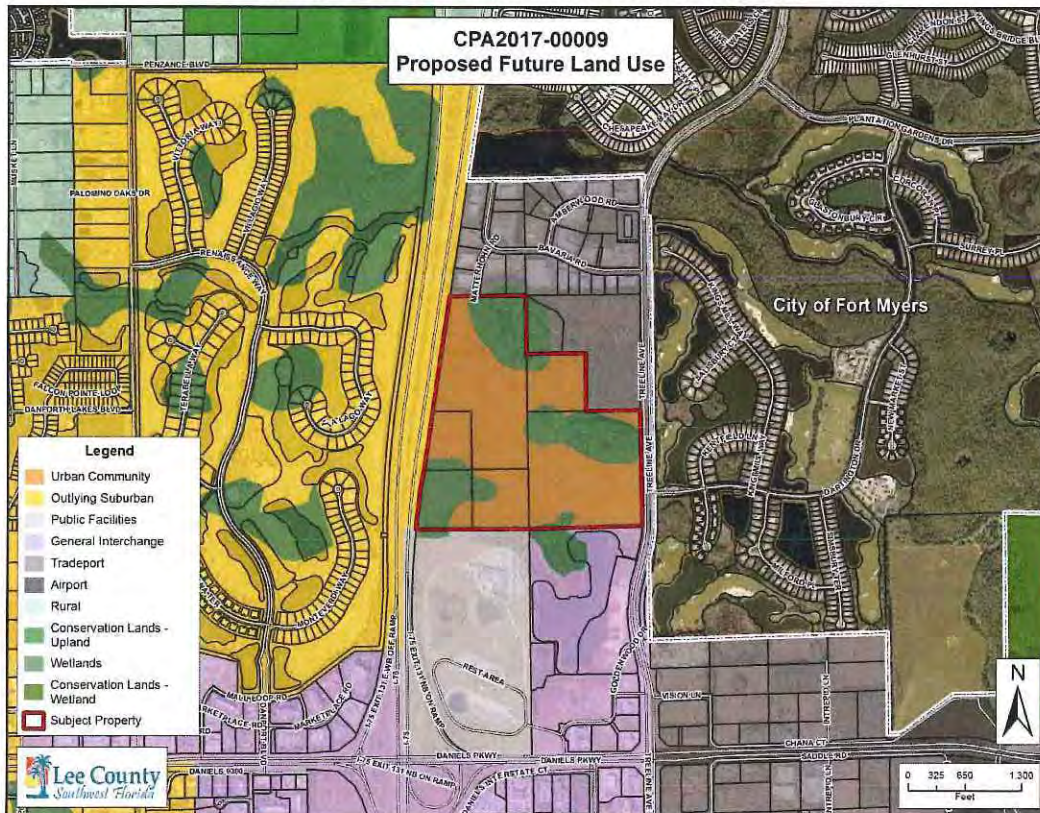


FIGURE C: PROPOSED FUTURE LAND USE MAP



**Concurrent Application Review:** The applicant has also filed a companion rezoning application (DCI2018-00007) that is being reviewed concurrently with the plan amendment application. The applicant is seeking to rezone the subject property from Agricultural (AG-2) and Light Industrial (IL), to Mixed Use Planned Development (MPD).

Florida Statutes Chapter 163.3184(12) provides that "At the request of an applicant, a local government shall consider an application for zoning changes that would be required to properly enact any proposed plan amendment transmitted pursuant to this subsection." This requires Lee County provide concurrent review of the rezoning request.

Staff notes that even with the recommended adoption of the proposed map amendment, the applicant must demonstrate consistency with the Lee Plan, including the proposed amendments, in order for the companion rezoning to receive a favorable recommendation.

## **PART 1 PROPERTY INFORMATION**

The subject property is composed of six parcels containing approximately 115± acres. It is located on the west side of Treeline Avenue, about a half-mile north of Daniels Parkway and 1,600 ± feet south of Bavaria Road. The City of Fort Myers' city limits is located to the east of the subject property, on the other side of Treeline Avenue. The subject property is located in the Gateway/Airport Planning Community and is currently in the Tradeport and Wetlands future land use categories.

### **Gateway/Airport Vision Statement:**

The Gateway/Airport Planning Community has three components; the subject property is within the area anticipated to develop with high tech/clean industry businesses.

*The airport expansion and the completion of Florida Gulf Coast University are expected to energize the remaining area in this community, including the commercial and industrial components. This portion of the community is to the south and west of Gateway and the airport and extends west of I-75 along Alico Road. While this segment of the community is not expected to build out during the timeframe of this plan, the area will be much more urbanized with hi-tech/clean industry businesses. (Amended by Ordinance No. 04-16, 07-12, 09-14, 10-20)*

### **Current Future Land Use Categories – Tradeport and Wetlands:**

Fifty-three acres of the subject property is designated as Tradeport on the future land use map. Sixty-two acres are in the Wetlands future land use category. The Tradeport future land use category is limited to light manufacturing or assembly, warehousing, and distribution facilities; research and development activities; laboratories; ground transportation and airport related terminals or transfer facilities; hotels/motels, meeting facilities; and office uses. It does not allow residential land uses.

***POLICY 1.2.2:** The Tradeport areas are commercial and industrial lands adjacent to the airport needed to accommodate projected growth through the year 2030. These areas will include developments consisting of light manufacturing or assembly, warehousing, and distribution facilities; research and development activities; laboratories; ground transportation and airport related terminals or transfer facilities; hotels/motels, meeting facilities; and office uses. Stand alone retail commercial uses intended to support and compliment the surrounding business and industrial land uses are permitted if they are approved as part of a Development of Regional Impact (DRI) or Planned Development rezoning. Stand alone retail commercial uses are limited to 1 acre out of every 10 Tradeport and preserved wetland acres within the*

*project. To provide an incentive to preserve upland habitat, Developments of Regional Impact or Planned Developments may also receive additional stand alone retail acres at the rate of 1 additional acre out of every 10 acres of preserved and enhanced uplands within the project that protect wetlands, flowways or occupied listed species habitat. Ancillary retail commercial uses, related directly to the sale of products manufactured or services provided in the Tradeport, are allowed if they are part of a Planned Development. Residential uses, other than bona fide caretaker residences, are not permitted in this category. Caretaker residences are not permitted in the Airport Noise Zone B. Limerock mining may be approved through the Mine Excavation Planned Development rezoning process for the land designated Tradeport on the Future Limerock Mining map (Map 14.) Because this area is located within the Six Mile Cypress Basin and is also a primary point of entry into Lee County, special environmental and design review guidelines will be applied to its development to maintain the appearance of this area as a primary point of entry into Lee County. Property in Section 1 and the east ½ of Section 2, Township 46 South, Range 25 East, and in Section 6, Township 46 South, Range 26 East, must be rezoned to a planned development zoning category prior to any development other than the construction of essential public services. During the rezoning process, the best environmental management practices identified on pages 43 and 44 of the July 28, 1993 Henigar & Ray study entitled, "Groundwater Resource Protection Study" will be rebuttably presumed to be necessary to protect potential groundwater resources in the area. (Amended by Ordinance No. 94-30, 02-02, 03-04, 04-16, 07-09, 09-06, 10-14, 10-20, 10-3, 18-05)*

Development in Wetlands future land use category is limited to low density residential, limited recreation, open space and conservation. The wetlands onsite will remain designated in the Wetlands future land use category.

