



Lee County Board of County Commissioners
Department of Community Development
Division of Planning
Post Office Box 398
Fort Myers, FL 33902-0398
Telephone: (239) 533-8585
FAX: (239) 485-8319

APPLICATION FOR A COMPREHENSIVE PLAN AMENDMENT

(To be completed at time of intake)

DATE REC'D _____

REC'D BY: _____

APPLICATION FEE _____

TIDEMARK NO: _____

THE FOLLOWING VERIFIED:

Zoning ☐

Commissioner District ☐

Designation on FLUM ☐

(To be completed by Planning Staff)

Plan Amendment Cycle: ☒ Normal ☐ Small Scale ☐ DRI ☐ Emergency

Request No: _____

APPLICANT PLEASE NOTE:

Answer all questions completely and accurately. Please print or type responses. If additional space is needed, number and attach additional sheets. The total number of sheets in your application is: _____

Submit **6** copies of the complete application and amendment support documentation, including maps, to the Lee County Division of Planning. Additional copies may be required for Local Planning Agency, Board of County Commissioners hearings and the Department of Community Affairs' packages.

I, the undersigned owner or authorized representative, hereby submit this application and the attached amendment support documentation. The information and documents provided are complete and accurate to the best of my knowledge.

9/28/07
DATE

Matthew A. White
SIGNATURE OF OWNER OR AUTHORIZED REPRESENTATIVE

RECEIVED

I. APPLICANT/AGENT/OWNER INFORMATION

Realmark Burnt Store Marina, LLC

APPLICANT

5789 Cape Harbour Drive #201

ADDRESS

Cape Coral

FL

33914

CITY

STATE

ZIP

541-1372

541-1377

TELEPHONE NUMBER

FAX NUMBER

Matthew D. Uhle, Esq.

AGENT*

1625 Hendry Street, Suite 301

ADDRESS

Fort Myers

FL

33901

CITY

STATE

ZIP

334-2722

334-1446

TELEPHONE NUMBER

FAX NUMBER

Realmark Burnt Store Marina, LLC

OWNER(s) OF RECORD

5789 Cape Harbour Drive #201

ADDRESS

Cape Coral

FL

33914

CITY

STATE

ZIP

541-1372

541-1377

TELEPHONE NUMBER

FAX NUMBER

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

* This will be the person contacted for all business relative to the application.

II. REQUESTED CHANGE (Please see Item 1 for Fee Schedule)

A. TYPE: (Check appropriate type)

- | | | | |
|---|----------------|---|----------------------------------------------------------------------------------------------------|
| x | Text Amendment | x | Future Land Use Map Series Amendment
(Maps 1 thru 21)
List Number(s) of Map(s) to be amended |
|---|----------------|---|----------------------------------------------------------------------------------------------------|

B. SUMMARY OF REQUEST (Brief explanation):

Creation of new Burnt Store Marina Village FLUM category; application of the new category to the subject parcel.

III. PROPERTY SIZE AND LOCATION OF AFFECTED PROPERTY (for amendments affecting development potential of property)

A. Property Location:

1. Site Address: 3150, 3090, & 3140-3200 Matecumbe Key Rd., Punta Gorda
2. STRAP(s): 06-43-23-07-0000A.0000 01-43-22-00-00004.0000
 01-43-22-01-0000C.0000 01-43-22-00-0000C.0010

B. Property Information

Total Acreage of Property: 62.38 +/- acres

Total Acreage included in Request: 62.38 +/- acres

Area of each Existing Future Land Use Category: all in Rural

Total Uplands: 21.29 +/- acres

Total Wetlands: 41.09 +/- acres

Current Zoning: CM, RM-2 and RM-10

Current Future Land Use Designation: Rural

Existing Land Use: Marina; Hotel; Restaurant

C. State if the subject property is located in one of the following areas and if so how does the proposed change effect the area:

Lehigh Acres Commercial Overlay: NA

Airport Noise Zone 2 or 3: NA

Acquisition Area: NA

Joint Planning Agreement Area (adjoining other jurisdictional lands): NA

Community Redevelopment Area: NA

D. Proposed change for the Subject Property:

To new Burnt Store Marina Village category.

E. Potential development of the subject property:

1. Calculation of maximum allowable development under existing FLUM:

Residential Units/Density 21.29 +/- acres / 1 density unit per 2 acres

Commercial intensity 30,000 sf retail; no specific limit for office or marina; +/- 22,000 sf of existing office; 981 wet/dry slips permitted; 336 hotel units.

Industrial intensity None

2. Calculation of maximum allowable development under proposed FLUM:

Residential Units/Density None

Commercial intensity 150,000 sf of retail; 30,000 sf of office; 336 hotel units; 1,300 slips.

Industrial intensity None

IV. AMENDMENT SUPPORT DOCUMENTATION

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

A. General Information and Maps

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

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

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

B. Public Facilities Impacts **ATTACHED**

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

1. Traffic Circulation Analysis

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

Long Range – 20-year Horizon:

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

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

Short Range – 5-year CIP horizon:

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

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

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

- Franchise Area, Basin, or District in which the property is located;
- Current LOS, and LOS standard of facilities serving the site;
- Projected 2020 LOS under existing designation;
- Projected 2020 LOS under proposed designation;
- Improvements/expansions currently programmed in 5 year CIP, 6-10 year CIP, and long range improvements; and
- Anticipated revisions to the Community Facilities and Services Element and/or Capital Improvements Element (state if these revisions are included in this amendment).

3. Provide a letter from the appropriate agency determining the adequacy/provision of existing/proposed support facilities, including: **ATTACHED**
 - a. Fire protection with adequate response times;
 - b. Emergency medical service (EMS) provisions;
 - c. Law enforcement;
 - c. Solid Waste;
 - d. Mass Transit; and
 - e. Schools.

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

C. Environmental Impacts **ATTACHED**

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

1. A map of the Plant Communities as defined by the Florida Land Use Cover and Classification system (FLUCCS).
2. A map and description of the soils found on the property (identify the source of the information).
3. A topographic map with property boundaries and 100-year flood prone areas indicated (as identified by FEMA).
4. A map delineating wetlands, aquifer recharge areas, and rare & unique uplands.

5. A table of plant communities by FLUCCS with the potential to contain species (plant and animal) listed by federal, state or local agencies as endangered, threatened or species of special concern. The table must include the listed species by FLUCCS and the species status (same as FLUCCS map).

D. Impacts on Historic Resources ATTACHED

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

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

E. Internal Consistency with the Lee Plan ATTACHED

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

F. Additional Requirements for Specific Future Land Use Amendments

1. Requests involving Industrial and/or categories targeted by the Lee Plan as employment centers (to or from) **NA**
 - a. State whether the site is accessible to arterial roadways, rail lines, and cargo airport terminals,
 - b. Provide data and analysis required by Policy 2.4.4,
 - c. The affect of the proposed change on county's industrial employment goal specifically policy 7.1.4.
2. Requests moving lands from a Non-Urban Area to a Future Urban Area
ATTACHED
 - a. Demonstrate why the proposed change does not constitute Urban Sprawl. Indicators of sprawl may include, but are not limited to: low-intensity, low-

density, or single-use development; 'leap-frog' type development; radial, strip, isolated or ribbon pattern type development; a failure to protect or conserve natural resources or agricultural land; limited accessibility; the loss of large amounts of functional open space; and the installation of costly and duplicative infrastructure when opportunities for infill and redevelopment exist.

3. Requests involving lands in critical areas for future water supply must be evaluated based on policy 2.4.2.
4. Requests moving lands from Density Reduction/Groundwater Resource must fully address Policy 2.4.3 of the Lee Plan Future Land Use Element.

G. Justify the proposed amendment based upon sound planning principles. Be sure to support all conclusions made in this justification with adequate data and analysis. **ATTACHED**

Item 1: Fee Schedule

Map Amendment Flat Fee	\$2,000.00 each
Map Amendment > 20 Acres	\$2,000.00 and \$20.00 per 10 acres ATTACHED
Small Scale Amendment (10 acres or less)	\$1,500.00 each
Text Amendment Flat Fee	\$2,500.00 each ATTACHED

**Sanitary Sewer/Potable Water
EXHIBITS B.2.a and B.2.b**

The additional uses proposed under the new land use category will generate approximately 86,800 GPD.

The breakdown for water and sewer usage is as follows:

Water and Sewer Usage		Gallons Per Day (GPD)
New Hotel Units = 336 Rooms x 100 GPD/Room	=	33,600
New Office Space = 8,000 SF X 0.15 GPD/SF	=	1,200
New Retail Space = 100,000 SF x 0.20 GPD/SF	=	20,000
New Restaurant Space = 800 Seats x 40 GPD/Seat (20,000 SF - 800 Seats)	=	32,000
Total Proposed Usage	=	86,800

Surface Water / Drainage Basins
EXHIBIT B.2.c

The project will be developed in accordance with the Department of Environmental Protection (DEP) and/or the South Florida Water Management District (SFWMD) regulations. No Amendments to the Lee Plan are necessary.

PARKS, RECREATION, AND OPEN SPACE
EXHIBIT B.2.d

No residential uses are permitted within the Burnt Store Marina Village category. As a result, there will be a de minimis decrease in the demand for regional and community park acreage.

Service Letters
EXHIBIT B.3

The service letters were sent to the appropriate agencies on 09/27/2007. No responses have been received, but the letters that were sent are attached to this submittal package.

Knott, Consoer, Ebelini
Hart & Swett, P.A.
A T T O R N E Y S - A T - L A W

George H. Knott *+
George L. Consoer, Jr. **
Mark A. Ebelini
Thomas B. Hart
H. Andrew Swett

* Board Certified Civil Trial Lawyer
** Board Certified Real Estate Lawyer
+ Board Certified Business Litigation Lawyer

1625 Hendry Street • Third Floor (33901)
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AStowe@knott-law.com

Matthew D. Uhle
Aaron A. Haak
Derrick S. Eihausen
Nataly Torres-Alvarado
David A. Burt

Director of
Zoning and Land
Use Planning
Michael E. Roeder, AICP

September 27, 2007

Ms. Susan Teston, Long Range Planner
The School District of Lee County
3800 Canal Street
Fort Myers, FL 33916

Re: Lee Plan Amendment for Burnt Store Marina Village

Dear Ms. Teston:

We represent the owner of the commercial portion of Burnt Store Marina located west of Burnt Store Road on Matecumbe Key Road. The parcel currently contains a wet and dry slip marina, a restaurant, offices, and other commercial uses. It is our intention to apply for a Lee Plan Amendment to permit the following uses: 525 wet slips; 775 dry spaces; 150,000 square feet of retail uses; 30,000 square feet of office uses; and 336 hotel units.

A copy of a map showing the boundaries of the project is attached. We are required, as part of the application package, to submit letters from specified service providers, including your agency, addressing your ability to serve the property in the event the amendment is approved. We would appreciate it if you would supply such a letter as soon as possible so that we can get this project underway.

Sincerely,

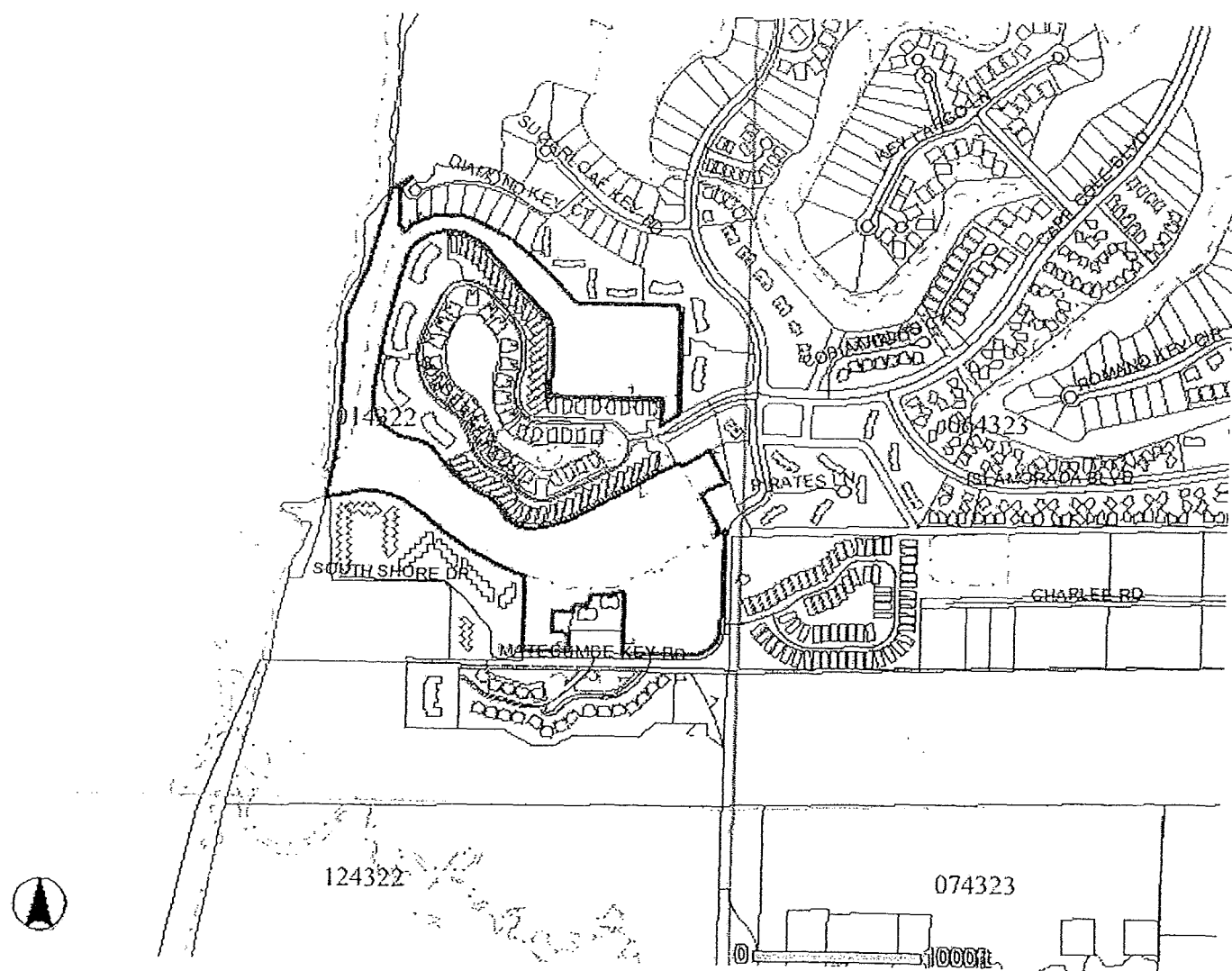
KNOTT, CONSOER, EBELINI,
HART & SWETT, P.A.



Alison M. Stowe, Paralegal
Zoning and Land Use Planning

Enclosure

Area Location Map



Knott, Consoer, Ebelini
Hart & Swett, P.A.
A T T O R N E Y S - A T - L A W

George H. Knott *+
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Director of
Zoning and Land
Use Planning
Michael E. Roeder, AICP

September 27, 2007

Mr. William T. Newman, Operations Manager
Solid Waste Division
10550 Buckingham Road
Fort Myers, FL 33905

Re: Lee Plan Amendment for Burnt Store Marina Village

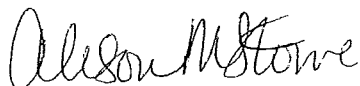
Dear Mr. Newman:

We represent the owner of the commercial portion of Burnt Store Marina located west of Burnt Store Road on Matecumbe Key Road. The parcel currently contains a wet and dry slip marina, a restaurant, offices, and other commercial uses. It is our intention to apply for a Lee Plan Amendment to permit the following uses: 525 wet slips; 775 dry spaces; 150,000 square feet of retail uses; 30,000 square feet of office uses; and 336 hotel units.

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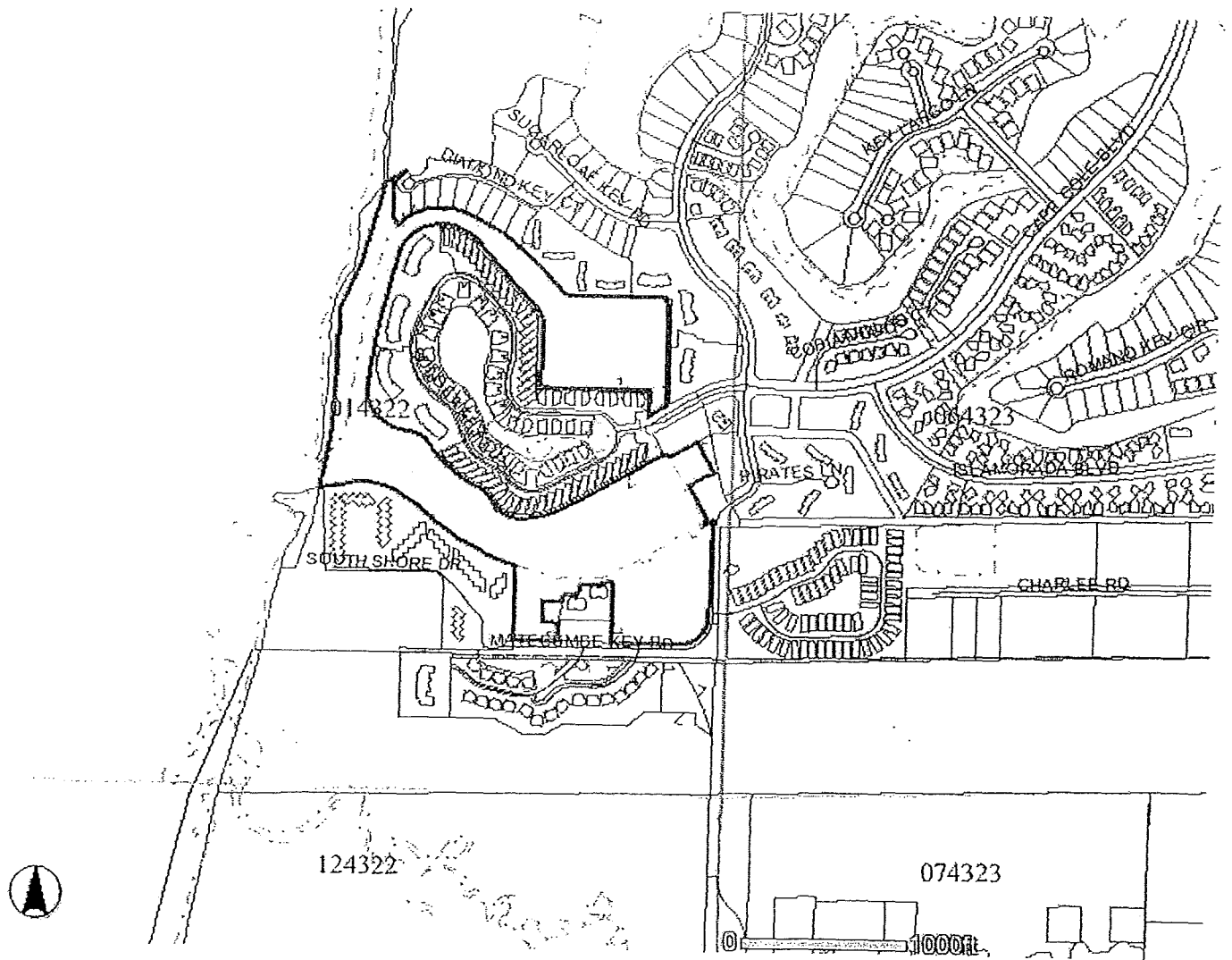
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Alison M. Stowe, Paralegal
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Area Location Map



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Zoning and Land
Use Planning
Michael E. Roeder, AICP

September 27, 2007

Lieutenant Carter
Lee County Fire Protection and Emergency Medical Services
P.O. Box 150027
Cape Coral, FL 33915

Re: Lee Plan Amendment for Burnt Store Marina Village

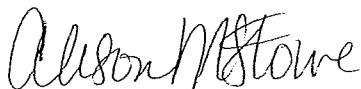
Dear Lieutenant Carter:

We represent the owner of the commercial portion of Burnt Store Marina located west of Burnt Store Road on Matecumbe Key Road. The parcel currently contains a wet and dry slip marina, a restaurant, offices, and other commercial uses. It is our intention to apply for a Lee Plan Amendment to permit the following uses: 525 wet slips; 775 dry spaces; 150,000 square feet of retail uses; 30,000 square feet of office uses; and 336 hotel units.

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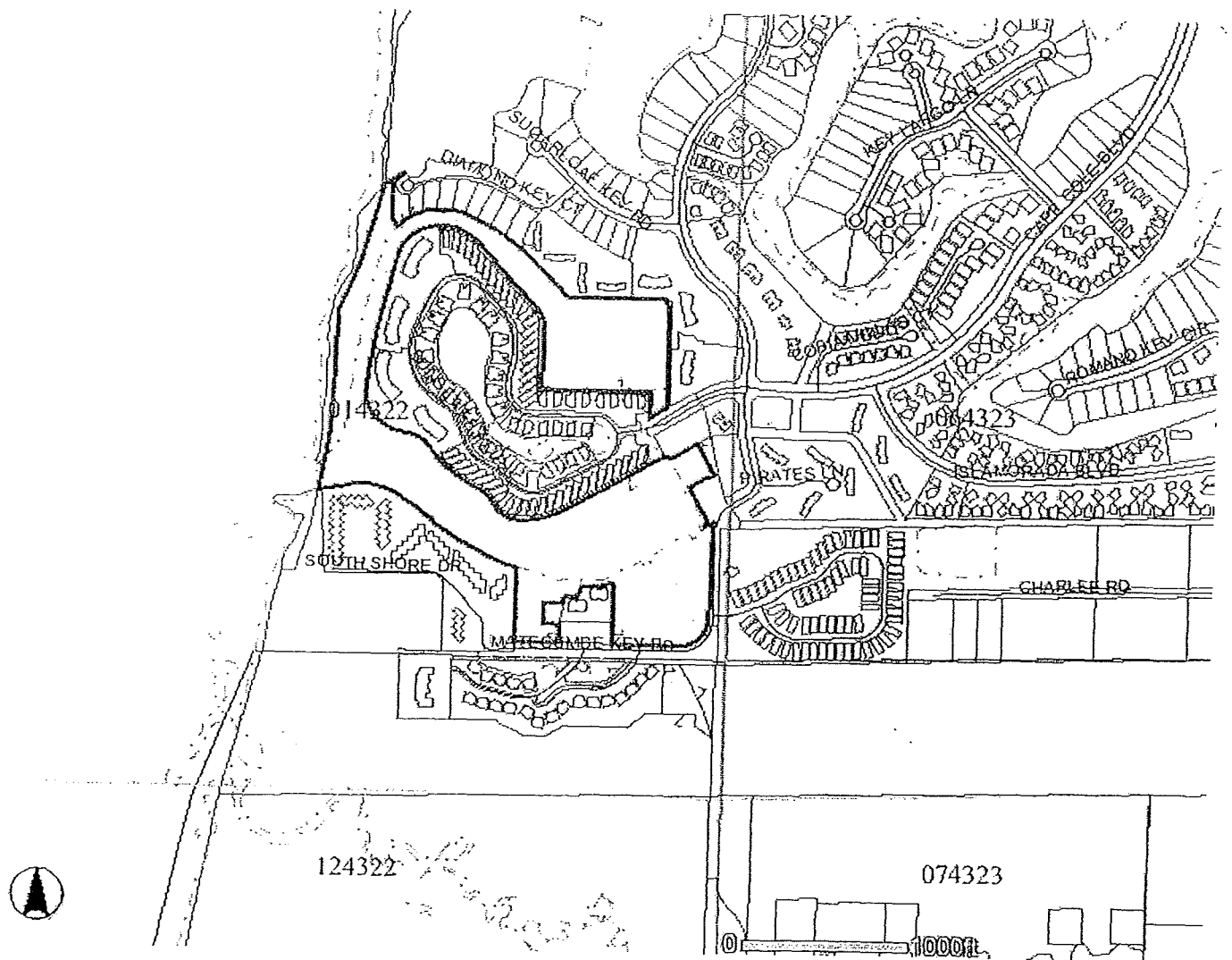
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HART & SWETT, P.A.



Alison M. Stowe, Paralegal
Zoning and Land Use Planning

Enclosure

Area Location Map



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David A. Burt

Director of
Zoning and Land
Use Planning
Michael E. Roeder, AICP

September 27, 2007

Captain Nygaard
Lee County Sheriff's Department
14750 Six Mile Cypress Pkwy.
Fort Myers, FL 33912

Re: Lee Plan Amendment for Burnt Store Marina Village

Dear Captain Nygaard :

We represent the owner of the commercial portion of Burnt Store Marina located west of Burnt Store Road on Matecumbe Key Road. The parcel currently contains a wet and dry slip marina, a restaurant, offices, and other commercial uses. It is our intention to apply for a Lee Plan Amendment to permit the following uses: 525 wet slips; 775 dry spaces; 150,000 square feet of retail uses; 30,000 square feet of office uses; and 336 hotel units.

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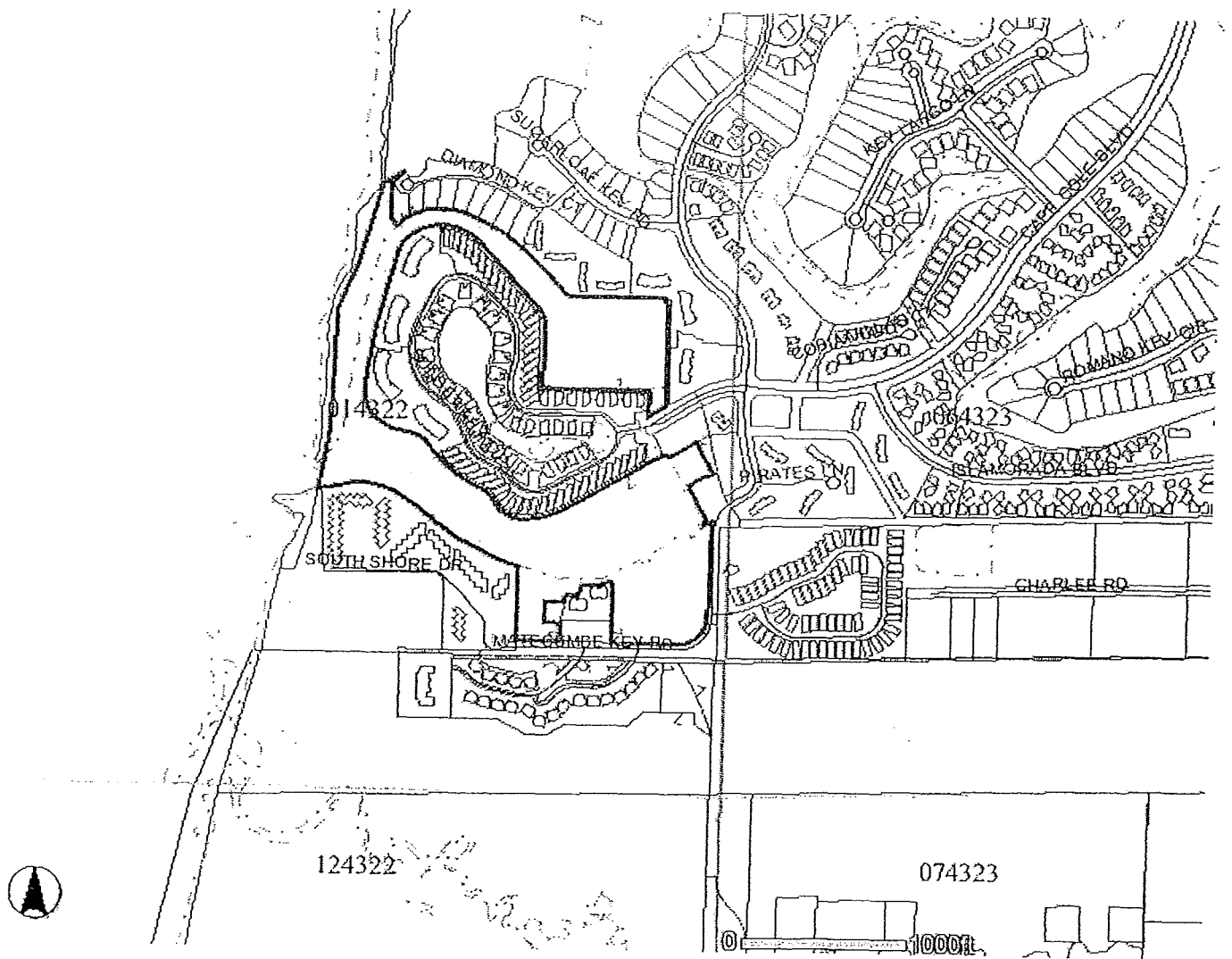
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HART & SWETT, P.A.



Alison M. Stowe, Paralegal
Zoning and Land Use Planning

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Area Location Map

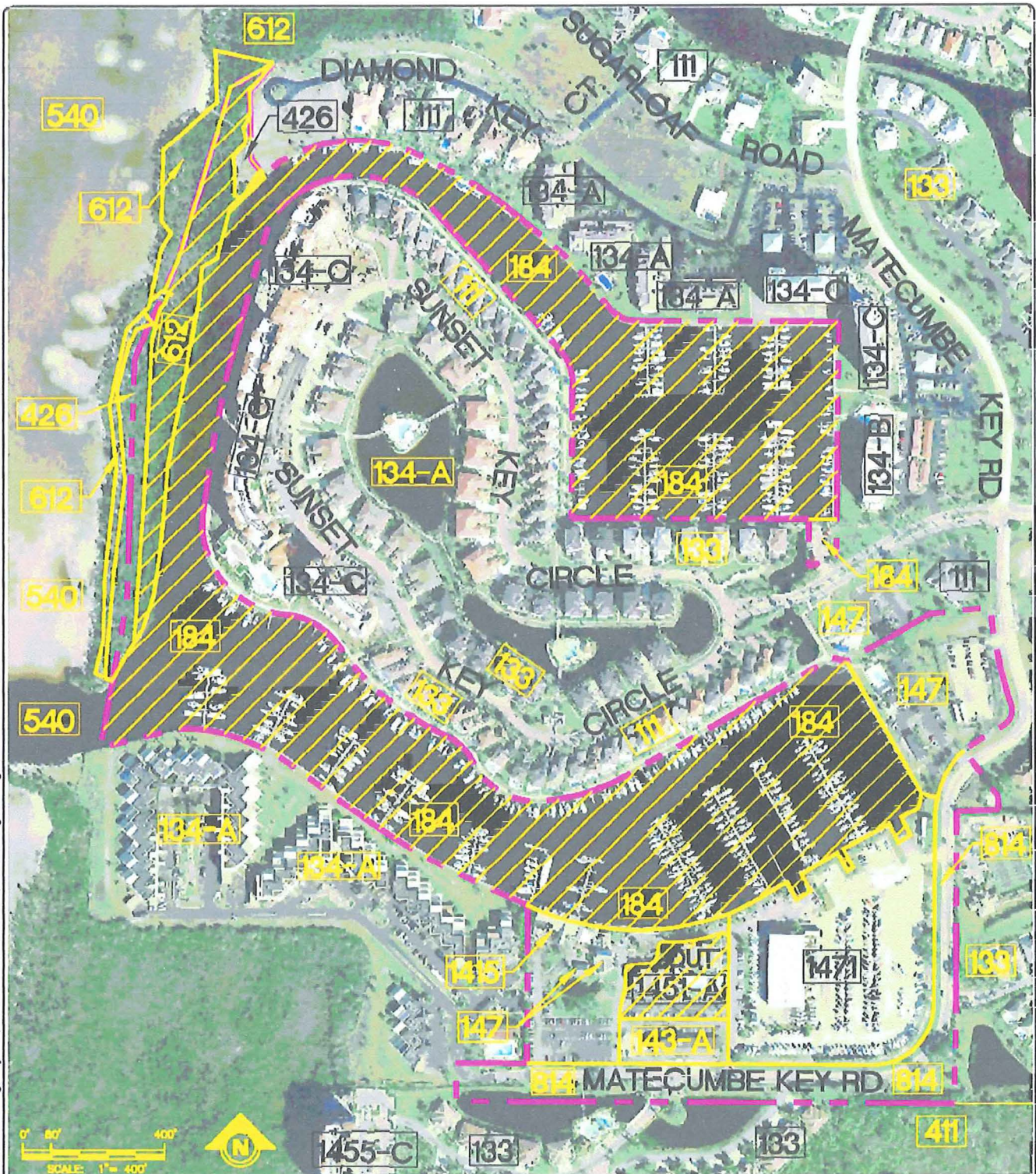


Environmental Impacts

EXHIBIT C

The proposed marina village parcel includes three communities that could potentially be utilized by listed species. The marina water body (FLUCCS 184) could potentially be utilized by the West Indian Manatee. The mangroves swamp (FLUCCS 612) and tropical hardwoods (FLUCCS 426) have the potential to be utilized by listed wading birds for foraging and/or nesting. The proposed land use change is not anticipated to affect these species as no development activities would occur within the mangrove and tropical hardwoods communities. The proposed additional dry slips and minor marina basin modifications are not anticipated to negatively affect manatees as the marina is sited in a location designated by the Lee County Manatee Protection Plan as a preferred location for marina facilities. Standard manatee construction conditions and a manatee educational program would be provided as part of the proposed project.

EXHIBIT C



SUBJECT PROPERTY (6238± AC.)			
111	SINGLE FAMILY	1451-A	HOTEL - THREE (3) STORY
133	MULTI-DWELLING UNITS, LOW RISE 2 STORY	1455-C	HOTEL/CONDOMINIUM (8 STORY)
134	MULTI-DWELLING UNITS, HIGH RISE	147	MIXED COMMERCIAL & SERVICES
	-A THREE (3) STORY	1415	RESTAURANT
	-B SIX (6) STORY	1471	BOAT STORAGE
	-C EIGHT (8) STORY		
143	PROFESSIONAL SERVICES		
	-A THREE (3) STORY		
184	MARINA	540	BAY & ESTUARIES
411	PINE FLATWOODS	612	MANGROVE SWAMP
426	TROPICAL HARDWOODS	814	ROAD
540	WETLANDS & OTHER SURFACE WATERS (4109± AC)		
612	UPLANDS (2129 AC±)		

P:\CAD\2007\07-431\PILOT\FLUCCS-SOILS.dwg, Layout4, 9/24/2007 10:29:55 AM, Avalon Engineering Inc.

PROJ. 07-431	DATE: 4/30/07
CADD TECH. M.P./J.D.	
PROJ. MGR. Bill Edwards, P.E.	
FL. LICENSE # 38615	

AVALON ENGINEERING, INC.	
2503 DEL PRADO BLVD. #200	
CAPE CORAL, FLORIDA 33904	
FBPE#3128 (239) 573-2077	

PROPOSED MARINA VILLAGE
BURNT STORE MARINA
LEE COUNTY, FLORIDA

BURNT STORE MARINA VILLAGE
FLUCCS MAP

SHEET
4 of 5

EXHIBIT C



LEGEND

- | | |
|-----------------------------------|----------------------------------|
| --- SUBJECT PROPERTY (62.38± AC.) | |
| (11) MYAKKA FINE SAND | (28) IMMOKALEE SAND |
| (15) ESTERO MUCK | (43) SMYRNA SAND |
| (16) PECKISH MUCKY FINE SAND | (69) MATLACHA GRAVELLY FINE SAND |

P:\CAD\2007\07-431\1\LOTFLUCCS-SOILS.dwg, Layout5, 9/24/2007 10:29:59 AM, Avalon Engineering Inc.

PROJ 07-431	DATE: 4/30/07
CADD TECH. M.P./J.D.	
PROJ MGR. Bill Edwards, P.E.	
FL. LICENSE # 38615	

AVALON ENGINEERING, INC.	
2503 DEL PRADO BLVD. #200	
CAPE CORAL, FLORIDA 33904	
FBPE#3128 (239) 573-2077	

PROPOSED MARINA VILLAGE
BURNT STORE MARINA
LEE COUNTY, FLORIDA

BURNT STORE MARINA VILLAGE
SOILS MAP

SHEET
5 of 5



FLORIDA DEPARTMENT of STATE

CHARLIE CRIST
Governor

KURT S. BROWNING
Secretary of State

September 28, 2007

Alison Stowe
Kroll, Conser, Ebelini, Hart & Swett, P.A.
1625 Hendry St. P.O. Box 2449
Fort Myers, FL 33902
FAX: 239-334-1446

Ms. Stowe:

In response to your inquiry of September 27, 2007, the Florida Master Site File lists no previously recorded cultural resources in the following parcels:

T43S, R22E, Section 1

In interpreting the results of our search, please remember the following points:

- Areas which have not been completely surveyed, such as yours, may contain unrecorded archaeological sites, unrecorded historically important structures, or both.
- As you may know, state and federal laws require formal environmental review for some projects. Record searches by the staff of the Florida Master Site File do not constitute such a review of cultural resources. If your project falls under these laws, you should contact the Compliance Review Section of the Bureau of Historic Preservation at 850-245-6333 or at this address.

If you have any further questions concerning the Florida Master Site File, please contact us as below.

Sincerely,

Kayla Bielinski
Archaeological Data Analyst, Florida Master Site File
Division of Historical Resources
R. A. Gray Building
500 South Bronough Street
Tallahassee, Florida 32399-0250

Phone 850-245-6440, Fax: 850-245-6439
State SunCom: 205-6440
Email: fmsfile@dos.state.fl.us
Web: <http://www.dos.state.fl.us/dhr/fmsff>

R. A. Gray Building • 500 South Bronough Street • Tallahassee, Florida 32399 0250
Telephone: (850) 245-6500 • Facsimile: (850) 245-6125
www.dos.state.fl.us

TOTAL P.02

**LEE PLAN NARRATIVE
EXHIBITS E.1 & 2**

The proposed redesignation of the subject property from Rural to the proposed Burnt Store Marina Village category is consistent with the Lee Plan in general, and the following goals, objectives, and policies in particular:

1. Policy 1.4.1: The property is not consistent with the description of the Rural category in that it already contains a high-intensity commercial use and has a high level of public services.
2. Policy 1.7.5: The proposed redesignation will permit the renovation and expansion of the existing marina on the site.
3. Policy 1.7.6: No additional commercial acres will be needed for the project, as the property is already being used for commercial purposes.
4. Objective 2.1: The creation and application of the new FLUM category will not encourage urban sprawl. This subject is addressed in more detail in the urban sprawl analysis exhibit.
5. Objective 2.2: The project will be served by public facilities with adequate capacity (see the various infrastructure analyses contained in the application).
6. Objective 2.4: The applicant is seeking to amend the Lee Plan in light of a number of changed conditions that have occurred since the property was designated Rural in 1989, including: the increased demand for dockage space throughout Lee County; the ongoing development of Burnt Store Marina at high levels of density and intensity; the deterioration and increasing obsolescence of the existing structures on the site, most notably the dry storage building; recent amendments to the LDC prohibiting buildings of the height proposed by the applicant; and the County's recent interest in promoting attractive mixed-use developments.
7. Policy 2.4.4: As noted in #3 above, no additional commercial acreage will be required for the project, as the applicant is seeking to better utilize an existing commercial development footprint.
8. Policy 5.1.5: The amendment will facilitate the redevelopment of the existing commercial site into an attractive multi-use project that will be more compatible with the surrounding residential uses than the existing use.

9. Policy 6.1.2: The amendment will create an exception to the commercial site location standards similar to the one inherent in the County's new Commercial FLUM category. This exception is justified in light of the amount of development that exists and is vested for Burnt Store Marina as a whole, and the existence of commercial development at the location proposed for the new category.
10. Policy 6.1.4: As noted above, the project will be compatible with the neighborhood and will be served by adequate public facilities.
11. Policy 6.1.7: The applicant is proposing to redevelop an existing commercial site.
12. Policy 6.1.8: Any proposed development on the site will be consistent with the new FLUM category.
13. Goal 8: The applicant is attempting to increase the size of the existing water-dependent use.
14. Standards 11.1 and 11.2: As noted above, the project will be served by public water and sewer facilities with available capacity.
15. Objective 125.2: The larger marina will increase the public's access to the waterfront.
16. Policy 128.1.3: One of the key components of the development is a new, larger, state-of-the-art dry storage facility. The number of wet slips will not be increased.
17. Policy 128.4.2: Most of the shoreline will be used by water-dependent uses.
18. Policy 128.5.4: The expanded marina is consistent with the County's marina siting criteria. It involves the redevelopment of an existing upland site with one or more dry storage buildings.
19. Policy 128.5.8: The marina is in an area with adequate water depth.
20. Policy 128.5.9: The new category will facilitate a redevelopment project on previously-disturbed uplands.
21. Policy 128.5.11: Adequate uplands exist on the site for marina support facilities.
22. Policy 128.6.16: As noted above, the increase in slips is solely attributable to the construction of one or more larger, state-of-the-art dry storage buildings.

IMPACTS TO NEARBY LOCAL GOVERNMENTS

EXHIBIT E.3

The southern boundary of the subject parcel is the City of Cape Coral. The FLUM designation of the property immediately to the south is Mixed Use. This parcel is used for multi-family residential purposes. The redevelopment of the subject parcel will not be incompatible with that very urban use.

Portions of the traffic generated by the redevelopment on the subject parcel will use Burnt Store Road through Cape Coral. Burnt Store Road is a County, not a City, facility. It currently operates at LOS D south of the subject property; according to the 2007 Concurrency Inventory, approximately 400 trips are still available on this road segment before it reaches LOS F.

The redevelopment of the subject parcel will provide residents of the rapidly-growing northern portion of Cape Coral with commercial and marine-related opportunities which do not currently exist in that area, thereby reducing the number of lengthy vehicular trips south of Burnt Store Road to the SR 78 commercial corridor.

While the subject parcel does not immediately abut Charlotte County, other areas of Burnt Store Marina do. The Charlotte County property north of Burnt Store Marina is designated Low Density Residential on the County's FLUM and this Low Density category permits between one unit per five acres and one unit per acre.

Burnt Store Road at the County line is currently operating at LOS C, according to the Concurrency Inventory. Several policies in the Charlotte County Comprehensive Plan direct the County to create financing mechanisms to expedite the widening of the road to 2008. The demand for water and sewer service from the existing Charlotte County facilities is addressed in the water and sewer analysis.

**STATE AND REGIONAL PLAN CONSISTENCY
EXHIBIT E.4**

The proposed amendment is consistent with the following State and Regional Plan provisions:

STATE PLAN

Policy 8(b)10: The new category permits expanded water-dependent facilities along the shoreline.

Policy 15(b)3: The new category will also encourage a more attractive and functional mix of uses on the site.

REGIONAL PLAN

Goal 2, Strategy 1, Action 4: The applicant is proposing to redevelop an existing commercial site to create an attractive and functional mixed use community.

**URBAN SPRAWL ANALYSIS
EXHIBIT F.2**

The applicant responds to the urban sprawl indicators as follows:

1. The proposed category does not authorize low-intensity, low-density, or single-use development; it contemplates an intense multi-use development to complement the existing intense residential development within Burnt Store Marina.
2. The new category will permit the redevelopment of an existing commercial site, which is not "leapfrog-type development."
3. The redevelopment of a commercial node within Burnt Store Marina will not result in "radial, strip, isolated or ribbon pattern type development."
4. The site has already been developed for commercial purposes. There will be no loss of natural resources or agricultural land as a result of the proposed redevelopment.
5. The project will have access through the existing Burnt Store Marina road system and by boat.
6. The redevelopment of the property will not reduce functional open space and, in fact, will actually promote public access to the water.
7. This is an infill/redevelopment project.

Planning Justification

EXHIBIT G

The requested map and text amendments should be approved, for the following reasons:

1. The current level of development and public services on the site is completely inconsistent with the Rural FLUM category.
2. The amendment is necessary to permit the subject parcel to be redeveloped for a more attractive and functional mix of uses, including large state-of-the-art dry storage buildings and retail uses in excess of the minor commercial center permitted by the Rural FLUM category, particularly since the LDC and the Lee Plan currently limit building heights in Burnt Store Marina to 45 feet, with no possibility of obtaining deviations.
3. The amendment will not promote urban sprawl, as noted in the Urban Sprawl Analysis.
4. The proposed project will be served by adequate public facilities, as noted in the various infrastructure analyses.
5. The parcel abuts a highly urbanized parcel designated Mixed Use to the south.
6. The redevelopment of the marina parcel will facilitate public access to the waterfront.
7. No changes will be required to the Planning Communities Acreage Table to permit the redevelopment of the existing commercial parcel.
8. There are no existing FLUM categories which adequately address the mix of uses and the building heights that are being requested for this project. The new Commercial category, which comes closest, appears to be designed for use for parcels which abut arterial roads.

Knott, Consoer, Ebelini
Hart & Swett, P.A.
A T T O R N E Y S - A T - L A W

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Director of
Zoning and Land
Use Planning
Michael E. Roeder, AICP

August 10, 2007

Ms. Mary Gibbs, Director
Lee County Dept. of Community Development
P.O. Box 398
Fort Myers, FL 33902

Re: Burnt Store Marina Comprehensive Plan Amendment

Dear Mary:

As you know, our firm represents Burnt Store Amenities LLC, the owner of several parcels within Burnt Store Marina (BSM). BSM is a large mixed use development consisting of a large residential component, a marina, a hotel, a golf course, a restaurant, and other commercial uses. It was zoned initially in two different resolutions during the 1970's; the area including the golf course and the abutting residential uses was subsequently rezoned to a number of different conventional zoning districts in an effort to resolve some ongoing litigation in 1983. The property as a whole is vested against the DRI process for 2,514 dwelling units and a large marina by virtue of two settlement agreements with DCA. Notwithstanding the obvious urban character of the property, it was designated Rural on the Future Land Use Map in 1989, and remains so today.

My client has encountered a number of serious regulatory problems in its efforts to redevelop the property, including the following:

1. While the County's GIS system shows that the golf course is zoned RM-10, the zoning resolution actually indicates that it is zoned AG-2.

Subsequent decisions by the staff and the Hearing Examiner have had the legal effect of denying my client even the uses that are normally permitted in the AG-2 district; in effect, the County has stated that the property is zoned open space for a PUD, even though the public records do not show it as a PUD. The only way to remedy this situation, according to a ZVL issued by County staff, is through a comprehensive plan amendment and a rezoning.

2. The resolution for the Marina Village portion of BSM indicates that the property has conventional zoning; however, it has a very vague site plan attached to it, which creates potential legal problems. In addition, the development on the site has not been completely consistent with this plan.

3. The property is heavily urbanized and is in no way consistent with the definition of the Rural category in the Lee Plan.

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RECEIVED BY
LEE CO. ATTORNEY

August 10, 2007

My client intends to redevelop the Marina Village site in a manner consistent with the Cape Harbour development in Cape Coral: i.e., as a mixed use project with an attractive mix of retail shops, residential uses, a possible hotel, and large, state of the art boathouse structures in a public marina. It also wants to retain the right it reasonably believed it had to construct residential uses on the golf course property prior to the recent ZVL and Hearing Examiner decision in the event the golf course cannot be operated successfully by the residents.

In order to accomplish my client's objectives, we will need a comprehensive plan amendment, a DRI approval, and a rezoning for the entirety of BSM. We envision that the comprehensive plan amendment would consist of a text amendment creating a new land use category permitting an appropriate mix of uses for the site, regulating the density, intensity, and height of each use within each individual development area of BSM, and protecting the vested rights of the other owners within the project, as well as a map amendment applying the new category to BSM. We cannot, however, file an application of this nature without the assistance of the County, because we do not have authorization to request land use changes on parcels that belong to other parties.

We would appreciate it if the County would take action to initiate the above-described amendment as soon as possible. My client understands that it will be responsible for preparing the application and paying the filing fee, and that the County would retain all of its usual rights to reasonably modify or reject the amendment as it sees fit.

Sincerely,

KNOTT, CONSOER, EBELINI,
HART & SWETT, P.A.



Matthew D. Uhle, Esq.

MDU/ams

cc: Will Stout
Craig Dearden
Dawn Lehnert, Esq.
Pam Houck
Matt Noble
Bryan Kelner

To Matt Uhle

Knott, Consoer, Ebelini
Hart & Swett, P.A.
ATTORNEYS - AT - LAW

LEE COUNTY
RECEIVED

07 SEP -7 PM 4:31

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David A. Burt

Director of
Zoning and Land
Use Planning
Michael E. Roeder, AICP

September 7, 2007

Ms. Mary Gibbs, Director
Lee County Dept. of Community
Development
P.O. Box 398
Fort Myers, FL 33902

Re: Burnt Store Marina

Dear Mary:

Enclosed please find 10 copies of a 2-page map of Burnt Store Marina. The parcels that are shown in yellow and which are identified as belonging to Burnt Store Amenities LLC and Realmark Burnt Store Marina LLC are the ones that belong to my client. The area that we propose to include the amendment consists of the property within the boundaries of the Section 22 plat (zoned in Resolution ZAB-83-445), plus the area subject to Resolution Z-77-63, less the wetland areas zoned PR in Resolution ZAB-83-445 (located in the northwest corner of the platted area) and wetlands owned by Burnt Store Amenities LLC and Realmark Burnt Store Marina LLC located in the southwest and western areas of the property covered by Z-77-63.

If you have any questions, please let me know.

Sincerely,

KNOTT, CONSOER, EBELINI,
HART & SWETT, P.A.

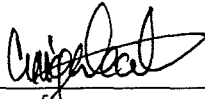


Matthew D. Uhle
MDU/zw
Enclosures

cc: Will Stout
Craig Dearden
Bill Edwards

AFFIDAVIT

I, Craig A. Dearden as Vice President of Realmark Burnt Store Marina, LLC, a Florida Limited Liability Company, certify that I am the owner or authorized representative of the property described herein, and that all answers to the questions in this application and any sketches, data, or other supplementary matter attached to and made a part of this application, are honest and true to the best of my knowledge and belief. I also authorize the staff of Lee County Community Development to enter upon the property during normal working hours for the purpose of investigating and evaluating the request made through this application.


Signature of owner or owner-authorized agent

9/26/07
Date

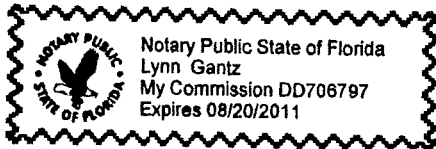
Craig A. Dearden
Typed or printed name

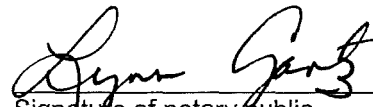
STATE OF FLORIDA)

COUNTY OF LEE)

The foregoing instrument was certified and subscribed before me this 26 day of September 2007, by Craig A. Dearden as Vice-President of Realmark Burnt Store Marina, LLC, a Florida Limited Liability Company, who is personally known to me or who has produced _____ as identification.

(SEAL)




Signature of notary public

Lynn Gantz
Printed name of notary public

Text Amendment
EXHIBIT

The Burnt Store Marina Village area is located within a portion of the property in Burnt Store Marina that was zoned for a mixture of commercial and residential uses in Lee County Resolution Z-77-63. The category is intended to facilitate the redevelopment of the existing marina and commercial area of Burnt Store Marina for an attractive mix of marine, retail, hotel, and office uses that enhances the public use of the waterfront. The following uses are permitted within this category: retail uses, up to a maximum of 150,000 square feet; wet slips, up to a maximum of 525; dry storage spaces, up to a maximum of 775; office space, up to a maximum of 30,000 square feet; and a maximum of 336 hotel units. The maximum height permitted in this category is 220 feet.

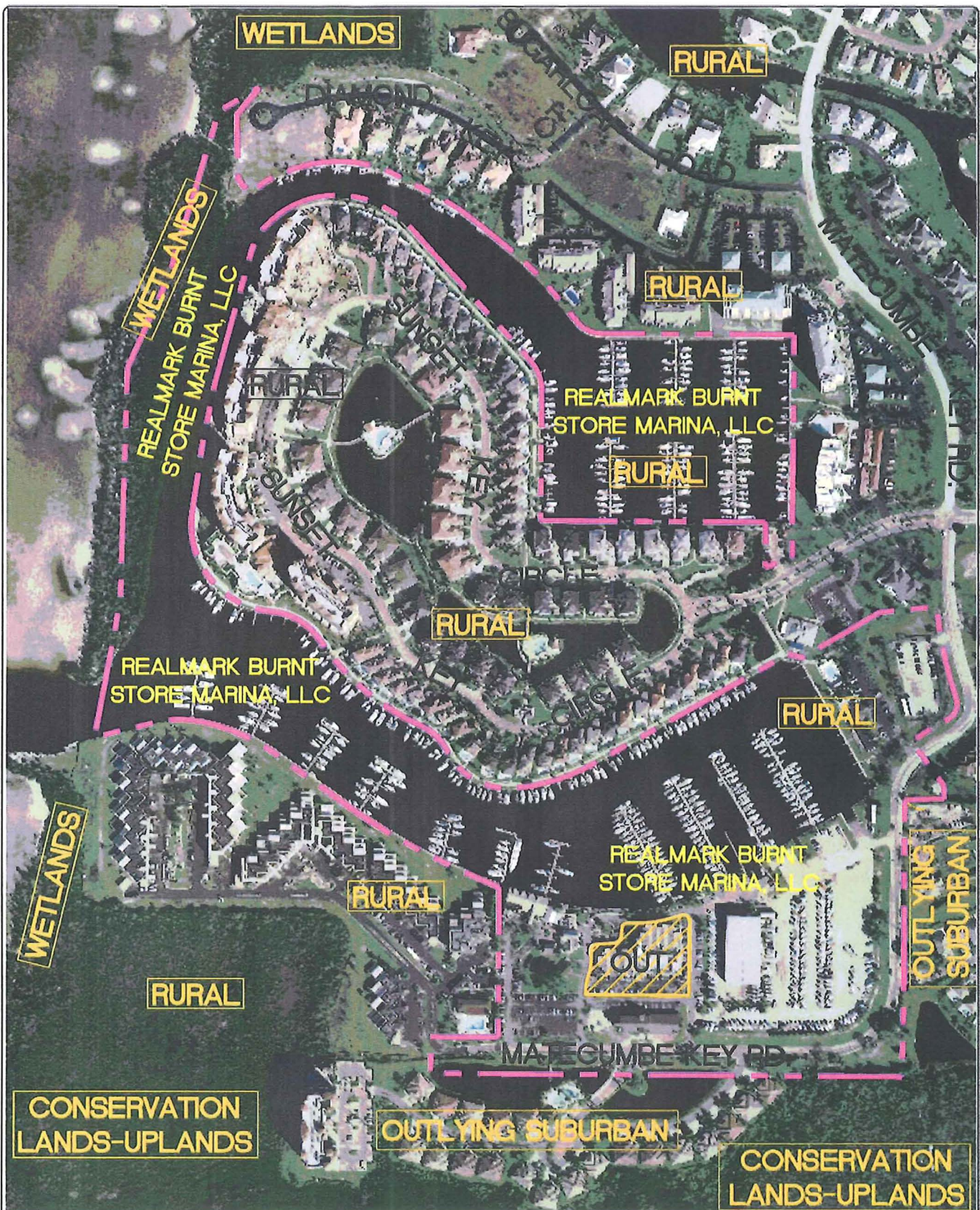
IMPACTS TO PLANNING COMMUNITIES ACREAGE TABLE

The subject property consists solely of land that has been previously developed for commercial purposes. No residential uses will be permitted within the Burnt Store Marina Village FLUM category. As a result, there will be a de minimis decrease in the capacity of the FLUM, and it will not be necessary to add acreage to the commercial category for the Burnt Store Planning Community.

FLUM CATEGORY
EXHIBIT A.2

The Burnt Store Marina Village area is located within a portion of the property in Burnt Store Marina that was zoned for a mixture of commercial and residential uses in Lee County Resolution Z-77-63. The category is intended to facilitate the redevelopment of the existing marina and commercial area of Burnt Store Marina for an attractive mix of marine, retail, hotel, and office uses that enhances the public use of the waterfront. The following uses are permitted within this category: retail uses, up to a maximum of 150,000 square feet; wet slips, up to a maximum of 525; dry storage spaces, up to a maximum of 775; office space, up to a maximum of 30,000 square feet; and a maximum of 336 hotel units. The maximum height permitted in this category is 220 feet.

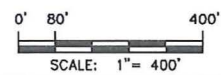
P:\CAD\2007\07-431\LOT\WV-MAPS.dwg, Layout1, 9/13/2007 9:46:21 AM, Avalon Engineering Inc.



--- SUBJECT PROPERTY (62.38± AC.)

RURAL

LEE COUNTY FUTURE LAND USE CLASSIFICATION



PROJ 07-431	DATE: 4/30/07
CADD TECH. M.P./J.D.	
PROJ. MGR. Bill Edwards, P.E.	
FL LICENSE # 38615	

AVALON ENGINEERING, INC.	
	2503 DEL PRADO BLVD. #200 CAPE CORAL, FLORIDA 33904 FBPE#3128 (239) 573-2077

PROPOSED MARINA
VILLAGE
BURNT STORE MARINA
LEE COUNTY, FLORIDA

BURNT STORE MARINA VILLAGE
FUTURE LAND USE

SHEET
1 of 3

EXISTING LAND USES
EXHIBIT A.3

The existing land uses on the property consist of wet boat slips, a dry storage building, office space, a restaurant, and recreational uses. The surrounding uses are predominantly multi-family residential structures. The proposed amendment, if approved, would permit the applicant to replace the existing obsolete dry storage building with one or more larger and vastly more attractive state-of-the-art buildings, along with an increased amount of support retail, office, and hotel space. These uses will be compatible with the intense residential uses that exist or are permitted in the County's RM-2 and RM-10 zoning categories.

P:\CAD\2007\107-431\LOT\WV-MAPS.dwg, Layout3, 9/14/2007 2:19:41 PM, Avalon Engineering Inc.



<p>--- SUBJECT PROPERTY (62.38± AC.)</p> <p>MULTI-FAMILY EXISTING LAND USE CONDITIONS</p>		<p>LEGEND</p> <p>1 HOTEL</p> <p>2 OFFICE</p> <p>3 OFFICE/RETAIL</p> <p>4 YACHT CLUB</p> <p>5 MARINA FACILITY</p> <p>6 MARINA REPAIR</p>	<p>0' 80' 400'</p> <p>SCALE: 1" = 400'</p> <p></p>
--------------------------------------------------------------------------------------------------	--	------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------

PROJ. 07-431	DATE: 4/30/07
CADD TECH. M.P./J.D.	
PROJ. MGR. Bill Edwards, P.E.	
FL. LICENSE # 38615	

<p>AVALON ENGINEERING, INC.</p> <p>2503 DEL PRADO BLVD. #200</p> <p>CAPE CORAL, FLORIDA 33904</p> <p>FBPE #3128 (239) 573-2077</p>

<p>PROPOSED MARINA VILLAGE</p> <p>BURNT STORE MARINA</p> <p>LEE COUNTY, FLORIDA</p>

<p>BURNT STORE MARINA VILLAGE</p> <p>EXISTING LAND USE</p>

<p>SHEET</p> <p>3 OF 3</p>

EXISTING ZONING
EXHIBIT A.4

The subject property is zoned CM and RM-2. The surrounding parcels are zoned RM-2, RM-10, and RPD.



TRAFFIC CIRCULATION ANALYSIS

PREPARED FOR A

COMPREHENSIVE PLAN AMENDMENT

FOR

BURNT STORE MARINA

PROJECT NO. F0709.18

PREPARED BY:
TR Transportation Consultants, Inc.
13881 Plantation Road, Suite 11
Fort Myers, Florida 33912-4339
(239) 278-3090

September 27, 2007

CONTENTS

- I. INTRODUCTION
- II. EXISTING CONDITIONS
- III. PROPOSED PLAN AMENDMENT
- IV. IMPACTS OF PROPOSED PLAN AMENDMENT
- V. CONCLUSION

I. INTRODUCTION

TR Transportation Consultants, Inc. has conducted a traffic circulation analysis pursuant to the requirements outlined in the application document for Comprehensive Plan Amendment requests. The analysis will examine the impact of the requested land use change from Rural to a site specific land use designation to be titled 'Burnt Store Marina Village'. The subject site is located within the Burnt Store Marina development located along the west side of Burnt Store Road at the Lee County/Charlotte County line in Lee County, Florida.

The following report will examine the impacts of changing the future land use category from the existing land use (Rural) to a new site specific land use designation to be titled 'Burnt Store Marina Village'.

II. EXISTING CONDITIONS

The subject site currently contains the Burnt Store Marina mixed use development. The subject site is bordered by the Charlotte County line on the north, Burnt Store Road on the east, the Gulf of Mexico on the west and residential and open lands to the south.

Burnt Store Road is a two-lane undivided roadway that extend from within Charlotte County south to Pine Island Road, where it becomes Veterans Parkway. Burnt Store Road has a posted speed limit of 55 mph and is under the jurisdiction of the Lee County Department of Transportation. The 2030 Financially Feasible Highway Plan indicates this roadway to be a four lane facility in the future.

III. PROPOSED PLAN AMENDMENT

The proposed Comprehensive Plan Amendment would change the future land use designation on the subject site from the existing Suburban, Industrial Development, Urban Community, and Wetlands to a site specific land use designation to be titled 'Burnt Store Marina Village'. The Burnt Store Marina Village area is located within a portion of the property in Burnt Store Marina that was zoned for a mixture of commercial and residential uses in Lee County Resolution Z-77-63. The category is intended to facilitate the redevelopment of the existing marina and commercial area of Burnt Store Marina for an attractive mix of marine, retail, hotel, and office uses that enhances the public use of the waterfront. The following uses are permitted within this category:

- Retail uses, up to a maximum of 150,000 square feet;
- Wet slips, up to a maximum of 525;
- Dry storage spaces, up to a maximum of 775;
- Office space, up to a maximum of 30,000 square feet;
- a maximum of 336 hotel units.

Based on the permitted uses within the approved zoning, the proposed land use designation change would result in an increase in the number of allowable multi-family residential units and hotel units but a decrease in the allowable marina uses. **Table 1** highlights the intensity of uses that could be constructed under the existing land use designation and the intensity of uses under the proposed land use designation.

**Table 1
Burnt Store Marina Village
Land Uses**

Existing/Proposed	Land Use Category	Intensity
Existing	Rural	30,000 s.f. Retail
		22,000 s.f. Office (existing)
		981 Boat Slips (Wet & Dry)
		0 Hotel Rooms
Proposed	Burnt Store Marina Village	150,000 s.f. Retail
		30,000 s.f. Office
		1,200 Boat Slips (Wet & Dry)
		336 Hotel Rooms

IV. IMPACTS OF PROPOSED PLAN AMENDMENT

The transportation related impacts of the proposed comprehensive plan amendment were evaluated pursuant to the criteria in the application document. This included an evaluation of the long range impact (20-year horizon) and short range (5-year horizon) impact the proposed amendment would have on the existing and future roadway infrastructure.

Long Range Impacts (20-year horizon)

The Lee County Metropolitan Planning Organization's (MPO) recently updated 2030 long range transportation travel model was reviewed to determine the impacts the amendment would have on the surrounding area. The subject site lies within Traffic Analysis Zone (TAZ) 827. Table 3 identifies the land uses currently contained in the long range travel model utilized by the MPO and Lee County for the Long Range Transportation Analysis.

**Table 3
TAZ 827
Land Uses in Existing 2030 Travel Model**

Land Use Category	Intensity
Single Family Homes	148 residential units
Multi-Family Homes	395 residential units
Hotel Units	37 rooms

TAZ 827 generally includes the area within Burnt Store Marina on the west side of the property. The TAZ boundaries basically follows the coastline on the west, the Burnt Store Marina property line on the south, then northward along Matecumbe Key Road, then east and north along Cape Cole Boulevard to the northern boundary of Burnt Store Marina then back west to the Gulf Coast. This TAZ represents less than ½ the land area included in the overall Burnt Store Marina development. The uses within the TAZ currently consist of single family homes, multi-family homes, the marina and the supporting retail uses and restaurants. The property subject to the Comprehensive Plan Amendment is included in TAZ 827 but only a portion of that land area. The application documents indicate which property within the Burnt Store Marina is subject to this Map Amendment.

Based on the comparison of the existing uses on the property and the uses proposed in the Map Amendment, there will not be a substantial increase in trip generation with the proposed change. The retail uses will primarily include restaurants and shops that will support the boating industry and the marina uses. These uses are located approximately one (1) mile from Burnt Store Road and are located within the gated community of Burnt Store Marina. The uses will be open to the public but are not along a major thoroughfare such as similar retail and restaurant establishments in Lee County.

The proposed Comprehensive Plan Amendment is anticipated to add 336 hotel units, 120,000 square feet of commercial uses, 219 additional boat slips and 8,000 square feet of additional office space. **Table 4** indicates the ITE trip generation for these additional uses.

Table 4
ITE Trip Generation for Additional Uses within TAZ 827

Land Use	Weekday P.M. Peak Hour Trips
Retail	310
Boat Slips	42
Hotel Units	228
Office	12
Total Additional Trips	592

As previously noted, the majority of these trips will be internal to the project. With the added trips to the roadway network in 2030 will not create a significant impact to the roadway network. The 2030 traffic volumes in the Financially Feasible Highway Plan are shown to be approximately 39,848 Peak Season Weekday Daily Traffic (PSWDT). This converts into an Annual Average Daily Traffic (AADT) of approximately 33,960 vehicles. Based on the appropriate K-100 and D factors for this area (Permanent Count Station #12), the peak season, peak hour, peak direction volume on this segment of Burnt Store Road is approximately 1,760. Assuming an internal capture of approximately forty percent (40%) of the trips shown in Table 4 and converting the "new" trips to directional trips, the projected peak hour, peak direction volume on Burnt Store Road would be approximately 1,970 vehicles. This is less than the Generalized Service Volume for Controlled Access Facilities, which is 2,030 vehicles. It is anticipated, based on recent studies conducted by Lee County, that the Burnt Store Road corridor will be developed as a limited access facility and have a similar "Controlled Access" designation as does Veterans Parkway does south of S.R. 78.

Short Range Impacts (5-year horizon)

The Lee County Capital Improvement Program (CIP) for Fiscal Year 2007 to 2012 was reviewed, as well as the FDOT Work Program for Fiscal Year 2007/2008 to 2011/2012 in order to determine the short term impacts the proposed land use change would have on the surrounding roadways.

The only improvement in the vicinity of the subject site included in either the Lee County CIP or FDOT Work Program is the funding for Right-of-Way acquisition for the Burnt Store widening project from Van Buren Street south to S.R. 78. No construction funding is identified at this time for this improvement. The most recent Lee County Concurrency Management Report indicates that Burnt Store Road, in the vicinity of Burnt Store Marina, has a current capacity of 1,010 vehicles in the peak hour, peak direction. The current volume (2006 100th Highest Hour) was 316 trips, operating at a Level of Service "C".

Recommendations to the Long Range Transportation Plan

Based on this analysis, none of the roadway segments analyzed are shown to operate within the adopted Level of Service standard in the year 2030. Therefore no changes to the Lee County MPO Long Range Transportation Plan will be warranted as a result of this analysis.

V. CONCLUSION

The proposed Comprehensive Plan Amendment is to modify the future land use designation on the subject site from the existing Rural designation to a site specific land use designation to be titled 'Burnt Store Marina Village'. The subject site is located along Burnt Store Road just south of the County line. An analysis of the 2030 Recommended Long Range Transportation Plan indicates that none of the roadway segments analyzed are anticipated to operate below the adopted Level of Service standard. Therefore no changes to the Lee County MPO Long Range Transportation Plan will be warranted as a result of this analysis.

TRACT 1 (REVISED GOLF COURSE LEGAL):

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 1, TOWNSHIP 43 SOUTH, RANGE 22 EAST AND SECTION 6, TOWNSHIP 43 SOUTH, RANGE 23 EAST, BEING ALL OF TRACT "B", PUNTA GORDA ISLES, SECTION TWENTY TWO ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 28, PAGES 118 THROUGH 138, PUBLIC RECORDS OF SAID LEE COUNTY, FLORIDA.

TOGETHER WITH:

ADDITIONAL PARCEL #1:

THAT PARCEL RECORDED IN OFFICIAL RECORD BOOK 3320, PAGE 3328 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA

ADDITIONAL PARCEL #2:

THAT PARCEL RECORDED IN OFFICIAL RECORD BOOK 2285, PAGE 3070 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA

ADDITIONAL PARCEL #3:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 7, BLOCK 1006, SECTION 22, OF SAID PUNTA GORDA ISLES SUBDIVISION; THENCE S.88° 14'39"W. FOR 912.69 FEET TO THE WESTERLY LINE OF LOT 1 OF SAID BLOCK 1006; THENCE S.22° 30'37"E. ALONG THE WEST LINE OF SAID LOT FOR 78.50 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE NORTH AND HAVING A RADIUS OF 50.00 FEET; THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 100° 02'27" FOR 87.30 FEET TO THE BEGINNING OF A REVERSE CURVE CONCAVE TO THE SOUTH AND HAVING A RADIUS OF 500.00 FEET; THENCE EASTERLY ALONG SAID CURVE AND ALONG THE SOUTH LINE OF SAID BLOCK 1006 THROUGH A CENTRAL ANGLE OF 46° 16'04" FOR 403.76 FEET; THENCE S.76° 17'00"E. ALONG THE SOUTH LINE OF SAID BLOCK FOR 255.14 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE NORTHWEST AND HAVING A RADIUS OF 50.00 FEET; THENCE NORTHEASTERLY ALONG SAID CURVE AND ALONG THE SOUTH LINE OF SAID BLOCK THROUGH A CENTRAL ANGLE OF 106° 13'12" FOR 92.69 FEET TO THE BEGINNING OF A REVERSE CURVE CONCAVE TO THE SOUTHEAST AND HAVING A RADIUS OF 50.00 FEET; THENCE NORTHEASTERLY ALONG SAID CURVE AND ALONG THE SOUTH LINE OF SAID BLOCK THROUGH A CENTRAL ANGLE OF 78° 39'19" FOR 68.64 FEET; THENCE N.76° 09'07"E. ALONG THE SOUTH LINE OF SAID BLOCK FOR 76.09 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPT THE FOLLOWING PARCEL:

BEGINNING AT THE NORTHERLY CORNER OF LOT 3, BLOCK 994 OF SAID PUNTA GORDA ISLES SECTION 22, SAID POINT BEING THE POINT OF BEGINNING; THENCE S.76° 48'18"W. FOR 48.00 FEET; THENCE N.39° 53'12"E. FOR 53.68 FEET; THENCE N.88° 09'13"E. FOR 8.29 FEET; THENCE S.64° 55'39"E. FOR

13.87 FEET; THENCE N.69° 05'06"E. FOR 9.73 FEET; THENCE N.13° 25'43"E. FOR 24.17 FEET; THENCE N.17° 50'12"W. FOR 34.56 FEET; THENCE S.84° 43'56"W. FOR 7.71 FEET; THENCE N.63° 22'54"W. FOR 29.81 FEET; THENCE N.46° 05'01"W. FOR 81.43 FEET; THENCE N.71° 04'55"W. FOR 7.43 FEET; THENCE S.84° 11'40"W. FOR 11.13 FEET; THENCE S.72° 11'46"W. FOR 5.76 FEET; THENCE S.89° 12'56"W. FOR 3.58 FEET; THENCE N.72° 23'00"W. FOR 8.34 FEET; THENCE N.62° 28'07"W. FOR 7.23 FEET; THENCE S.81° 40'01"W. FOR 17.63 FEET; THENCE S.85° 24'38"W. FOR 29.42 FEET; THENCE N.89° 08'52"W. FOR 36.88 FEET; THENCE N.83° 22'49"W. FOR 24.40 FEET; THENCE N.61° 19'35"W. FOR 13.87 FEET; THENCE N.38° 44'39"W. FOR 19.64 FEET; THENCE N.18° 59'57"W. FOR 24.04 FEET; THENCE N.04° 20'38"W. FOR 145.31 FEET; THENCE N.06° 05'35"E. FOR 47.67 FEET; THENCE N.19° 20'06"E. FOR 33.38 FEET; THENCE N.55° 45'10"E. FOR 41.05 FEET; THENCE N.85° 13'15"E. FOR 38.03 FEET; THENCE S.72° 19'11"E. FOR 33.09 FEET; THENCE S.51° 55'12"E. FOR 14.42 FEET; THENCE S.77° 26'18"E. FOR 21.70 FEET; THENCE N.75° 48'31"E. FOR 52.27 FEET; THENCE N.79° 43'07"E. FOR 119.39 FEET; THENCE S.62° 49'58"E. FOR 29.98 FEET; THENCE S.41° 58'50"E. FOR 29.79 FEET; THENCE S.12° 32'22"E. FOR 14.56 FEET; THENCE S.04° 09'53"E. FOR 57.03 FEET; THENCE S.05° 04'46"W. FOR 24.06 FEET; THENCE S.10° 07'56"W. FOR 43.56 FEET; THENCE S.04° 14'03"E. FOR 38.30 FEET; THENCE S.37° 21'15"E. FOR 50.83 FEET; THENCE S.60° 30'39"E. FOR 15.44 FEET; THENCE S.28° 58'48"E. FOR 31.26 FEET; THENCE S.17° 45'35"W. FOR 85.96 FEET; THENCE S.05° 35'08"E. FOR 24.64 FEET TO THE POINT OF CURVE OF A NON TANGENT CURVE TO THE LEFT, OF WHICH THE RADIUS POINT LIES S.41° 53'13"E., A RADIAL DISTANCE OF 100.00 FEET; THENCE SOUTHERLY ALONG THE ARC, THROUGH A CENTRAL ANGLE OF 61° 14'55" FOR 106.90 FEET; THENCE S.76°51'56"W. FOR 40.00 FEET TO THE POINT OF CURVE OF A NON TANGENT CURVE TO THE LEFT, OF WHICH THE RADIUS POINT LIES S.76° 51'52"W., A RADIAL DISTANCE OF 50.00 FEET; THENCE NORTHWESTERLY ALONG THE ARC, THROUGH A CENTRAL ANGLE OF 90° 03'34" FOR 78.59 FEET TO THE POINT OF BEGINNING.

TRACT 2 (VACANT LAND 4A - PARCEL EAST OF MAINTENANCE PARCEL):

FROM THE SOUTHEAST CORNER OF SECTION 6, TOWNSHIP 43 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA, RUN N.00° 41'43"E., ALONG THE EAST LINE OF SAID SECTION 6 AND THE CENTERLINE OF STATE ROAD 765 (BURNT STORE ROAD), 1246.02 FEET; THENCE S.88° 22'02"W., 774.91 FEET; THENCE N.00° 33'37"E., 30.02 FEET TO THE POINT OF BEGINNING. THENCE CONTINUE N.00° 33'37"E., FOR 310.23 FEET; THENCE S.88° 22'02"W., 491.07 FEET; THENCE S.00° 33'37"W., 159.95 FEET; THENCE S.88° 22'02"W., 75.05 FEET; THENCE S.00° 33'37"W., 150.28 FEET; THENCE N.88° 22'02"E., 566.12 FEET TO THE POINT OF BEGINNING, LESS AND EXCEPT THE SOUTH 30 FEET FOR ROADWAY PURPOSES.