**OBJECTIVE 1.5: WETLANDS.** *Designate on the Future Land Use Map those lands that are identified as Wetlands in accordance with F.S. 373.019(17) through the use of the unified state delineation methodology described in FAC Chapter 17-340, as ratified and amended in F.S. 373.4211. (Ordinance No. 94-30)*

**POLICY 1.5.1:** *Permitted land uses in Wetlands consist of very low density residential uses and recreational uses that will not adversely affect the ecological functions of wetlands. All development in Wetlands must be consistent with Goal 114 of this plan. The maximum density is one dwelling unit per twenty acres (1 du/20 acre) except as otherwise provided in Table 1(a) and Chapter XIII of this plan. (Ordinance No. 94-30)*

#### **Existing Land Use:**

The subject property contains six undeveloped parcels zoned Light Industrial IL and Agricultural AG-2.

#### **Property History:**

##### Six Mile Cypress Watershed:

The subject property is within the Six Mile Cypress Watershed Basin area (Ordinance # 83-5). The County relies on SFWMD requirements that regulate post development discharge rates to ensure post-development rates remain at or below pre-development discharge rates. Project specific information would be required during the local development order process to allow for a thorough analysis of the site's stormwater management. SFWMD issues water management permits for projects with 2 acres of impervious surface or for projects over 10 acres in size. The permit limits the post development surface water discharge rate to no more than the pre-development rate. Similarly, Lee County reviews stormwater management for projects containing less than 10 acres or 2 acres impervious for consistency with LDC Section 10-321(f).

#### **Surrounding Properties:**

The surrounding properties are within the Tradeport, Wetlands, General Interchange, Public Facilities and Special Community/Conservation (City of Fort Myers) future land use categories and are zoned Industrial Planned Development (IPD), Commercial Planned Development (CPD), Residential Planned

Development (RPD), Agriculture (AG-2), and in the City of Fort Myers, Mixed Use Development Plan/Conservation (MDP-3/CON). Table 1 provides detailed information on the surrounding properties. Please also refer to the aerial map, Figure B, that provides the location and densities associated with the surrounding neighborhoods.

**TABLE 1  
SURROUNDING PROPERTIES INFORMATION**

	<b>Future Land Use/ Maximum Density</b>	<b>Zoning</b>	<b>Existing Use</b>
<b>North</b>	Tradeport & Wetlands	IPD	Airport Woods Commerce Center -Airport Woods IPD approved for 150,000 SF offices and retail & 520,000 SF of industrial. The following uses are located along the southern portion of the commerce center: Schwing Bioset, Sanders Laboratories Inc., American Tractor Systems, South Point Auto Body, Clive Daniel Warehouse, Marble/Tile Warehouse, Ardaman & Associates, Good Wheels, Fields Door & Hardware and a wireless communication tower.
<b>North (City of Fort Myers)</b>	Special Community & Conservation / 3 units an acre	Eastwood MDP-3 Conservation	Marina Bay residential community (Part of 6,500-unit Arborwood DRI with a gross density of 2.6 units an acre)
<b>Northeast</b>	Tradeport	IPD & AG-2	Vacant land owned by School Board; approved for 33,600 SF Commercial Retail & 64,800 SF of Industrial
<b>South</b>	General Interchange/ 22 units per acre	CPD	Vacant land; approved Arborwood Village CPD for 250,000 SF retail, 42,000 SF office, 10,000 SF essential services, 120 hotel rooms, 153 multi-family units/612 bed ALF. The density is 7 units an acre.
<b>South</b>	Public Facilities & Wetlands	AG-2	Rest area & FDOT office
<b>East (City of Fort Myers)</b>	Special Community/ Conservation 3 units an acre	MDP-3 Conservation	Treeline Avenue; Somerset at the Plantation and Islands at Somerset residential communities (Part of 6,500-unit Arborwood DRI with a gross density of 2.6 units an acre)
<b>West</b>	Outlying Suburban & Wetlands/ 3 units an acre & 1 unit per 20 acres	RPD	Interstate I-75; Renaissance Phase 2 260-unit residential community with density of 1.6 units an acre.



**FIGURE B  
SURROUNDING PROPERTIES AND DENSITIES MAP**



**PART 2**  
**STAFF DISCUSSION AND ANALYSIS OF PROPOSED AMENDMENTS**

The applicant has proposed to amend the future land use classification of the subject property to Urban Community and Wetlands to allow for mixed residential uses.

The Urban Community future land Use designation allows residential, commercial, public and quasi-public, and limited light industry. Mixed use developments are encouraged. A maximum of 6 dwelling units an acre is permitted. Up to 15 dwelling units per acre would be allowed utilizing Greater Pine Island Transfer Development Units (TDUs).

***POLICY 1.1.4:** The Urban Community areas are areas outside of Fort Myers and Cape Coral that are characterized by a mixture of relatively intense commercial and residential uses. Included among them, for example, are parts of Lehigh Acres, San Carlos Park, South Fort Myers, Iona/McGregor, Pine Island, and Gasparilla Island. Although the Urban Communities have a distinctly urban character, they should be developed at slightly lower densities. As the vacant portions of these communities are urbanized, they will need to maintain their existing bases of urban services and expand and strengthen them accordingly. As in the Central Urban area, predominant land uses in the Urban Communities will be residential, commercial, public and quasi-public, and limited light industry (see Policy 7.1.6) with future development in this category encouraged to be developed as a mixed-use, as described in Objective 11.1, where appropriate. Standard density ranges from one dwelling unit per acre (1 du/acre) to six dwelling units per acre (6 du/acre), with a maximum total density of ten dwelling units per acre (10 du/acre). The maximum total density may be increased to fifteen dwelling units per acre (15 du/acre) utilizing Greater Pine Island Transfer of Development Units. (Ordinance No. 94-30, 02-02, 09-06, 10-10, 10-33, 16-07)*

Lands located to the south are in the General Interchange future land use category and lands located to the north are in the Tradeport future land use category. Approving the amendment to designate the subject property as Urban Community will allow similar commercial and industrial uses as allowed on the lands to the north and south in addition to residential uses.

The allowed residential densities in the area would transition from high to low from Daniels Parkway north. The maximum allowable density on the subject property would be less than the General Interchange area located to the south that allows up to a standard maximum density of 14 units an acre and up to 22 units an acre using bonus density (Policy 1.3.2). The maximum property density on the subject property (6-15 units an acre) would be higher than the golf course communities located to the east, west and north as provided in Table 1. Residential development on the subject property would be consistent with Objective 2.2 that encourages compact development where services exist and Policy 5.1.5 that protect residential areas from any encroachment of uses that would be destructive to the character and integrity of the area.

The Tradeport future land use category areas were designated based on their proximity to the Southwest Florida International Airport and to provide the commercial and industrial needs to support the airport. If approved, 53 acres would be removed from the Tradeport future land use category into the Urban Community category.

Conditions in the surrounding area have changed since the property was originally designated as Tradeport.

- The subject property is nestled between a mix of residential, commercial and industrial uses creating an infill parcel. Commercial interchange uses are to the south on Daniels Parkway including a gas station and a bank. Also to the south is a public rest area and FDOT office. The Airport Woods Commerce Center located to the north contains industrial warehouse and office uses. The vacant land owned by the School Board to the east of the subject property is approved for commercial and industrial uses and Somerset at the Plantation and Marina Village are residential. The developing land use pattern progresses from higher intensity to lower intensity from Daniels Parkway north. Allowing commercial, industrial and residential uses would allow the subject property to develop in keeping with the area's development pattern.

The Gateway/Airport community has approximately 5,349 acres of land in the Tradeport and Industrial Development future land use categories. Of the Tradeport and Industrial Development lands approximately 536 acres developed with more than 75 percent of that being for industrial uses. In addition, light industrial uses are also permitted within the Airport, General Interchange, Industrial Commercial Interchange, and New Community future land use categories which are found within the Gateway/Airport planning community. There is adequate industrial acreage available to accommodate growth up to the year 2030.

**Transportation:**

Access to the property is from Treeline Avenue which is a paved four-lane median divided arterial roadway. To the south, Treeline Avenue links with Daniels Parkway which is a paved six-lane median divided arterial. Daniels Parkway is a controlled access roadway maintained by County. Daniels Parkway links to I-75. I-75 is a six-lane median divided freeway maintained by State.

The Transportation Circulation Analysis was reviewed based on a maximum of 487 multi-family dwelling units and 100,000 square feet of commercial uses. Approving the Lee Plan amendment request to designate the subject property to Urban Community and Wetlands will result in a **decrease** of 1,148 vehicles during the P.M. peak hour; however, Daniels Parkway will still fail with or without development on the subject property.

- The 5 year analysis indicates that Daniels Parkway from Palomino Lane to I-75, from Gateway Blvd to SR 82, and I-75 north and south Daniels Parkway are projected to operate at LOS "F" with and without the project in Year 2022.
- The Long Range 2040 Horizon LOS analysis indicates that Daniels Parkway from Palomino Lane to SR 82 is projected to operate at LOS "F" with and without the project in Year 2040. I-75 south of Daniels Parkway is projected to operate at LOS "E" with and without the project in Year 2040.

Transportation concurrency is not required per Florida Statutes Section 163.3180. Therefore, the request is consistent with Objectives 2.1, 2.2 and Policy 39.2.1.

**Environmental:**

A South Florida Water Management District Wetland jurisdiction obtained for the subject property identifies approximately 62 acres of Wetlands located within the subject property. The aforementioned jurisdictional determination supersedes the wetlands identified on the Future Land Use Map and their corresponding acreage for the subject property. Development within the Wetland future land use category may consist of very low density residential uses, with the maximum density being one dwelling

unit per twenty acres. If the wetlands are not impacted; density may be relocated to the upland areas at the same density as permitted within those uplands (per footnote 8 in Table 1a) if wetlands are preserved.

#### **Service Availability**

There are adequate potable water, sanitary sewers, solid waste, police, fire/EMS, schools and mass transit services to accommodate the proposed amendment.

**Mass Transit:** The closest bus route is Route 50 along Daniels Parkway approximately ½ mile south of the property. The property is not within ¼ mile of a fixed route corridor, but is within the ¾ mile ADA corridor.

**Utilities:** The subject property has access to water and sewer services. It is within the Lee County Utilities future services area. Potable water lines are in operation adjacent to the property on Treeline Avenue. Wastewater lines are in operation along Daniels Parkway and Treeline Avenue South of Daniels. Potable water is available from the Corkscrew Water Treatment Plant. Sanitary sewer service is available from the Gateway Wastewater Treatment Plant.

**Solid Waste:** The subject property has access to solid waste services. Solid waste collection services will be provided by Lee County using the Lee County Resources Recovery Facility and the Lee-Hendry Regional Landfill.

**Fire:** Fire service will be provided by the South Trail Fire Protection & Rescue Service District. In a letter dated September 6, 2017, South Trail Fire Protection indicated they are capable of providing fire protection.

**EMS:** The subject property has access to EMS services. In a letter dated October 2, 2017, Lee County Emergency Medical Services indicates they will be able to serve the property from Medic 35, located 2.4 miles west of the property, and a second EMS facility located 5 miles from the property.

**Police:** The Lee County Sheriff will provide law enforcement services primarily from the Central District office in Fort Myers. The Sheriff indicated in a letter dated September 27, 2017 that the development of the subject property will not affect the ability of the Lee County Sheriff's Office to provide core services at this time.

**Schools:** There is adequate elementary school seat capacity to serve the subject property and the project's generation of middle and high school students can be served by the contiguous Concurrency Service area.

### **PART 3 CONCLUSIONS**

The Urban Community and Wetlands future land use categories on the subject property are consistent with the residential uses developing in the area. Commercial and light industrial uses would continue to be allowed under the Urban Community future land use category. If the property develops residentially, there is adequate industrial lands designated to accommodate growth up to the year 2030. Density,

design and mitigation are guided by Lee Plan policies that will be enforced by the planned development rezoning.

The property has access to water, sewer, solid waste, fire, EMS, schools and transit. There are adequate services available to serve the property to accommodate the density and intensity allowed under the Urban Community future land use category. Transportation is an issue with or without the amendment; however approval of this amendment would result in a decrease of 1,148 vehicles during the P.M. peak hour.

The Urban Community and Wetlands future land use classifications on the subject property are consistent with the Lee Plan. For the reasons discussed in this staff report, Staff recommends that the Board of County Commissioners *transmit* the map amendment to designate the subject property to Urban Community.

## **PART 4 ATTACHMENTS**

### **Attachment 1:**

- Existing Future Land Use Map
- Proposed Future Land Use Map

**Electronic File:** <https://www.leegov.com/dcd/planning/cpa/complansearch?case=CPA2017-00009>

**PART 5  
LOCAL PLANNING AGENCY  
REVIEW AND RECOMMENDATION**

DATE OF PUBLIC HEARING: May 21, 2018

**A. LOCAL PLANNING AGENCY REVIEW:**

The Applicant presented an overview of their map amendment request and consistency with the Lee Plan. Staff provided a brief presentation for the proposed amendment which covered consistency with the Lee Plan and the staff recommendation.

One member of the public raised concerns about drainage issues that were caused by the construction of Treeline Avenue and would like the applicant to help resolve the problem as construction moves forward.

Members of the LPA asked questions about the availability and need of industrial acreage, the changing conditions in the area since the original designation, infill, highest and best use of the land, proximity to I-75, airport, arterial roadways and transportation issues on Daniels Parkway.

**B. LOCAL PLANNING AGENCY RECOMMENDATION:**

A motion was made to find the request consistent with the Lee Plan and to recommend that the Board of County Commissioners transmit CPA2017-00009 as proposed by Staff. The motion passed 4 to 2.

**VOTE:**

<b>DENNIS CHURCH</b>	<b>NAY</b>
<b>FRANK FEENEY</b>	<b>ABSENT</b>
<b>JAMES INK</b>	<b>AYE</b>
<b>KRISTINE SMALE</b>	<b>AYE</b>
<b>STAN STOUDE</b>	<b>NAY</b>
<b>JUSTIN THIBAUT</b>	<b>AYE</b>
<b>HENRY ZUBA</b>	<b>AYE</b>

**PART 6**  
**BOARD OF COUNTY COMMISSIONERS**  
**TRANSMITTAL HEARING FOR PROPOSED AMENDMENT**

DATE OF PUBLIC HEARING: August 8, 2018

**A. BOARD REVIEW:**

Staff provided a brief presentation for the proposed amendment which covered consistency with the Lee Plan and the LPA and staff recommendation. The applicant offered to provide a detailed presentation. One member of the public addressed the Board concerning drainage issues caused by the construction of Treeline Avenue and requested that the applicant help resolve the water management issue as construction moves forward. The Board asked questions about water management permitting and timing. Staff and the applicant responded that the ERP applications would be reviewed concurrent with the zoning and development order applications.