TRACT 3 (VACANT LAND 4B- TRACT A-7 - POND PARCEL):

FROM THE SOUTHEAST CORNER OF SECTION 6, TOWNSHIP 43 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA, RUN N.00° 41'43"E., ALONG THE EAST LINE OF SAID SECTION 6 AND THE CENTERLINE OF STATE ROAD 765 (BURNT STORE

ROAD), 1246.02 FEET; THENCE S.88° 22'18"W., 68.06 FEET TO A POINT ON THE WEST RIGHT OF WAY LINE OF BURNT STORE ROAD AND THE POINT OF BEGINNING; THENCE S.88°22'18"W., 706.62 FEET; THENCE N.00° 42'25"E., 415.34 FEET; THENCE N.88° 22'18"E., 706.53 FEET; THENCE S.00° 41'43"W., 415.34 FEET TO THE POINT OF BEGINNING, LESS AND EXCEPT THE SOUTH 30 FEET FOR ROADWAY PURPOSES.

TRACT 4 (MATECUMBE KEY ROAD):

BEGINNING AT THE NORTHWEST CORNER OF THE SOUTH 1660.00 FEET OF SECTION 6, TOWNSHIP 43 SOUTH, RANGE 23 EAST, ACCORDING TO THE PLAT OF PUNTA GORDA ISLES SECTION TWENTY TWO; THENCE S.00° 33'37"W., A DISTANCE OF 830.73 FEET; THENCE N.89° 35'44"W., A DISTANCE OF 235.01 FEET; THENCE S.30° 56'51"E., A DISTANCE OF 191.35 FEET TO A POINT OF CURVE TO THE RIGHT HAVING A RADIUS OF 1,248.12 FEET AND A CENTRAL ANGLE OF 13° 44'14"; THENCE SOUTHEASTERLY ALONG THE ARC A DISTANCE OF 299.25 FEET; THENCE N.54° 48'33"W., A DISTANCE OF 112.36 FEET; THENCE N.00° 33'37"E., A DISTANCE OF 66.04 FEET; THENCE N.89° 35'44"W., A DISTANCE OF 205.29 FEET; THENCE N.00° 17'44"E., A DISTANCE OF 304.96 FEET; THENCE N.89° 35'44"W., A DISTANCE OF 232.98 FEET TO THE POINT OF CURVE OF A NON TANGENT CURVE TO THE RIGHT, OF WHICH THE RADIUS POINT LIES N.83° 51'44"W., A RADIAL DISTANCE OF 20.00 FEET; THENCE SOUTHWESTERLY ALONG THE ARC, THROUGH A CENTRAL ANGLE OF 33° 56'40", A DISTANCE OF 11.85 FEET TO A POINT OF COMPOUND CURVE TO THE RIGHT HAVING A RADIUS OF 468.00 FEET AND A CENTRAL ANGLE OF 17° 15'47"; THENCE SOUTHWESTERLY ALONG THE ARC, A DISTANCE OF 141.01 FEET TO A POINT OF COMPOUND CURVE TO THE RIGHT HAVING A RADIUS OF 118.00 FEET AND A CENTRAL ANGLE OF 32° 39'17"; THENCE WESTERLY ALONG THE ARC, A DISTANCE OF 67.25 FEET; THENCE WEST, A DISTANCE OF 162.18 FEET TO A POINT OF CURVE TO THE RIGHT HAVING A RADIUS OF 20.00 FEET AND A CENTRAL ANGLE OF 136° 15'32"; THENCE NORTHERLY ALONG THE ARC A DISTANCE OF 47.56 FEET; THENCE N.46° 15'32"E., A DISTANCE OF 67.67 FEET TO A POINT OF CURVE TO THE RIGHT HAVING A RADIUS OF 20.00 FEET AND A CENTRAL ANGLE OF 90° 00'00"; THENCE EASTERLY ALONG THE ARC A DISTANCE OF 31.42 FEET; THENCE S.43° 44'28"E., A DISTANCE OF 9.67 FEET TO A POINT OF CURVE TO THE LEFT HAVING A RADIUS OF 25.00 FEET AND A CENTRAL ANGLE OF 180° 00'00"; THENCE NORTHEASTERLY ALONG THE ARC A DISTANCE OF 78.54 FEET; THENCE N.43° 44'28"W., A DISTANCE OF 4.98 FEET TO A POINT OF CURVE TO THE RIGHT HAVING A RADIUS OF 20.00 FEET AND A CENTRAL ANGLE OF 38° 24'46"; THENCE NORTHWESTERLY ALONG THE ARC A DISTANCE OF 13.41 FEET; THENCE N.89° 35'44"W., A DISTANCE OF 89.21 FEET TO THE POINT OF CURVE OF A NON TANGENT CURVE TO THE RIGHT, OF WHICH THE RADIUS POINT LIES N.79° 24'42"W., A RADIAL DISTANCE OF 18.00 FEET; THENCE SOUTHERLY ALONG THE ARC, THROUGH A CENTRAL ANGLE OF 20° 33'05", A DISTANCE OF 6.46 FEET TO A POINT OF COMPOUND CURVE TO THE RIGHT HAVING A RADIUS OF 90.00 FEET AND A CENTRAL ANGLE OF 15° 07'10"; THENCE SOUTHWESTERLY ALONG THE ARC, A DISTANCE OF 23.75 FEET; THENCE S.46° 15'32"W., A DISTANCE OF 48.81 FEET TO A POINT OF CURVE TO THE RIGHT HAVING A RADIUS OF 20.00 FEET AND A CENTRAL

ANGLE OF 63° 23'18"; THENCE WESTERLY ALONG THE ARC A DISTANCE OF 22.13 FEET; THENCE S.00° 24'16"W. A DISTANCE OF 28.63 FEET; THENCE S.46° 15'32"W. A DISTANCE OF 63.05 FEET TO A POINT OF CURVE TO THE RIGHT HAVING A RADIUS OF 249.50 FEET AND A CENTRAL ANGLE OF 18° 48'45"; THENCE SOUTHWESTERLY ALONG THE ARC A DISTANCE OF 81.92 FEET; THENCE N.24° 55'43"W., A DISTANCE OF 8.75 FEET; THENCE N.14° 38'24"W., A DISTANCE OF 102.73 FEET; THENCE S.75° 21'36"W., A DISTANCE OF 63.46 FEET TO A POINT OF CURVE TO THE RIGHT HAVING A RADIUS OF 50.00 FEET AND A CENTRAL ANGLE OF 29° 40'54"; THENCE WESTERLY ALONG THE ARC A DISTANCE OF 25.90 FEET; THENCE N.74° 57'31"W., A DISTANCE OF 157.51 FEET TO A POINT OF CURVE TO THE RIGHT HAVING A RADIUS OF 150.00 FEET AND A CENTRAL ANGLE OF 26° 30'57"; THENCE NORTHWESTERLY ALONG THE ARC A DISTANCE OF 69.42 FEET; THENCE N.48° 26'34"W., A DISTANCE OF 28.36 FEET TO A POINT OF CURVE TO THE RIGHT HAVING A RADIUS OF 20.00 FEET AND A CENTRAL ANGLE OF 03° 54'04"; THENCE NORTHWESTERLY ALONG THE ARC A DISTANCE OF 1.36 FEET; THENCE N.00° 24'02"E., A DISTANCE OF 49.99 FEET; THENCE S.89° 35'58"E., A DISTANCE OF 199.85 FEET; THENCE N.00° 24'02"E., A DISTANCE OF 60.00 FEET; THENCE S.89° 35'58"E., A DISTANCE OF 260.82 FEET; THENCE CONTINUE EASTERLY ALONG SAID LINE, A DISTANCE OF 308.01 FEET; THENCE CONTINUE EASTERLY ALONG SAID LINE, A DISTANCE OF 410.34 FEET TO A POINT OF CURVE TO THE LEFT HAVING A RADIUS OF 170.00 FEET AND A CENTRAL ANGLE OF 89° 50'25"; THENCE NORTHEASTERLY ALONG THE ARC A DISTANCE OF 266.56 FEET; THENCE N.00° 33'37"E., A DISTANCE OF 544.63 FEET TO THE POINT OF CURVE OF A NON TANGENT CURVE TO THE RIGHT, OF WHICH THE RADIUS POINT LIES N.89° 33'31"E., A RADIAL DISTANCE OF 214.23 FEET; THENCE NORTHEASTERLY ALONG THE ARC, THROUGH A CENTRAL ANGLE OF 53° 47'49", A DISTANCE OF 201.15 FEET; THENCE S.36° 26'58"E., A DISTANCE OF 60.17 FEET TO THE POINT OF CURVE OF A NON TANGENT CURVE TO THE LEFT, OF WHICH THE RADIUS POINT LIES S.36° 26'57"E., A RADIAL DISTANCE OF 153.00 FEET; THENCE SOUTHWESTERLY ALONG THE ARC, THROUGH A CENTRAL ANGLE OF 52° 03'09", A DISTANCE OF 139.00 FEET TO THE POINT OF BEGINNING.

TRACT 5 (MAINTENANCE PARCEL):

COMMENCING AT THE SOUTHWEST CORNER OF SECTION 6, TOWNSHIP 43 SOUTH, RANGE 23 EAST LEE COUNTY, FLORIDA; THENCE N.00° 33'37"E. ALONG THE WEST LINE OF SAID SECTION 6 FOR 1,661.22 FEET TO THE SOUTH LINE OF PUNTA GORDA ISLES SUBDIVISION, AS RECORDED IN PLAT BOOK 28, PAGES 118 THROUGH 138 PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE N.88° 22'02"E. ALONG SAID SOUTH LINE FOR 3,395.27 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL; THENCE CONTINUE EASTERLY ALONG SAID LINE FOR 565.52 FEET; THENCE S.00° 32'14"W. FOR 414.70 FEET; THENCE S.88° 20'05"W. FOR 565.54 FEET; THENCE N.00° 32'15"E. FOR 415.02 FEET TO THE POINT OF BEGINNING; LESS AND EXCEPT THE SOUTH 30 FEET FOR ROADWAY PURPOSES.

TRACT 6 (SALES CENTER PARCEL):

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 1, TOWNSHIP 43 SOUTH, RANGE 22 EAST, AND SECTION 6, TOWNSHIP 43 SOUTH, RANGE 23 EAST, BEING A PART OF LOTS 1 & 2 BLOCK 1001 & TRACT "C", PUNTA GORDA ISLES SECTION TWENTY TWO AS RECORDED IN PLAT BOOK 28, PAGES 118-138, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, BEING FURTHER DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 1; THENCE S. 36° 26'58" E. FOR 10.01 FEET TO THE POINT OF CURVE OF A NON TANGENT CURVE TO THE LEFT, OF WHICH THE RADIUS POINT LIES S. 36° 26'44" E., A RADIAL DISTANCE OF 212.98 FEET; THENCE SOUTHWESTERLY ALONG THE ARC, THROUGH A CENTRAL ANGLE OF 41° 39'29" FOR 154.85 FEET; THENCE S. 60° 22'46" W. FOR 61.09 FEET; THENCE N. 15° 22'46" E. FOR 43.85 FEET; THENCE N. 29° 37'14" W. FOR 228.06 FEET; THENCE N. 59° 14'04" E. FOR 111.46 FEET; THENCE N. 83° 30'29" E. FOR 29.19 FEET; THENCE N. 59° 14'04" E. FOR 30.05 FEET; THENCE N. 29° 50'03" W. FOR 213.60 FEET; THENCE N. 59° 00'18" E. FOR 102.25 FEET; THENCE N. 83° 44'57" E. FOR 171.76 FEET TO THE POINT OF CURVE OF A NON TANGENT CURVE TO THE LEFT, OF WHICH THE RADIUS POINT LIES N. 83° 44'57" E., A RADIAL DISTANCE OF 1,340.00 FEET; THENCE SOUTHERLY ALONG THE ARC, THROUGH A CENTRAL ANGLE OF 12° 13'04" FOR 285.74 FEET TO A POINT OF REVERSE CURVE TO THE RIGHT HAVING A RADIUS OF 50.00 FEET AND A CENTRAL ANGLE OF 80° 49'54"; THENCE SOUTHERLY ALONG THE ARC FOR 70.54 FEET TO A POINT OF REVERSE CURVE TO THE LEFT HAVING A RADIUS OF 840.00 FEET AND A CENTRAL ANGLE OF 08° 48'45"; THENCE SOUTHWESTERLY ALONG THE ARC FOR 129.20 FEET TO THE POINT OF BEGINNING.

TRACT 7 (REVISED MARINA PARCEL):

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 01, TOWNSHIP 43 SOUTH, RANGE 22 EAST, BEING FURTHER DESCRIBED AS FOLLOWS:

REVISED MARINA PARCEL # 1

COMMENCING AT THE SOUTHWEST CORNER OF LOT 3, BLOCK 1001, PUNTA GORDA ISLES SECTION TWENTY TWO AS RECORDED IN PLAT BOOK 28, PAGES 118 THROUGH 138 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE S.59° 00'17"W. FOR 195.14 FEET; THENCE S.00° 22'56"W. FOR 117.13 FEET; THENCE S.59° 00'17"W. FOR 92.56 FEET; THENCE S.29° 36'42"E. FOR 142.83 FEET; THENCE S.60° 23'18"W. FOR 118.45 FEET TO THE POINT OF BEGINNING; THENCE S.60° 23'18"W. FOR 551.55 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 567.29 FEET; THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 25° 47'39" FOR 255.39 FEET TO A POINT OF COMPOUND CURVE TO THE RIGHT HAVING A RADIUS OF 201.66 FEET AND A CENTRAL ANGLE OF 68° 15'43"; THENCE NORTHWESTERLY ALONG THE ARC FOR 240.26 FEET TO A POINT OF REVERSE CURVE TO THE LEFT HAVING A RADIUS OF 151.31 FEET AND A CENTRAL ANGLE OF 40° 27'29"; THENCE NORTHWESTERLY ALONG THE ARC FOR 106.84 FEET TO A POINT OF

REVERSE CURVE TO THE RIGHT HAVING A RADIUS OF 706.07 FEET AND A CENTRAL ANGLE OF $27^{\circ} 49'50''$; THENCE NORTHWESTERLY ALONG THE ARC FOR 342.96 FEET; THENCE $N.66^{\circ} 38'04''E.$ FOR 25.89 FEET TO THE POINT OF CURVE OF A NON TANGENT CURVE TO THE LEFT, OF WHICH THE RADIUS POINT LIES $N.51^{\circ} 15'35''E.$, A RADIAL DISTANCE OF 681.07 FEET; THENCE SOUTHEASTERLY ALONG THE ARC, THROUGH A CENTRAL ANGLE OF $27^{\circ} 16'25''$ FOR 324.20 FEET TO A POINT OF REVERSE CURVE TO THE RIGHT HAVING A RADIUS OF 176.31 FEET AND A CENTRAL ANGLE OF $40^{\circ} 27'29''$; THENCE SOUTHEASTERLY ALONG THE ARC FOR 124.50 FEET TO A POINT OF REVERSE CURVE TO THE LEFT HAVING A RADIUS OF 176.66 FEET AND A CENTRAL ANGLE OF $68^{\circ} 15'43''$; THENCE SOUTHEASTERLY ALONG THE ARC FOR 210.47 FEET TO A POINT OF COMPOUND CURVE TO THE LEFT HAVING A RADIUS OF 542.29 FEET AND A CENTRAL ANGLE OF $25^{\circ} 47'39''$; THENCE EASTERLY ALONG THE ARC FOR 244.14 FEET; THENCE $N.60^{\circ} 23'18''E.$ FOR 551.55 FEET; THENCE $S.29^{\circ} 36'42''E.$ FOR 25.00 FEET TO THE POINT OF BEGINNING.

AND

REVISED MARINA PARCEL # 2

COMMENCING AT THE SOUTHWEST CORNER OF LOT 3, BLOCK 1001, PUNTA GORDA ISLES SECTION TWENTY TWO AS RECORDED IN PLAT BOOK 28, PAGES 118 THROUGH 138 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE $S.59^{\circ} 00'17''W.$ FOR 195.14 FEET; THENCE $N.00^{\circ} 22'56''E.$ FOR 104.90 FEET; THENCE $N.89^{\circ} 37'04''W.$ FOR 119.34 FEET TO THE POINT OF BEGINNING; THENCE $S.00^{\circ} 22'56''W.$ FOR 18.51 FEET; THENCE $N.89^{\circ} 22'30''W.$ FOR 656.66 FEET; THENCE $N.00^{\circ} 24'52''E.$ FOR 406.62 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 102.40 FEET; THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF $42^{\circ} 15'18''$ FOR 75.52 FEET; THENCE $N.41^{\circ} 50'26''W.$ FOR 531.75 FEET TO THE POINT OF CURVE OF A NON TANGENT CURVE TO THE LEFT, OF WHICH THE RADIUS POINT LIES $S.48^{\circ} 09'35''W.$, A RADIAL DISTANCE OF 301.37 FEET; THENCE NORTHWESTERLY ALONG THE ARC, THROUGH A CENTRAL ANGLE OF $21^{\circ} 21'02''$ FOR 112.30 FEET TO A POINT OF COMPOUND CURVE TO THE LEFT HAVING A RADIUS OF 265.10 FEET AND A CENTRAL ANGLE OF $27^{\circ} 00'22''$; THENCE WESTERLY ALONG THE ARC FOR 124.95 FEET; THENCE $N.02^{\circ} 10'05''E.$ FOR 25.02 FEET TO THE POINT OF CURVE OF A NON TANGENT CURVE TO THE RIGHT, OF WHICH THE RADIUS POINT LIES $S.00^{\circ} 00'25''W.$, A RADIAL DISTANCE OF 290.10 FEET; THENCE EASTERLY ALONG THE ARC, THROUGH A CENTRAL ANGLE OF $26^{\circ} 48'08''$ FOR 135.71 FEET TO A POINT OF COMPOUND CURVE TO THE RIGHT HAVING A RADIUS OF 326.37 FEET AND A CENTRAL ANGLE OF $21^{\circ} 21'02''$; THENCE SOUTHEASTERLY ALONG THE ARC FOR 121.62 FEET; THENCE $S.41^{\circ} 50'26''E.$ FOR 531.75 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 127.40 FEET; THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF $42^{\circ} 15'18''$ FOR 93.96 FEET; THENCE $S.00^{\circ} 24'52''W.$ FOR 390.87 FEET; THENCE $S.89^{\circ} 37'04''E.$ FOR 631.65 FEET TO THE POINT OF BEGINNING.

TRACT 8 (SOUTH SHORE PARCEL):

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 1, TOWNSHIP 43 SOUTH, RANGE 22 EAST, BEING FURTHER BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SECTION 1, TOWNSHIP 43 SOUTH, RANGE 22 EAST, LEE COUNTY, FLORIDA, THENCE N.00° 33'58"E., ALONG THE EAST LINE OF SAID SECTION 1 FOR 880.00 FEET; THENCE N.89° 35'44"W., FOR 1,625.91 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL; THENCE CONTINUE N.89° 35'44"W. FOR 260.23 FEET; THENCE S.00° 24'58"E. FOR 50.01 FEET TO THE NORTHWEST CORNER OF VISTA DEL SOL AT BURNT STORE MARINA, A CONDOMINIUM AS RECORDED IN CONDOMINIUM PLAT BOOK 33 AT PAGE 38 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE N.89° 35'44"W. FOR 703 FEET, MORE OR LESS, TO THE WATERS OF CHARLOTTE HARBOR; THENCE NORTHERLY ALONG THE MEAN HIGH WATER LINE OF SAID CHARLOTTE HARBOR RUN 1,020 FEET, MORE OR LESS, TO A POINT LYING APPROXIMATELY 1 FOOT SOUTHERLY OF AN EXISTING CONCRETE SEAWALL; THENCE N.76° 24'19"E., ALONG A LINE PARALLEL TO AND LYING 1 FOOT, MORE OR LESS SOUTHERLY OF SAID CONCRETE SEAWALL FOR 28.62 FEET TO THE NORTHWEST CORNER OF PARCEL 8, TRACT "H", AS RECORDED IN OFFICIAL RECORDS BOOK 2285, PAGE 3073, OF SAID PUBLIC RECORDS; THENCE S.00° 24'02"W., ALONG THE WESTERLY LINE OF SAID PARCEL 8 FOR 491.56 FEET TO THE SOUTHWEST CORNER OF SAID PARCEL 8; THENCE S.89° 35'58"E., ALONG THE SOUTH LINE OF SAID PARCEL 8 AND THE SOUTH LINE OF PARCEL 7 OF SAID TRACT "H" FOR 670.43 FEET TO THE SOUTHEAST CORNER OF SAID TRACT 7 AND A POINT ON THE WESTERLY LINE OF PARCEL 6 OF SAID TRACT H TO ALSO BEING A POINT ON A CURVE TO THE RIGHT, HAVING: A RADIUS OF 90.00 FEET, A CENTRAL ANGLE OF 38° 59'58", A CHORD BEARING OF S.64° 05'57"E. AND A CHORD LENGTH OF 60.08 FEET; THENCE ALONG THE WESTERLY LINE OF SAID PARCEL 6 AND THE ARC OF SAID CURVE, AN ARC LENGTH OF 61.26 FEET TO THE POINT OF TANGENCY OF SAID CURVE; THENCE S.44° 35'58"E., ALONG SAID WESTERLY LINE RUN 59.23 FEET; THENCE S.00° 24'02"W., ALONG SAID WESTERLY LINE AND THE WESTERLY LINE OF PARCEL 5 OF SAID TRACT "H" RUN 399.45 FEET TO THE POINT OF BEGINNING.

TRACT 9 (ATHLETIC CLUB PARCEL):

CONDOMINIUM PARCEL: UNIT NO. 71, COURTSIDE LANDINGS CONDOMINIUM, being further described in that certain Declaration of Condominium recorded in Official Records Book 3093, Page 3733, and subsequent amendments thereto, and according to the plat recorded in Condominium Plat Book 26, Pages 57 and 58, Public Records of Lee County, Florida.

EXHIBIT "A"
LEGAL DESCRIPTION

A tract or parcel of land situated in the State of Florida, County of Lee, lying in Section 1, Township 43 South, Range 22 East, being a part of Tract "C", Punta Gorda Isles, Section Twenty-Two, Plat Book 28, Page 118, Lee County Public Records, and being further bounded and described as follows:

Commencing at the Southeast corner of said Section 1; thence N 00°33'37" E, along the East line of said Section 1, for 830.00 feet to the Southeast corner of Tract "I", as described in Official Records Book 2285, Page 3073, said Public Records; thence N 89°35'44" W, along the South line of said Tract "I", for 1208.39 feet; thence N 00°24'02" E, for 110.08 feet; thence S 89°35'58" E, along the North line of an ingress-egress easement as described in Official Records Book 1554, Page 942, said Public Records, for 260.82 feet to the Point of Beginning; thence N 00°24'02" E, for 112.24 feet; thence N 89°33'59" W, for 101.51 feet; thence N 00°26'01" E, for 128.93 feet; thence S 89°33'59" E for 117.82 feet; thence S 01°28'31" W, for 14.10 feet to the beginning of a curve to the right; having a radius of 133.42 feet, a central angle of 17°03'03", a chord bearing and distance of S 10°00'02" W, 39.56 feet; thence along the arc of said curve, an arc length of 39.70 feet to a point of reverse curvature; having a radius of 191.85 feet, a central angle of 18°07'32", a chord bearing and distance of S 09°27'48" W, 60.44 feet; thence along the arc of said curve, an arc length of 60.69 feet; thence leaving said curve S 89°36'07" E, for 308.01 feet; thence S 00°24'02" W, for 128.39 feet; thence N 89°35'58" W, along said North line of an ingress-egress easement as described in Official Records Book 1554, Page 942, for 308.01 feet to the Point of Beginning.

Bearings are based on the East line of Section 1 as bearing N 00° 33'37" E.

OR BK 03344 PG 2789

DESCRIPTION OF A PARCEL
LYING IN SECTION 1, T-43-S, R-22-E,
LEE COUNTY, FLORIDA

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 1, TOWNSHIP 43 SOUTH, RANGE 22 EAST, BEING A PORTION OF TRACT "C", PUNTA GORDA ISLES, SECTION TWENTY TWO ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 28, PAGES 118 THROUGH 138, AND ALSO BEING A PORTION OF TRACT "H" AS RECORDED IN OFFICIAL RECORDS BOOK 2285, PAGE 3073 ALL OF THE PUBLIC RECORDS OF SAID LEE COUNTY, AND BEING FURTHER BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SECTION 1, TOWNSHIP 43 SOUTH, RANGE 22 EAST, LEE COUNTY, FLORIDA, THENCE N.00°33'37"E. ALONG THE EAST LINE OF SAID SECTION 1 FOR 880.00 FEET TO THE SOUTHEAST CORNER OF TRACT "I", RECORDED IN OFFICIAL RECORDS BOOK 2285, PAGE 3073, PUBLIC RECORDS OF SAID LEE COUNTY; THENCE N.89°35'44"W., ALONG THE SOUTH LINE OF SAID TRACT "I" FOR 1208.39 FEET; THENCE N.00°24'02"E., FOR 110.08 FEET TO THE NORTHWEST CORNER OF THE EASEMENT DESCRIBED IN OFFICIAL RECORDS BOOK 1554, PAGE 942, OF SAID PUBLIC RECORDS AND THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL; THENCE S.89°35'58"E., ALONG THE NORTH LINE OF SAID EASEMENT, FOR 260.82 FEET; THENCE N.00°24'02"E., FOR 112.24 FEET; THENCE N.89°33'59"W., FOR 101.51 FEET; THENCE N.00°26'01"E., FOR 128.93 FEET; THENCE S.89°33'59"E., FOR 117.82 FEET TO A POINT ON THE WESTERLY LINE OF "KEEL CLUB CONDOMINIUM" AS RECORDED IN OFFICIAL RECORDS BOOK 1690, PAGE 2613, OF SAID PUBLIC RECORDS; THENCE, ALONG THE WESTERLY AND NORTHERLY LINES OF SAID CONDOMINIUM, THE FOLLOWING COURSES, N.01°28'31"E., FOR 22.53 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE RIGHT, HAVING: A RADIUS OF 16.48 FEET, A CENTRAL ANGLE OF 84°36'37", A CHORD BEARING OF N.43°46'50"E. AND A CHORD LENGTH OF 22.18 FEET; THENCE ALONG THE ARC OF SAID CURVE, AN ARC LENGTH OF 24.34 FEET TO THE POINT OF TANGENCY OF SAID CURVE; THENCE N.86°05'08"E., FOR 52.67 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE LEFT, HAVING: A RADIUS OF 23.62 FEET, A CENTRAL ANGLE OF 80°31'28", A CHORD BEARING OF N.45°49'24"E. AND A CHORD LENGTH OF 30.53 FEET; THENCE ALONG THE ARC OF SAID CURVE, AN ARC LENGTH OF 33.20 FEET TO THE POINT OF TANGENCY OF SAID CURVE; THENCE N.05°33'40"E., FOR 25.23 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE RIGHT, HAVING: A RADIUS OF 15.95 FEET, A CENTRAL ANGLE OF 86°29'24", A CHORD BEARING OF N.48°48'22"E. AND A CHORD LENGTH OF 21.86 FEET; THENCE ALONG THE ARC OF SAID CURVE, AN ARC LENGTH OF 24.08 FEET TO THE POINT OF TANGENCY OF SAID CURVE; THENCE S.87°56'56"E., FOR 16.07 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE LEFT, HAVING: A RADIUS OF 350.09 FEET, A CENTRAL ANGLE OF 21°02'11", A CHORD BEARING OF N.81°31'58"E. AND A CHORD LENGTH OF 127.82 FEET; THENCE ALONG THE ARC OF SAID CURVE, AN ARC LENGTH OF 128.54 FEET TO THE POINT OF TANGENCY OF SAID CURVE; THENCE N.71°00'53"E., FOR 18.18 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE RIGHT, HAVING: A RADIUS OF 17.71 FEET, A CENTRAL ANGLE OF 109°23'09", A CHORD BEARING OF S.54°17'32"E. AND A CHORD LENGTH OF 28.91 FEET; THENCE ALONG THE ARC OF SAID CURVE, AN ARC LENGTH OF 33.81 FEET TO THE POINT OF TANGENCY OF SAID CURVE; THENCE, ALONG THE EAST LINE OF SAID CONDOMINIUM, S.00°24'02"W. FOR 225.02 FEET TO THE SOUTHEAST CORNER OF SAID CONDOMINIUM; THENCE, DEPARTING FROM SAID CONDOMINIUM, S.00°24'02"W., FOR 128.38 FEET TO A POINT ON THE NORTH LINE OF SAID EASEMENT; THENCE, ALONG THE NORTH AND WEST LINE OF SAID EASEMENT, THE FOLLOWING COURSES, S.89°35'58"E. FOR 410.34 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE LEFT, HAVING: A RADIUS OF 170.00 FEET, A CENTRAL ANGLE OF 89°50'25", A CHORD BEARING OF N.45°28'50"E. AND A CHORD LENGTH OF 240.08 FEET; THENCE ALONG THE ARC OF

PAGE 1 OF 4

EXHIBIT "A"

CONTINUED FROM PAGE 1

SAID CURVE, AN ARC LENGTH OF 266.56 FEET TO THE POINT OF TANGENCY OF SAID CURVE; THENCE N.00°33'26"E., FOR 548.77 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE RIGHT, HAVING: A RADIUS OF 212.98 FEET, A CENTRAL ANGLE OF 11°07'09", A CHORD BEARING OF N.06°07'07"E. AND A CHORD LENGTH OF 41.27 FEET; THENCE ALONG THE ARC OF SAID CURVE, AN ARC LENGTH OF 41.33 FEET TO THE END OF SAID CURVE; THENCE, DEPARTING FROM SAID EASEMENT, S.60°41'17"W. FOR 61.47 FEET TO A POINT LYING 1 FOOT, MORE OR LESS, EASTERLY OF AN EXISTING SEAWALL; THENCE ALONG A LINE PARALLEL TO AND LYING 1 FOOT, MORE OR LESS, EASTERLY OF SAID SEAWALL THE FOLLOWING COURSES, N.15°22'46"E. FOR 43.85 FEET; THENCE N.29°37'14"W., FOR 228.06 FEET; THENCE, DEPARTING FROM SAID SEAWALL, N.59°14'04"E., FOR 111.46 FEET; THENCE N.83°30'29"E., FOR 29.19 FEET; THENCE N.59°14'04"E., FOR 30.05 FEET; THENCE N.29°50'03"W., FOR 213.65 FEET TO A POINT ON THE SOUTHERLY LINE OF "PLATINUM POINT YACHT CLUB" RECORDED IN OFFICIAL RECORDS BOOK 2530, PAGE 4055; THENCE S.59°01'27"W., ALONG SAID SOUTHERLY LINE FOR 167.63 FEET TO A POINT LYING 1 FOOT, MORE OR LESS, NORTHERLY OF AN EXISTING SEAWALL; THENCE ALONG A LINE PARALLEL TO AND LYING 1 FOOT, MORE OR LESS, NORTHERLY, EASTERLY, SOUTHERLY, WESTERLY AND SOUTHERLY OF SAID SEAWALL AND ALONG THE SOUTHERLY, WESTERLY, NORTHERLY AND EASTERLY LINES OF "PLATINUM POINT" RECORDED IN OFFICIAL RECORDS BOOK 2285, PAGE 3073, OF SAID PUBLIC RECORDS THE FOLLOWING COURSES, N.74°24'52"W., FOR 43.06 FEET; THENCE S.60°23'18"W., FOR 670.00 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE RIGHT, HAVING: A RADIUS OF 567.29 FEET, A CENTRAL ANGLE OF 25°47'39", A CHORD BEARING OF S.73°17'07"W. AND A CHORD LENGTH OF 253.24 FEET; THENCE ALONG THE ARC OF SAID CURVE, AN ARC LENGTH OF 255.39 FEET TO THE POINT OF COMPOUND CURVATURE OF A CURVE TO THE RIGHT, HAVING: A RADIUS OF 201.66 FEET, A CENTRAL ANGLE OF 68°15'43", A CHORD BEARING OF N.59°41'11"W. AND A CHORD LENGTH OF 226.30 FEET; THENCE ALONG THE ARC OF SAID CURVE, AN ARC LENGTH OF 240.26 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE TO THE LEFT, HAVING: A RADIUS OF 150.88 FEET, A CENTRAL ANGLE OF 40°34'00", A CHORD BEARING OF N.45°50'20"W. AND A CHORD LENGTH OF 104.61 FEET; THENCE ALONG THE ARC OF SAID CURVE, AN ARC LENGTH OF 106.82 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE TO THE RIGHT, HAVING: A RADIUS OF 705.31 FEET, A CENTRAL ANGLE OF 32°47'52", A CHORD BEARING OF N.49°43'24"W. AND A CHORD LENGTH OF 398.25 FEET; THENCE ALONG THE ARC OF SAID CURVE, AN ARC LENGTH OF 403.74 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE TO THE LEFT, HAVING: A RADIUS OF 193.85 FEET, A CENTRAL ANGLE OF 51°50'51", A CHORD BEARING OF N.59°14'53"W. AND A CHORD LENGTH OF 169.49 FEET; THENCE ALONG THE ARC OF SAID CURVE, AN ARC LENGTH OF 175.41 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE TO THE RIGHT, HAVING: A RADIUS OF 261.77 FEET, A CENTRAL ANGLE OF 91°27'30", A CHORD BEARING OF N.39°26'34"W. AND A CHORD LENGTH OF 374.87 FEET; THENCE ALONG THE ARC OF SAID CURVE, AN ARC LENGTH OF 417.84 FEET TO THE END OF SAID CURVE; THENCE N.08°31'27"E., FOR 218.67 FEET; THENCE N.11°26'16"E., FOR 180.68 FEET; THENCE N.15°16'05"E., FOR 415.80 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE RIGHT, HAVING: A RADIUS OF 169.21 FEET, A CENTRAL ANGLE OF 26°39'01", A CHORD BEARING OF N.28°35'36"E. AND A CHORD LENGTH OF 78.00 FEET; THENCE ALONG THE ARC OF SAID CURVE, AN ARC LENGTH OF 78.71 FEET TO THE POINT OF COMPOUND CURVATURE OF A CURVE TO THE RIGHT, HAVING: A RADIUS OF 290.79 FEET, A CENTRAL ANGLE OF 74°47'26", A CHORD BEARING OF N.79°18'50"E. AND A CHORD LENGTH OF 353.20 FEET; THENCE ALONG THE ARC OF SAID CURVE, AN ARC LENGTH OF 379.59 FEET TO THE POINT OF COMPOUND CURVATURE OF A CURVE TO THE RIGHT, HAVING: A RADIUS OF 321.96 FEET, A CENTRAL ANGLE OF 21°28'47", A CHORD BEARING OF S.52°33'04"E. AND A CHORD LENGTH OF 120.00 FEET; THENCE ALONG THE ARC OF SAID CURVE, AN ARC LENGTH OF 120.70

OR BK 03344 PG 2791

CONTINUED FROM PAGE 3

FEET TO THE END OF SAID CURVE; THENCE S.41°49'58"E., FOR 531.66 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE RIGHT, HAVING: A RADIUS OF 130.24 FEET, A CENTRAL ANGLE OF 41°39'39", A CHORD BEARING OF S.21°00'09"E. AND A CHORD LENGTH OF 92.63 FEET; THENCE ALONG THE ARC OF SAID CURVE, AN ARC LENGTH OF 94.70 FEET TO THE END OF SAID CURVE; THENCE S.00°25'38"W., FOR 390.84 FEET; THENCE S.89°37'03"E., FOR 671.06 FEET; THENCE, DEPARTING FROM SAID SEAWALL AND SAID "PLATINUM POINT", S.00°22'56"W., FOR 153.40 FEET; THENCE N.59°00'18"E., FOR 93.70 FEET; THENCE N.00°22'56"E., FOR 104.61 FEET TO A POINT ON THE WESTERLY LINE OF "THE TIDES CONDOMINIUM" AS RECORDED IN OFFICIAL RECORDS BOOK 2163, PAGE 170, OF SAID PUBLIC RECORDS AND A POINT LYING 1 FOOT MORE OR LESS, EASTERLY OF AN EXISTING SEAWALL; THENCE ALONG THE WEST LINE OF SAID CONDOMINIUM AND THE WEST LINE OF "MARINA TOWERS CONDOMINIUM" AS RECORDED IN OFFICIAL RECORDS BOOK 1948, PAGE 145 OF SAID PUBLIC RECORDS AND ALONG A LINE PARALLEL TO AND LYING 1 FOOT EASTERLY AND NORTHERLY OF SAID SEAWALL THE FOLLOWING COURSES, N.00°37'38"E., FOR 561.62 FEET; THENCE N.89°35'57"W., ALONG THE SOUTH LINE OF SAID "MARINA TOWERS CONDOMINIUM" AND THE SOUTH LINE OF "MARINA NORTH SHORE CONDOMINIUM" AS RECORDED IN CONDOMINIUM BOOK 8, PAGE 257 OF SAID PUBLIC RECORDS FOR 578.17 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE RIGHT, HAVING: A RADIUS OF 88.76 FEET, A CENTRAL ANGLE OF 50°52'35", A CHORD BEARING OF N.64°09'40"W. AND A CHORD LENGTH OF 76.25 FEET; THENCE ALONG THE ARC OF SAID CURVE, AN ARC LENGTH OF 78.81 FEET TO THE END OF SAID CURVE; THENCE N.38°52'47"W., FOR 112.30 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE LEFT, HAVING: A RADIUS OF 872.33 FEET, A CENTRAL ANGLE OF 11°48'00", A CHORD BEARING OF N.44°46'47"W. AND A CHORD LENGTH OF 179.34 FEET; THENCE ALONG THE ARC OF SAID CURVE, AN ARC LENGTH OF 179.65 FEET TO THE END OF SAID CURVE; THENCE N.50°56'21"W., ALONG THE SOUTHERLY LINE OF "DIAMOND PARK" AS RECORDED IN PLAT BOOK 54, PAGES 80 AND 81 OF SAID PUBLIC RECORDS THE FOLLOWING COURSES FOR 135.77 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE LEFT, HAVING: A RADIUS OF 835.62 FEET, A CENTRAL ANGLE OF 12°19'51", A CHORD BEARING OF N.57°06'16"W. AND A CHORD LENGTH OF 179.49 FEET; THENCE ALONG THE ARC OF SAID CURVE, AN ARC LENGTH OF 179.84 FEET TO THE END OF SAID CURVE; THENCE N.63°21'27"W., FOR 102.89 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE LEFT, HAVING: A RADIUS OF 388.19 FEET, A CENTRAL ANGLE OF 50°54'54", A CHORD BEARING OF N.88°48'54"W. AND A CHORD LENGTH OF 333.72 FEET; THENCE ALONG THE ARC OF SAID CURVE, AN ARC LENGTH OF 344.96 FEET TO THE END OF SAID CURVE; THENCE S.66°15'19"W., ALONG THE SOUTH LINE OF THE PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2957 PAGE 2746, SAID PUBLIC RECORDS FOR 33.62 FEET TO THE SOUTHWEST CORNER OF SAID PARCEL AND THE SOUTHEAST CORNER OF THE PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 3245, PAGE 3175 OF SAID PUBLIC RECORDS AND BEING A POINT ON A CURVE TO THE LEFT, HAVING: A RADIUS OF 387.54 FEET, A CENTRAL ANGLE OF 04°08'10", A CHORD BEARING OF S.58°28'57"W. AND A CHORD LENGTH OF 27.97 FEET; THENCE ALONG THE ARC OF SAID CURVE, AN ARC LENGTH OF 27.98 FEET TO THE END OF SAID CURVE; THENCE S.49°03'29"W., FOR 58.31 FEET TO THE SOUTHWEST CORNER OF SAID PARCEL; THENCE DEPARTING FROM SAID SEAWALL N.41°50'54"W., FOR 17.65 FEET TO THE NORTHWEST CORNER OF SAID PARCEL AND THE SOUTHWEST CORNER OF LOT 9 OF SAID "DIAMOND PARK"; THENCE ALONG THE WESTERLY LINE OF SAID LOT 9, THE FOLLOWING COURSES, N.39°21'06"W., FOR 38.60 FEET; THENCE N.01°20'27"W., FOR 193.86 FEET; THENCE N.37°47'30"E., FOR 110.00 FEET; THENCE DEPARTING FROM SAID LOT 9 S.59°53'43"W., FOR 137.28 FEET TO A POINT ON THE WESTERLY LINE OF SAID TRACT "C"; THENCE ALONG SAID WESTERLY LINE THE FOLLOWING COURSES S.16°44'33"W., FOR 515.42 FEET; THENCE S.23°51'46"W., FOR 305.62 FEET; THENCE S.01°48'25"W., FOR 695.54 FEET; THENCE S.10°29'40"W.,

CONTINUED FROM PAGE 3

FOR 418.58 FEET TO A POINT LYING 1 FOOT, MORE OR LESS, SOUTHERLY OF AN EXISTING SEAWALL; THENCE DEPARTING FROM SAID WESTERLY LINE AND ALONG THE NORTHERLY LINE OF "MARINA SOUTH SHORE CONDOMINIUM" RECORDED IN OFFICIAL RECORDS BOOK 1432 PAGE 0278 AND THE WESTERLY EXTENSION THEREOF, AND ALONG A LINE LYING 1 FOOT, MORE OR LESS, SOUTHERLY OF AND PARALLEL TO AN EXISTING SEAWALL, THE FOLLOWING COURSES N.76°24'19"E., FOR 201.49 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE RIGHT, HAVING: A RADIUS OF 253.73 FEET, A CENTRAL ANGLE OF 16°47'37", A CHORD BEARING OF N.84°48'08"E. AND A CHORD LENGTH OF 74.10 FEET; THENCE ALONG THE ARC OF SAID CURVE, AN ARC LENGTH OF 74.37 FEET TO THE POINT OF COMPOUND CURVATURE OF A CURVE TO THE RIGHT, HAVING: A RADIUS OF 453.03 FEET, A CENTRAL ANGLE OF 11°02'37", A CHORD BEARING OF S.81°16'45"E. AND A CHORD LENGTH OF 87.19 FEET; THENCE ALONG THE ARC OF SAID CURVE, AN ARC LENGTH OF 87.32 FEET TO THE POINT OF COMPOUND CURVATURE OF A CURVE TO THE RIGHT, HAVING: A RADIUS OF 570.11 FEET, A CENTRAL ANGLE OF 20°59'54", A CHORD BEARING OF S.65°15'29"E. AND A CHORD LENGTH OF 207.77 FEET; THENCE ALONG THE ARC OF SAID CURVE, AN ARC LENGTH OF 208.94 FEET TO THE END OF SAID CURVE; THENCE S.53°54'52"E., FOR 271.10 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE LEFT, HAVING: A RADIUS OF 1927.30 FEET, A CENTRAL ANGLE OF 09°54'41", A CHORD BEARING OF S.58°52'12"E. AND A CHORD LENGTH OF 332.98 FEET; THENCE ALONG THE ARC OF SAID CURVE, AN ARC LENGTH OF 333.39 FEET TO THE POINT OF COMPOUND CURVE OF A CURVE TO THE LEFT HAVING A RADIUS OF 2250.36 FEET, A CENTRAL ANGLE OF 01°39'50", A CHORD BEARING OF S.64°39'28"E., AND A CHORD LENGTH OF 65.35 FEET, THENCE ALONG THE ARC OF SAID CURVE AN ARC LENGTH OF 65.35 FEET TO THE END OF SAID CURVE; THENCE S.65°42'09"E., FOR 105.15 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE LEFT, HAVING: A RADIUS OF 134.05 FEET, A CENTRAL ANGLE OF 02°25'45", A CHORD BEARING OF S.64°29'17"E. AND A CHORD LENGTH OF 5.68 FEET; THENCE ALONG THE ARC OF SAID CURVE, AN ARC LENGTH OF 5.68 FEET TO THE END OF SAID CURVE AND THE NORTHEAST CORNER OF SAID CONDOMINIUM; THENCE S.00°24'02"W., ALONG THE EAST LINE OF SAID CONDOMINIUM FOR 448.64 FEET TO THE POINT OF BEGINNING.

BEARINGS ARE BASED ON THE EAST LINE OF SECTION 1, TOWNSHIP 43 SOUTH, RANGE 22 EAST, AS RECORDED ON THE PLAT OF PUNTA GORDA ISLES, SECTION 22, HAVING AN ASSUMED BEARING OF N.00°33'26"E.

20.50
84000.00

THIS INSTRUMENT PREPARED BY
AND RETURN TO:

Stephen J. Szabo, III, Esquire
Annis, Mitchell, Cockey,
Edwards & Roehn, P.A.
Post Office Box 3433
Tampa, Florida 33601

INSTR # 5032499
OR BK 03344 PG 2787

RECORDED 12/29/00 12:09 PM
CHARLIE GREEN CLERK OF COURT
LEE COUNTY
RECORDING FEE 28.50
DOC TAX PD(F.S.201.02) 84,000.00
DEPUTY CLERK K Cartwright

SPECIAL WARRANTY DEED

THIS SPECIAL WARRANTY DEED made this 25th day of December, 2000, by WCI COMMUNITIES, INC., a Delaware corporation, ("Grantor"), to REALMARK BURNT STORE MARINA, L.L.C. a Florida limited liability company, whose address is 1900 Lagoon Lane, Cape Coral, Florida 33914 ("Grantee").

WITNESSETH: That Grantor for and in consideration of the sum of \$10.00 and other valuable considerations, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, conveys and confirms unto Grantee all that certain land situate in Lee County, Florida, more particularly described on Exhibit A attached hereto (the "Land").

TOGETHER with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

TO HAVE AND TO HOLD, the same in fee simple forever.

AND Grantor hereby covenants with Grantee that Grantor is lawfully seized of the Land in fee simple; that Grantor has good right and lawful authority to sell and convey the Land; that Grantor hereby fully warrants the title to the Land and will defend the same against the lawful claims of all persons claiming by, through or under Grantor; and that the Land is free of all encumbrances, except taxes accruing subsequent to December 31, 2000, and all declarations, easements and restrictions of record.

IN WITNESS WHEREOF, Grantor has executed these presents the day and year first above written.

Witnesses:

Stephen J. Szychowski
Name: Stephen J. Szychowski, III
Gregg S. Truxton
Name: GREGG S. TRUXTON

WCI COMMUNITIES, INC., a Delaware corporation

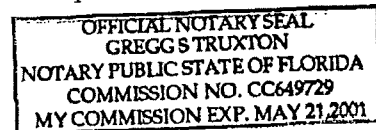
By: Albert F. Moscatto Jr.
Print Name: ALBERT F. MOSCATTO JR.
Vice President
Address: 24301 Walden Center Drive
Suite 300
Bonita Springs, FL 34134

STATE OF FLORIDA
COUNTY OF ~~HILLSBOROUGH~~ LEE

The foregoing instrument was acknowledged before me this 28 day of December, 2000, by Albert F. Moscatto, Jr., as Vice President of WCI COMMUNITIES, INC., a Delaware corporation, on behalf of the corporation. He/She is personally known to me or produced N/A as identification.

Gregg S. Truxton
NOTARY PUBLIC
Name: _____
Serial #: _____
My Commission Expires: _____

#758052 v3 - 2303-449



DE BK 00344 PG 2789

DESCRIPTION OF A PARCEL
LYING IN SECTION 1, T-43-S, R-22-E,
LEE COUNTY, FLORIDA

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 1, TOWNSHIP 43 SOUTH, RANGE 22 EAST, BEING A PORTION OF TRACT "C", PUNTA GORDA ISLES, SECTION TWENTY TWO ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 28, PAGES 118 THROUGH 138, AND ALSO BEING A PORTION OF TRACT "H" AS RECORDED IN OFFICIAL RECORDS BOOK 2285, PAGE 3073 ALL OF THE PUBLIC RECORDS OF SAID LEE COUNTY, AND BEING FURTHER BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SECTION 1, TOWNSHIP 43 SOUTH, RANGE 22 EAST, LEE COUNTY, FLORIDA, THENCE N.00°33'37"E. ALONG THE EAST LINE OF SAID SECTION 1 FOR 880.00 FEET TO THE SOUTHEAST CORNER OF TRACT "I", RECORDED IN OFFICIAL RECORDS BOOK 2285, PAGE 3073, PUBLIC RECORDS OF SAID LEE COUNTY; THENCE N.89°35'44"W., ALONG THE SOUTH LINE OF SAID TRACT "I" FOR 1208.39 FEET; THENCE N.00°24'02"E., FOR 110.08 FEET TO THE NORTHWEST CORNER OF THE EASEMENT DESCRIBED IN OFFICIAL RECORDS BOOK 1554, PAGE 942, OF SAID PUBLIC RECORDS AND THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL; THENCE S.89°35'58"E., ALONG THE NORTH LINE OF SAID EASEMENT, FOR 260.82 FEET; THENCE N.00°24'02"E., FOR 112.24 FEET; THENCE N.89°33'59"W., FOR 101.51 FEET; THENCE N.00°26'01"E., FOR 128.93 FEET; THENCE S.89°33'59"E., FOR 117.82 FEET TO A POINT ON THE WESTERLY LINE OF "KEEL CLUB CONDOMINIUM" AS RECORDED IN OFFICIAL RECORDS BOOK 1690, PAGE 2613, OF SAID PUBLIC RECORDS; THENCE, ALONG THE WESTERLY AND NORTHERLY LINES OF SAID CONDOMINIUM, THE FOLLOWING COURSES, N.01°28'31"E., FOR 22.53 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE RIGHT, HAVING: A RADIUS OF 16.48 FEET, A CENTRAL ANGLE OF 84°36'37", A CHORD BEARING OF N.43°46'50"E. AND A CHORD LENGTH OF 22.18 FEET; THENCE ALONG THE ARC OF SAID CURVE, AN ARC LENGTH OF 24.34 FEET TO THE POINT OF TANGENCY OF SAID CURVE; THENCE N.86°05'08"E., FOR 52.67 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE LEFT, HAVING: A RADIUS OF 23.62 FEET, A CENTRAL ANGLE OF 80°31'28", A CHORD BEARING OF N.45°49'24"E. AND A CHORD LENGTH OF 30.53 FEET; THENCE ALONG THE ARC OF SAID CURVE, AN ARC LENGTH OF 33.20 FEET TO THE POINT OF TANGENCY OF SAID CURVE; THENCE N.05°33'40"E., FOR 25.23 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE RIGHT, HAVING: A RADIUS OF 15.95 FEET, A CENTRAL ANGLE OF 86°29'24", A CHORD BEARING OF N.48°48'22"E. AND A CHORD LENGTH OF 21.86 FEET; THENCE ALONG THE ARC OF SAID CURVE, AN ARC LENGTH OF 24.08 FEET TO THE POINT OF TANGENCY OF SAID CURVE; THENCE S.87°56'56"E., FOR 16.07 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE LEFT, HAVING: A RADIUS OF 350.09 FEET, A CENTRAL ANGLE OF 21°02'11", A CHORD BEARING OF N.81°31'58"E. AND A CHORD LENGTH OF 127.82 FEET; THENCE ALONG THE ARC OF SAID CURVE, AN ARC LENGTH OF 128.54 FEET TO THE POINT OF TANGENCY OF SAID CURVE; THENCE N.71°00'53"E., FOR 18.18 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE RIGHT, HAVING: A RADIUS OF 17.71 FEET, A CENTRAL ANGLE OF 109°23'09", A CHORD BEARING OF S.54°17'32"E. AND A CHORD LENGTH OF 28.91 FEET; THENCE ALONG THE ARC OF SAID CURVE, AN ARC LENGTH OF 33.81 FEET TO THE POINT OF TANGENCY OF SAID CURVE; THENCE, ALONG THE EAST LINE OF SAID CONDOMINIUM, S.00°24'02"W. FOR 225.02 FEET TO THE SOUTHEAST CORNER OF SAID CONDOMINIUM; THENCE, DEPARTING FROM SAID CONDOMINIUM, S.00°24'02"W., FOR 128.38 FEET TO A POINT ON THE NORTH LINE OF SAID EASEMENT; THENCE, ALONG THE NORTH AND WEST LINE OF SAID EASEMENT, THE FOLLOWING COURSES, S.89°35'58"E. FOR 410.34 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE LEFT, HAVING: A RADIUS OF 170.00 FEET, A CENTRAL ANGLE OF 89°50'25", A CHORD BEARING OF N.45°28'50"E. AND A CHORD LENGTH OF 240.08 FEET; THENCE ALONG THE ARC OF

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EXHIBIT A

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SAID CURVE, AN ARC LENGTH OF 266.56 FEET TO THE POINT OF TANGENCY OF SAID CURVE; THENCE N.00°33'26"E., FOR 548.77 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE RIGHT, HAVING: A RADIUS OF 212.98 FEET, A CENTRAL ANGLE OF 11°07'09", A CHORD BEARING OF N.06°07'07"E. AND A CHORD LENGTH OF 41.27 FEET; THENCE ALONG THE ARC OF SAID CURVE, AN ARC LENGTH OF 41.33 FEET TO THE END OF SAID CURVE; THENCE, DEPARTING FROM SAID EASEMENT, S.60°41'17"W. FOR 61.47 FEET TO A POINT LYING 1 FOOT, MORE OR LESS, EASTERLY OF AN EXISTING SEAWALL; THENCE ALONG A LINE PARALLEL TO AND LYING 1 FOOT, MORE OR LESS, EASTERLY OF SAID SEAWALL THE FOLLOWING COURSES, N.15°22'46"E. FOR 43.85 FEET; THENCE N.29°37'14"W., FOR 228.06 FEET; THENCE, DEPARTING FROM SAID SEAWALL, N.59°14'04"E., FOR 111.46 FEET; THENCE N.83°30'29"E., FOR 29.19 FEET; THENCE N.59°14'04"E., FOR 30.05 FEET; THENCE N.29°50'03"W., FOR 213.65 FEET TO A POINT ON THE SOUTHERLY LINE OF "PLATINUM POINT YACHT CLUB" RECORDED IN OFFICIAL RECORDS BOOK 2530, PAGE 4055; THENCE S.59°01'27"W., ALONG SAID SOUTHERLY LINE FOR 167.63 FEET TO A POINT LYING 1 FOOT, MORE OR LESS, NORTHERLY OF AN EXISTING SEAWALL; THENCE ALONG A LINE PARALLEL TO AND LYING 1 FOOT, MORE OR LESS, NORTHERLY, EASTERLY, SOUTHERLY, WESTERLY AND SOUTHERLY OF SAID SEAWALL AND ALONG THE SOUTHERLY, WESTERLY, NORTHERLY AND EASTERLY LINES OF "PLATINUM POINT" RECORDED IN OFFICIAL RECORDS BOOK 2285, PAGE 3073, OF SAID PUBLIC RECORDS THE FOLLOWING COURSES, N.74°24'52"W., FOR 43.06 FEET; THENCE S.60°23'18"W., FOR 670.00 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE RIGHT, HAVING: A RADIUS OF 567.29 FEET, A CENTRAL ANGLE OF 25°47'39", A CHORD BEARING OF S.73°17'07"W. AND A CHORD LENGTH OF 253.24 FEET; THENCE ALONG THE ARC OF SAID CURVE, AN ARC LENGTH OF 255.39 FEET TO THE POINT OF COMPOUND CURVATURE OF A CURVE TO THE RIGHT, HAVING: A RADIUS OF 201.66 FEET, A CENTRAL ANGLE OF 68°15'43", A CHORD BEARING OF N.59°41'11"W. AND A CHORD LENGTH OF 226.30 FEET; THENCE ALONG THE ARC OF SAID CURVE, AN ARC LENGTH OF 240.26 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE TO THE LEFT, HAVING: A RADIUS OF 150.88 FEET, A CENTRAL ANGLE OF 40°34'00", A CHORD BEARING OF N.45°50'20"W. AND A CHORD LENGTH OF 104.61 FEET; THENCE ALONG THE ARC OF SAID CURVE, AN ARC LENGTH OF 106.82 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE TO THE RIGHT, HAVING: A RADIUS OF 705.31 FEET, A CENTRAL ANGLE OF 32°47'52", A CHORD BEARING OF N.49°43'24"W. AND A CHORD LENGTH OF 398.25 FEET; THENCE ALONG THE ARC OF SAID CURVE, AN ARC LENGTH OF 403.74 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE TO THE LEFT, HAVING: A RADIUS OF 193.85 FEET, A CENTRAL ANGLE OF 51°50'51", A CHORD BEARING OF N.59°14'53"W. AND A CHORD LENGTH OF 169.49 FEET; THENCE ALONG THE ARC OF SAID CURVE, AN ARC LENGTH OF 175.41 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE TO THE RIGHT, HAVING: A RADIUS OF 261.77 FEET, A CENTRAL ANGLE OF 91°27'30", A CHORD BEARING OF N.39°26'34"W. AND A CHORD LENGTH OF 374.87 FEET; THENCE ALONG THE ARC OF SAID CURVE, AN ARC LENGTH OF 417.84 FEET TO THE END OF SAID CURVE; THENCE N.08°31'27"E., FOR 218.67 FEET; THENCE N.11°26'16"E., FOR 180.68 FEET; THENCE N.15°16'05"E., FOR 415.80 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE RIGHT, HAVING: A RADIUS OF 169.21 FEET, A CENTRAL ANGLE OF 26°39'01", A CHORD BEARING OF N.28°35'36"E. AND A CHORD LENGTH OF 78.00 FEET; THENCE ALONG THE ARC OF SAID CURVE, AN ARC LENGTH OF 78.71 FEET TO THE POINT OF COMPOUND CURVATURE OF A CURVE TO THE RIGHT, HAVING: A RADIUS OF 290.79 FEET, A CENTRAL ANGLE OF 74°47'26", A CHORD BEARING OF N.79°18'50"E. AND A CHORD LENGTH OF 353.20 FEET; THENCE ALONG THE ARC OF SAID CURVE, AN ARC LENGTH OF 379.59 FEET TO THE POINT OF COMPOUND CURVATURE OF A CURVE TO THE RIGHT, HAVING: A RADIUS OF 321.96 FEET, A CENTRAL ANGLE OF 21°28'47", A CHORD BEARING OF S.52°33'04"E. AND A CHORD LENGTH OF 120.00 FEET; THENCE ALONG THE ARC OF SAID CURVE, AN ARC LENGTH OF 120.70

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FEET TO THE END OF SAID CURVE; THENCE S.41°49'58"E., FOR 531.66 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE RIGHT, HAVING: A RADIUS OF 130.24 FEET, A CENTRAL ANGLE OF 41°39'39", A CHORD BEARING OF S.21°00'09"E. AND A CHORD LENGTH OF 92.63 FEET; THENCE ALONG THE ARC OF SAID CURVE, AN ARC LENGTH OF 94.70 FEET TO THE END OF SAID CURVE; THENCE S.00°25'38"W., FOR 390.84 FEET; THENCE S.89°37'03"E., FOR 671.06 FEET; THENCE, DEPARTING FROM SAID SEAWALL AND SAID "PLATINUM POINT", S.00°22'56"W., FOR 153.40 FEET; THENCE N.59°00'18"E., FOR 93.70 FEET; THENCE N.00°22'56"E., FOR 104.61 FEET TO A POINT ON THE WESTERLY LINE OF "THE TIDES CONDOMINIUM" AS RECORDED IN OFFICIAL RECORDS BOOK 2163, PAGE 170, OF SAID PUBLIC RECORDS AND A POINT LYING 1 FOOT MORE OR LESS, EASTERLY OF AN EXISTING SEAWALL; THENCE ALONG THE WEST LINE OF SAID CONDOMINIUM AND THE WEST LINE OF "MARINA TOWERS CONDOMINIUM" AS RECORDED IN OFFICIAL RECORDS BOOK 1948, PAGE 145 OF SAID PUBLIC RECORDS AND ALONG A LINE PARALLEL TO AND LYING 1 FOOT EASTERLY AND NORTHERLY OF SAID SEAWALL THE FOLLOWING COURSES, N.00°37'38"E., FOR 561.62 FEET; THENCE N.89°35'57"W., ALONG THE SOUTH LINE OF SAID "MARINA TOWERS CONDOMINIUM" AND THE SOUTH LINE OF "MARINA NORTH SHORE CONDOMINIUM" AS RECORDED IN CONDOMINIUM BOOK 8, PAGE 257 OF SAID PUBLIC RECORDS FOR 578.17 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE RIGHT, HAVING: A RADIUS OF 88.76 FEET, A CENTRAL ANGLE OF 50°52'35", A CHORD BEARING OF N.64°09'40"W. AND A CHORD LENGTH OF 76.25 FEET; THENCE ALONG THE ARC OF SAID CURVE, AN ARC LENGTH OF 78.81 FEET TO THE END OF SAID CURVE; THENCE N.38°52'47"W., FOR 112.30 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE LEFT, HAVING: A RADIUS OF 872.33 FEET, A CENTRAL ANGLE OF 11°48'00", A CHORD BEARING OF N.44°46'47"W. AND A CHORD LENGTH OF 179.34 FEET; THENCE ALONG THE ARC OF SAID CURVE, AN ARC LENGTH OF 179.65 FEET TO THE END OF SAID CURVE; THENCE N.50°56'21"W., ALONG THE SOUTHERLY LINE OF "DIAMOND PARK" AS RECORDED IN PLAT BOOK 54, PAGES 80 AND 81 OF SAID PUBLIC RECORDS THE FOLLOWING COURSES FOR 135.77 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE LEFT, HAVING: A RADIUS OF 835.62 FEET, A CENTRAL ANGLE OF 12°19'51", A CHORD BEARING OF N.57°06'16"W. AND A CHORD LENGTH OF 179.49 FEET; THENCE ALONG THE ARC OF SAID CURVE, AN ARC LENGTH OF 179.84 FEET TO THE END OF SAID CURVE; THENCE N.63°21'27"W., FOR 102.89 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE LEFT, HAVING: A RADIUS OF 388.19 FEET, A CENTRAL ANGLE OF 50°54'54", A CHORD BEARING OF N.88°48'54"W. AND A CHORD LENGTH OF 333.72 FEET; THENCE ALONG THE ARC OF SAID CURVE, AN ARC LENGTH OF 344.96 FEET TO THE END OF SAID CURVE; THENCE S.66°15'19"W., ALONG THE SOUTH LINE OF THE PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2957 PAGE 2746, SAID PUBLIC RECORDS FOR 33.62 FEET TO THE SOUTHWEST CORNER OF SAID PARCEL AND THE SOUTHEAST CORNER OF THE PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 3245, PAGE 3175 OF SAID PUBLIC RECORDS AND BEING A POINT ON A CURVE TO THE LEFT, HAVING: A RADIUS OF 387.54 FEET, A CENTRAL ANGLE OF 04°08'10", A CHORD BEARING OF S.58°28'57"W. AND A CHORD LENGTH OF 27.97 FEET; THENCE ALONG THE ARC OF SAID CURVE, AN ARC LENGTH OF 27.98 FEET TO THE END OF SAID CURVE; THENCE S.49°03'29"W., FOR 58.31 FEET TO THE SOUTHWEST CORNER OF SAID PARCEL; THENCE DEPARTING FROM SAID SEAWALL N.41°50'54"W., FOR 17.65 FEET TO THE NORTHWEST CORNER OF SAID PARCEL AND THE SOUTHWEST CORNER OF LOT 9 OF SAID "DIAMOND PARK"; THENCE ALONG THE WESTERLY LINE OF SAID LOT 9, THE FOLLOWING COURSES, N.39°21'06"W., FOR 38.60 FEET; THENCE N.01°20'27"W., FOR 193.86 FEET; THENCE N.37°47'30"E., FOR 110.00 FEET; THENCE DEPARTING FROM SAID LOT 9 S.59°53'43"W., FOR 137.28 FEET TO A POINT ON THE WESTERLY LINE OF SAID TRACT "C"; THENCE ALONG SAID WESTERLY LINE THE FOLLOWING COURSES S.16°44'33"W., FOR 515.42 FEET; THENCE S.23°51'46"W., FOR 305.62 FEET; THENCE S.01°48'25"W., FOR 695.54 FEET; THENCE S.10°29'40"W.,

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FOR 418.58 FEET TO A POINT LYING 1 FOOT, MORE OR LESS, SOUTHERLY OF AN EXISTING SEAWALL; THENCE DEPARTING FROM SAID WESTERLY LINE AND ALONG THE NORTHERLY LINE OF "MARINA SOUTH SHORE CONDOMINIUM" RECORDED IN OFFICIAL RECORDS BOOK 1432 PAGE 0278 AND THE WESTERLY EXTENSION THEREOF, AND ALONG A LINE LYING 1 FOOT, MORE OR LESS, SOUTHERLY OF AND PARALLEL TO AN EXISTING SEAWALL, THE FOLLOWING COURSES N.76°24'19"E., FOR 201.49 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE RIGHT, HAVING: A RADIUS OF 253.73 FEET, A CENTRAL ANGLE OF 16°47'37", A CHORD BEARING OF N.84°48'08"E. AND A CHORD LENGTH OF 74.10 FEET; THENCE ALONG THE ARC OF SAID CURVE, AN ARC LENGTH OF 74.37 FEET TO THE POINT OF COMPOUND CURVATURE OF A CURVE TO THE RIGHT, HAVING: A RADIUS OF 453.03 FEET, A CENTRAL ANGLE OF 11°02'37", A CHORD BEARING OF S.81°16'45"E. AND A CHORD LENGTH OF 87.19 FEET; THENCE ALONG THE ARC OF SAID CURVE, AN ARC LENGTH OF 87.32 FEET TO THE POINT OF COMPOUND CURVATURE OF A CURVE TO THE RIGHT, HAVING: A RADIUS OF 570.11 FEET, A CENTRAL ANGLE OF 20°59'54", A CHORD BEARING OF S.65°15'29"E. AND A CHORD LENGTH OF 207.77 FEET; THENCE ALONG THE ARC OF SAID CURVE, AN ARC LENGTH OF 208.94 FEET TO THE END OF SAID CURVE; THENCE S.53°54'52"E., FOR 271.10 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE LEFT, HAVING: A RADIUS OF 1927.30 FEET, A CENTRAL ANGLE OF 09°54'41", A CHORD BEARING OF S.58°52'12"E. AND A CHORD LENGTH OF 332.98 FEET; THENCE ALONG THE ARC OF SAID CURVE, AN ARC LENGTH OF 333.39 FEET TO THE POINT OF COMPOUND CURVE OF A CURVE TO THE LEFT HAVING A RADIUS OF 2250.36 FEET, A CENTRAL ANGLE OF 01°39'50", A CHORD BEARING OF S.64°39'28"E., AND A CHORD LENGTH OF 65.35 FEET, THENCE ALONG THE ARC OF SAID CURVE AN ARC LENGTH OF 65.35 FEET TO THE END OF SAID CURVE; THENCE S.65°42'09"E., FOR 105.15 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE LEFT, HAVING: A RADIUS OF 134.05 FEET, A CENTRAL ANGLE OF 02°25'45", A CHORD BEARING OF S.64°29'17"E. AND A CHORD LENGTH OF 5.68 FEET; THENCE ALONG THE ARC OF SAID CURVE, AN ARC LENGTH OF 5.68 FEET TO THE END OF SAID CURVE AND THE NORTHEAST CORNER OF SAID CONDOMINIUM; THENCE S.00°24'02"W., ALONG THE EAST LINE OF SAID CONDOMINIUM FOR 448.64 FEET TO THE POINT OF BEGINNING.

BEARINGS ARE BASED ON THE EAST LINE OF SECTION 1, TOWNSHIP 43 SOUTH, RANGE 22 EAST, AS RECORDED ON THE PLAT OF PUNTA GORDA ISLES, SECTION 22, HAVING AN ASSUMED BEARING OF N.00°33'26"E.

178.00
24,500.00

PREPARED BY & RETURN TO:

Richard G. Cherry, Esq.
Cherry & Edgar, P.A.
8409 N. Military Trail, Suite 123
Palm Beach Gardens, Florida 33410

Property Control No.: 06-43-23-02-0000B.0000
06-43-23-02-00992.010A
06-43-23-02-01006.0010
06-43-23-00-00004.011A
06-43-23-00-00004.0040
01-43-22-C3-00003.0010
06-43-23-00-00004.0140
01-43-22-00-00004.0010
01-43-22-01-0000C.0000
01-43-22-01-0000C.30CE

SPECIAL WARRANTY DEED

THIS SPECIAL WARRANTY DEED, made as of 29th day of December, 2005,
by and between **WCI COMMUNITIES, INC.**, a Delaware corporation (the "Grantor"),
whose mailing address is 24301 Walden Center Drive, Bonita Springs, Florida 34134,
and **BURNT STORE AMENITIES, L.L.C.**, a Florida limited liability company (the
"Grantee"), whose mailing address is 5789 Cape Harbour Drive, Suite 201, Cape Coral,
Florida 33914.

(wherever used herein the terms "Grantor" and "Grantee" include all the
parties to this instrument and the heirs, legal representatives and assigns,
assigns of individuals, and the successors and assigns of corporation).

That Grantor, for an in consideration of the sum of Ten and No/100 U.S. Dollars
(\$10.00) to it in hand paid by Grantee, the receipt whereof is hereby acknowledged,
hereby grants, bargains, conveys and sells to Grantee the following described land (the
"Property"), situate, lying and being in the County of Lee, State of Florida, to wit:

The Property described on Exhibit "A" attached hereto and made a part hereof.

Together with all easements, tenements, hereditaments, and appurtenances
pertaining thereto.

TO HAVE AND TO HOLD the same in fee simple forever.

This conveyance is made subject to, and by acceptance of this Deed, Grantee accepts this conveyance subject to the following:


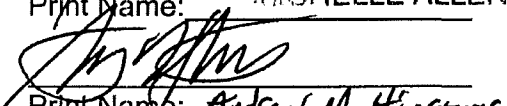
1. Taxes and assessments for 2006 and subsequent years;
2. Zoning and other regulatory laws and ordinances affecting the Property;
and
3. Covenants, conditions, limitations, restrictions, reservations and easements of record.

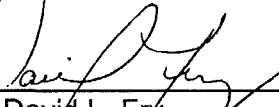
AND Grantor does hereby specially warrant the title to the Property, and will defend the same against the lawful claims of all persons claiming by, through or under Grantor, but none other.

IN WITNESS WHEREOF, Grantor has caused these presents to be signed in its name and on the day and year first above written.

Signed, Sealed and Delivered
in the Presence of:

WCI COMMUNITIES, INC., a Delaware
corporation


Print Name: MICHELLE ALLEN

Print Name: Andrew M. H. Fortunas

By: 
David L. Fry,
Senior Vice President

STATE OF FLORIDA

COUNTY OF LEE

The foregoing Special Warranty Deed was acknowledged before me this ____ day of December, 2005, by David L. Fry, Senior Vice President of WCI Communities, Inc., a Delaware corporation; on behalf of the corporation; and who is personally know to me, or has produced a _____ as identification.

My Commission Expires:


Notary Public, State of Florida

S:\MYFILES\DATA\WCI\BURNSTSTORE\SALE\CLOSING\DOCUMENTS\SPECIAL WARRANTY DEED.4CLEAN.DOC MICHELLE ALLEN



TRACT 1 (REVISED GOLF COURSE LEGAL):

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 1, TOWNSHIP 43 SOUTH, RANGE 22 EAST AND SECTION 6, TOWNSHIP 43 SOUTH, RANGE 23 EAST, BEING ALL OF TRACT "B", PUNTA GORDA ISLES, SECTION TWENTY TWO ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 28, PAGES 118 THROUGH 138, PUBLIC RECORDS OF SAID LEE COUNTY, FLORIDA.