**B. BOARD ACTION:**

A motion was made to transmit CPA2017-00009 as recommended by staff. The motion was passed 5 to 0.

**VOTE:**

<b>BRIAN HAMMAN</b>	<u>AYE</u>
<b>LARRY KIKER</b>	<u>AYE</u>
<b>FRANK MANN</b>	<u>AYE</u>
<b>JOHN MANNING</b>	<u>AYE</u>
<b>CECIL L. PENDERGRASS</b>	<u>AYE</u>

**PART 7**  
**STATE REVIEWING AGENCIES'**  
**OBJECTIONS, RECOMMENDATIONS, AND COMMENTS**

Comments from the State Reviewing Agencies were due to Lee County by September 19, 2018.

**A. OBJECTIONS, RECOMMENDATIONS AND COMMENTS:**

Lee County received responses from the following review agencies addressing the transmitted amendment:

- Florida Department of Economic Opportunity (DEO)
- South Florida Water Management District (SFWMD)
- Florida Department of Environmental Protection (DEP)
- Florida Department of Agriculture and Consumer Services
- Florida Fish and Wildlife Conservation Commission (FWC)

There were no objections concerning the proposed amendments.

The Florida Fish and Wildlife Conservation Commission provided comments and recommendations in a letter to Florida DEP on September 12, 2018. This letter was attached to the comments provided to Lee County as part of the Expedited Review Process. The comments from September 12, 2018 were specific to the subject site and addressed protected species that have been found offsite but within the area.

Lee County staff appreciates the recommendations provided by the Florida Fish and Wildlife Conservation Commission and will consider their recommendations through zoning conditions.

**B. STAFF RECOMMENDATION**

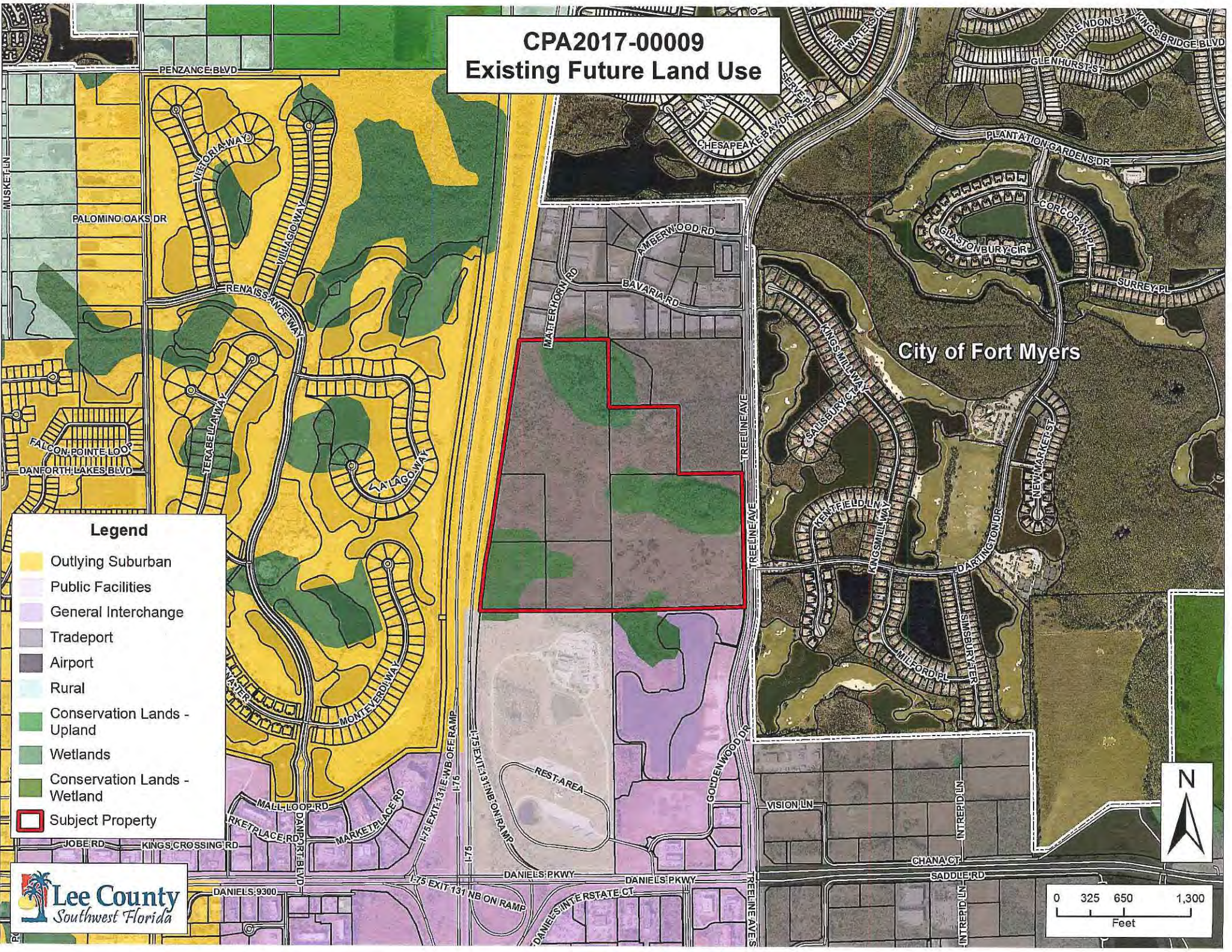
Staff recommends that the Board of County Commissioners **adopt** the amendment to the Lee Plan as transmitted to the State Reviewing Agencies as provided in Attachment 1.



**ATTACHMENT 1:**

**Existing Future Land Use Map  
Proposed Future Land Use Map**

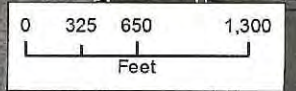
**CPA2017-00009**  
**Existing Future Land Use**



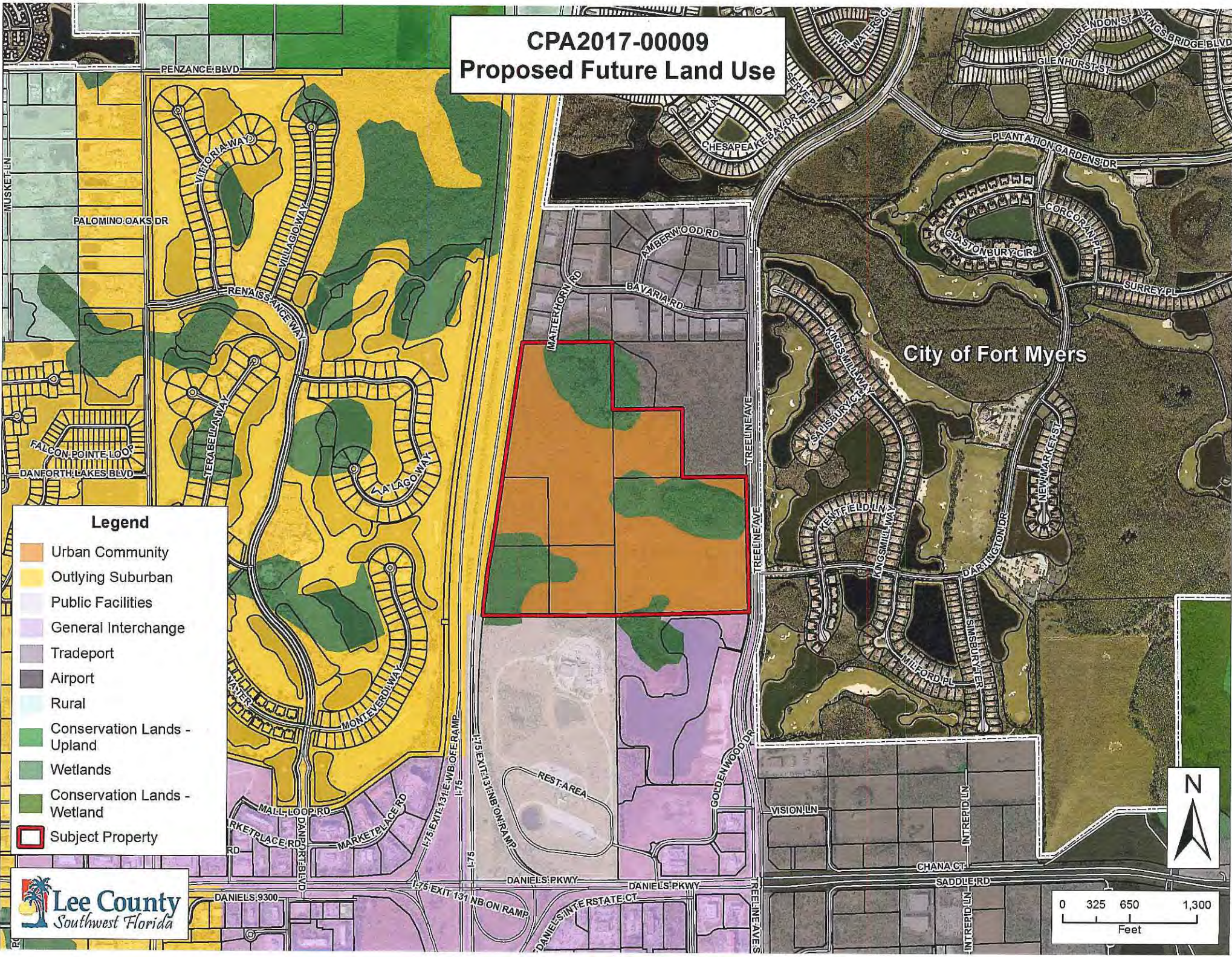
City of Fort Myers

**Legend**

- Outlying Suburban
- Public Facilities
- General Interchange
- Tradeport
- Airport
- Rural
- Conservation Lands - Upland
- Wetlands
- Conservation Lands - Wetland
- Subject Property

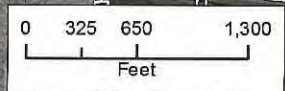


**CPA2017-00009**  
**Proposed Future Land Use**



**Legend**

- Urban Community
- Outlying Suburban
- Public Facilities
- General Interchange
- Tradeport
- Airport
- Rural
- Conservation Lands - Upland
- Wetlands
- Conservation Lands - Wetland
- Subject Property



# AGENCY COMMENTS

**Rick Scott**  
GOVERNOR



**Cissy Proctor**  
EXECUTIVE DIRECTOR

September 19, 2018

The Honorable Cecil Pendergrass  
Chairman, Lee County  
Board of County Commissioners  
Post Office Box 398  
Fort Myers, Florida 33902-0398

Dear Chairman Pendergrass:

The Department of Economic Opportunity has completed its review of the proposed comprehensive plan amendment for Lee County (Amendment 18-5ESR), which was received on July 16, 2018. We have reviewed the proposed amendment in accordance with the expedited state review process set forth in Sections 163.3184(2) and (3), Florida Statutes (F.S.), for compliance and identified no comments related to important state resources and facilities within the Department of Economic Opportunity's authorized scope of review that will be adversely impacted by the amendment if adopted.

The County is reminded that pursuant to Section 163.3184(3) (b), F.S., other reviewing agencies have the authority to provide comments directly to the County. If other reviewing agencies provide comments, we recommend the County consider appropriate changes to the amendment based on those comments. If unresolved, such reviewing agency comments could form the basis for a challenge to the amendment after adoption.

The County should act by choosing to adopt, adopt with changes, or not adopt the proposed amendment. Also, please note that Section 163.3184(3)(c)1, F.S., provides that if the second public hearing is not held within 180 days of your receipt of agency comments, the amendment shall be deemed withdrawn unless extended by agreement with notice to the Department of Economic Opportunity and any affected party that provided comment on the amendment. For your assistance, we have enclosed the procedures for adoption and transmittal of the comprehensive plan amendment.

Florida Department of Economic Opportunity | Caldwell Building | 107 E. Madison Street | Tallahassee, FL 32399  
850.245.7105 | [www.floridajobs.org](http://www.floridajobs.org)  
[www.twitter.com/FLDEO](https://www.twitter.com/FLDEO) | [www.facebook.com/FLDEO](https://www.facebook.com/FLDEO)

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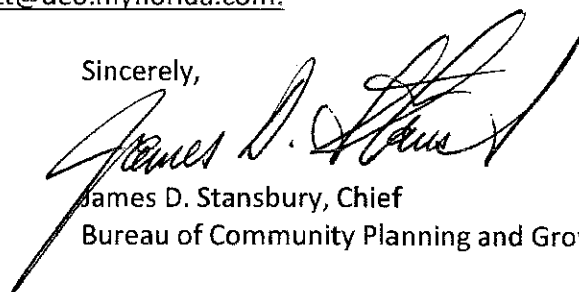
The Honorable Cecil Pendergrass

September 19, 2018

Page 2 of 2

We appreciate the opportunity to work with Lee County's staff in the review of the amendment. If you have any questions related to this review, please contact Beau Scott, at (850) 717-8515, or by email at [Beau.Scott@deo.myflorida.com](mailto:Beau.Scott@deo.myflorida.com).

Sincerely,

A handwritten signature in black ink, appearing to read "James D. Stansbury". The signature is written in a cursive style with a large, sweeping initial "J".

James D. Stansbury, Chief

Bureau of Community Planning and Growth

JDS/bs

Enclosure(s): Procedures for Adoption

cc: Mr. David Loveland, Director, Department of Community Development, Lee County  
Ms. Margaret Wuerstle, Executive Director, Southwest Florida Regional Planning Council

**SUBMITTAL OF ADOPTED COMPREHENSIVE PLAN AMENDMENTS  
FOR EXPEDITED STATE REVIEW**

Section 163.3184(3), Florida Statutes

**NUMBER OF COPIES TO BE SUBMITTED:** Please submit three complete copies of all comprehensive plan materials, of which one complete paper copy and two complete electronic copies on CD ROM in Portable Document Format (PDF) to the State Land Planning Agency and one copy to each entity below that provided timely comments to the local government: the appropriate Regional Planning Council; Water Management District; Department of Transportation; Department of Environmental Protection; Department of State; the appropriate county (municipal amendments only); the Florida Fish and Wildlife Conservation Commission and the Department of Agriculture and Consumer Services (county plan amendments only); and the Department of Education (amendments relating to public schools); and for certain local governments, the appropriate military installation and any other local government or governmental agency that has filed a written request.

**SUBMITTAL LETTER:** Please include the following information in the cover letter transmitting the adopted amendment:

\_\_\_\_\_ State Land Planning Agency identification number for adopted amendment package;

\_\_\_\_\_ Summary description of the adoption package, including any amendments proposed but not adopted;

\_\_\_\_\_ Identify if concurrency has been rescinded and indicate for which public facilities. (Transportation, schools, recreation and open space).