TOGETHER WITH:

ADDITIONAL PARCEL #1:

THAT PARCEL RECORDED IN OFFICIAL RECORD BOOK 3320, PAGE 3328 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA

ADDITIONAL PARCEL #2:

THAT PARCEL RECORDED IN OFFICIAL RECORD BOOK 2285, PAGE 3070 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA

ADDITIONAL PARCEL #3:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 7, BLOCK 1006, SECTION 22, OF SAID PUNTA GORDA ISLES SUBDIVISION; THENCE S.88° 14'39"W. FOR 912.69 FEET TO THE WESTERLY LINE OF LOT 1 OF SAID BLOCK 1006; THENCE S.22° 30'37"E. ALONG THE WEST LINE OF SAID LOT FOR 78.50 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE NORTH AND HAVING A RADIUS OF 50.00 FEET; THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 100° 02'27" FOR 87.30 FEET TO THE BEGINNING OF A REVERSE CURVE CONCAVE TO THE SOUTH AND HAVING A RADIUS OF 500.00 FEET; THENCE EASTERLY ALONG SAID CURVE AND ALONG THE SOUTH LINE OF SAID BLOCK 1006 THROUGH A CENTRAL ANGLE OF 46° 16'04" FOR 403.76 FEET; THENCE S.76° 17'00"E. ALONG THE SOUTH LINE OF SAID BLOCK FOR 255.14 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE NORTHWEST AND HAVING A RADIUS OF 50.00 FEET; THENCE NORTHEASTERLY ALONG SAID CURVE AND ALONG THE SOUTH LINE OF SAID BLOCK THROUGH A CENTRAL ANGLE OF 106° 13'12" FOR 92.69 FEET TO THE BEGINNING OF A REVERSE CURVE CONCAVE TO THE SOUTHEAST AND HAVING A RADIUS OF 50.00 FEET; THENCE NORTHEASTERLY ALONG SAID CURVE AND ALONG THE SOUTH LINE OF SAID BLOCK THROUGH A CENTRAL ANGLE OF 78° 39'19" FOR 68.64 FEET; THENCE N.76° 09'07"E. ALONG THE SOUTH LINE OF SAID BLOCK FOR 76.09 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPT THE FOLLOWING PARCEL:

BEGINNING AT THE NORTHERLY CORNER OF LOT 3, BLOCK 994 OF SAID PUNTA GORDA ISLES SECTION 22, SAID POINT BEING THE POINT OF BEGINNING; THENCE S.76° 48'18"W. FOR 48.00 FEET; THENCE N.39° 53'12"E. FOR 53.68 FEET; THENCE N.88° 09'13"E. FOR 8.29 FEET; THENCE S.64° 55'39"E. FOR

13.87 FEET; THENCE N.69° 05'06"E. FOR 9.73 FEET; THENCE N.13° 25'43"E. FOR 24.17 FEET; THENCE N.17° 50'12"W. FOR 34.56 FEET; THENCE S.84° 43'56"W. FOR 7.71 FEET; THENCE N.63° 22'54"W. FOR 29.81 FEET; THENCE N.46° 05'01"W. FOR 81.43 FEET; THENCE N.71° 04'55"W. FOR 7.43 FEET; THENCE S.84° 11'40"W. FOR 11.13 FEET; THENCE S.72° 11'46"W. FOR 5.76 FEET; THENCE S.89° 12'56"W. FOR 3.58 FEET; THENCE N.72° 23'00"W. FOR 8.34 FEET; THENCE N.62° 28'07"W. FOR 7.23 FEET; THENCE S.81° 40'01"W. FOR 17.63 FEET; THENCE S.85° 24'38"W. FOR 29.42 FEET; THENCE N.89° 08'52"W. FOR 36.88 FEET; THENCE N.83° 22'49"W. FOR 24.40 FEET; THENCE N.61° 19'35"W. FOR 13.87 FEET; THENCE N.38° 44'39"W. FOR 19.64 FEET; THENCE N.18° 59'57"W. FOR 24.04 FEET; THENCE N.04° 20'38"W. FOR 145.31 FEET; THENCE N.06° 05'35"E. FOR 47.67 FEET; THENCE N.19° 20'06"E. FOR 33.38 FEET; THENCE N.55° 45'10"E. FOR 41.05 FEET; THENCE N.85° 13'15"E. FOR 38.03 FEET; THENCE S.72° 19'11"E. FOR 33.09 FEET; THENCE S.51° 55'12"E. FOR 14.42 FEET; THENCE S.77° 26'18"E. FOR 21.70 FEET; THENCE N.75° 48'31"E. FOR 52.27 FEET; THENCE N.79° 43'07"E. FOR 119.39 FEET; THENCE S.62° 49'58"E. FOR 29.98 FEET; THENCE S.41° 58'50"E. FOR 29.79 FEET; THENCE S.12° 32'22"E. FOR 14.56 FEET; THENCE S.04° 09'53"E. FOR 57.03 FEET; THENCE S.05° 04'46"W. FOR 24.06 FEET; THENCE S.10° 07'56"W. FOR 43.56 FEET; THENCE S.04° 14'03"E. FOR 38.30 FEET; THENCE S.37° 21'15"E. FOR 50.83 FEET; THENCE S.60° 30'39"E. FOR 15.44 FEET; THENCE S.28° 58'48"E. FOR 31.26 FEET; THENCE S.17° 45'35"W. FOR 85.96 FEET; THENCE S.05° 35'08"E. FOR 24.64 FEET TO THE POINT OF CURVE OF A NON TANGENT CURVE TO THE LEFT, OF WHICH THE RADIUS POINT LIES S.41° 53'13"E., A RADIAL DISTANCE OF 100.00 FEET; THENCE SOUTHERLY ALONG THE ARC, THROUGH A CENTRAL ANGLE OF 61° 14'55" FOR 106.90 FEET; THENCE S.76°51'56"W. FOR 40.00 FEET TO THE POINT OF CURVE OF A NON TANGENT CURVE TO THE LEFT, OF WHICH THE RADIUS POINT LIES S.76° 51'52"W., A RADIAL DISTANCE OF 50.00 FEET; THENCE NORTHWESTERLY ALONG THE ARC, THROUGH A CENTRAL ANGLE OF 90° 03'34" FOR 78.59 FEET TO THE POINT OF BEGINNING.

TRACT 2 (VACANT LAND 4A - PARCEL EAST OF MAINTENANCE PARCEL):

FROM THE SOUTHEAST CORNER OF SECTION 6, TOWNSHIP 43 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA, RUN N.00° 41'43"E., ALONG THE EAST LINE OF SAID SECTION 6 AND THE CENTERLINE OF STATE ROAD 765 (BURNT STORE ROAD), 1246.02 FEET; THENCE S.88° 22'02"W., 774.91 FEET; THENCE N.00° 33'37"E., 30.02 FEET TO THE POINT OF BEGINNING. THENCE CONTINUE N.00° 33'37"E., FOR 310.23 FEET; THENCE S.88° 22'02"W., 491.07 FEET; THENCE S.00° 33'37"W., 159.95 FEET; THENCE S.88° 22'02"W., 75.05 FEET; THENCE S.00° 33'37"W., 150.28 FEET; THENCE N.88° 22'02"E., 566.12 FEET TO THE POINT OF BEGINNING, LESS AND EXCEPT THE SOUTH 30 FEET FOR ROADWAY PURPOSES.

TRACT 3 (VACANT LAND 4B- TRACT A-7 - POND PARCEL):

FROM THE SOUTHEAST CORNER OF SECTION 6, TOWNSHIP 43 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA, RUN N.00° 41'43"E., ALONG THE EAST LINE OF SAID SECTION 6 AND THE CENTERLINE OF STATE ROAD 765 (BURNT STORE

ROAD), 1246.02 FEET; THENCE S.88° 22'18"W., 68.06 FEET TO A POINT ON THE WEST RIGHT OF WAY LINE OF BURNT STORE ROAD AND THE POINT OF BEGINNING; THENCE S.88°22'18"W., 706.62 FEET; THENCE N.00° 42'25"E., 415.34 FEET; THENCE N.88° 22'18"E., 706.53 FEET; THENCE S.00° 41'43"W., 415.34 FEET TO THE POINT OF BEGINNING, LESS AND EXCEPT THE SOUTH 30 FEET FOR ROADWAY PURPOSES.

TRACT 4 (MATECUMBE KEY ROAD):

BEGINNING AT THE NORTHWEST CORNER OF THE SOUTH 1660.00 FEET OF SECTION 6, TOWNSHIP 43 SOUTH, RANGE 23 EAST, ACCORDING TO THE PLAT OF PUNTA GORDA ISLES SECTION TWENTY TWO; THENCE S.00° 33'37"W., A DISTANCE OF 830.73 FEET; THENCE N.89° 35'44"W., A DISTANCE OF 235.01 FEET; THENCE S.30° 56'51"E., A DISTANCE OF 191.35 FEET TO A POINT OF CURVE TO THE RIGHT HAVING A RADIUS OF 1,248.12 FEET AND A CENTRAL ANGLE OF 13° 44'14"; THENCE SOUTHEASTERLY ALONG THE ARC A DISTANCE OF 299.25 FEET; THENCE N.54° 48'33"W., A DISTANCE OF 112.36 FEET; THENCE N.00° 33'37"E., A DISTANCE OF 66.04 FEET; THENCE N.89° 35'44"W., A DISTANCE OF 205.29 FEET; THENCE N.00° 17'44"E., A DISTANCE OF 304.96 FEET; THENCE N.89° 35'44"W., A DISTANCE OF 232.98 FEET TO THE POINT OF CURVE OF A NON TANGENT CURVE TO THE RIGHT, OF WHICH THE RADIUS POINT LIES N.83° 51'44"W., A RADIAL DISTANCE OF 20.00 FEET; THENCE SOUTHWESTERLY ALONG THE ARC, THROUGH A CENTRAL ANGLE OF 33° 56'40", A DISTANCE OF 11.85 FEET TO A POINT OF COMPOUND CURVE TO THE RIGHT HAVING A RADIUS OF 468.00 FEET AND A CENTRAL ANGLE OF 17° 15'47"; THENCE SOUTHWESTERLY ALONG THE ARC, A DISTANCE OF 141.01 FEET TO A POINT OF COMPOUND CURVE TO THE RIGHT HAVING A RADIUS OF 118.00 FEET AND A CENTRAL ANGLE OF 32° 39'17"; THENCE WESTERLY ALONG THE ARC, A DISTANCE OF 67.25 FEET; THENCE WEST, A DISTANCE OF 162.18 FEET TO A POINT OF CURVE TO THE RIGHT HAVING A RADIUS OF 20.00 FEET AND A CENTRAL ANGLE OF 136° 15'32"; THENCE NORTHERLY ALONG THE ARC A DISTANCE OF 47.56 FEET; THENCE N.46° 15'32"E., A DISTANCE OF 67.67 FEET TO A POINT OF CURVE TO THE RIGHT HAVING A RADIUS OF 20.00 FEET AND A CENTRAL ANGLE OF 90° 00'00"; THENCE EASTERLY ALONG THE ARC A DISTANCE OF 31.42 FEET; THENCE S.43° 44'28"E., A DISTANCE OF 9.67 FEET TO A POINT OF CURVE TO THE LEFT HAVING A RADIUS OF 25.00 FEET AND A CENTRAL ANGLE OF 180° 00'00"; THENCE NORTHEASTERLY ALONG THE ARC A DISTANCE OF 78.54 FEET; THENCE N.43° 44'28"W., A DISTANCE OF 4.98 FEET TO A POINT OF CURVE TO THE RIGHT HAVING A RADIUS OF 20.00 FEET AND A CENTRAL ANGLE OF 38° 24'46"; THENCE NORTHWESTERLY ALONG THE ARC A DISTANCE OF 13.41 FEET; THENCE N.89° 35'44"W., A DISTANCE OF 89.21 FEET TO THE POINT OF CURVE OF A NON TANGENT CURVE TO THE RIGHT, OF WHICH THE RADIUS POINT LIES N.79° 24'42"W., A RADIAL DISTANCE OF 18.00 FEET; THENCE SOUTHERLY ALONG THE ARC, THROUGH A CENTRAL ANGLE OF 20° 33'05", A DISTANCE OF 6.46 FEET TO A POINT OF COMPOUND CURVE TO THE RIGHT HAVING A RADIUS OF 90.00 FEET AND A CENTRAL ANGLE OF 15° 07'10"; THENCE SOUTHWESTERLY ALONG THE ARC, A DISTANCE OF 23.75 FEET; THENCE S.46° 15'32"W., A DISTANCE OF 48.81 FEET TO A POINT OF CURVE TO THE RIGHT HAVING A RADIUS OF 20.00 FEET AND A CENTRAL

ANGLE OF 63° 23'18"; THENCE WESTERLY ALONG THE ARC A DISTANCE OF 22.13 FEET; THENCE S.00° 24'16"W. A DISTANCE OF 28.63 FEET; THENCE S.46° 15'32"W. A DISTANCE OF 63.05 FEET TO A POINT OF CURVE TO THE RIGHT HAVING A RADIUS OF 249.50 FEET AND A CENTRAL ANGLE OF 18° 48'45"; THENCE SOUTHWESTERLY ALONG THE ARC A DISTANCE OF 81.92 FEET; THENCE N.24° 55'43"W., A DISTANCE OF 8.75 FEET; THENCE N.14° 38'24"W., A DISTANCE OF 102.73 FEET; THENCE S.75° 21'36"W., A DISTANCE OF 63.46 FEET TO A POINT OF CURVE TO THE RIGHT HAVING A RADIUS OF 50.00 FEET AND A CENTRAL ANGLE OF 29° 40'54"; THENCE WESTERLY ALONG THE ARC A DISTANCE OF 25.90 FEET; THENCE N.74° 57'31"W., A DISTANCE OF 157.51 FEET TO A POINT OF CURVE TO THE RIGHT HAVING A RADIUS OF 150.00 FEET AND A CENTRAL ANGLE OF 26° 30'57"; THENCE NORTHWESTERLY ALONG THE ARC A DISTANCE OF 69.42 FEET; THENCE N.48° 26'34"W., A DISTANCE OF 28.36 FEET TO A POINT OF CURVE TO THE RIGHT HAVING A RADIUS OF 20.00 FEET AND A CENTRAL ANGLE OF 03° 54'04"; THENCE NORTHWESTERLY ALONG THE ARC A DISTANCE OF 1.36 FEET; THENCE N.00° 24'02"E., A DISTANCE OF 49.99 FEET; THENCE S.89° 35'58"E., A DISTANCE OF 199.85 FEET; THENCE N.00° 24'02"E., A DISTANCE OF 60.00 FEET; THENCE S.89° 35'58"E., A DISTANCE OF 260.82 FEET; THENCE CONTINUE EASTERLY ALONG SAID LINE, A DISTANCE OF 308.01 FEET; THENCE CONTINUE EASTERLY ALONG SAID LINE, A DISTANCE OF 410.34 FEET TO A POINT OF CURVE TO THE LEFT HAVING A RADIUS OF 170.00 FEET AND A CENTRAL ANGLE OF 89° 50'25"; THENCE NORTHEASTERLY ALONG THE ARC A DISTANCE OF 266.56 FEET; THENCE N.00° 33'37"E., A DISTANCE OF 544.63 FEET TO THE POINT OF CURVE OF A NON TANGENT CURVE TO THE RIGHT, OF WHICH THE RADIUS POINT LIES N.89° 33'31"E., A RADIAL DISTANCE OF 214.23 FEET; THENCE NORTHEASTERLY ALONG THE ARC, THROUGH A CENTRAL ANGLE OF 53° 47'49", A DISTANCE OF 201.15 FEET; THENCE S.36° 26'58"E., A DISTANCE OF 60.17 FEET TO THE POINT OF CURVE OF A NON TANGENT CURVE TO THE LEFT, OF WHICH THE RADIUS POINT LIES S.36° 26'57"E., A RADIAL DISTANCE OF 153.00 FEET; THENCE SOUTHWESTERLY ALONG THE ARC, THROUGH A CENTRAL ANGLE OF 52° 03'09", A DISTANCE OF 139.00 FEET TO THE POINT OF BEGINNING.

TRACT 5 (MAINTENANCE PARCEL):

COMMENCING AT THE SOUTHWEST CORNER OF SECTION 6, TOWNSHIP 43 SOUTH, RANGE 23 EAST LEE COUNTY, FLORIDA; THENCE N.00° 33'37"E. ALONG THE WEST LINE OF SAID SECTION 6 FOR 1,661.22 FEET TO THE SOUTH LINE OF PUNTA GORDA ISLES SUBDIVISION, AS RECORDED IN PLAT BOOK 28, PAGES 118 THROUGH 138 PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE N.88° 22'02"E. ALONG SAID SOUTH LINE FOR 3,395.27 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL; THENCE CONTINUE EASTERLY ALONG SAID LINE FOR 565.52 FEET; THENCE S.00° 32'14"W. FOR 414.70 FEET; THENCE S.88° 20'05"W. FOR 565.54 FEET; THENCE N.00° 32'15"E. FOR 415.02 FEET TO THE POINT OF BEGINNING; LESS AND EXCEPT THE SOUTH 30 FEET FOR ROADWAY PURPOSES.

TRACT 6 (SALES CENTER PARCEL):

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 1, TOWNSHIP 43 SOUTH, RANGE 22 EAST, AND SECTION 6, TOWNSHIP 43 SOUTH, RANGE 23 EAST, BEING A PART OF LOTS 1 & 2 BLOCK 1001 & TRACT "C", PUNTA GORDA ISLES SECTION TWENTY TWO AS RECORDED IN PLAT BOOK 28, PAGES 118-138, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, BEING FURTHER DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 1; THENCE S. $36^{\circ} 26' 58''$ E. FOR 10.01 FEET TO THE POINT OF CURVE OF A NON TANGENT CURVE TO THE LEFT, OF WHICH THE RADIUS POINT LIES S. $36^{\circ} 26' 44''$ E., A RADIAL DISTANCE OF 212.98 FEET; THENCE SOUTHWESTERLY ALONG THE ARC, THROUGH A CENTRAL ANGLE OF $41^{\circ} 39' 29''$ FOR 154.85 FEET; THENCE S. $60^{\circ} 22' 46''$ W. FOR 61.09 FEET; THENCE N. $15^{\circ} 22' 46''$ E. FOR 43.85 FEET; THENCE N. $29^{\circ} 37' 14''$ W. FOR 228.06 FEET; THENCE N. $59^{\circ} 14' 04''$ E. FOR 111.46 FEET; THENCE N. $83^{\circ} 30' 29''$ E. FOR 29.19 FEET; THENCE N. $59^{\circ} 14' 04''$ E. FOR 30.05 FEET; THENCE N. $29^{\circ} 50' 03''$ W. FOR 213.60 FEET; THENCE N. $59^{\circ} 00' 18''$ E. FOR 102.25 FEET; THENCE N. $83^{\circ} 44' 57''$ E. FOR 171.76 FEET TO THE POINT OF CURVE OF A NON TANGENT CURVE TO THE LEFT, OF WHICH THE RADIUS POINT LIES N. $83^{\circ} 44' 57''$ E., A RADIAL DISTANCE OF 1,340.00 FEET; THENCE SOUTHERLY ALONG THE ARC, THROUGH A CENTRAL ANGLE OF $12^{\circ} 13' 04''$ FOR 285.74 FEET TO A POINT OF REVERSE CURVE TO THE RIGHT HAVING A RADIUS OF 50.00 FEET AND A CENTRAL ANGLE OF $80^{\circ} 49' 54''$; THENCE SOUTHERLY ALONG THE ARC FOR 70.54 FEET TO A POINT OF REVERSE CURVE TO THE LEFT HAVING A RADIUS OF 840.00 FEET AND A CENTRAL ANGLE OF $08^{\circ} 48' 45''$; THENCE SOUTHWESTERLY ALONG THE ARC FOR 129.20 FEET TO THE POINT OF BEGINNING.

TRACT 7 (REVISED MARINA PARCEL):

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 01, TOWNSHIP 43 SOUTH, RANGE 22 EAST, BEING FURTHER DESCRIBED AS FOLLOWS:

REVISED MARINA PARCEL # 1

COMMENCING AT THE SOUTHWEST CORNER OF LOT 3, BLOCK 1001, PUNTA GORDA ISLES SECTION TWENTY TWO AS RECORDED IN PLAT BOOK 28, PAGES 118 THROUGH 138 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE S. $59^{\circ} 00' 17''$ W. FOR 195.14 FEET; THENCE S. $00^{\circ} 22' 56''$ W. FOR 117.13 FEET; THENCE S. $59^{\circ} 00' 17''$ W. FOR 92.56 FEET; THENCE S. $29^{\circ} 36' 42''$ E. FOR 142.83 FEET; THENCE S. $60^{\circ} 23' 18''$ W. FOR 118.45 FEET TO THE POINT OF BEGINNING; THENCE S. $60^{\circ} 23' 18''$ W. FOR 551.55 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 567.29 FEET; THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF $25^{\circ} 47' 39''$ FOR 255.39 FEET TO A POINT OF COMPOUND CURVE TO THE RIGHT HAVING A RADIUS OF 201.66 FEET AND A CENTRAL ANGLE OF $68^{\circ} 15' 43''$; THENCE NORTHWESTERLY ALONG THE ARC FOR 240.26 FEET TO A POINT OF REVERSE CURVE TO THE LEFT HAVING A RADIUS OF 151.31 FEET AND A CENTRAL ANGLE OF $40^{\circ} 27' 29''$; THENCE NORTHWESTERLY ALONG THE ARC FOR 106.84 FEET TO A POINT OF

REVERSE CURVE TO THE RIGHT HAVING A RADIUS OF 706.07 FEET AND A CENTRAL ANGLE OF 27° 49'50"; THENCE NORTHWESTERLY ALONG THE ARC FOR 342.96 FEET; THENCE N.66° 38'04"E. FOR 25.89 FEET TO THE POINT OF CURVE OF A NON TANGENT CURVE TO THE LEFT, OF WHICH THE RADIUS POINT LIES N.51° 15'35"E., A RADIAL DISTANCE OF 681.07 FEET; THENCE SOUTHEASTERLY ALONG THE ARC, THROUGH A CENTRAL ANGLE OF 27° 16'25" FOR 324.20 FEET TO A POINT OF REVERSE CURVE TO THE RIGHT HAVING A RADIUS OF 176.31 FEET AND A CENTRAL ANGLE OF 40° 27'29"; THENCE SOUTHEASTERLY ALONG THE ARC FOR 124.50 FEET TO A POINT OF REVERSE CURVE TO THE LEFT HAVING A RADIUS OF 176.66 FEET AND A CENTRAL ANGLE OF 68° 15'43"; THENCE SOUTHEASTERLY ALONG THE ARC FOR 210.47 FEET TO A POINT OF COMPOUND CURVE TO THE LEFT HAVING A RADIUS OF 542.29 FEET AND A CENTRAL ANGLE OF 25° 47'39"; THENCE EASTERLY ALONG THE ARC FOR 244.14 FEET; THENCE N.60° 23'18"E. FOR 551.55 FEET; THENCE S.29° 36'42"E. FOR 25.00 FEET TO THE POINT OF BEGINNING.

AND

REVISED MARINA PARCEL # 2

COMMENCING AT THE SOUTHWEST CORNER OF LOT 3, BLOCK 1001, PUNTA GORDA ISLES SECTION TWENTY TWO AS RECORDED IN PLAT BOOK 28, PAGES 118 THROUGH 138 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE S.59° 00'17"W. FOR 195.14 FEET; THENCE N.00° 22'56"E. FOR 104.90 FEET; THENCE N.89° 37'04"W. FOR 119.34 FEET TO THE POINT OF BEGINNING; THENCE S.00° 22'56"W. FOR 18.51 FEET; THENCE N.89° 22'30"W. FOR 656.66 FEET; THENCE N.00° 24'52"E. FOR 406.62 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 102.40 FEET; THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 42° 15'18" FOR 75.52 FEET; THENCE N.41° 50'26"W. FOR 531.75 FEET TO THE POINT OF CURVE OF A NON TANGENT CURVE TO THE LEFT, OF WHICH THE RADIUS POINT LIES S.48° 09'35"W., A RADIAL DISTANCE OF 301.37 FEET; THENCE NORTHWESTERLY ALONG THE ARC, THROUGH A CENTRAL ANGLE OF 21° 21'02" FOR 112.30 FEET TO A POINT OF COMPOUND CURVE TO THE LEFT HAVING A RADIUS OF 265.10 FEET AND A CENTRAL ANGLE OF 27° 00'22"; THENCE WESTERLY ALONG THE ARC FOR 124.95 FEET; THENCE N.02° 10'05"E. FOR 25.02 FEET TO THE POINT OF CURVE OF A NON TANGENT CURVE TO THE RIGHT, OF WHICH THE RADIUS POINT LIES S.00° 00'25"W., A RADIAL DISTANCE OF 290.10 FEET; THENCE EASTERLY ALONG THE ARC, THROUGH A CENTRAL ANGLE OF 26° 48'08" FOR 135.71 FEET TO A POINT OF COMPOUND CURVE TO THE RIGHT HAVING A RADIUS OF 326.37 FEET AND A CENTRAL ANGLE OF 21° 21'02"; THENCE SOUTHEASTERLY ALONG THE ARC FOR 121.62 FEET; THENCE S.41° 50'26"E. FOR 531.75 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 127.40 FEET; THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 42° 15'18" FOR 93.96 FEET; THENCE S.00° 24'52"W. FOR 390.87 FEET; THENCE S.89° 37'04"E. FOR 631.65 FEET TO THE POINT OF BEGINNING.

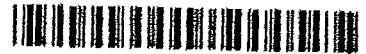
TRACT 8 (SOUTH SHORE PARCEL):

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 1, TOWNSHIP 43 SOUTH, RANGE 22 EAST, BEING FURTHER BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SECTION 1, TOWNSHIP 43 SOUTH, RANGE 22 EAST, LEE COUNTY, FLORIDA, THENCE N.00° 33'58"E., ALONG THE EAST LINE OF SAID SECTION 1 FOR 880.00 FEET; THENCE N.89° 35'44"W., FOR 1,625.91 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL; THENCE CONTINUE N.89° 35'44"W. FOR 260.23 FEET; THENCE S.00° 24'58"E. FOR 50.01 FEET TO THE NORTHWEST CORNER OF VISTA DEL SOL AT BURNT STORE MARINA, A CONDOMINIUM AS RECORDED IN CONDOMINIUM PLAT BOOK 33 AT PAGE 38 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE N.89° 35'44"W. FOR 703 FEET, MORE OR LESS, TO THE WATERS OF CHARLOTTE HARBOR; THENCE NORTHERLY ALONG THE MEAN HIGH WATER LINE OF SAID CHARLOTTE HARBOR RUN 1,020 FEET, MORE OR LESS, TO A POINT LYING APPROXIMATELY 1 FOOT SOUTHERLY OF AN EXISTING CONCRETE SEAWALL; THENCE N.76° 24'19"E., ALONG A LINE PARALLEL TO AND LYING 1 FOOT, MORE OR LESS SOUTHERLY OF SAID CONCRETE SEAWALL FOR 28.62 FEET TO THE NORTHWEST CORNER OF PARCEL 8, TRACT "H", AS RECORDED IN OFFICIAL RECORDS BOOK 2285, PAGE 3073, OF SAID PUBLIC RECORDS; THENCE S.00° 24'02"W., ALONG THE WESTERLY LINE OF SAID PARCEL 8 FOR 491.56 FEET TO THE SOUTHWEST CORNER OF SAID PARCEL 8; THENCE S.89° 35'58"E., ALONG THE SOUTH LINE OF SAID PARCEL 8 AND THE SOUTH LINE OF PARCEL 7 OF SAID TRACT "H" FOR 670.43 FEET TO THE SOUTHEAST CORNER OF SAID TRACT 7 AND A POINT ON THE WESTERLY LINE OF PARCEL 6 OF SAID TRACT H TO ALSO BEING A POINT ON A CURVE TO THE RIGHT, HAVING: A RADIUS OF 90.00 FEET, A CENTRAL ANGLE OF 38° 59'58", A CHORD BEARING OF S.64° 05'57"E. AND A CHORD LENGTH OF 60.08 FEET; THENCE ALONG THE WESTERLY LINE OF SAID PARCEL 6 AND THE ARC OF SAID CURVE, AN ARC LENGTH OF 61.26 FEET TO THE POINT OF TANGENCY OF SAID CURVE; THENCE S.44° 35'58"E., ALONG SAID WESTERLY LINE RUN 59.23 FEET; THENCE S.00° 24'02"W., ALONG SAID WESTERLY LINE AND THE WESTERLY LINE OF PARCEL 5 OF SAID TRACT "H" RUN 399.45 FEET TO THE POINT OF BEGINNING.

TRACT 9 (ATHLETIC CLUB PARCEL):

CONDOMINIUM PARCEL: UNIT NO. 71, COURTSIDE LANDINGS CONDOMINIUM, being further described in that certain Declaration of Condominium recorded in Official Records Book 3093, Page 3733, and subsequent amendments thereto, and according to the plat recorded in Condominium Plat Book 26, Pages 57 and 58, Public Records of Lee County, Florida.



This instrument prepared by
and should be returned to:
Kenneth Y. Gordon, Esquire
WCI Communities, Inc.
24301 Walden Center Drive
Bonita Springs, FL 34134

Parcel I.D. No.(s): 01-43-22-00-00004.0000
01-43-22-01-0000C.0000

INSTR # 6626724
BK BK 04575 Pgs 3316 - 3320; (5pgs)
RECORDED 02/01/2005 12:51:04 PM
CHARLIE GREEN, CLERK OF COURT
LEE COUNTY, FLORIDA
RECORDING FEE 44.00
DEED DOC 2,275.00
DEPUTY CLERK C Keller

SPECIAL WARRANTY DEED

(5) THIS SPECIAL WARRANTY DEED, made as of this 27th day of January, 2005, by and between WCI COMMUNITIES, INC., a Delaware corporation, successor by merger of BSM Marina, Inc., a Florida corporation (the "Grantor"), whose mailing address is 24301 Walden Center Drive, Bonita Springs, Florida 34134 and REALMARK BURNT STORE MARINA, LLC, a Florida limited liability company, whose mailing address is 1900 Lagoon Lane, Cape Coral, Florida 33914 (the "Grantee").

(wherever used herein the terms "Grantors" and "Grantee" include all the parties to this instrument and the heirs, legal representatives and assigns, assigns of individuals, and the successors and assigns of corporation).

WITNESSETH:

That Grantor, for and in consideration of the sum of Ten and No/100 U.S. Dollars (\$10.00) to it in hand paid by Grantee, the receipt whereof is hereby acknowledged, hereby grants, bargain, conveys and sells to Grantee the following described land (the "Property"), situate, lying and being in the County of Lee, State of Florida, to wit:

A tract or parcel of land located in Section 1, Township 43 South, Range 22 East, being a part of Tract "C", Punta Gorda Isles, Section 22, Plat Book 28, Page 118, Lee County Public Records, and being more particularly described on Exhibit "A" attached hereto and made a part hereof.

Together with all easements, tenements, hereditaments, and appurtenances pertaining thereto.

TO HAVE AND TO HOLD the same in fee simple forever.

This conveyance is made subject to, and by acceptance of this Deed, Grantee accepts this conveyance subject to the following:

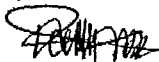
1. General taxes and assessments for 2005 and subsequent years;
2. Zoning and other regulatory laws and ordinances affecting the Property; and
3. Covenants, conditions, limitations, restrictions, reservations and easements of record and described in Exhibit "B" attached hereto made a part hereof.

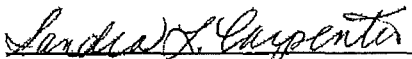
4. The restriction hereby imposed on the Property that no portion of the Property shall be used for residential purposes from the date hereof continuing to and ending on January 1, 2010 and the Property shall be used for commercial use and commercial purposes only from the date hereof continuing to and ending on January 1, 2010. As restricted hereby, the Property shall be limited to commercial use only and for no other purposes for the period commencing the date hereof and ending on January 1, 2010.

AND Grantor does hereby specially warrant the title to the Property, and will defend the same against the lawful claims of all persons claiming by, through or under Grantor, but none other.


IN WITNESS WHEREOF, Grantor has caused these presents to be signed in its name and on the day and year first above written.

Signed, Sealed and Delivered
in the presence of:


Print Name: Dianna M. Lutz


Print Name: SANDRA L. CARPENTER

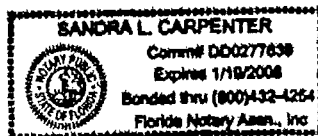
WCI COMMUNITIES, INC., a Delaware corporation

By: 
Stefan O. Johansson
Its: Vice President

STATE OF FLORIDA
COUNTY OF LEE

The foregoing Special Warranty Deed was acknowledged before me this 27th day of January, 2005, by Stefan O. Johansson, as Vice President of WCI Communities, Inc., a Delaware corporation, on behalf of the corporation. He is personally known to me or has produced his _____ as identification.

(AFFIX NOTARY SEAL)



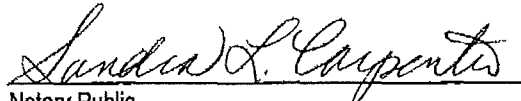

Notary Public
Print Name: SANDRA L. CARPENTER
My Commission Expires: 1/19/2008

EXHIBIT "A"
LEGAL DESCRIPTION

A tract or parcel of land situated in the State of Florida, County of Lee, lying in Section 1, Township 43 South, Range 22 East, being a part of Tract "C", Punta Gorda Isles, Section Twenty-Two, Plat Book 28, Page 118, Lee County Public Records, and being further bounded and described as follows:

Commencing at the Southeast corner of said Section 1; thence N 00°33'37" E, along the East line of said Section 1, for 830.00 feet to the Southeast corner of Tract "I", as described in Official Records Book 2285, Page 3073, said Public Records; thence N 89°35'44" W, along the South line of said Tract "I", for 1208.39 feet; thence N 00°24'02" E, for 110.08 feet; thence S 89°35'58" E, along the North line of an ingress-egress easement as described in Official Records Book 1554, Page 942, said Public Records, for 260.82 feet to the Point of Beginning; thence N 00°24'02" E, for 112.24 feet; thence N 89°33'59" W, for 101.51 feet; thence N 00°26'01" E, for 128.93 feet; thence S 89°33'59" E for 117.82 feet; thence S 01°28'31" W, for 14.10 feet to the beginning of a curve to the right; having a radius of 133.42 feet, a central angle of 17°03'03", a chord bearing and distance of S 10°00'02" W, 39.56 feet; thence along the arc of said curve, an arc length of 39.70 feet to a point of reverse curvature; having a radius of 191.85 feet, a central angle of 18°07'32", a chord bearing and distance of S 09°27'48" W, 60.44 feet; thence along the arc of said curve, an arc length of 60.69 feet; thence leaving said curve S 89°36'07" E, for 308.01 feet; thence S 00°24'02" W, for 128.39 feet; thence N 89°35'58" W, along said North line of an ingress-egress easement as described in Official Records Book 1554, Page 942, for 308.01 feet to the Point of Beginning.

Bearings are based on the East line of Section 1 as bearing N 00° 33'37" E.

EXHIBIT "B"
PERMITTED EXCEPTIONS

1. Terms, covenants, conditions, restrictions, easements, assessments and possible liens created by and set forth in the Declaration recorded in Official Records Book 1233, Page 975 and Amendments recorded in Official Records Book 1333, Page 115; Official Records Book 1644, Page 1159 and Official Records Book 1809, Page 2339 and Assignment of Developers Rights recorded in Official Records Book 2259, Page 1641 and Official Records Book 2285, Page 3137, of the Public Records of Lee County, Florida.
2. Terms, covenants, conditions, restrictions, easements, assessments and possible liens created by and set forth in the Declaration recorded in Official Records Book 1432, Page 249 and Amendments recorded in Official Records Book 1683, Page 206; Official Records Book 1665, Page 4512; Official Records Book 2902, Page 2682 and Official Records Book 3192, Page 3468 and Assignment of Developers Rights recorded in Official Records Book 2259, Page 1641, of the Public Records of Lee County, Florida.
3. Assignment of Developers Rights recorded in Official Records Book 2237, Page 1828, Public Records of Lee County, Florida.
4. Agreement Regarding Developers Rights recorded in Official Records Book 2285, Page 3118, Public Records of Lee County, Florida.
5. Agreement between the State of Florida Department of Community Affairs and Punta Gorda Isles, Inc., recorded in Official Records Book 1849, Page 582, Public Records of Lee County, Florida.
6. Agreement between The State of Florida, Department of Community Affairs and Burnt Store Improvement Co., Inc., recorded in Official Records Book 1897, Page 3644, Public Records of Lee County, Florida.
7. Oil, gas and mineral rights reserved to previous owner of the fee simple title to lands insured herein, as evidenced by that certain Deed as recorded in Deed Book 197, Page 289, Public Records of Lee County, Florida.
8. Oil, gas and mineral rights reserved to previous owner of the fee simple title to lands insured herein, as evidenced by that certain Deed as recorded in Official Records Book 696, Page 416, Public Records of Lee County, Florida.
9. Reservation of Easement by Burnt Store Marina, Inc. more particularly set forth in Official Records Book 1537, Page 226, and Amendments recorded in Official Records Book 1683, Page 204, Official Records Book 2285, Page 3118, and Official Records Book 3344, Page 2887, Public Records of Lee County, Florida.
10. Non-exclusive ingress and egress easement granted to Marina South Shore Condominium recorded in Official Records Book 1554, Page 942, Public Records of Lee County, Florida.
11. Non-exclusive ingress and egress easement granted to Keel Club Condominium recorded in Official Records Book 1690, Page 2654, Public Records of Lee County, Florida.
12. Easement granted to Lee County Electric Cooperative by instrument recorded in Official Records Book 2008, Page 2591, Public Records of Lee County, Florida.
13. Easement granted to Lee County Electric Cooperative by instrument recorded in Official Records Book 2014, Page 3418, Public Records of Lee County, Florida.
14. Easement granted to United Telephone by instrument recorded in Official Records Book 2049, Page 3147, Public Records of Lee County, Florida.
15. Easement Agreement between Sun City Center Corp. and Marina Towers Company, Inc. and Marina Towers Condominium Association, Inc., recorded in Official Records Book 2355, Page 3777 and Amendments recorded in Official Records Book 2971, Page 346 and Official Records Book 2984, Page 1765, Public Records of Lee County, Florida.

16. Declaration and Grant of Easements recorded in Official Records Book 2772, Page 2889 and Amendments recorded in Official Records Book 3231, Page 1682, Public Records of Lee County, Florida.
17. Declaration of Covenants, Conditions and Restrictions for Prosperity Point recorded in Official Records Book 2772, Page 2934, and Amendments recorded in Official Records Book 3383, Page 1797, Official Records Book 3392, Page 1315 and Official Records Book 3650, Page 2507, Public Records of Lee County, Florida.
18. Water and Sewer Service Agreement between Southern States Utilities, Inc. and Florida Design Communities recorded in Official Records Book 2781, Page 2098, Public Records of Lee County, Florida.
19. Agreement to Grant and Convey Perpetual Easement recorded in Official Records Book 3030, Page 4071, Public Records of Lee County, Florida.
20. Notice of Development Order Approval recorded in Official Records Book 2508, Page 2603, Public Records of Lee County, Florida.
21. Declaration of Grant of Easements and Declaration of Restrictions recorded in Official Records Book 3020, Page 2791, Public Records of Lee County, Florida.
22. Declaration of Covenants and Restrictions recorded in Official Records Book 3023, Page 220, Public Records of Lee County, Florida.
23. Matecumbe Key Access Easement Agreement recorded in Official Records Book 3344, Page 2874, Public Records of Lee County, Florida.
24. Rights of tenants, lessees and other parties in possession not shown by the public records.
25. 20 foot Access and Utility Easement recorded in Official Records Book 3344, Page 2817, Public Records of Lee County, Florida.
26. Parking and Access Agreement recorded in Official Records Book 3344, Page 2827, Public Records of Lee County, Florida.
27. Access Easement Agreement recorded in Official Records Book 3344, Page 2851, Public Records of Lee County, Florida.
28. Resolution No. 04-04-23 recorded in Official Records Book 4287, Page 1793, Public Records of Lee County, Florida.
29. Easement recorded in Official Records Book 4287, Page 1800, Public Records of Lee County, Florida.
30. Second Amendment recorded in Official Records Book 4291, Page 4773, Public Records of Lee County, Florida.
31. Second Amendment recorded in Official Records Book 4291, Page 4778, Public Records of Lee County, Florida.
32. Access Easement recorded in Official Records Book 4307, Page 1374, Public Records of Lee County, Florida.
33. Assignment and Assumption of Grantor's Rights recorded in Official Records Book 4345, Page 3251, Public Records of Lee County, Florida.
34. Conveyance of roads and other areas by Quit Claim Deed recorded in Official Records Book 4345, Page 3266, Public Records of Lee County, Florida.