\_\_\_\_\_ Ordinance number and adoption date;

\_\_\_\_\_ Certification that the adopted amendment(s) has been submitted to all parties that provided timely comments to the local government;

\_\_\_\_\_ Name, title, address, telephone, FAX number and e-mail address of local government contact;

\_\_\_\_\_ Letter signed by the chief elected official or the person designated by the local government.

**ADOPTION AMENDMENT PACKAGE:** Please include the following information in the amendment package:

\_\_\_\_\_ In the case of text amendments, changes should be shown in strike-through/underline format.

\_\_\_\_\_ In the case of future land use map amendments, an adopted future land use map, **in color format**, clearly depicting the parcel, its future land use designation, and its adopted designation.

\_\_\_\_\_ A copy of any data and analyses the local government deems appropriate.

**Note:** If the local government is relying on previously submitted data and analysis, no additional data and analysis is required;

\_\_\_\_\_ Copy of the executed ordinance adopting the comprehensive plan amendment(s);

Suggested effective date language for the adoption ordinance for expedited review:

"The effective date of this plan amendment, if the amendment is not timely challenged, shall be 31 days after the state land planning agency notifies the local government that the plan amendment package is complete. If the amendment is timely challenged, this amendment shall become effective on the date the state land planning agency or the Administration Commission enters a final order determining this adopted amendment to be in compliance. No development orders, development permits, or development dependent on this amendment may be issued or commence before it has become effective. "

\_\_\_\_\_ List of additional changes made in the adopted amendment that the State Land Planning Agency did not previously review;

\_\_\_\_\_ List of findings of the local governing body, if any, that were not included in the ordinance and which provided the basis of the adoption or determination not to adopt the proposed amendment;

\_\_\_\_\_ Statement indicating the relationship of the additional changes not previously reviewed by the State Land Planning Agency in response to the comment letter from the State Land Planning Agency.



**Rick Scott**  
GOVERNOR



**Cissy Proctor**  
EXECUTIVE DIRECTOR

**RECEIVED**  
AUG 24 2018  
COMMUNITY DEVELOPMENT

August 21, 2018

Mr. Brandon Dunn, Principal Planner  
Lee County Planning Section  
Post Office Box 398  
Fort Myers, Florida 33902-0398

Dear Mr. Dunn:

Thank you for submitting Lee County's proposed comprehensive plan amendment submitted for our review pursuant to the Expedited State Review process. The reference number for this amendment package is 18-05ESR.

The proposed submission package will be reviewed pursuant to Section 163.3184(3), Florida Statutes. Once the review is underway, you may be asked to provide additional supporting documentation by the review team to ensure a thorough review. You will receive the Department's Comment Letter no later than September 19, 2018.

If you have any questions please contact Anita Franklin, Senior Plan Processor at (850)717-8486 or Brenda Winningham, Regional Planning Administrator, whom will be overseeing the review of the amendments, at (850)717-8516.

Sincerely,

D. Ray Eubanks, Administrator  
Plan Review and Processing

DRE/me

cc: External Agencies

Florida Department of Economic Opportunity | Caldwell Building | 107 E. Madison Street | Tallahassee, FL 32399  
850.245.7105 | [www.FloridaJobs.org](http://www.FloridaJobs.org)  
[www.twitter.com/FLDEO](http://www.twitter.com/FLDEO) | [www.facebook.com/FLDEO](http://www.facebook.com/FLDEO)

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## Dunn, Brandon

---

**From:** Oblaczynski, Deborah [doblaczy@sfwmd.gov]  
**Sent:** Thursday, September 06, 2018 8:03 AM  
**To:** Rozdolski, Mikki  
**Cc:** Dunn, Brandon; Ray Eubanks (DCPexternalagencycomments@deo.myflorida.com); Brenda Wittingham (brenda.wittingham@deo.myflorida.com); ext-Wuerstle, Margaret (swfRPC.org)  
**Subject:** [EXTERNAL] Lee County, DEO #18-5ESR Comments on Proposed Comprehensive Plan Amendment Package

Dear Ms. Rozdolski:

The South Florida Water Management District (District) has completed its review of the proposed amendment package from Lee County (County). The amendment changes the land use designation on 115 acres from Tradeport and Wetlands to Urban Community and Wetlands. The proposed changes do not appear to adversely impact the water resources within the South Florida Water Management District. However, the District offers the following technical guidance regarding Regional Water Supply Planning:

- The County is required to revise its Water Supply Facilities Work Plan (Work Plan) within 18 months after approval of the Lower West Coast (LWC) Water Supply Plan Update by the District's Governing Board. The District's Governing Board approved the LWC Water Supply Plan Update on December 11, 2017. Therefore, the County's Work Plan needs to be updated and adopted by June 14, 2019. The Work Plan must cover at least a 10-year planning period, include updated water demand projections, identify alternative and traditional water supply projects, and describe conservation and reuse activities needed to meet the projected future demands. Planning tools are available on the District's website for your use and District Staff are available to provide technical assistance to update the Work Plan, including reviewing draft Work Plans prior to formal plan amendment submittal. The planning tools are located at this link: <https://www.sfwmd.gov/our-work/water-supply/work-plans>.

The District offers its technical assistance to the County in developing sound, sustainable solutions to meet the County's future water supply needs and to protect the region's water resources. Please forward a copy of the adopted amendments to the District. Please contact me if you need assistance or additional information.

Sincerely,

Deb Oblaczynski  
Policy & Planning Analyst  
Water Supply Implementation Unit  
South Florida Water Management District  
3301 Gun Club Road  
West Palm Beach, FL 33406  
(561) 682-2544 or email: [doblaczy@sfwmd.gov](mailto:doblaczy@sfwmd.gov)



**Florida Fish  
and Wildlife  
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Tequesta

Office of the  
Executive Director  
**Eric Sutton**  
Executive Director

**Thomas H. Eason, Ph.D.**  
Assistant Executive Director

**Jennifer Fitzwater**  
Chief of Staff

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800 955-8770 (V)

MyFWC.com

September 12, 2018

Brandon Dunn  
Principal Planner  
Lee County Planning Section  
P.O. Box 398  
Fort Myers, FL 33902-0398  
[bdunn@leegov.com](mailto:bdunn@leegov.com)

Re: Lee County 18-5ESR, Treeline 115, Comprehensive Plan Amendment (CPA) No. CPA2017-00009

Dear Mr. Dunn:

Florida Fish and Wildlife Conservation Commission (FWC) staff has reviewed the above-referenced comprehensive plan amendment package and provides the following comments and recommendations for your consideration in accordance with Chapter 163.3184, Florida Statutes. While we have no objections to the amendment, we offer the following information as technical assistance during your review.

### **Project Description**

The applicant, BJ Holdings of Fort Myers, LLC, requests to amend the Future Land Use Map from Tradeport and Wetlands future land use designations to Urban Community and Wetlands that would allow for the development of a maximum of 487 multi-family dwelling units and 100,000 square feet of commercial uses on a 115-acre (ac) property located approximately one-half mile north of Daniels Parkway lying between Treeline Avenue and I-75. The applicant has concurrently filed a local rezoning application (DCI2018-00007). The site contains approximately 62 acres of very low-quality wetlands according to the applicant's environmental consultant. If approved, the site development plan would need to impact 24 ac of wetlands to obtain the maximum 487 dwelling units according to land use acreage calculations included in the application. The amendment request did not include a site plan, wetland impact acreages, or a wetland mitigation plan.

### **Potentially Affected Resources**

An *Environmental Assessment* was provided by the applicant's environmental consultant, Synecological Analysts, Inc., dated June 26, 2017, stating species surveys have been conducted over a period of five years with the most recent in May and June 2017. The most recent survey focused on potentially occurring listed species including eastern indigo snake (*Drymarchon corais couperi*, Federally Threatened [FT]), gopher tortoise (*Gopherus polyphemus*, State Threatened [ST]), wood stork (*Mycteria americana*, FT), roseate spoonbill (*Platalea ajaja*, ST), little blue heron (*Egretta caerulea*, ST), tricolored heron (*Egretta tricolor*, ST), Everglade snail kite (*Rostrhamus sociabilis plumbeus*, Federally Endangered [FE]), southeastern American kestrel (*Falco sparverius paulus*, ST), Big Cypress fox squirrel (*Sciurus niger avicennia*, ST), and Florida bonneted bat

(*Eumops floridanus*, FE). According to the applicant's environmental consultant, the habitat quality of the site is not suitable for potential listed species and there were no signs, calls, tracks, or other indications of listed animal species encountered onsite. Two squirrel nests were identified but were not believed to be Big Cypress fox squirrel nests.

FWC staff conducted a geographic information system (GIS) analysis of the project site confirming that the project site contains potential habitat for the above-mentioned listed species. In addition, our GIS analysis of the project site found that the project site contains, is adjacent to, or occurs near:

- Potential habitat for state-listed species:
  - Least tern (*Sternula antillarum*, ST)
  - Florida sandhill crane (*Antigone canadensis pratensis*, ST)
  
- U.S. Fish and Wildlife Service (USFWS) consultation area for:
  - Florida scrub-jay (*Aphelocoma coerulescens*, FT)
  - Red-cockaded woodpecker (*Picoides borealis*, FE)
  - Florida panther (*Puma concolor coryi*, FE)
  
- Potential habitat for the Florida black bear (*Ursus americanus floridanus* – South Bear Management Unit)

## **Comments and Recommendations**

### General Wildlife Surveys

To better identify the potential for impacts, listed species-specific surveys should be completed prior to any clearing or development. Species-specific wildlife surveys are time sensitive and FWC staff recommends that all wildlife surveys follow established survey protocols approved by the U.S. Fish and Wildlife Service and the FWC. Surveys should also be conducted by qualified biologists with recent documented experience for each potential species. Basic guidance for conducting wildlife surveys may be found within the Imperiled Species Management Plan's species-specific Permitting Guidelines (<http://myfwc.com/wildlifehabitats/imperiled/plan/>) or in the Florida Wildlife Conservation Guide (FWCG) (<http://myfwc.com/conservation/value/fwcg/>).

### Florida Black Bear

FWC has received 71 reports of human-bear conflicts within roughly a five-mile radius of the project site since 1984 including 69 since 2000. Florida black bears are common in this area which is within the South Bear Management Unit identified in the 2012 Bear Management Plan. While black bears tend to shy away from people, they are adaptable and will take advantage of human-provided food sources, such as unsecured garbage, pet food, or bird seed. Once bears become accustomed to finding food around people, their natural wariness is reduced to the point that there can be an increased risk to public safety or private property. There are measures that can be taken to prevent or reduce conflicts with bears during planning and development activities, including:

- Locating conservation areas along the borders of, rather than through, developed areas to avoid encouraging bears to forage in developed areas (<http://myfwc.com/wildlifehabitats/managed/bear/crossings/>);
- Requiring clean construction sites with wildlife-resistant containers for any wildlife-attractant refuse; and
- Requiring frequent trash removal and the use of proper food storage and removal on work sites.

In addition, once the development is completed, residents should be provided with bear-resistant garbage cans as part of their regular waste service. If a homeowners' association is established, we recommend bylaws be enacted to require residents to take measures to prevent attracting bears into the neighborhood. Sample bylaw language is available at the bear management website (<http://myfwc.com/wildlifehabitats/managed/bear/living/community-group/bylaw/>). We also encourage the property owner to provide residents with information on how to avoid human-bear conflicts, which is also found on the bear management website. This information can include:

- Options for keeping garbage secure which can include using bear-resistant garbage containers, modifying regular cans to be bear-resistant, or keeping cans secure in a garage or sturdy shed and then placing garbage on the curb the morning of pick-up rather than the night before (<http://myfwc.com/wildlifehabitats/managed/bear/living/attractants/>);
- Removing bird and wildlife feeders, or modifying them to exclude bears (<http://myfwc.com/wildlifehabitats/managed/bear/wildlife-feeders/>);
- Using electric fencing to secure outdoor attractants like fruiting trees/shrubs, gardens, compost, and small livestock (<http://myfwc.com/media/1333878/ElectricFence.pdf>);
- Proper methods to compost in bear range;
- Securing pet food; and
- Cleaning and securing barbeque grills.

Information should also include guidelines for how residents should respond to bears in the area, such as:

- What to do if they encounter a bear, whether from a distance or at close range,
- How to keep pets and livestock safe in bear range, and
- When and how to contact the FWC regarding a bear issue.

FWC staff is available to assist with residential planning to incorporate the above features. Additional information about Florida black bears can be found on our website at <http://www.myfwc.com/wildlifehabitats/managed/bear>.

#### Least Tern

While the existing conditions onsite likely do not support least tern nesting activity, clearing associated with construction may create conditions conducive for beach-nesting bird nesting and there are multiple historic rooftop nesting sites within 10 miles, the

closest being 4.7 miles south and significant beach nesting areas 11 miles southwest of the project location. Cleared sites such as areas that have undergone surface scraping may attract ground nesting species such as least terns or other imperiled beach-nesting birds (IBNB) during nesting season. IBNB nests have been documented on a variety of disturbed sites, including construction sites (FWC 2013). Least terns deposit their eggs in shallow depressions or scrapes in the substrate, possibly lined with pebbles, grasses, or coquina shells (FWC 2013). Egg-laying usually begins in late April or early May and colonies may range in size from a few breeding pairs to many hundreds (FWC 2013). FWC staff recommends the following measures to reduce nesting potential during construction:

- Conduct construction activities outside of the breeding season (generally April through August) if feasible, or
- If the site is cleared during the breeding season, clear the site only when ready to build, and
- Avoid leaving cleared areas with little to no activity for an extended amount of time.

If nesting is observed, we recommend contacting FWC staff to discuss necessary nest buffers and potential permitting alternatives. For additional information, please refer to FWC's Breeding Bird Protocol for Florida's Seabirds and Shorebirds located at the following web address: <https://public.myfwc.com/crossdoi/shorebirds/PDF-files/BreedingBirdProtocolForFloridasSeabirdsAndShorebirds.pdf>.

#### Big Cypress Fox Squirrel

This site appears to have suitable habitat for the Big Cypress fox squirrel with open canopy and mature trees scattered throughout the property. Additionally, the neighboring parcels appear to contain suitable habitat. If a Big Cypress fox squirrel or nest is observed onsite, please contact FWC for guidance. Final Species Conservation Measures and Permitting Guidelines for the Big Cypress fox squirrels can be found on the FWC website: <http://myfwc.com/media/2738253/Big-Cypress-Fox-Squirrel-Species-Action-Plan-Final-Draft.pdf>.