LEE COUNTY

SOUTHWEST FLORIDA

BOARD OF COUNTY COMMISSIONERS

Bob Janes
District One

A. Brian Bigelow
District Two

Ray Judah
District Three

Tammy Hall
District Four

Frank Mann
District Five

Donald D. Stilwell
County Manager

David M. Owen
County Attorney

Diana M. Parker
County Hearing Examiner

June 3, 2008

Mr. Matthew D. Uhle
c/o Knott, Consoer, Ebelini, Hart and Swett, PA
1625 Hendry Street
Fort Myers, FL 33901

RE: CPA2007-00054, Lee Plan Future Land Use Amendment
Burnt Store Marina

Dear Mr. Uhle:

Planning staff finds the above-referenced submittal insufficient and requires further information to complete the evaluation of the request. To better assist staff in the review process, please provide the following information and/or documentation as required in the application. Some of the requested information may appear to be outside of the scope of the request; however, will ultimately provide staff with a better understanding of the totality of the development. Staff has prepared additional comments relating to specific sections of the application as well as additional information required to continue this review outlined below:

Section IV.

A. General Information and Maps

A.2. Please provide an updated (most current date) aerial outlining the subject property. The submitted aerial is dated January 2005.

A.3 and 4. Please provide detailed information regarding existing land uses and zoning of the subject property and surrounding properties.

B. Public Facility Impacts

B.1. The application indicates that the proposed, new uses will be allowed public access; however, Burnt Store Marina is a private, "gated community". Please address the manner in which the public use, daily access and commercial traffic will be accommodated (i.e. easements, etc.).

B.2. Please provide an existing and future conditions analysis for:

- a. Sanitary Sewer
- b. Potable Water
- c. Surface Water/Drainage Basin
- d. Parks, Recreation and Open Space

B.3. Please include detail regarding existing and proposed infrastructure, including the following:

- a. Current provider of water and sanitary sewer services - please provide a letter of availability and capacity from the appropriate agency. The applicant has not submitted data and analysis regarding the availability of utilities from the respective services provider. There is insufficient data and analysis regarding the level of service for sanitary sewer required by, or available to, the subject property. The data should include current and projected future water and sanitary sewer plant capacity.
- b. Please determine the availability of water supply to support the desired level of development within the franchise area using the current water use allocation (Consumptive Use Permit) based on the annual average daily withdrawal rate. Include the current demand and the projected demand under the existing designation and the projected demand under the proposed designation. Include the availability of treatment facilities and transmission lines for reclaimed water for irrigation. Include any other water conservation measures that will be applied to the site (see Lee Plan Goal 54).
- c. Fire protection - please provide a letter of coverage including adequate or required facilities.
- d. Ownership and maintenance detail of internal roads within the development
- e. The applicant indicates that service letters were sent to the appropriate agencies on 09/27/2007. Please provide a copy of responses from the

Mr. Matt Uhle
June 3, 2008
Page 3

following agencies, specifically concerning the impact that could result from the proposed amendment:

- a. Fire protection with adequate response times;
- b. Emergency medical service (EMS) provisions;
- c. Law enforcement;
- d. Solid Waste;
- e. Mass Transit; and
- f. Schools

IV. C. Environmental Impacts*

1. Please provide documentation regarding ownership and maintenance of the existing and proposed docks. How many docks currently exist?
2. Please provide copies of submerged land leases for use of the individual docks and multi-slip docks.

C. 3.

Please provide a topographic map with property boundaries and 100-year flood prone areas indicated (as identified by FEMA)

*Please note that additional environmental comments may be forthcoming under separate cover.

E. Internal consistency with the Lee Plan

1. Please provide how the proposal effects established Lee County population projections, Table 1(b) (Planning Community Year 2030 Allocations).
2. Please provide detailed narrative of all goals and objectives of the Lee Plan that are affected by the proposed amendment.
3. The applicant has not supplied sufficient data or analysis regarding the effect of the proposed amendment on adjacent local governments (i.e. City of Cape Coral) and their comprehensive plan.

Exhibit F.2 Requests moving lands from a Non-Urban Area to a Future Urban Area

- 1.. Please provide narrative regarding consistency with the following specific Smart Growth Principles and why the change does not constitute Urban Sprawl:
 1. Mix land uses
 2. Take advantage of compact building design
 3. Create a range of housing opportunities and choices
 4. Create walkable neighborhoods
 5. Foster distinctive, attractive communities with a strong sense of place
 6. Preserve open space, farmland, natural beauty and critical environmental areas
 7. Strengthen and direct development towards existing communities. Is it or is it not infill development or is it sprawl?
 8. Provide a variety of transportation choices
 9. Make development decisions predictable, fair and cost effective
 10. Encourage community and stakeholder collaboration in development decisions

Miscellaneous Information/Comments

1. Please provide an update regarding the status of the golf course (ownership, Homeowner's Association's involvement, etc.) if applicable.
2. Please provide a copy of DCA's letter dated May 27, 2008, requesting additional information, as referenced in the response letter dated May 30, 2008.
3. Please provide a legal description and sketch, prepared by a Florida Licensed Surveyor and Mapper, of the subject property as outlined on the provided aerial. The legal description must be accompanied by a sealed sketch.
4. Please provide a boundary survey of the subject property as outlined on the provided aerial. The boundary survey must identify and depict all easements affecting the subject property and all other physical encumbrances readily identified by a field inspection. The boundary survey must be tied to the state plane coordinate system.

Mr. Matt Uhle
June 3, 2008
Page 5

Staff is still reviewing the submitted application and related materials as well as obtaining comments from affected agencies; thus, a follow-up sufficiency letter will be forwarded. Staff desires to work in a collaborative manner to achieve this amendment. If you have any questions or require further information, please contact Staff at 239-533-8548.

Sincerely,

DEPARTMENT OF COMMUNITY DEVELOPMENT

A handwritten signature in cursive script, appearing to read "Lisa Hines".

Lisa Hines
Senior Planner

cc. *Planning file: CPA2007-00054*
 Dawn Lehnert, Assistant County Attorney
 Matt Noble, Principle Planner, Division of Planning



LEE COUNTY
SOUTHWEST FLORIDA

BOARD OF COUNTY COMMISSIONERS

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Tammy Hall
District Four

Frank Mann
District Five

Donald D. Stilwell
County Manager

David M. Owen
County Attorney

Diana M. Parker
County Hearing
Examiner

August 11, 2008

Mr. Matthew D. Uhle
c/o Knott, Consoer, Ebelini, Hart and Swett, PA
1625 Hendry Street
Fort Myers, FL 33901

RE: CPA2007-00054, Lee Plan Future Land Use Amendment
Burnt Store Marina

Dear Mr. Uhle:

The above-referenced Comprehensive Plan Amendment was received on September 27, 2007. The last insufficiency letter was forwarded from Lee County Staff on June 3, 2008. In order to qualify for the current cycle of Plan amendments, a complete resubmittal is required no later than 4:30 p.m. on Friday, August 15, 2008. Staff desires to work in a collaborative manner to achieve this amendment; however, deadlines are quickly approaching that will not permit adequate time for review and preparation by Staff.

Staff will continue working on the requested Plan amendment, which will be considered during the next round. If you have any questions or require further information, please contact Staff at 239-533-8548.

Sincerely,

DEPARTMENT OF COMMUNITY DEVELOPMENT

Lisa Hines
Senior Planner

cc. **Planning file: CPA2007-00054**
Dawn Lehnert, Assistant County Attorney
Matt Noble, Principle Planner, Division of Planning



LEE COUNTY
SOUTHWEST FLORIDA

BOARD OF COUNTY COMMISSIONERS

March 24, 2008

Bob Janes
District One

A. Brian Bigelow
District Two

Ray Judah
District Three

Tammy Hall
District Four

Frank Mann
District Five

Donald D. Stilwell
County Manager

David M. Owen
County Attorney

Diana M. Parker
County Hearing
Examiner

Mr. Matthew D. Uhle
c/o Knott, Consoer, Ebelini, Hart and Swett PA
1625 Hendry Street
Fort Myers, FL 33901

RE: CPA2007-00054
Burnt Store Marina
Lee Plan Future Land Use Amendment

Dear Mr. Uhle:

In accord with previous meetings, County staff continues to believe that a Binding Letter from the Department of Community Affairs (DCA) remains necessary to effectively review the Lee Plan Amendment request submitted for Burnt Store Marina (CPA2007-00054). It is County staff's understanding that the applicant has initiated a request for this Binding Letter from DCA. Accordingly, Lee County Planning Staff requests copies of the following documentation:

1. A copy of the Binding Letter Application and any other relevant correspondence submitted to the Florida Department of Community Affairs;
2. A copy of the Binding Letter (approval) received from the Florida Department of Community Affairs.

Staff is reviewing the submitted information and materials. A follow up letter regarding additional items necessary to reach sufficiency will be sent under separate cover. However, it is imperative that Staff receives this additional information in order to proceed with processing Case Number CPA2007-00054.

Staff wishes to work collaboratively with all interested parties to arrive at a mutual agreement satisfactory to your client as well as Lee County. Further, Staff would also like to participate in meetings, discussions and site visits conducted with the Florida DCA.

If we may be of further assistance or if you have any questions, please do not hesitate to contact Staff at 239-485-8319.

Sincerely,

DEPARTMENT OF COMMUNITY DEVELOPMENT
DIVISION OF PLANNING

Paul O'Connor, Director

cc: Planning File: CPA2007-00054



THE SCHOOL DISTRICT OF LEE COUNTY

2855 COLONIAL BLVD. ♦ FORT MYERS, FLORIDA 33966-1012 ♦ (239) 334-1102 ♦ WWW.LEESCHOOLS.NET

RECEIVED
FEB 13 2009

COMMUNITY DEVELOPMENT

February 4, 2009

Ms. Lisa Hines, Senior Planner
Lee County Development Services Division
P.O. Box 398
Fort Myers, FL 33902-0398

RE: Realmark Burnt Store Marina Plan Amendment
Case #: CPA2007-00054

Dear Ms. Hines:

This letter is in response to your request dated January 21, 2009 for the proposed Realmark Burnt Store Marina Plan Amendment project for the comments with regard to educational impacts. This project is located in the West Zone, Sub Zone W2.

The Developers request states the proposed site will consist of a marina, restaurant and other commercial uses as well as 160 multi-family residential units. The commercial use would have no impact; however, the 160 multi-family units would generate 20 additional school-aged children and is calculated at .125 per unit. The school district has sufficient seats available to serve this need. **Please be advised that this is not a concurrency determination and such a determination will be required later in the development process.**

The School District is not currently building any new schools as the enrollment for the 2008/2009 school year has slightly decreased over the previous year's enrollment. However, there is sufficient capacity planned within the five year planning window to accommodate students that will be generated by this development.

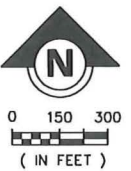
Thank you for your attention to this issue. If I may be of further assistance, please call me at (239) 479-5661.

Sincerely,

Dawn Gordon, Community Development Planner
Planning Department

JEANNE S. DOZIER
CHAIRMAN, DISTRICT 2
JANE E. KUCKEL, PH.D.
VICE CHAIRMAN, DISTRICT 3
ROBERT D. CHILMONIK
DISTRICT 1
STEVEN K. TEUBER, J.D.
DISTRICT 4
ELINOR C. SCRICCA, PH.D.
DISTRICT 5
JAMES W. BROWDER, Ed.D.
SUPERINTENDENT
KEITH B. MARTIN, ESQ.
BOARD ATTORNEY

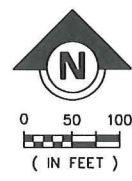
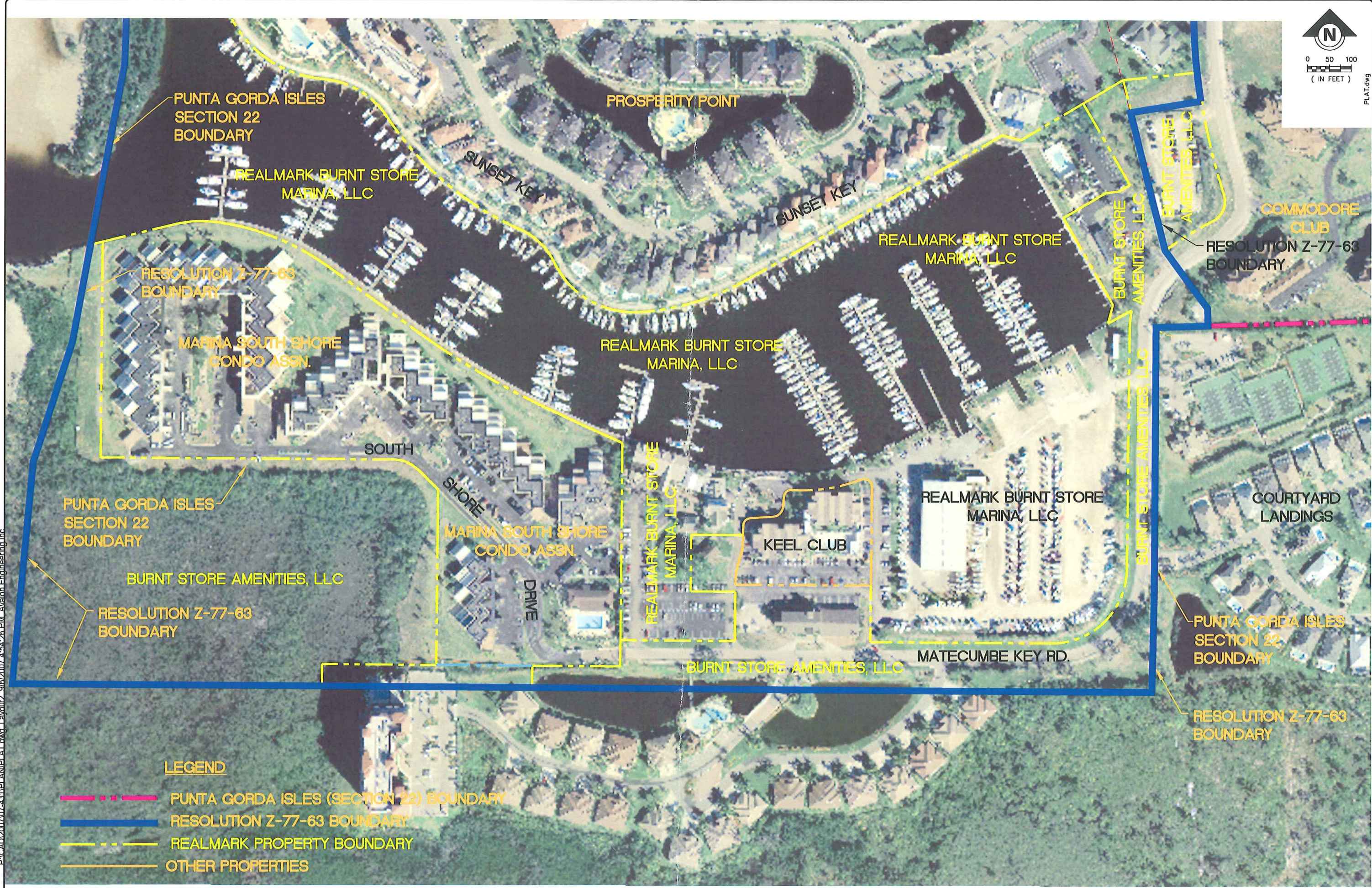
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RECEIVED
SEP - 7 2007

PLAT.dwg		
PROJ. 07-431	DATE: 4/30/07	
CADD TECH. M.P.	Bill Edwards, P.E.	
PROJ. MGR.	FL. LICENSE # 38615	
COMMUNITY DEVELOPMENT		
DATE	BY	REVISION DESCRIPTION
AVALON ENGINEERING, INC.		
2503 DEL PRADO BLVD. #200		
CAPE CORAL, FLORIDA 33904		
(239) 573-2077		
FPE#3128		
PROPOSED MARINA VILLAGE		
BURNT STORE MARINA		
LEE COUNTY, FLORIDA		
PUNTA GORDA ISLES-SECTION 22		
SHEET 1 of 2		

P:\CAD\2007\07-431\PI ANIPI AT.dwg Layout2 9/6/2007 4:54:26 PM Avalon Engineering Inc



LEGEND

- PUNTA GORDA ISLES (SECTION 22) BOUNDARY
- RESOLUTION Z-77-63 BOUNDARY
- REALMARK PROPERTY BOUNDARY
- OTHER PROPERTIES

PLAT.dwg

PROJ. 07-431
DATE: 4/30/07
CAD. TECH.
PROJ. MGR.

DATE
BY
REVISION DESCRIPTION

AVALON ENGINEERING, INC.
2503 DEL PRADO BLVD., #200
FORT COCKER, FL 33904
FPOE 3128 (239) 573-2077

PROPOSED MARINA
VILLAGE
BURNT STORE MARINA
LEE COUNTY, FLORIDA

BURNT STORE
MARINA

SHEET
2 of 2

PROJ. MGR. Bill Edwards, P.E.
FL. LICENSE # 38615

**CPA2007-54
BURNT STORE MARINA
PRIVATE INITIATED
AMENDMENT
TO THE**

LEE COUNTY COMPREHENSIVE PLAN

THE LEE PLAN

BoCC Public Hearing Document
for the
February 25th, 2009 Adoption Hearing

*Lee County Planning Division
1500 Monroe Street
P. O. Box 398
(239) 533-8585*

January 16, 2009

**LEE COUNTY
DIVISION OF PLANNING
REVISED STAFF REPORT FOR
COMPREHENSIVE PLAN AMENDMENT
CPA2007-00054**

✓	Text Amendment	✓	Map Amendment
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This Document Contains the Following Reviews:

✓	Staff Review
✓	Local Planning Agency Review and Recommendation
✓	Board of County Commissioners Hearing for Transmittal
✓	Staff Response to the DCA Objections, Recommendations and Comments (ORC) Report
	Board of County Commissioners Hearing for Adoption

Staff Report Preparation Date:	<u>October 15, 2008</u>
Hearing Date:	<u>October 23, 2008</u>
Staff Report Preparation Date:	<u>October 24, 2008</u>
Staff Report Preparation Date:	<u>February 11, 2009</u>
Hearing Date:	<u>February 25, 2009</u>

PART I - BACKGROUND AND STAFF RECOMMENDATION

A. SUMMARY OF APPLICATION

1. APPLICANT/REPRESENTATIVE

Realmark Burnt Store Marina, LLC, Applicant
Matthew D. Uhle, Esq., Knott, Consoer, Ebelini, Hart and Swett PA, Authorized Representative

2. REQUEST

Amend the Lee Plan Future Land Use Map Series, Map 1, for 18.25± acres from the "Rural" Future Land Use category to the proposed "Burnt Store Marina Village" Future Land Use category. Amend Table 1(a) to add the "Burnt Store Marina Village" Future Land use category. Amend 1(b) to reallocate seven acres of

commercial, six acres of industrial, four acres of residential and one acre of public land uses to accommodate the proposed development. The site is generally located on the west side of Burnt Store Road within the Burnt Store Marina community.

B. BOARD OF COUNTY COMMISSIONERS FINDINGS OF FACT AND ACTION

The Board of County Commissioners voted unanimously to transmit the proposed amendment, as modified by staff and amended by the LPA. The Board further recommends that the Future land use Map 1 be amended by adding a new category to be known as Burnt Store Marina Village and the amendment of Table 1(b) to reallocate 7 acres of commercial, 6 acres of industrial, 4 acres of residential and 1 acre of public land use within the Year 2030 Allocations for the Burnt Store Marina Planning Community. The following language was approved for transmittal by the Board of County Commissioners.

POLICY 1.2.10: The Burnt Store Marina Village area provides for the redevelopment that enhances the existing character of the Burnt Store Marina project, protects natural resources, and provides continuing public access to the water via boat ramps and docks while managing the location and intensity of future commercial, residential and limited industrial uses by establishing realistic aesthetic requirements designed to allow Burnt Store Marina Village the ability to develop as a community center. The following uses are permitted within the Burnt Store Marina Village category; a maximum of 55,000 square feet of retail uses; a maximum of 1,325 wet and dry spaces; a maximum of 15,000 square feet of office space; a maximum of 145 hotel units; and a maximum of 160 residential units.

GOAL: BURNT STORE MARINA VILLAGE. To promote redevelopment that enhances the existing character of the Burnt Store Marina project, protects natural resources, and provides continuing public access to the water via boat ramps and docks while managing the location and intensity of future commercial, residential and limited industrial uses by establishing realistic aesthetic requirements designed to allow Burnt Store Marina Village the ability to develop as a community center.

OBJECTIVE 25.1: The Burnt Store Marina Village is intended to encourage and facilitate redevelopment of the existing marina and commercial area located internal to the Burnt Store Marina project with an attractive mix of residential, marine, retail, hotel and office uses designed to enhance and protect the public use of, and access to, the waterfront and marina. Development of commercial retail, hotels, general office and marina related uses will predominate in the Burnt Store Marina Village. Limited residential and light industrial marine uses are also permitted to facilitate the proper

development mix to allow integration of the Burnt Store Marina Village into the overall Burnt Store Marina project.

POLICY 25.1.1: The following uses are permitted within the Burnt Store Marina Village category; a maximum of 55,000 square feet of retail uses; a maximum of 525 wet slips; a maximum of 800 dry storage spaces; a maximum of 15,000 square feet of office space; a maximum of 145 hotel units; and a maximum of 160 residential units. The maximum height permitted in this category is 220 feet.

POLICY 25.1.2: Redevelopment of any uses within the Burnt Store Marina Village must be accomplished through the Planned Development rezoning process in order to properly accommodate existing conditions, the proposed redevelopment plan, prevent adverse impacts to the surrounding areas and to ensure that appropriate site development regulations are incorporated into the development plans. Development in this future land use category is not required to comply with the site location criteria provided in Goal 6 if appropriate site development regulations are adopted into the planned development. New development in this category must connect to a potable water and sanitary sewer system.

POLICY 25.1.3: Lee County will cooperate with private developer efforts to create an identity for the Burnt Store Marina Village through unified architectural quality and creative site design that enhances the waterfront community and consists of scenic views, buildings with varying roof lines, open space, a pedestrian and neighborhood oriented activity center and enhanced buffering requirements.

POLICY 25.1.4: Lee County will work in conjunction with private developers to reserve existing marina facilities with on or off-site public parking spaces for vehicles and trailers and access for the benefit of the public.

POLICY 25.1.5: The residential and hotel development portions of this redevelopment project must be located outside of the Tropical Storm Surge Zone as depicted in the 1991 Hurricane Storm Tide Atlas for Lee County.

C. STAFF ORIGINAL RECOMMENDATION AND FINDINGS OF FACT SUMMARY:
(NOTE: Staff's final recommendation is included in PART V of this Staff Report.

1. **RECOMMENDATION:** Planning staff recommends that the Board of County Commissioners transmit the proposed amendment, as modified by staff. Planning

staff recommends that the Future land use Map 1 be amended by adding a new category to be known as Burnt Store Marina Village. Staff further recommends that Table 1(b) be amended so that four acres of the allocated residential acreage from the Rural be allocated to the new Marina Village Planning Community.

Staff recommends the Lee Plan be amended to create a new descriptor policy with an accompanying new Goal, Objective and Policies as follows:

POLICY 1.2.10: The Burnt Store Marina Village area provides for the redevelopment that enhances the existing character of the Burnt Store Marina project, protects natural resources, and provides continuing public access to the water via boat ramps and docks while managing the location and intensity of future commercial, residential and limited industrial uses by establishing realistic aesthetic requirements designed to allow Burnt Store Marina Village the ability to develop as a community center. The following uses are permitted within the Burnt Store Marina Village category; a maximum of 55,000 square feet of retail uses; a maximum of 525 wet slips; a maximum of 800 dry storage spaces; a maximum of 15,000 square feet of office space; a maximum of 145 hotel units; and a maximum of 160 residential units.

GOAL: BURNT STORE MARINA VILLAGE. To promote redevelopment that enhances the existing character of the Burnt Store Marina project, protects natural resources, and provides continuing public access to the water via boat ramps and docks while managing the location and intensity of future commercial, residential and limited industrial uses by establishing realistic aesthetic requirements designed to allow Burnt Store Marina Village the ability to develop as a community center.

OBJECTIVE 25.1: The Burnt Store Marina Village is intended to encourage and facilitate redevelopment of the existing marina and commercial area located internal to the Burnt Store Marina project with an attractive mix of residential, marine, retail, hotel and office uses designed to enhance and protect the public use of, and access to, the waterfront and marina. Development of commercial retail, hotels, general office and marina related uses will predominate in the Burnt Store Marina Village. Limited residential and light industrial marine uses are also permitted to facilitate the proper development mix to allow integration of the Burnt Store Marina Village into the overall Burnt Store Marina project.

POLICY 25.1.1: The following uses are permitted within the Burnt Store Marina Village category; a maximum of 55,000 square feet of retail uses; a maximum of 525 wet slips; a maximum of 800 dry storage spaces; a maximum of 15,000 square feet of office space; a maximum of 145 hotel

units; and a maximum of 160 residential units. The maximum height permitted in this category is 135 feet if the parking is not integrated into the structure. If multiple layers of enclosed parking are placed under the multi-family or hotel use, the height may be increased by an additional 50 feet for a maximum height of 185 feet.

POLICY 25.1.2: Redevelopment of any uses within the Burnt Store Marina Village must be accomplished through the Planned Development rezoning process in order to properly accommodate existing conditions, the proposed redevelopment plan, prevent adverse impacts to the surrounding areas and to ensure that appropriate site development regulations are incorporated into the development plans. Development in this future land use category is not required to comply with the site location criteria provided in Goal 6 if appropriate site development regulations are adopted into the planned development. New development in this category must connect to a potable water and sanitary sewer system.

POLICY 25.1.3: Lee County will cooperate with private developer efforts to create an identity for the Burnt Store Marina Village through unified architectural quality and creative site design that enhances the waterfront community and consists of scenic views, buildings with varying roof lines, open space, a pedestrian and neighborhood oriented activity center and enhanced buffering requirements.

POLICY 25.1.4: Lee County will work in conjunction with private developers to reserve existing marina facilities with on or off-site public parking spaces for vehicles and trailers and access for the benefit of the public.

POLICY 25.1.5: The residential and hotel development portions of this redevelopment project must be located outside of the Tropical Storm Surge Zone as depicted in the 1991 Hurricane Storm Tide Atlas for Lee County.

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

- The subject property and existing uses are not consistent with the description and definition of the Rural future land use category. The existing development of Burnt Store Marina consists of high intensity residential and commercial uses with a provision of urban services such as Fire and Police protection and utilities.
- Since 1983 the Department of Community Affairs has reviewed Burnt Store Marina, an existing development consisting of 626 acres, with respect to its Development of Regional Impact (DRI) status. Each time, the Department of Community Affairs has

determined that Burnt Store Marina is vested from DRI review.

- On July 31, 2008, the Department of Community Affairs issued a Binding Letter of Modification (BLIM) to a Development with Vested Rights and a Binding Letter of Determination of Development of Regional Impact Status (BLID) for Punta Gorda Isles Section 22 (also known as Burnt Store Marina). Thus, finding that the proposed development in Section 22 and Tract C is below 100 percent of the applicable DRI thresholds as provided in Section 380.0651(2)(d)1.a., F.S. Therefore, the project would not be required to undergo DRI review. However, this determination does not preclude the compliance with all other applicable federal, state or local government procedures such as zoning and development regulations.
- The proposed land use category will permit the redevelopment and expansion of the existing marina and related services. The project will be compatible with the surrounding community and will be served by adequate public facilities.
- No additional commercial acreage is being requested for the project, as the property is currently being utilized for commercial purposes. The applicant is seeking to improve an existing commercial development including water-dependent recreational uses.
- The creation and application of the land use category does not encourage urban sprawl, rather, the amendment represents redevelopment of an already urbanized portion of the Burnt Store Marina development. The proposed category contemplates multi-use development to complement the existing high density residential development within Burnt Store Marina.
- The amendment will create an exception to the commercial site location standards similar to those inherent to the County's new "Commercial" future land use category. The exception is justified in light of the amount of development that currently exists and is vested for Burnt Store Marina.
- The Hurricane Storm Tide Atlas depicts the location of the subject property within the Tropical Storm and Category 2 Storm Surge Zones. The applicant is requesting an additional 160 dwelling units. These new dwelling units will be restricted from location in the Tropical Storm Surge Zone.

D. BACKGROUND INFORMATION

1. EXISTING CONDITIONS:

SIZE OF PROPERTY: 18.25± acres; Total Uplands: 18.25± acres; Total Wetlands: None (See Attachment 2)

PROPERTY LOCATION: The Burnt Store development is located in the extreme northwest portion of the County. It is bounded by Charlotte County to the north, Burnt Store Road to the east, Cape Coral to the south and Charlotte Harbor to the west. Burnt Store Marina encompasses a total of 626 acres originally platted in 1973 as Punta Gorda Isles, Section 22 in Plat Book 28, Page 118.

The subject property, consisting of 18.25± acres is generally located on the west side of Burnt Store Road, specifically within the Burnt Store Marina development at 3150, 3090 and 3140-3200 Matecumbe Key Road, Punta Gorda.

EXISTING USE OF LAND: Marina, Hotel, Restaurant, Residential, Wet and Dry boat slips and vacant. (See Attachment 3)

CURRENT ZONING: The property is currently zoned Marine Commercial (CM), Residential Multiple-Family (RM-2) and RM-10.

There was a recent zoning case (Z-08-037; REZ2007-00020) to permit the rezoning of 1.33 acres of the subject property from RM-2 and RM-10 to Commercial Parking (CP). This case was heard before the Board of County Commissioners on Monday, September 15, 2008. The Board voted to deny the application without prejudice.

The RM-10 zoned parcel is currently vested for a maximum of 10 dwelling units per acre. Approval of the requested rezoning would limit future residential development of the subject property to a maximum of one dwelling unit per acre (Rural land use category). Approval of the requested Lee Plan Amendment will supercede this vesting and the proposed policy will set forth maximum land use regulations.

CURRENT FUTURE LAND USE CATEGORY: The subject property is designated Rural (See Attachment 4)

2. **REQUEST:**

The applicant is requesting a change in the subject property's future land use category from Rural to a new category entitled "Burnt Store Marina Village" future land use category. This category is proposed to permit redevelopment of existing uses on the subject property. The Rural future land use category currently permits a maximum of one dwelling unit per acre and minimal non-residential land uses that are needed to serve the rural community. There is not a specific limit for office and marine related uses.

The application encompasses four parcels, two of which are developed with the existing marina, wet and dry boat slips and ancillary uses.(see Attachment 5)

The application proposes a new land use category entitled (Burnt Store Marina

Village” as follows:

Burnt Store Marina Village area is located within a portion of the property in Burnt Store Marina that was zoned for a mixture of commercial and residential uses in Lee County Resolution Z-77-63. The category is intended to facilitate the redevelopment of the existing marina and commercial area of Burnt Store Marina for an attractive mix of marine, retail, hotel and office uses that enhances the public use of the waterfront. The following uses are permitted within this category; retail uses, up to a maximum of 55,000 square feet; wet slips, up to a maximum of 525; dry storage spaces, up to a maximum of 800; office space, up to a maximum of 15,000 square feet; a maximum of 145 hotel units; and a maximum of 160 residential units. The maximum height permitted in this category is 220 feet.

The applicant further proposes to amend the 2030 Planning Communities Acreage Table as follows:

1. Add a new line for “Burnt Store Marina Village” in the table;
2. Revise the acreage table as follows:
 - a. Commercial - 7 acres;
 - b. Industrial - 6 acres;
 - c. Residential - 4 acres;
 - d. Public - 1 acre

The applicant proposes to redevelop approximately 18.25± acres of Burnt Store Marina which currently houses wet boat slips, a dry storage building, office space, a restaurant and recreational uses. The surrounding uses are predominantly multiple-family residential structures with some single-family residential. The proposed amendment, if approved, will permit the applicant to add 15,000 square feet of office space; 160 residential units; 55,000 square feet of retail use with 300 parking spaces (garage); 145 hotel rooms, 525 wet slips (existing) and 800 dry boat storage spaces. The proposed dry storage buildings are depicted as industrial uses in accordance with the 2030 Planning Communities Acreage.

PART II - STAFF ANALYSIS

A. STAFF DISCUSSION INTRODUCTION

The proposed amendment is the result of a desire by a new owner to redevelop and expand the existing uses of the property from a limited mix of marine, residential, commercial-retail, hotel and office uses by creating a new future land use category specific to Burnt Store

Marina. The new future land use category would facilitate the redevelopment of the existing uses that enhance the waterfront as well as permit continued public use of the boat ramp.

Burnt Store Marina is a unique community, consisting of 626± acres. The development is divided into two distinct sections, Marina Village located within Tract C and the Golf Course Subdivision located within Punta Gorda Isles, Section 22. The proposed amendment encompasses 13.3 acres of Tract C and the addition of an adjacent 4.95 acres included within the Punta Gorda Isles, Section 22.

The Lee Plan, in the Vision for 2030, identifies the Burnt Store Planning Community as follows:

This community is located in the northwest corner of the mainland of unincorporated Lee County. The property east of Burnt Store Road is designated Open Lands and the land west of Burnt Store Road is designated as Rural (also known as Burnt Store Marina) with the exception of 10 acres designated as Outlying Suburban. Most of the Burnt Store Marina development was approved prior to the adoption of the 1984 Lee Plan and is "vested" for densities higher than allowed by the current plan. The development is primarily residential with a high percentage of seasonal residents. There are some commercial and marine oriented amenities within the Burnt Store Marina development primarily serving residents of that development. This area is expected to substantially grow through the year 2030. Today, most of the community's commercial needs are served outside of the community in Cape Coral, North Fort Myers and Fort Myers, or in Charlotte County. This development pattern is expected to remain through 2020. (Added by Ordinance No. 99-15, Amended by Ordinance No. 07-12)

The subject property currently houses some existing commercial land uses. The applicant is proposing to redevelop the subject property including enhancements to an existing marina and ancillary uses. The commercial uses will provide services to the surrounding residential land uses as well as provide the foundation for a mixed use community.

Two of the subject parcels are located in a designated "Water-Dependent Overlay Zone" depicted in Lee Plan Map 12 (page 9 of 12) (See Attachment 6). The Water-Dependent Overlay Zone is defined in Policy 1.7.5 of the Lee Plan as follows:

The Water-Dependent overlay zone designates shoreline areas where priority will be granted to water-dependent land uses. Specific requirements are detailed for such zones on San Carlos Island under Goal 12, in the Great Pine Island area under Goal 14 and other areas in Lee County in the Conservation and Coastal Management Element. (Amended by Ordinance No. 94-30, 00-22).

The Lee Plan further addresses water access in Goal 125 which encourages development and implementation of a public water access program.

Objective 125.2: Water Access in Private Developments. *The county will encourage private landowners to provide some form of water access to the public. (Amended by Ordinance No. 00-22)*

Objective 125.3: *Develop techniques to encourage development and expansion of water-dependent recreational uses in Lee County waterways and discourage any conversion of water-dependent uses to non-water dependent uses. (Added by Ordinance No. 07-09)*

The Lee Plan, Objective 128.6, establishes policies utilized to evaluate marina design criteria (new or expansion at existing marinas) in order to minimize negative impacts and to complement the county's development regulations.

Policy 128.6.6: *Marinas and multi-slip docking facilities must prepare hurricane plans with the assistance of the county which describe measures to be taken to minimize damage to marina sites, neighboring properties and the environment; this hurricane plan is subject to county approval. (Amended by Ordinance No. 00-22)*

Policy 128.6.13: *Dry storage of small boats should be encouraged, with dry storage structures located inland as far as possible.*

Policy 128.6.16: *Expansion of dry storage capabilities will be strongly encouraged to reduce dredging. (Amended by Ordinance No. 00-22)*

The Burnt Store Marina community is non-conforming in relation to the Rural future land use category. This development is more consistent with an urban or mixed use land use category.

Staff supports the applicant's request to provide for a land use category permitting the expansion of the existing water-dependent recreational facilities such as the dry storage building as set forth in the above-referenced policies. Staff further supports the proposed office space, retail uses, residential and hotel rooms which will support and complement the existing and proposed uses.

COMPREHENSIVE PLAN BACKGROUND

In 1984, upon adoption of the Lee Plan, the subject property was designated as part of the "Fringe" land use category described in the 1984 Lee Plan as follows:

These areas border designated Urban Service Areas yet are not a part of the Urban Service Area. The Plan recognizes these fringe areas as potentially appropriate for development at Urban Community densities, although their overall lack of requisite infrastructure may delay such development unless private sector provision of services and facilities occurs. The Lee Plan does not target these areas for public expenditures. Therefore, development approvals will be wholly based upon a satisfactory demonstration of necessary infrastructure including potential fiscal mitigation for services such as EMS, police and fire protection, educational facilities, as well as all appropriate Plan Goals, Objectives, Policies and Standards. Developments that have lower levels of infrastructure, environmentally sensitive areas or potential negative impacts on potable water resources should be considered for the lower end of the density range and lower levels of intensity compatible with adjacent land uses.

In 1989, the Board of County Commissioners amended the Lee Plan at which time the “Fringe” land use category was eliminated and the Burnt Store Marina development was included within the “Rural” future land use category. The 1989 Lee Plan described the “Rural” future land use category as follows:

Policy 1.4.1: *The Rural areas are to remain predominantly rural - that is, low density residential, agricultural uses and minimal non-residential land uses that are needed to serve the rural community. These areas are not to be programmed to receive urban-type capital improvements, and they can anticipate a continued level of public services below that of the urban areas. Maximum density in the Rural area is one dwelling unit per acre (1 du/acre), except as may be permitted under the Planned Development District Option.*

The current Lee Plan includes the “Rural” future land use category in Objective 1.4: Non-Urban Areas, which are designated on the Future Land Use Map as categories for those areas not anticipated for urban development at this time as follows:

Policy 1.4.1: *The Rural areas are to remain predominantly rural - that is, low density residential, agricultural and minimal non-residential land uses that are needed to serve the rural community. These areas are not to be programmed to receive urban-type capital improvements and they can anticipate a continued level of public services below that of the urban areas. Maximum density in the Rural area is one dwelling unit per acre (1 du/acre). (Added by Ordinance No. 97-17, Amended by Ordinance No. 98-90, 00-22, 07-12)*

The applicant’s request is to create a new land use category, “Burnt Store Marina Village”

area located within a portion of the property in Burnt Store Marina that is zoned for a mixture of commercial and residential uses. The proposed category would facilitate the redevelopment of the existing marina and commercial area of Burnt Store Marina. The redevelopment will occur on 13.3 acres of the existing development and 4.95 acres of the additional 8.65 acres, for a total redevelopment area of 18.25 acres. The plan includes 15,000 square feet of office space, an addition of 160 residential units, 55,000 square feet of retail with 300 parking spaces (garage), 145 hotel rooms and a maximum of 1,325 wet and dry spaces.

HISTORY

On May 9, 2008, the applicant submitted a letter to the Department of Community Affairs requesting a Binding Letter of Modification (BLIM) to a Development of Regional Impact with Vested Rights Under Section 380.06 and 120.57, Florida Statutes with attachments the following chronological history:

- The first binding letter, dated October 26, 1973 found that proposed development for Section 22 is not vested from DRI review. That finding was reconsidered and reversed in a second binding letter. DCA binding letter dated July 5, 1974, supersedes the October 26, 1973 letter and concluded that the proposed development for Punta Gorda Isles-Section 22 is vested from DRI review.
- The 380.032 Agreement executed on May 20, 1986, stipulated that a total of 2,514 residential units within the Punta Gorda Isles-Section 22 plat is vested from DRI review. The 1986 Agreement between the owner and the County resolved a dispute as to whether the 239 platted home sites for which DCA recognized vested rights in its October 26, 1973 binding letter were sites for multiple-family buildings or for single-family units.
- The second 380.032 agreement was executed on January 30, 1987 and stipulated that a maximum of 323 wet spaces or 525 wet slips and 456 dry spaces in the Punta Gorda Isles - Section 22 project had vested rights from DRI review.

On May 28, 2008, the Department of Community Affairs responded to the applicant's letter requesting a BLIM/BLID for the Burnt Store Marina project requesting additional information. The applicant responded to the Department of Community Affairs on May 30, 2008 and provided the requested, additional information.

In response to the applicant's request, on July 31, 2008, the Department of Community Affairs issued Final Order No. DCA08-BL-204, including a Binding Letter of Modification to a Development with Vested rights (BLIM-09-2007-016) and a Binding Letter of Determination of Development of Regional Impact Status (BLID-09-2007-015) (see Attachment 7) for Punta Gorda Isles, Section 22 (also known as Burnt Store Marina) with the following conclusions:

1. Even though the additional development as demonstrated in paragraphs 9 and 10 exceeds the substantial deviation criteria in Sections 380.06(19)(b)13., F.S., the Department finds that there are no regional impacts arising from the proposed changes that have not been previously reviewed. Therefore, the currently proposed plan of development for the Punta Gorda Isles Section 22 project does not divest any rights the developer has acquired under Section 380.06(20), F.S., to complete the development of the aforementioned Punta Gorda Isles Section 22 DRI.
2. The proposed development on the adjacent 8.65 acre parcel and portions of Tract C as demonstrated in paragraphs 11, 12 and 13 is below 100 percent of the applicable DRI thresholds as provided in Section 380.0651(2)(D1)1.a., F.S. Therefore, the proposed development on the adjacent 8.65 acres and portions of Tract C would not be required to undergo DRI review.
3. The plan of development on the adjacent 8.5 acre parcel and portions of Tract C is currently inconsistent with the Lee County Comprehensive Plan. No development may proceed until the amendment is made to the Lee County Comprehensive Plan that would allow for the planned development. The comprehensive plan amendment must also be consistent with Chapter 163, F.S., the State Comprehensive Plan and Chapter 9J-5, Florida Administrative Code. Thus, the following order was issued by the Department of Community Affairs.
4. The modification to the vested Punta Gorda Isles Section 22 DRI, as described above, will not be required to comply with the review requirements of Section 380.06, F.S.
5. The proposed modifications to the vested plan will not divest the vested rights to develop. If the changes described in the application for this binding letter are approved by the local government of jurisdiction and incorporated in a new development order, they will constitute the vested plan of development and must be followed by you and your successors. If any further changes are proposed for your project, they would be submitted by the applicant or successor(s) of the Department for comparison together with the impacts of the plan now vested in this letter. Should any of the above representations made by the applicant be substantially changed, further binding letter review of the project may be required.
6. The proposed development on the adjacent 8.65 acre parcel, which is not vested for DRI purposes and portions of Tract C, as described in paragraph 11, is not required to comply with the review requirements of Section 380.06, F.S.
7. The development on the adjacent 8.65 acre parcel, which is not vested for DRI purposes and portions of Tract C, will be considered cumulatively with any future additional development in terms of the guidelines and standards contained in Chapter 28-24, Florida Administrative Code and Section 380.0651, F.S., and its related

impacts. Should any of the above representations made by the applicant be substantially changed, further review of the project may be required.

8. The binding letter as it applied to the unvested development on the adjacent 8.65 acre parcel and portions of Tract C will expire and become void as of July 25, 2011, unless the plan of development has been substantially commenced by this date. This date may be extended by mutual agreement of the Department, the local government of jurisdiction and the developer.
9. This determination does not obviate the need to comply with all other applicable federal, state or local government permitting procedures.
10. You have the right to request a formal administrative hearing if you dispute any issue of material fact in this binding letter. If a formal administrative proceeding is not requested, this binding letter constitutes final agency action and is subject to judicial review.

SURROUNDING ZONING, LAND USES AND FUTURE LAND USE DESIGNATION

North: Residential Multiple-Family (RM-2, RM-10)

Rural future land use category
Sunset Key Condominiums and
Prosperity Pointe Condominiums

South: Matecumbe Key Road, then

City of Cape Coral; Pedestrian Commercial District (C-1)
Mixed Land Use future land use category
Resort at Burnt Store Marina amenities

East: Matecumbe Key Road, then

Residential Multiple-Family (RM-10)
Commodore Condominiums; and
Courtside Landings Residential Planned Development (RPD)
A/k/a Harbour Villas
Outlying Suburban future land use category

West: Residential Multiple-Family (RM-2)

Rural future land use category
Marina South Shore Condominiums

The Keel Club Condominiums, consisting of 47 units, is also located adjacent to the subject property in the area between the proposed dry storage buildings and the proposed Marina Village commercial uses.

MAP 16 - PLANNING COMMUNITIES AND TABLE 1(b)

The subject property is located within the Planning Community of Burnt Store. In this community there are 700 acres allocated to residential uses in the Rural land use category. Recent Planning Division data indicates that 600 acres within this community are currently developed with residential uses, leaving a surplus of 100 acres that could be developed with residential uses in the Rural land use category before the year 2030. (see Attachment 8)

There are 50 acres allocated to commercial uses, with 19 acres indicated as currently developed, leaving a surplus of 31 acres that could be developed with commercial uses. There are five acres allocated to industrial uses. Four of these acres have been developed with industrial uses leaving a surplus of 1 acre that could be developed with commercial uses. There are five acres allocated to industrial uses. Four of these acres have been developed with industrial uses, including some allocations to Burnt Store Marina, leaving one acre available for new industrial development.

COASTAL

The Hurricane Storm Tide Atlas depicts the location of the subject property within the Tropical Storm and Category 2 Storm Surge Zones.

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

***Policy 105.1.4:** Through the Lee Plan amendment process, future land use designations of undeveloped areas within coastal high hazard areas will be considered for reduced density categories in order to limit the future population exposed to coastal flooding.*

Mitigation measures are currently established in the Land Development Code (LDC), Chapter 2, Article XI, Hurricane Preparedness. Adoption of the Lee Plan proposed amendment will result in requirement amendments to the LDC to further clarify and enforce that mitigation requirements will be based on a Category 5 storm event consistent with the changes made to Chapter 163.3178, F.S.

The Southwest Florida Regional Planning Council reviewed the subject property in regards to the 1991 Hurricane Storm Tide Atlas for Lee County. The subject property is located on Plates 1 and 4 of the Atlas. The attached maps indicate the current Coastal High Hazard Area along with three plates from the 1991 Hurricane Storm Tide Atlas. Since the parcel runs from

Charlotte Harbor to Burnt Store Road, the property is located in Tropical Storm Surge Zone to Category 3 Surge Zone. The specific surge heights for this site are as follows:

The subject property is located within Time-History Point 48. Based on an elevation of 5 feet, the site would be dry in a tropical storm; have 3 feet over it in a Category 1; 4.3 feet over it during a category 2; 8.5 feet over it during a category 3 and 15.3 feet over it during a category 4/5.

In accordance with the Lee Plan, Map 5, the subject property is not currently located within the designated Coastal High Hazard Area. The applicant is requesting an additional 160 dwelling units within the existing development and a maximum height of 220 feet. The applicant has provided information regarding the location of the proposed development within the Coastal High Hazard Area as depicted on the 1991 Hurricane Storm Tide Atlas for Lee County. This analysis shows the residential development area to be within the Category 2 Storm Surge area, and therefore outside of the Coastal High Hazard Area. (See Attachment 9) Thus, Staff proposes the following language to assure the residential development is not located within the Coastal High Hazard Area:

***POLICY 25.1.5:** The residential and hotel development portions of this redevelopment project must be located outside of the Tropical Storm Zone as depicted in the 1991 Hurricane Storm Tide Atlas for Lee County.*

TRANSPORTATION/TRAFFIC CIRCULATION IMPACTS

The Lee County Department of Transportation (LCDOT) reviewed the request and has provided Planning staff written comments dated September 5, 2008 (see Attachment 10). This review was based on the initial submittal provided by the applicant. LCDOT concluded that based on the parameters (of the proposed development), utilizing the 2030 FSUTMS model, LCDOT staff determined that this land use change will not alter the future road network plans in this area. The applicant's subsequent resubmittal proposes a reduction in the amount of square footage originally presented, creating less impact to the road network.

The roads located within Burnt Store Marina are private in accordance with Case Number VAC2003-00072 adopted by the Board of County Commissioners on April 13, 2004 and recorded as Instrument Number 6260603 in the official records of Lee County). An access easement (see Attachment 11) has been entered into the official records of Lee County in Instrument Number 6285414 between the Punta Gorda Isles, Section 22 Homeowners Association, Inc. and Realmark Burnt Store Marina, LLC, (the applicant) providing an exclusive manner of ingress and egress to the subject property. This easement grants and conveys the Grantee (the applicant) and its successors and assigns, and its lessees, their contractors, customers, employees, guests, invitees and licensees, a perpetual, non-exclusive easement for ingress and egress only over and across the roads lying and being in the County of Lee, State of Florida as follows:

Big Pine Lane, Cape Cole Boulevard, Matecumbe Key Road, Sugarloaf Key Road, Marathon Way, Key Largo Lane, Key Largo Circle, Sable Key Circle, Marianne Key Road, Romano Key Circle, Big Pass Lane, Big Bend Circle, Islamorada Road (a/k/a Islamorada Boulevard) and Little Pine Circle, according to the Plat of Punta Gorda Isles, Section 22, recorded in Plat Book 28, at page 118, of the public records of Lee County, Florida and replatted in Plat Book 34, at page 92, of the public records of Lee County, Florida, and any amendments and supplements thereto.

This easement is restricted by and subject to the rules and regulations of the Punta Gorda Isles, Section 22 Homeowners Association, Inc., that may be adopted and amended from time to time, provided, however that such rules and regulations shall not interfere with, hinder or impede in any way grantee's rights as set forth herein. This easement may not be amended or terminated without the written joinder and consent of the grantee, its successors and assigns.

POPULATION ACCOMMODATION

The subject property consists of land that has previously been developed for commercial purposes. Two acres of the parcel are proposed to be redeveloped for 160 residential units. This will result in an a proposed increase of 334 persons (160 x 2.09 PPH) accommodated by the future land use map.

If the requested amendment is approved, it will be necessary to create a new row in the Planning Communities Acreage Table for the Burnt Store Marina Village Planning Community. The revised table should depict four acres of residential uses, seven acres of commercial, 1 acre of public and six acres of industrial uses (to accommodate the marina uses). The industrial and commercial allocations in the table do not need to be amended, there is ample allocation existing. The subject property is currently accommodated in the Rural future land use; thus, will require redistribution of four acres of the allocated residential acreage from the Rural to the proposed Burnt Store Marina Village Planning Community.

ENVIRONMENTAL CONSIDERATIONS

The Division of Environmental Sciences (ES) staff has reviewed the proposed Burnt Store Marina Comprehensive Plan Amendment and offered an analysis included as Attachment 12. Due to the limited scope of the request for Comprehensive Plan amendment, the project does not include environmentally sensitive areas. ES staff does not object to the proposed future land use category.

SOILS

A map of the soils located on the subject property consisting of 18.25± acres is included in the application. The type of indicated soils include Mayakka Fine Sand, Estero Muck,

Peckish Mucky Fine Sand, Immokalee Sand, Smyrna Sand, Myakka Find Sand, depressional and Matlacha Gravely Fine Sand.

SURFACE WATER MANAGEMENT

Burnt Store Marina utilizes multiple drainage basins comprised of existing surface water management systems which include dry detention areas for pretreatment of water runoff and wet detention lakes for rain storage during large flood events. The proposed 18.25 acre redevelopment area is part of an existing Department of Environmental Protection (DEP) permit and South Florida Water Management District Permit (SFWMD), which will require modification and review by Lee County Natural Resources prior to development order approval. The surface water management systems within the redevelopment area are not expected to increase in size due to the fact that the existing site area has about the same impervious area to pervious area ratio.

MANATEE PROTECTION

The Lee County division of Natural Resources reviewed the application relative to manatee protection. The site rates as *preferred* under the Manatee Protection Plan and the number of slips proposed are consistent with that finding. The applicant will be required to comply with all applicable standard construction conditions for manatee protection including development of an education program for marina users.

HISTORIC RESOURCES

The application includes a letter dated September 28, 2007 from the Division of Historical Resources, Florida Department of State (See attachment 13). This letter provides the following information:

*In response to your inquiry of September 27, 2007, the Florida Master Site File lists no previously recorded cultural resources in the following parcels:
T43S, R22E, Section 1*

In interpreting the results of our search, please remember the following points:

- *Areas which have not been completely surveyed, such as yours, may contain unrecorded archaeological sites, unrecorded historically important structures, or both.*
- *As you may know, state and federal laws require formal environmental review for some projects. Record searches by the staff of the Florida Master Site File do not constitute such a review of cultural resources. If your project falls under these laws, you should contact the Compliance Review Section of the Bureau of Historic Preservation.*

Lee County staff notes that there are areas on the subject property designated on the Lee County Archaeological Sensitivity Map as Sensitivity Level 2. Chapter 22 of the Lee County Land Development Code (LDC) defines the Sensitivity Level 2 as follows:

“Those areas containing known archaeological sites that have not been assessed for significant but are likely to conform to the criteria for local designation, or areas where there is a high likelihood that unrecorded sites of potential significance are present.”

Staff is not aware of any historic or archaeological resources occurring on this site; however, the applicant will be required to obtain a “Certificate to dig” permit from Lee County prior to or in conjunction with the issuance of a final development order for activity within areas designated as being within the “Sensitivity Level 2” areas. “Activity” in this context means new construction, filling, digging, removal of trees or any other activity that may alter or reveal an interred archaeological site.

SCHOOL IMPACTS

Lee County School district staff reviewed the proposal and provided written comments dated June 25, 2008 (see Attachment 14). The School District staff reviewed the project on the assumption that the proposal would add a marina, restaurant and other commercial uses as well as 160 new multi-family residential units. The review letter provides that 160 new multi-family dwelling units would generate 20 additional school-aged children and is calculated at .125 per unit. The commercial use would have no impact. Any development of the subject property will be assessed the applicable school impact fees.

PARKS, RECREATION AND OPEN SPACE

The applicant provided an analysis regarding Parks, Recreation and Open Space. The subject property is located within the North Fort Myers Community Park district. The proposed increase of 160 residential units will create a demand for .27 acres of community park acreage in the North Fort Myers district. According to the 2007 Concurrency Inventory, the projected minimum level of service in the North Fort Myers District in 2010 is approximately 50 acres, while 166 acres of developed parks currently exist. The additional residential units contemplated by the amendment application will not adversely impact parks, recreation and open space.

POLICE

The subject property is located within the service area of the Lee County Sheriff's Department. The developer will be required to coordinate with the Office of the Sheriff throughout the development process at which time a Crime Prevention through Environmental Design study will be required for review and approval. This study will be required for implementation into the Planned Development process.

FIRE AND EMERGENCY MEDICAL SERVICES (EMS)

The subject property is located within the Burnt Store Fire District. The applicant has provided a copy of an Interlocal Agreement between the City of Cape Coral and the Burnt Store Area Fire Service Municipal Taxing Unit (MSTU) (see Attachment 15) to provide fire protection to the residents of Burnt Store Marina. This Agreement, which is reviewed and renewed on an annual basis, will consider the addition of new construction, including but not limited to, buildings and marina facilities during the renewal process.

The Interlocal Agreement establishes fire protection and prevention services, such as work, materials and all related professional, technical, administrative, fire suppression and related services, basic first response rescue, fire company level prevention services, fire inspection services and safety activities that are necessary to perform fire protection and prevention services to the Burnt Store Marina community.

Lee County Emergency Medical Services (LCEMS) staff reviewed the request and provided written comments dated April 17, 2008 (see Attachment 16). This letter provides the following comments:

This current location is served by LCEMS Station 28, located at 707 SW 1st Street, Cape Coral, FL, which is approximately 12.50 miles away. Our response time to this location is 15± minutes, which does not meet our core service level response standards of 8:59 minutes or less in 90% of the total emergency responses as required by Lee County Ordinance #02-19. In the event that Station 28 is busy on a response, the next closest station is LCEMS Station 22, located at 152 SE 13th St., Cape Coral, FL, approximately 14.50 miles away. This statement does not indicate that any plans have been received, it just identifies that Lee County EMS has concerns with the ability to provide service to this area. Current resources prohibit establishing and staffing an EMS station close to this department.

Burnt Store Marina is served by the City of Cape Coral Fire Department, Station 7, located at 3942 Burnt Store Road, approximately two miles from the main entrance gate to the development. This station is equipped with first response equipment including an Advanced Life Support (ALS) vehicle. The Cape Coral Fire Department does not provide ambulatory service for transport; however, is responsible for emergency medical services until such time EMS arrives on site. The City of Cape Coral Fire Department offered no objection to the requested height of 220 feet noting that current building, fire and development codes address life safety regulations and they are equipped to provide service to structures built to this height.

SOLID WASTE

The Lee County Solid Waste Division staff has reviewed the request and provided written comments dated June 26, 2008 (see Attachment 17). This letter states that the Lee County Solid Waste Division is capable of providing solid waste collection services for the proposed additional uses requested for the expansion of the Burnt Store Marina Village located on Matecumbe Key Road through our franchised hauling contractors. Disposal of the solid waste from this project will be accomplished at the Lee County Resource Recovery Facility and the Lee Hendry Regional Landfill.

Further, the Solid Waste Ordinance, as amended, and LDC, Chapter 10, Section 10-261 have requirements for providing on-site space for placement and servicing of commercial solid waste containers.

MASS TRANSIT

The applicant indicates that there is no existing or proposed mass transit in conjunction with this request. However, Lee County Transit states that the Lee County Long Range Plan indicates the need for a Park and Ride lot in the vicinity of this project where commuter bus service would begin, providing transportation needs through North Cape Coral and terminating in downtown Fort Myers.

UTILITIES

The subject property is located in the Charlotte County Utilities service area for the provision of potable water and sanitary sewer services. The applicant has provided letters from Charlotte County Government dated June 25, 2008 confirming the availability and capacity of potable water, reclaimed water and sanitary sewer services to the subject property (see Attachment 18).

Potable water services are provided by the Burnt Store Reverse Osmosis Treatment Plant. Sanitary sewer and reclamation water services are provided by the Burnt Store Water Reclamation Facility. Utility services will be made available to the subject property upon extension of the water distribution and wastewater collection system and execution of an agreement with the owner/developer and Charlotte County Utilities.

The applicant states that the existing water and sanitary sewer usage equates to an estimated 21,390 gallons per day (GPD). This entails 7,700 square feet of retail space; 10,300 square feet of restaurant space and 15,000 square feet of office space.

The new proposed uses including 145 new hotel units, additional retail space, additional restaurant space and 160 new multiple family residential units will generate approximately 63,160 GPD. Thus, the existing and proposed uses will generate approximately 84,550 GPD of water and sanitary sewer usage.

STATE AND REGIONAL PLAN CONSISTENCY

The applicant states that the proposed amendment is consistent with the following State and Regional Plan provisions:

State Plan

Policy 8(b)10: The new category permits expanded water-dependent facilities along the shoreline.

Policy 15(b)3: The new category will also encourage a more attractive and functional mix of uses on the site.

Regional Plan

Goal 2, Strategy 1, Action 4: The applicant is proposing to redevelop an existing commercial site to create an attractive and functional mixed use community.

B. CONCLUSION

Most of the urban services required to support the proposed change of land use and redevelopment are in place or can be made available. The applicant is proposing redevelopment of 18.25± acres to accommodate new development of 145 hotel rooms, 160 dwelling units, a maximum of 55,000 square feet of retail with 300 parking spaces (garage), a maximum of 15,000 square feet of office space and a maximum of 525 wet slips (existing) and 800 dry storage spaces.

The proposed amendment does not promote urban sprawl, as the subject property is located within an existing and approved residential and commercial urban development as well as commercial marina uses. The existing uses are not restricted to the residents of Burnt Store Marina and are currently utilized by the public. The existing development is not consistent with the rural future land use category.

The LDC, Article 19, Section 34-1802(4), paragraphs b and d regulates density requirements for hotels and motels. For developments within conventional zoning districts located within Lee Plan future land use map categories that have maximum standard density limits, rental unit density is based on a ratio of the number of units and total floor area. Hotels/motels approved as planned developments are not subject to rental unit size or density requirements provided all other aspects of the development (i.e. height, traffic, intensity of use, etc.) are found to be compatible with the surrounding area and otherwise consistent with the Lee Plan. The applicant will be required to rezone the subject property to a planned development.

REDEVELOPMENT

Redevelopment of an aging or antiquated land uses is an important part of maintaining a healthy and vibrant community. While there has been some redevelopment in Lee County in the past, we are entering a phase where

redevelopment will be needed more and more. How we plan, oversee, regulate and promote this redevelopment is an emerging issue that needs policy direction from the Board of County Commissioners.

The proposed redevelopment plans for both Burnt Store Marina and Old San Carlos Island offer some important challenges and opportunities that need to be addressed. The single biggest issue for these proposals is the challenge of the changing of the existing urban form. Urban form includes density, intensity and building mass.

Redevelopment will be very limited if it is restricted to the demolition of existing uses that can only be rebuilt to their current density and intensity. This is why redevelopment proposals will almost always include an increase in density, more commercial intensity or increases in building mass, or any combination of the three. These increases form the incentives that make the redevelopment project economically viable.

The Burnt Store Marina redevelopment proposal is asking for increased entitlements and also increased building height. Staff has evaluated the proposal and is recommending the full intensity and density request for the Burnt Store Marina Redevelopment Plan. Staff is recommending an increase in the maximum allowable height. The recommendation restricts the increase in height to 135 feet if the parking is not integrated into the structure. If multiple layers of enclosed parking are placed under the multiple-family or hotel use, staff is recommending increasing the height by an additional 50 feet for a maximum height of 185 feet.

This recommendation is based on attaining the desired urban form that will allow the redevelopment to create an at grade pedestrian friendly space where the retail, the water and the people can interact.

BUILDING HEIGHT

Building Height has become a critical component of the Burnt Store Redevelopment proposal. The mixed use pedestrian friendly objective requires an urban form unlike the single use or separated use development patterns typically found in Lee County. Mid-rise multiple-family or hotel development of 9 or 10 stores requires a large amount of surface parking which makes the site very pedestrian unfriendly. Allowing up to four or five levels of enclosed parking structure under the residential or hotel units results in site area to be utilized as a mixed use pedestrian friendly urban space. Locating the parking under the residential or hotel use allows the development to create an at grade atmosphere where the retail, the water and the people can intermingle. This type of site development also allows for additional green areas and enhanced landscaping.

In response to this, staff is recommending restricting the height to 135 feet if the parking is not integrated into the structure. If multiple layers of enclosed parking are placed under the multi family or hotel use, staff is recommending increasing the height by an additional 50 feet for a maximum height of 185 feet.

C. STAFF RECOMMENDATION:

Planning staff recommends that the Board of County Commissioners transmit the proposed amendment, as modified by Staff as follows:

POLICY 1.2.10: The Burnt Store Marina Village area provides for the redevelopment that enhances the existing character of the Burnt Store Marina project, protects natural resources, and provides continuing public access to the water via boat ramps and docks while managing the location and intensity of future commercial, residential and limited industrial uses by establishing realistic aesthetic requirements designed to allow Burnt Store Marina Village the ability to develop as a community center. The following uses are permitted within the Burnt Store Marina Village category; a maximum of 55,000 square feet of retail uses; a maximum of 525 wet slips; a maximum of 800 dry storage spaces; a maximum of 15,000 square feet of office space; a maximum of 145 hotel units; and a maximum of 160 residential units.

GOAL: ^{2.5} BURNT STORE MARINA VILLAGE. To promote redevelopment that enhances the existing character of the Burnt Store Marina project, protects natural resources, and provides continuing public access to the water via boat ramps and docks while managing the location and intensity of future commercial, residential and limited industrial uses by establishing realistic aesthetic requirements designed to allow Burnt Store Marina Village the ability to develop as a community center.

OBJECTIVE 25.1: The Burnt Store Marina Village is intended to encourage and facilitate redevelopment of the existing marina and commercial area located internal to the Burnt Store Marina project with an attractive mix of residential, marine, retail, hotel and office uses designed to enhance and protect the public use of, and access to, the waterfront and marina. Development of commercial retail, hotels, general office and marina related uses will predominate in the Burnt Store Marina Village. Limited residential and light industrial marine uses are also permitted to facilitate the proper development mix to allow integration of the Burnt Store Marina Village into the overall Burnt Store Marina project.

POLICY 25.1.1: The following uses are permitted within the Burnt Store Marina Village category; a maximum of 55,000 square feet of retail uses; a maximum of 525 wet slips; a maximum of 800 dry storage spaces; a

maximum of 15,000 square feet of office space; a maximum of 145 hotel units; and a maximum of 160 residential units. The maximum height permitted in this category is 135 feet if the parking is not integrated into the structure. If multiple layers of enclosed parking are placed under the multi-family or hotel use, the height may be increased by an additional 50 feet for a maximum height of 185 feet.

POLICY 25.1.2: Redevelopment of any uses within the Burnt Store Marina Village must be accomplished through the Planned Development rezoning process in order to properly accommodate existing conditions, the proposed redevelopment plan, prevent adverse impacts to the surrounding areas and to ensure that appropriate site development regulations are incorporated into the development plans. Development in this future land use category is not required to comply with the site location criteria provided in Goal 6 if appropriate site development regulations are adopted into the planned development. New development in this category must connect to a potable water and sanitary sewer system.

POLICY 25.1.3: Lee County will cooperate with private developer efforts to create an identity for the Burnt Store Marina Village through unified architectural quality and creative site design that enhances the waterfront community and consists of scenic views, buildings with varying roof lines, open space, a pedestrian and neighborhood oriented activity center and enhanced buffering requirements.

POLICY 25.1.4: Lee County will work in conjunction with private developers to reserve existing marina facilities with on or off-site public parking spaces for vehicles and trailers and access for the benefit of the public.

POLICY 25.1.5: The residential and hotel development portions of this redevelopment project must be located outside of the Tropical Storm Surge Zone as depicted in the 1991 Hurricane Storm Tide Atlas for Lee County.

Planning staff further recommends that the Future Land Use Map 1 be amended by adding a new category to be known as Burnt Store Marina Village.

ATTACHMENTS:

1. Copy of CPA2007-00054 application
2. Aerial/outline of Subject Property
3. Adjacent land uses/Future Land Use Map (2 pages)
4. Existing Land Uses Map (2 pages)
5. Map of Proposed 2030 Use Allocation provided by Applicant
6. Lee Plan Map 12 - Water Dependent Overlay Zones
7. Department of Community Affairs Letter dated July 31, 2008
8. Lee Plan Map 16
9. Lee Plan Coastal High Hazard Area (CHHA)
10. Memorandum from Lee County Department of Transportation (LCDOT) dated September 5, 2008 and applicant's Traffic Circulation Analysis
11. Copy of Access Easement
12. Memorandum from Lee County Environmental Sciences
13. Letter from Division of Historical Resources dated September 28, 2007
14. Letter from The School District of Lee County dated June 25, 2008
15. Interlocal Agreement between City of Cape Coral and the Burnt Store Area Fire Service Municipal Taxing Unit
16. Letter from Lee County Emergency Management Services dated April 17, 2008
17. Letter from Lee County Solid Waste Division dated June 26, 2008
18. Letters from Charlotte County Utilities dated June 25, 2008
19. Memorandum from the Office of County Attorney dated November 28, 2006
20. Communications received from the public
21. Revised letter from The School District of Lee County dated February 2, 2009
22. Proposed amended Table 1(b) Year 2030 Allocations

PART III - LOCAL PLANNING AGENCY REVIEW AND RECOMMENDATION

PUBLIC HEARING DATES: **SEPTEMBER 22, 2008**
 SEPTEMBER 29, 2008

A. LOCAL PLANNING AGENCY REVIEW - SEPTEMBER 22, 2008

The first public hearing before the LPA was held on Monday, September 22, 2008. Staff introduced the request and requested a continuance for the staff presentation based on continued discussions with the applicant regarding the requested density, height, continued public access to the boat ramp, provision of truck and trailer parking and additional information regarding coastal high hazard analysis and location of proposed uses. The applicant made a presentation and public comment was accepted.

During the applicant's presentation, it was noted that the Burnt Store Marina is the largest marina on the west coast of Florida. The amendment will permit a mixed use redevelopment plan encompassing the marina. The applicant stressed that the location of the proposed residential and hotel units is outside of the designated Coastal High Hazard Area. The request includes a maximum height of 220 feet to include four to five levels of parking under 10 to 12 stories of residential and hotel uses.

Fifteen Burnt Store Marina residents spoke at the hearing. Six spoke in support and nine spoke in opposition. Those that spoke in support addressed the need to update and improve the existing facilities, provide landscaping and construction of new facilities that meet current building standards. They spoke to the provision of commercial uses for the community and plans for future growth. Residents who reside on Matecumbe Key Road, which is in proximity to the gate utilized for construction and service vehicles, did not oppose the proposed amendment, stressing the need for improvement and progress within the development.

Concern was expressed regarding the absence of many part-time residents of Burnt Store Marina who would not have an opportunity to address the Board.

Those in opposition expressed concern regarding an increase in traffic, density, safety, height, noise and congestion. Specifically, improvements to the marina and the addition of commercial and hotel uses would increase the traffic traveling through a primarily residential community. However, some residents that spoke in opposition did support improvements to the marina for continued operations. Some of the residents questioned if Burnt Store Marina is a vacation destination requiring a hotel and ancillary commercial uses.

LOCAL PLANNING AGENCY REVIEW - SEPTEMBER 29, 2008

Staff presented the requested Plan amendment noting support of the redevelopment and revitalization plan for the Burnt Store Marina Village. The Burnt Store Marina, a development of 626 acres, has been in existence in Lee County since the early 1970s and although is located in the Rural future land use, the property is not consistent with the definition or description of a rural use. The existing development of Burnt Store Marina consists of high-intensity residential and commercial uses.

Staff recommended the full intensity and density request for the plan consisting of retail, wet slips, dry storage spaces, office space, hotel and residential units. However, staff's recommendation differs from the applicant's request regarding the proposed height. Staff recommends a maximum height of 135 feet if parking is not integrated into the structure. If multiple layers of parking are proposed under multiple family or hotel uses, the height may be increased by an additional 50 feet for a maximum height of 185 feet. Staff recommended that the LPA transmit the request, as amended, for the proposed land use category, Burnt Store Marina Village, in support of the defining statement, Policy 1.2.10, with supporting language in Goal 25, Objective 25.1 and Policies 25.1.1 through 25.1.5 to the Board of County Commissioners.

The LPA questioned Staff regarding the proposed density, coastal high hazard, manatee protection plan and the combination of or separation of the maximum number of wet and dry boat slips and storage.

Staff had initially expressed concern regarding a Memo issued by the Office of County Attorney (see Attachment 20) regarding the density of the existing Marina Village Land Use Plan, which encompasses the subject property. This area is currently vested for a total of 734 dwelling units. In 2006, it appeared that there were 794 dwellings existing in the Marina Village parcel; therefore, a determination was made that no additional dwelling units could be constructed under the current Rural land use category. However, Staff determined that the proposed Burnt Store Marina Village land use category would supercede this determination permitting the request of the applicant for the 160 additional dwelling units.

Staff also addressed additional information regarding the location of the proposed residential and hotel units. The applicant has demonstrated that the proposed dwelling and hotel units are located outside of the designated Coastal High Hazard Area. A Policy is recommended to ensure that these uses will not be permitted within a designated Coastal High Hazard Area.

Staff recommended language whereby separating the number of proposed wet and dry boat slips and storage based on language in the Department of Community Affairs binding letter. The number of slips varies based on the definition and determination of the use. Marina uses are no longer subject to State Statute regulations and review regarding Developments of Regional Impact (DRI); therefore, staff does not object to the recommendation of the LPA to combine the maximum permitted number of wet and dry spaces. It was noted that

redevelopment of marina uses will be subject to provisions of the Manatee Protection Plan.

There was no additional public comment regarding the proposed maximum height of the buildings and the additional dwelling units.

B. LOCAL PLANNING AGENCY RECOMMENDATION AND FINDINGS OF FACT SUMMARY

1. **RECOMMENDATION:** The LPA agreed with the applicant regarding the combination of the number of permitted slips and the economics involved with this type of development. This is a function reviewed and permitted by local and state agencies based on the available space. It was further noted that current regulations contained in the Lee Plan do not govern the number of permitted boat slips in a land use category and a cumulative number of 1,325 wet and dry spaces is appropriate.

By a vote of 3 to 1, the LPA voted that the request is consistent with the Lee Plan and recommended that the Board of County Commissioners transmit the amendment as proposed by staff, with the following changes provided in strike-through and double-underline format:

The following uses are permitted within the Burnt Store Marina Village category; a maximum of 55,000 square feet of retail uses; ~~a maximum of 525 wet slips; a maximum of 800 dry storage spaces~~ 1,325 wet and dry spaces; a maximum of 15,000 square feet of office space; a maximum of 145 hotel units; and a maximum of 160 residential units. The maximum height permitted in this category is 220 feet ~~135 feet~~ ~~if the parking is not integrated into the structure. If multiple layers of enclosed parking are placed under the multi-family or hotel use, the height may be increased by an additional 50 feet for a maximum height of 185 feet.~~

2. **BASIS AND RECOMMENDED FINDINGS OF FACT:** As contained in the Staff Report with proposed amendments to permit a combination of wet and dry slips and storage spaces for a total of 1,325 wet and dry spaces and a maximum height of 220 feet.