#### Florida Sandhill Crane

The site may provide foraging habitat for the Florida sandhill crane and the open agriculture lands appear to hold enough water to provide potential nesting habitat for this species. FWC staff recommends that surveys for nesting sandhill cranes be conducted prior to construction activities and during the December through August breeding season. If there is evidence of nesting during this period, we recommend that the nest site be buffered by 400 feet to avoid disturbance by human activities. If nesting is discovered after construction has begun or if maintaining the recommended buffer is not possible, we recommend that the applicant contact FWC staff identified below to discuss potential permitting needs. Basic guidance for conducting wildlife surveys may be found in the Sandhill Crane Species Conservation Measures and Permitting Guidelines (<http://www.myfwc.com/media/4105886/Final-Florida-Sandhill-Crane-Species-Guidelines-2016.pdf>). FWC staff would also like to note that Florida sandhill cranes do

not nest in the same location every year, so if construction occurs over several years, it may be necessary to determine if nesting is occurring each year.

#### Southeastern American Kestrel

Southeastern American kestrels may be found nesting in the scattered slash pine within the open agriculture lands. FWC staff recommends that the applicant conduct kestrel surveys during their nesting season (April to August) within suitable habitat areas. Surveys from May to July are ideal to avoid confusion with the migratory subspecies of American kestrel (*Falco sparverius*). Survey guidelines, reporting criteria, and habitat needs for the southeastern American kestrel can be found at the following website: [http://fwcg.myfwc.com/docs/American\\_Kestrel\\_Technical\\_Report.pdf](http://fwcg.myfwc.com/docs/American_Kestrel_Technical_Report.pdf). If surveys encounter active nest cavities, we recommend avoiding project activities within 150 meters (492 feet) of the nest tree during the breeding season (mid-March to mid-June). If nesting is discovered after construction has begun or if maintaining the recommended buffer is not possible, we recommend that the applicant contact FWC staff identified below to discuss potential permitting needs. In areas of suitable kestrel habitat, we recommend retaining snags whenever possible.

#### Federal Species

This site may also contain habitat suitable for the federally listed species identified above. We recommend the applicant coordinate with USFWS South Florida Ecological Services Office (ESO) as necessary for information regarding potential impacts to these species. The USFWS South Florida ESO can be contacted at (561) 562-3909.

We appreciate the opportunity to review the proposed project and look forward to working more closely with the applicant during the permitting process. If you need any further assistance, please do not hesitate to contact our office by email at [FWCConservationPlanningServices@MyFWC.com](mailto:FWCConservationPlanningServices@MyFWC.com). If you have specific technical questions, please contact Jim Keltner at (239) 332-6972 x9209 or by email at [James.Keltner@MyFWC.com](mailto:James.Keltner@MyFWC.com).

Sincerely,



Fritz Wettstein  
Land Use Planning Program Administrator  
Office of Conservation Planning Services

fw/jdk  
ENV 2-3-3  
Lee County 18-ESR\_37024\_091218

cc: Ray Eubanks, Florida Department of Economic Opportunity,  
[DCPexternalagencycomments@deo.myflorida.com](mailto:DCPexternalagencycomments@deo.myflorida.com)  
Brian Freeman, BJ Holdings of Fort Myers, LLC,  
[bfreeman@thefreemanlawfirm.com](mailto:bfreeman@thefreemanlawfirm.com)

Alexis Crespo, Waldrop Engineering, [alexis.crespo@waldropengineering.com](mailto:alexis.crespo@waldropengineering.com)  
Brown Collins, Synecological Analysts, Inc., [brown@synecol.com](mailto:brown@synecol.com)

**Citations:**

- [FWC] Fish and Wildlife Conservation Commission. 2013. A species action plan for four imperiled beach-nesting birds: American oystercatcher (*Haematopus palliatus*), snowy plover (*Charadrius nivosus*), least tern (*Sternula antillarum*), black skimmer (*Rynchops niger*). Tallahassee, FL.
- O'Mears, T.E., and J.A. Gore. 1988. Guidelines for Conservation and Management of Least Tern colonies in Florida. Non-Game Wildlife Program, Florida Game and Fresh Water Fish Commission, Tallahassee, FL.



**Miller, Janet**

---

**From:** Dunn, Brandon  
**Sent:** Thursday, September 13, 2018 8:58 AM  
**To:** Miller, Janet; Rozdolski, Mikki; Jenkins-Owen, Sharon  
**Subject:** FW: Lee County 18-5ESR Proposed

Please see correspondence for Treeline 115 (CPA2017-00009) below:

*Brandon D. Dunn*, Principal Planner  
Lee County Department of Community Development  
Planning Section  
[bdunn@leegov.com](mailto:bdunn@leegov.com)  
239.533.8585

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**From:** Plan\_Review [<mailto:Plan.Review@dep.state.fl.us>]  
**Sent:** Thursday, September 13, 2018 8:49 AM  
**To:** Dunn, Brandon; [DCPexternalagencycomments@deo.myflorida.com](mailto:DCPexternalagencycomments@deo.myflorida.com)  
**Cc:** Plan\_Review  
**Subject:** [EXTERNAL] Lee County 18-5ESR Proposed

To: Brandon Dunn, Principal Planner

Re: Lee County 18-5ESR – Expedited State Review of Proposed Comprehensive Plan Amendment

The Office of Intergovernmental Programs of the Florida Department of Environmental Protection (Department) has reviewed the above-referenced amendment package under the provisions of Chapter 163, Florida Statutes. The Department conducted a detailed review that focused on potential adverse impacts to important state resources and facilities, specifically: air and water pollution; wetlands and other surface waters of the state; federal and state-owned lands and interest in lands, including state parks, greenways and trails, conservation easements; solid waste; and water and wastewater treatment.

Based on our review of the submitted amendment package, the Department has found no provision that, if adopted, would result in adverse impacts to important state resources subject to the Department's jurisdiction.

Please submit all future amendments by email to [plan.review@dep.state.fl.us](mailto:plan.review@dep.state.fl.us). If your submittal is too large to send via email or if you need other assistance, contact Lindsay Weaver at (850) 717-9037.



OFFICE OF THE COMMISSIONER  
(850) 617-7700



THE CAPITOL  
400 SOUTH MONROE STREET  
TALLAHASSEE, FLORIDA 32399-0800

FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES  
COMMISSIONER ADAM H. PUTNAM

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September 18, 2018

VIA EMAIL (bdunn@leegov.com)

Mr. Brandon Dunn  
Lee County Planning Section  
P.O. Box 398  
Fort Myers, Florida 33902-0398

Re: DACS Docket # -- 20180815-1155  
Lee County CPA2017-00009  
Submission dated August 15, 2018

Dear Mr. Dunn:

The Florida Department of Agriculture and Consumer Services (the "Department") received the above-referenced proposed comprehensive plan amendment on August 15, 2018 and has reviewed it pursuant to the provisions of Chapter 163, Florida Statutes to address any potential adverse impacts to important state resources or facilities related to agricultural, aquacultural, or forestry resources in Florida if the proposed amendment(s) are adopted. Based on our review of your county's submission, the Department has no comment on the proposal.

If we may be of further assistance, please do not hesitate to contact me at 850-245-1000.

Sincerely,

A handwritten signature in blue ink that reads "Joan Matthews".

Joan Matthews  
Senior Attorney

cc: Florida Department of Economic Opportunity  
(SLPA #: Lee County 18-05 ESR)

**To view the 115 Treeline application materials, please click on link below:**

**[Click Here](#)**