C. NO VOTE WAS TAKEN ON SEPTEMBER 22, 2008

VOTE: SEPTEMBER 29, 2008

CARLETON RYFFEL
(Chair)

ABSENT

LES COCHRAN
(Vice-Chair)

AYE

NOEL ANDRESS	<u>AYE</u>
RONALD INGE	<u>AYE</u>
RAE ANN WESSEL	<u>NAY</u>
LELAND M. TAYLOR	<u>ABSENT</u>
JACQUE RIPPE	<u>ABSENT</u>

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

DATE OF TRANSMITTAL HEARING: October 23, 2008

- A. BOARD REVIEW:** Staff provided a brief overview of the privately initiated comprehensive plan amendment including a description of the applicant's request, the subject property and the existing Burnt Store Marina development. Staff noted that the current rural future land use category is not consistent with the existing development. Staff reviewed the differences between staff's recommendation and the LPA recommendation. The applicant requested a maximum height of 220 feet, which was supported by the LPA. However, staff's recommendation is a maximum of 135 feet if the parking is not integrated into the structure and surface parking is utilized and 185 feet in height if multiple layers of enclosed parking are placed under the proposed multiple-family or hotel uses.

Staff clarified the recommended language regarding the wet and dry boat storage spaces. Staff recommended a distinction between 525 wet slips and 800 dry storage spaces based on the binding letter and communication with the Department of Community Affairs. The LPA recommended language to combine the uses into a total of 1,325 wet and dry spaces. Staff does not object to this modification. Staff addressed issues related to coastal high hazard designation and the proposed location of the 160 dwelling units and hotel, density, hurricane preparedness and evacuation criteria. Staff stressed that the amendment would provide guidelines for maximum development criteria. The proposed policies require that any development or redevelopment of the subject property requires rezoning through the planned development process which provides staff the opportunity to work with the public and the applicant to develop conditions to address compatibility with the existing land uses.

The applicant provided a comprehensive review of the request and redevelopment plans. This presentation included a conceptual redevelopment plan including proposed location of buildings and architectural renderings. It was noted that the redevelopment plan is to establish guidelines and is not creating specific entitlements.

Seven residents of Burnt Store Marina spoke in opposition to the comprehensive plan amendment. Their comments focused on the proposed density and height, potential increase in traffic, noise, interruption of water views, utilities, Manatee protection and related development issues. At the request of the Board, one additional letter of opposition was read into the record by staff.

At the request of the Board of County Commissioners, the staff and applicant provided the history of the Burnt Store Marina Development noting that the current vesting plan includes development of multiple-family dwellings, marina and hotel uses.

Some members of the Board expressed concern regarding the proposed intensity of the redevelopment plan. There were no traffic concerns relayed by the Lee County Department of Transportation. The Board noted that the comprehensive plan amendment proposes maximum allowable development and redevelopment criteria. Specific regulations will be implemented at the time of zoning to permit revitalization and enhancement of the existing Burnt Store Marina Village. The Board further reiterated that the transmittal hearing provides for the Department of Community Affairs' review of the proposed plan amendment and does not approve the proposed redevelopment project as represented.

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

1. **BOARD ACTION:** The Board voted unanimously to **transmit** the amendment as recommended by staff with the amendments recommended by the LPA.
2. **BASIS AND RECOMMENDED FINDINGS OF FACT:** The Board accepted the finding as advanced by staff and amended by the LPA. The Board proposed transmittal is referenced in Part 1. B. on pages 3 and 4 of this staff report.

C. VOTE:

A. BRIAN BIGELOW	AYE
TAMMARA HALL	AYE
BOB JANES	AYE
RAY JUDAH	AYE
FRANKLIN B. MANN	AYE

**PART V - DEPARTMENT OF COMMUNITY AFFAIRS OBJECTIONS,
RECOMMENDATIONS, AND COMMENTS (ORC) REPORT**

DATE OF ORC REPORT: January 16, 2009

A. DCA OBJECTIONS, RECOMMENDATIONS AND COMMENTS

The Florida Department of Community Affairs (DCA) Objections, Recommendations and Comments Report (ORC) contained the following concerning this proposed amendment:

O. Amendment 2007-54: A proposed amendment to the Future Land Use Element to:

- (1) Establish a new future land use category titled "Burnt Store Marina Village" by adding new Policy 1.2.10, Goal, Objective 25.1, and Policies 25.1.1, 25.1.2, 25.1.3, 25.1.4, and 25.1.5;*
- (2) Amend Table 1(a) and 1(b) to add the new category "Burnt Store Marina Village" and to reallocate commercial (7 acres), industrial (6 acres), residential (4 acres), and public (1 acre) for the Burnt Store Marina Planning Community; and*
- (3) Amend the FLUM to change 18.25 acres from Rural (1 DU per acre) to "Burnt Store Marina Village" located to the west of Burnt Store Road and just south of the Charlotte County line.*

The Department raises the following objections and comment to proposed Amendment 2007-54:

- 1) Objection: The proposed Amendment would allow an additional 160 residential dwelling units on the subject 18.25 acre parcel. A portion of the 18.25 acres is located within the Coastal High Hazard Area (as defined by proposed Amendment 2007-59) and proposed Policy 25.1.5 is intended to locate the additional residential uses outside of the Coastal High Hazard Area. However, the proposed Policy 25.1.5 requires the residential use to be located outside of the Tropical Storm Surge Zone and not outside of the Coastal High Hazard Area. Therefore, the proposed Amendment 2007-54 does not direct population concentrations away from the Coastal High Hazard Area. The Amendment 2007-54 is not appropriately supported by data and analysis demonstrating that the amendment 2007-54 is consistent with the Rule 9J-5.012, F.A.C., requirements to: (1) direct population concentrations away from the Coastal High Hazard Area; (2) maintain or reduce hurricane evacuation clearance times; and (3) utilize general hazard mitigation for land use to reduce the exposure of human life and private property to natural hazards. Similarly, the proposed amendment is not appropriately supported by data and analysis demonstrating that the Amendment 2007-54 is consistent with the*

requirements of Section 163.3178(9), F.S.

Rules 9J-5.005(5); 9J-5.006(3); 9J-5.012(3), F.A.C.; and Sections 163.3177(2); 163.3177(6)(a); and 163.3178, F.S.

Recommendation: Revise Policy 25.1.5 to require the residential uses to be located outside of the Coastal High Hazard Area.

- 2) Objection (School Facilities): The proposed Amendment 2007-54 increases the potential number of residential dwelling units and the potential number of school students. Lee County has adopted its Public School Facilities element; therefore, the County is required to assess the facility impacts on its public school facilities. The amendment is not supported by data and analysis demonstrating that the adopted level of service standards for schools will be met over the five-year short-term planning time frame. Absent this data and analysis and any related changes, the proposed amendment has not been demonstrated to be consistent with the Public School Facilities Element and Capital Improvements Element.

Rules 9J-5.005(2 and 5); 9J-5.006(1 and 2); and 9J-5.025(2), F.A.C.; and Sections 163.3177(2, 3, 8, 10, and 12); 163.3177(6)(a); and 163.3180(13), F.S.

Recommendation: Support the FLUM amendment with data and analysis for the five-year planning time frame addressing: (1) identification of the cumulative impact of the amendments transmitted in Amendment 09-01 on the projected enrollment of students (elementary, middle and high school students) for the applicable school concurrency service area; (2) the impact of additional students on the level of service standards for the school concurrency service area; (3) the need for any school facility capacity improvements (scope, cost and timing) that are needed to achieve and maintain the adopted level of service standards; and (4) coordination of any needed school facility improvements with the Public School Facilities Element and Capital Improvements Element. If there are any identified school facility deficiencies in the first five years and there are no planned school facilities to address these deficiencies, then the school facility improvements needed to maintain and achieve the adopted level of service standards must be included in the Five-Year Schedule of Capital Improvements. Revise the amendment to be supported by and consistent with the data and analysis.

- 3) Comment (Land Use Category Policy Guidelines): There is an internal inconsistency among the proposed text amendments regarding the type of industrial use. The proposed Goal and Policy 1.2.10 allows "limited industrial" and the proposed Objective 25.1 allows "light industrial marine uses." Therefore, the Goal, Policy 1.2.10, and Objective 25.1 do not establish meaningful and predictable guidelines describing the type of industrial use that is allowed. In addition, the amendment support material states that there is a proposed amendment to Future Land Use Element Table 1(a) and 1(b) to add the new category "Burnt Store Marina Village"

and to reallocate commercial (7 acres), industrial (6 acres), residential (4 acres) and public (1 acre) for the Burnt Store Marina Planning Community; however, the proposed amendment does not include a proposed Future Land Use Element Table 1(a) and 1(b) showing the proposed amendments. Revise the Goal, Policy 1.2.10 and Objective 25.1 to resolve the internal inconsistency regarding the terminology of "limited industrial" and "light industrial" with meaningful and predictable guidelines. Revise the amendment to include the Future Land Use Element Table 1(b) and 1(b) to add the new category "Burnt Store Marina Village" and to reallocate commercial (7 acres), industrial (6 acres), residential (4 acres), and public (1 acre) for the Burnt Store Marina Planning Community.

B. STAFF RESPONSE

The applicant provided a response to the comments and recommendations provided by the DCA. The responses, received via e-mail, on January 21, January 23 and January 27 were as follows:

1. The applicant agrees to amend proposed Policy 25.1.5 to require the residential uses to be located outside of the designated Coastal High Hazard Area. Therefore, Staff recommends the following amendment to Policy 25.1.5 in a strike-through, underline format:

POLICY 25.1.5: The residential and hotel development portions of this redevelopment project must be located outside of the Tropical Storm Surge Zone as depicted in the 1991 Hurricane Storm Tide Atlas for Lee County designated Coastal High Hazard Area in accordance with Lee Plan Map 5.

2. The applicant agrees to revise the Future Land Use Element Tables 1(a) and 1(b), as follows: Commercial (7 acres); Industrial (6 acres); Residential (4 acres); and Public (1 acre) for the Burnt Store Marina Village future land use category.
3. The applicant agrees to revise the proposed Burnt Store Marina Village Goal, Objective and Policies to revise "limited light industrial" and "light industrial marine uses" to "commercial marina uses" for compatibility and consistency. Staff recommends the following amendment in a strike-through, underline format:

POLICY 1.2.10: The Burnt Store Marina Village area provides for development that enhances the existing character of the Burnt Store Marina project, protects natural resources, and provides continuing public access to the water via boat ramps and docks while managing the location and intensity of future commercial, residential and ~~limited industrial uses~~ commercial marina uses by establishing realistic aesthetic requirements designed to allow Burnt Store Marina Village the ability to develop as a community center. The following uses are permitted within the Burnt Store Marina

Village category; a maximum of 55,000 square feet of retail uses; a maximum of 1,325 wet and dry spaces; a maximum of 15,000 square feet of office space; a maximum of 145 hotel units; and a maximum of 160 residential units.

GOAL: BURNT STORE MARINA VILLAGE. To promote redevelopment that enhances the existing character of the Burnt Store Marina project, protects natural resources, and provides continuing public access to the water via boat ramps and docks while managing the location and intensity of future commercial, residential and ~~limited industrial uses~~ commercial marina uses by establishing realistic aesthetic requirements designed to allow Burnt Store Marina Village the ability to develop as a community center.

4. The applicant provided information regarding the School District of Lee County. The subject property is located in the West Zone. The 2009 Concurrency Inventory indicates that there is available capacity in that zone, as follows: 2,322 elementary school seats; 669 middle school seats; and 762 high school seats. The impact of the project on the system was projected to be 20 students; therefore, within the 2009 concurrency requirements.

Coastal High Hazard Area

In accordance with the Lee Plan, Map 5, the subject property is not currently located within the designated Coastal High Hazard Area. The applicant further provided documentation depicting the location of the proposed hotel and residential dwelling units outside of the designated Coastal High Hazard Area. It is Staff's intent to prohibit the additional residential dwelling units and hotel from locating within a Coastal High Hazard Area. Therefore, Staff is recommending an amendment to the language in proposed Policy 25.1.5.

Staff is proposing to amend Future Land Use Element Tables 1(a) and 1(b) of the Lee Plan to incorporate the "Burnt Store Marina Village" Future Land Use category with a maximum of 160 dwelling units and to reallocate commercial (7 acres); industrial (6 acres); residential (4 acres); and public (1 acre). The Table amendment will include a footnote that the maximum number of residential dwelling units within the Burnt Store Marina Village is 160 and that all residential and hotel uses must be located outside of the Coastal High Hazard Area (CHHA) in accordance with Lee Plan, Map 5.

Commercial Marina Uses

Staff further proposes to amend the proposed Goal, Policy 1.2.10 and Objective 25.1 to resolve the inconsistency regarding the terminology of "limited light industrial" and "light industrial marine uses" by replacing the language with "commercial marina uses". The intent of this recommendation is to permit continuation of and to promote the redevelopment of the existing marina land uses within the Burnt Store Marina Village. Commercial marina uses

are defined as uses of land limited to waterfront dependent uses required for the support of recreational boating and fishing and other uses incidental to such facilities.

Commercial marina uses encompass such uses as a bait and tackle shop, boat parts store, boat ramps, boat rental, boat repair and service (minor boat repair only), boat storage, docking or mooring facilities, gift and souvenir shops, restaurants, sale of fuel, open storage and other uses associated with a marina.

It is not the intent of Staff to permit all light industrial uses on the subject property due to the close proximity to existing single and multiple-family residential dwellings. The Light Industrial zoning district (IL) permits uses that are outside of the scope of the proposed redevelopment plan. The Light Industrial District (IL) permits uses such as automobile repair and service, machine shop, manufacturing (repair or wholesale sales of boats, food and kindred products, leather products, machinery, paper and allied products, rubber and plastic products, stone, clay, glass or concrete products, textile mill products) processing and warehousing and vehicle and equipment dealers. These intense uses are not compatible with the existing development located within Burnt Store Marina nor do they meet the intent of the proposed Burnt Store Marina Village. Thus, Staff finds that "commercial marina uses" are more applicable for the subject property and the proposed Plan amendment.

Staff is further recommending, in Policy 25.1.2, that the subject property be rezoned to a planned development to properly accommodate existing conditions, the proposed redevelopment plan, prevent adverse impacts to the surrounding areas and to ensure that appropriate site development regulations are incorporated into the development plans.

Staff recommends that Policy 25.1.1 be amended to permit a maximum height of 135 feet if parking is not integrated into the structure and a maximum height of 185 feet if multiple layers of parking are incorporated into the structures.

School Concurrency

In response to a request for review and comment, the School District of Lee County provided a letter dated February 4, 2009. Please refer to Attachment 21. The subject property is located in the West Zone, Sub Zone W2.

The commercial use would have no impact; however, the 160 multi-family residential dwelling units would generate 20 additional school-aged children and is calculated at .125 per unit. The school district has sufficient seats available to serve this need. This letter further notes that this information is not a concurrency determination and such a determination will be required later in the development process.

The School District is not currently building any new schools as the enrollment for the 2008/2009 school year has slightly decreased over the previous year's enrollment. However,

there is sufficient capacity within the five-year planning window to accommodate students that will be generated by this development.

There was no indication of adverse impact to the projected enrollment of students for applicable school concurrency; level of service standards for the school concurrency service area; need for any school facility capacity improvements to achieve and maintain the adopted level of service standards; nor of any needed school facility improvements within the Public School Facilities Element and Capital Improvements Element.

The 2009 Concurrency Inventory indicates that there is available capacity in that zone, as follows: 2,322 elementary school seats; 669 middle school seats; and 762 high school seats. The impact of the project on the system was projected to be 20 students; therefore, well within the 2009 concurrency requirements.

GOAL 66: EDUCATION. *To assist the Lee County School Board and other providers of education (where appropriate) with the planning, development and siting of new schools. (Amended by Ordinance No. 94-30)*

OBJECTIVE 66.1: SCHOOL LOCATION PLANNING. *Cooperate with Lee County District Board of Education and representatives of private and parochial school associations, and other interested institutions, for the location and development of educational systems consistent with Chapter 235, F.S., and the policies of this plan. (Amended by Ordinance No. 94-30, 00-22)*

Staff finds that the provided analysis and information regarding the Public School Facilities Element is consistent with Goal 66 and Objective 66.1 of the Lee Plan.

C. STAFF RECOMMENDATION

Staff recommends that the Board of County Commissioners adopt this amendment, incorporating the recommended revisions by the DCA and Staff's amended language, as proposed below:

POLICY 1.2.10: The Burnt Store Marina Village area provides for development that enhances the existing character of the Burnt Store Marina project, protects natural resources, and provides continuing public access to the water via boat ramps and docks while managing the location and intensity of future commercial, residential and commercial marina uses by establishing realistic aesthetic requirements designed to allow Burnt Store Marina Village the ability to develop as a community center. The following uses are permitted within the Burnt Store Marina Village category; a maximum of 55,000 square feet of retail uses; a maximum of 1,325 wet and dry spaces; a

maximum of 15,000 square feet of office space; a maximum of 145 hotel units; and a maximum of 160 residential units.

²⁵
GOAL: BURNT STORE MARINA VILLAGE. To promote redevelopment that enhances the existing character of the Burnt Store Marina project, protects natural resources, and provides continuing public access to the water via boat ramps and docks while managing the location and intensity of future commercial, residential and commercial marina uses by establishing realistic aesthetic requirements designed to allow Burnt Store Marina Village the ability to develop as a community center.

OBJECTIVE 25.1: The Burnt Store Marina Village is intended to encourage and facilitate redevelopment of the existing marina and commercial area located internal to the Burnt Store Marina project with an attractive mix of residential, marine, retail, hotel and office uses designed to enhance and protect the public use of, and access to, the waterfront and marina. Development of commercial retail, hotels, general office and marina related uses will predominate in the Burnt Store Marina Village. Limited residential and light industrial marine uses are also permitted to facilitate the proper development mix to allow integration of the Burnt Store Marina Village into the overall Burnt Store Marina project. commercial marina uses

POLICY 25.1.1: The following uses are permitted within the Burnt Store Marina Village category: a maximum of 55,000 square feet of retail uses; a maximum of 525 wet slips; a maximum of 800 dry storage spaces; a maximum of 15,000 square feet of office space; a maximum of 145 hotel units; and a maximum of 160 residential units. The maximum permitted height in this category is 135 feet if parking is not integrated into the structure. A maximum height of 185 feet is permitted if multiple layers of parking are incorporated into the structures.

POLICY 25.1.2: Redevelopment of any uses within the Burnt Store Marina Village must be accomplished through the Planned Development rezoning process in order to properly accommodate existing conditions, the proposed redevelopment plan, prevent adverse impacts to the surrounding areas and to ensure that appropriate site development regulations are incorporated into the development plans. Development in this future land use category is not required to comply with the site location criteria provided in Goal 6 if appropriate site development regulations are adopted into the planned development. New development in this category must connect to a potable water and sanitary sewer system.

POLICY 25.1.3: Lee County will cooperate with private developer efforts to create an identity for the Burnt Store Marina Village through unified architectural quality and creative site design that enhances the waterfront community and consists of scenic views, buildings with varying roof lines, open space, a pedestrian and neighborhood oriented activity center and enhanced buffering requirements.

POLICY 25.1.4: Lee County will work in conjunction with private developers to reserve existing marina facilities with on or off-site public parking spaces for vehicles and trailers and access for the benefit of the public.

POLICY 25.1.5: The residential and hotel development portions of this redevelopment project must be located outside of the designated Coastal High Hazard Area in accordance with Lee Plan, Map 5.

Staff recommends to Amend Table 1(a) Summary of Residential Densities as follows:

FUTURE LAND USE CATEGORY	STANDARD OR BASE DENSITY RANGE		BONUS DENSITY
	MINIMUM (Dwelling Units per Gross Acre)	MAXIMUM (Dwelling Units per Gross Acre)	MAXIMUM TOTAL DENSITY (Dwelling Units per Gross Acre)
<u>Burnt Store Marina Village¹¹</u>	<u>No Minimum</u>	<u>160 Dwelling Units</u> <u>145 Hotel Units</u>	<u>No Bonus</u>

¹¹ The residential dwelling units and hotel development portions of this redevelopment project must be located outside of the designated Coastal High Hazard Area in accordance with Lee Plan, Map 5.

Staff further recommends to amend Table 1(b) Year 2030 Allocations to reallocate from the existing Rural future land use category and to create a new land use category, Burnt Store Marina Village. Please refer to Attachment 22..

**PART VI - BOARD OF COUNTY COMMISSIONERS
HEARING FOR ADOPTION OF PROPOSED AMENDMENT**

DATE OF ADOPTION HEARING:

A. BOARD REVIEW:

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

1. BOARD ACTION:

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

C. VOTE:

A. BRIAN BIGELOW	
TAMMARA HALL	
BOB JANES	
RAY JUDAH	
FRANKLIN B. MANN	

**CPA2007-54
BURNT STORE MARINA
PRIVATE INITIATED
AMENDMENT
TO THE**

LEE COUNTY COMPREHENSIVE PLAN

THE LEE PLAN

Privately Initiated Application
and Lee County Staff Analysis

DCA Transmittal Document

*Lee County Planning Division
1500 Monroe Street
P. O. Box 398
(239) 533-8585*

October 23, 2008

**LEE COUNTY
DIVISION OF PLANNING
REVISED STAFF REPORT FOR
COMPREHENSIVE PLAN AMENDMENT
CPA2007-00054**

✓	Text Amendment	✓	Map Amendment
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This Document Contains the Following Reviews:

✓	Staff Review
✓	Local Planning Agency Review and Recommendation
✓	Board of County Commissioners Hearing for Transmittal
	Staff Response to the DCA Objections, Recommendations and Comments (ORC) Report
	Board of County Commissioners Hearing for Adoption

Staff Report Preparation Date: October 15, 2008

Hearing Date: October 23, 2008

Staff Report Preparation Date: October 24, 2008

PART I - BACKGROUND AND STAFF RECOMMENDATION

A. SUMMARY OF APPLICATION

1. APPLICANT/REPRESENTATIVE

Realmark Burnt Store Marina, LLC, Applicant

Matthew D. Uhle, Esq., Knott, Consoer, Ebelini, Hart and Swett PA, Authorized Representative

- 2. REQUEST:** Amend the Lee Plan's Future Land Use Map series, Map 1, for 18.25± acres in Section 1, Township 43, South, Range 22 East and Section 6, Township 43 South, Range 23 East, Lee County, Florida from Rural to Burnt Store Marina Village Future Land Use Category. Amend Table 1(b) to reallocate seven acres of commercial, six acres of industrial, four acres of residential and one acre of public land uses acres to accommodate the proposed development. (See Attachment 1 - application)

B. BOARD OF COUNTY COMMISSIONERS FINDINGS OF FACT AND ACTION

The Board of County Commissioners voted unanimously to transmit the proposed amendment, as modified by staff and amended by the LPA. The Board further recommends that the Future land use Map 1 be amended by adding a new category to be known as Burnt Store Marina Village and the amendment of Table 1(b) to reallocate 7 acres of commercial, 6 acres of industrial, 4 acres of residential and 1 acre of public land use within the Year 2030 Allocations for the Burnt Store Marina Planning Community. The following language was approved for transmittal by the Board of County Commissioners.

POLICY 1.2.10: The Burnt Store Marina Village area provides for the redevelopment that enhances the existing character of the Burnt Store Marina project, protects natural resources, and provides continuing public access to the water via boat ramps and docks while managing the location and intensity of future commercial, residential and limited industrial uses by establishing realistic aesthetic requirements designed to allow Burnt Store Marina Village the ability to develop as a community center. The following uses are permitted within the Burnt Store Marina Village category; a maximum of 55,000 square feet of retail uses; a maximum of 1,325 wet and dry spaces; a maximum of 15,000 square feet of office space; a maximum of 145 hotel units; and a maximum of 160 residential units.

GOAL: BURNT STORE MARINA VILLAGE. To promote redevelopment that enhances the existing character of the Burnt Store Marina project, protects natural resources, and provides continuing public access to the water via boat ramps and docks while managing the location and intensity of future commercial, residential and limited industrial uses by establishing realistic aesthetic requirements designed to allow Burnt Store Marina Village the ability to develop as a community center.

OBJECTIVE 25.1: The Burnt Store Marina Village is intended to encourage and facilitate redevelopment of the existing marina and commercial area located internal to the Burnt Store Marina project with an attractive mix of residential, marine, retail, hotel and office uses designed to enhance and protect the public use of, and access to, the waterfront and marina. Development of commercial retail, hotels, general office and marina related uses will predominate in the Burnt Store Marina Village. Limited residential and light industrial marine uses are also permitted to facilitate the proper development mix to allow integration of the Burnt Store Marina Village into the overall Burnt Store Marina project.

POLICY 25.1.1: The following uses are permitted within the Burnt Store Marina Village category; a maximum of 55,000 square feet of retail uses; a

maximum of 525 wet slips; a maximum of 800 dry storage spaces; a maximum of 15,000 square feet of office space; a maximum of 145 hotel units; and a maximum of 160 residential units. The maximum height permitted in this category is 220 feet.

POLICY 25.1.2: Redevelopment of any uses within the Burnt Store Marina Village must be accomplished through the Planned Development rezoning process in order to properly accommodate existing conditions, the proposed redevelopment plan, prevent adverse impacts to the surrounding areas and to ensure that appropriate site development regulations are incorporated into the development plans. Development in this future land use category is not required to comply with the site location criteria provided in Goal 6 if appropriate site development regulations are adopted into the planned development. New development in this category must connect to a potable water and sanitary sewer system.

POLICY 25.1.3: Lee County will cooperate with private developer efforts to create an identity for the Burnt Store Marina Village through unified architectural quality and creative site design that enhances the waterfront community and consists of scenic views, buildings with varying roof lines, open space, a pedestrian and neighborhood oriented activity center and enhanced buffering requirements.

POLICY 25.1.4: Lee County will work in conjunction with private developers to reserve existing marina facilities with on or off-site public parking spaces for vehicles and trailers and access for the benefit of the public.

POLICY 25.1.5: The residential and hotel development portions of this redevelopment project must be located outside of the Tropical Storm Surge Zone as depicted in the 1991 Hurricane Storm Tide Atlas for Lee County.

C. STAFF RECOMMENDATION AND FINDINGS OF FACT SUMMARY

- 1. RECOMMENDATION:** Planning staff recommends that the Board of County Commissioners transmit the proposed amendment, as modified by staff. Planning staff recommends that the Future land use Map 1 be amended by adding a new category to be known as Burnt Store Marina Village. Staff further recommends that Table 1(b) be amended so that four acres of the allocated residential acreage from the Rural be allocated to the new Marina Village Planning Community.

Staff recommends the Lee Plan be amended to create a new descriptor policy with an accompanying new Goal, Objective and Policies as follows:

POLICY 1.2.10: The Burnt Store Marina Village area provides for the redevelopment that enhances the existing character of the Burnt Store Marina project, protects natural resources, and provides continuing public access to the water via boat ramps and docks while managing the location and intensity of future commercial, residential and limited industrial uses by establishing realistic aesthetic requirements designed to allow Burnt Store Marina Village the ability to develop as a community center. The following uses are permitted within the Burnt Store Marina Village category; a maximum of 55,000 square feet of retail uses; a maximum of 525 wet slips; a maximum of 800 dry storage spaces; a maximum of 15,000 square feet of office space; a maximum of 145 hotel units; and a maximum of 160 residential units.

GOAL: BURNT STORE MARINA VILLAGE. To promote redevelopment that enhances the existing character of the Burnt Store Marina project, protects natural resources, and provides continuing public access to the water via boat ramps and docks while managing the location and intensity of future commercial, residential and limited industrial uses by establishing realistic aesthetic requirements designed to allow Burnt Store Marina Village the ability to develop as a community center.

OBJECTIVE 25.1: The Burnt Store Marina Village is intended to encourage and facilitate redevelopment of the existing marina and commercial area located internal to the Burnt Store Marina project with an attractive mix of residential, marine, retail, hotel and office uses designed to enhance and protect the public use of, and access to, the waterfront and marina. Development of commercial retail, hotels, general office and marina related uses will predominate in the Burnt Store Marina Village. Limited residential and light industrial marine uses are also permitted to facilitate the proper development mix to allow integration of the Burnt Store Marina Village into the overall Burnt Store Marina project.

POLICY 25.1.1: The following uses are permitted within the Burnt Store Marina Village category; a maximum of 55,000 square feet of retail uses; a maximum of 525 wet slips; a maximum of 800 dry storage spaces; a maximum of 15,000 square feet of office space; a maximum of 145 hotel units; and a maximum of 160 residential units. The maximum height permitted in this category is 135 feet if the parking is not integrated into the structure. If multiple layers of enclosed parking are placed under the multi-family or hotel use, the height may be increased by an additional 50 feet for a maximum height of 185 feet.

POLICY 25.1.2: Redevelopment of any uses within the Burnt Store Marina

Village must be accomplished through the Planned Development rezoning process in order to properly accommodate existing conditions, the proposed redevelopment plan, prevent adverse impacts to the surrounding areas and to ensure that appropriate site development regulations are incorporated into the development plans. Development in this future land use category is not required to comply with the site location criteria provided in Goal 6 if appropriate site development regulations are adopted into the planned development. New development in this category must connect to a potable water and sanitary sewer system.

POLICY 25.1.3: Lee County will cooperate with private developer efforts to create an identity for the Burnt Store Marina Village through unified architectural quality and creative site design that enhances the waterfront community and consists of scenic views, buildings with varying roof lines, open space, a pedestrian and neighborhood oriented activity center and enhanced buffering requirements.

POLICY 25.1.4: Lee County will work in conjunction with private developers to reserve existing marina facilities with on or off-site public parking spaces for vehicles and trailers and access for the benefit of the public.

POLICY 25.1.5: The residential and hotel development portions of this redevelopment project must be located outside of the Tropical Storm Surge Zone as depicted in the 1991 Hurricane Storm Tide Atlas for Lee County.

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

- The subject property and existing uses are not consistent with the description and definition of the Rural future land use category. The existing development of Burnt Store Marina consists of high intensity residential and commercial uses with a provision of urban services such as Fire and Police protection and utilities.
- Since 1983 the Department of Community Affairs has reviewed Burnt Store Marina, an existing development consisting of 626 acres, with respect to its Development of Regional Impact (DRI) status. Each time, the Department of Community Affairs has determined that Burnt Store Marina is vested from DRI review.
- On July 31, 2008, the Department of Community Affairs issued a Binding Letter of Modification (BLIM) to a Development with Vested Rights and a Binding Letter of Determination of Development of Regional Impact Status (BLID) for Punta Gorda Isles Section 22 (also known as Burnt Store Marina). Thus, finding that the proposed development in Section 22 and Tract C is below 100 percent of the applicable DRI

thresholds as provided in Section 380.0651(2)(d)1.a., F.S. Therefore, the project would not be required to undergo DRI review. However, this determination does not preclude the compliance with all other applicable federal, state or local government procedures such as zoning and development regulations.

- The proposed land use category will permit the redevelopment and expansion of the existing marina and related services. The project will be compatible with the surrounding community and will be served by adequate public facilities.
- No additional commercial acreage is being requested for the project, as the property is currently being utilized for commercial purposes. The applicant is seeking to improve an existing commercial development including water-dependent recreational uses.
- The creation and application of the land use category does not encourage urban sprawl, rather, the amendment represents redevelopment of an already urbanized portion of the Burnt Store Marina development. The proposed category contemplates multi-use development to complement the existing high density residential development within Burnt Store Marina.
- The amendment will create an exception to the commercial site location standards similar to those inherent to the County's new "Commercial" future land use category. The exception is justified in light of the amount of development that currently exists and is vested for Burnt Store Marina.
- The Hurricane Storm Tide Atlas depicts the location of the subject property within the Tropical Storm and Category 2 Storm Surge Zones. The applicant is requesting an additional 160 dwelling units. These new dwelling units will be restricted from location in the Tropical Storm Surge Zone.

D. BACKGROUND INFORMATION

1. EXISTING CONDITIONS:

SIZE OF PROPERTY: 18.25± acres; Total Uplands: 18.25± acres; Total Wetlands; None (See Attachment 2)

PROPERTY LOCATION: The Burnt Store development is located in the extreme northwest portion of the County. It is bounded by Charlotte County to the north, Burnt Store Road to the east, Cape Coral to the south and Charlotte Harbor to the west. Burnt Store Marina encompasses a total of 626 acres originally platted in 1973 as Punta Gorda Isles, Section 22 in Plat Book 28, Page 118.

The subject property, consisting of 18.25± acres is generally located on the west side of Burnt Store Road, specifically within the Burnt Store Marina development at 3150, 3090 and 3140-3200 Matecumbe Key Road, Punta Gorda.

EXISTING USE OF LAND: Marina, Hotel, Restaurant, Residential, Wet and Dry boat slips and vacant. (See Attachment 3)

CURRENT ZONING: The property is currently zoned Marine Commercial (CM), Residential Multiple-Family (RM-2) and RM-10.

There was a recent zoning case (Z-08-037; REZ2007-00020) to permit the rezoning of 1.33 acres of the subject property from RM-2 and RM-10 to Commercial Parking (CP). This case was heard before the Board of County Commissioners on Monday, September 15, 2008. The Board voted to deny the application without prejudice.

The RM-10 zoned parcel is currently vested for a maximum of 10 dwelling units per acre. Approval of the requested rezoning would limit future residential development of the subject property to a maximum of one dwelling unit per acre (Rural land use category). Approval of the requested Lee Plan Amendment will supercede this vesting and the proposed policy will set forth maximum land use regulations.

CURRENT FUTURE LAND USE CATEGORY: The subject property is designated Rural (See Attachment 4)

2. **REQUEST:**

The applicant is requesting a change in the subject property's future land use category from Rural to a new category entitled "Burnt Store Marina Village" future land use category. This category is proposed to permit redevelopment of existing uses on the subject property. The Rural future land use category currently permits a maximum of one dwelling unit per acre and minimal non-residential land uses that are needed to serve the rural community. There is not a specific limit for office and marine related uses.

The application encompasses four parcels, two of which are developed with the existing marina, wet and dry boat slips and ancillary uses.(see Attachment 5)

The application proposes a new land use category entitled (Burnt Store Marina Village" as follows:

Burnt Store Marina Village area is located within a portion of the property in Burnt Store Marina that was zoned for a mixture of commercial and residential uses in Lee County Resolution Z-77-63. The category is intended to facilitate the redevelopment of the

existing marina and commercial area of Burnt Store Marina for an attractive mix of marine, retail, hotel and office uses that enhances the public use of the waterfront. The following uses are permitted within this category; retail uses, up to a maximum of 55,000 square feet; wet slips, up to a maximum of 525; dry storage spaces, up to a maximum of 800; office space, up to a maximum of 15,000 square feet; a maximum of 145 hotel units; and a maximum of 160 residential units. The maximum height permitted in this category is 220 feet.

The applicant further proposes to amend the 2030 Planning Communities Acreage Table as follows:

1. Add a new line for "Burnt Store Marina Village" in the table;
2. Revise the acreage table as follows:
 - a. Commercial - 7 acres;
 - b. Industrial - 6 acres;
 - c. Residential - 4 acres;
 - d. Public - 1 acre

The applicant proposes to redevelop approximately 18.25± acres of Burnt Store Marina which currently houses wet boat slips, a dry storage building, office space, a restaurant and recreational uses. The surrounding uses are predominantly multiple-family residential structures with some single-family residential. The proposed amendment, if approved, will permit the applicant to add 15,000 square feet of office space; 160 residential units; 55,000 square feet of retail use with 300 parking spaces (garage); 145 hotel rooms, 525 wet slips (existing) and 800 dry boat storage spaces. The proposed dry storage buildings are depicted as industrial uses in accordance with the 2030 Planning Communities Acreage.

PART II - STAFF ANALYSIS

A. STAFF DISCUSSION INTRODUCTION

The proposed amendment is the result of a desire by a new owner to redevelop and expand the existing uses of the property from a limited mix of marine, residential, commercial-retail, hotel and office uses by creating a new future land use category specific to Burnt Store Marina. The new future land use category would facilitate the redevelopment of the existing uses that enhance the waterfront as well as permit continued public use of the boat ramp.

Burnt Store Marina is a unique community, consisting of 626± acres. The development is divided into two distinct sections, Marina Village located within Tract C and the Golf Course Subdivision located within Punta Gorda Isles, Section 22. The proposed amendment

encompasses 13.3 acres of Tract C and the addition of an adjacent 4.95 acres included within the Punta Gorda Isles, Section 22.

The Lee Plan, in the Vision for 2030, identifies the Burnt Store Planning Community as follows:

This community is located in the northwest corner of the mainland of unincorporated Lee County. The property east of Burnt Store Road is designated Open Lands and the land west of Burnt Store Road is designated as Rural (also known as Burnt Store Marina) with the exception of 10 acres designated as Outlying Suburban. Most of the Burnt Store Marina development was approved prior to the adoption of the 1984 Lee Plan and is "vested" for densities higher than allowed by the current plan. The development is primarily residential with a high percentage of seasonal residents. There are some commercial and marine oriented amenities within the Burnt Store Marina development primarily serving residents of that development. This area is expected to substantially grow through the year 2030. Today, most of the community's commercial needs are served outside of the community in Cape Coral, North Fort Myers and Fort Myers, or in Charlotte County. This development pattern is expected to remain through 2020. (Added by Ordinance No. 99-15, Amended by Ordinance No. 07-12)

The subject property currently houses some existing commercial land uses. The applicant is proposing to redevelop the subject property including enhancements to an existing marina and ancillary uses. The commercial uses will provide services to the surrounding residential land uses as well as provide the foundation for a mixed use community.

Two of the subject parcels are located in a designated "Water-Dependent Overlay Zone" depicted in Lee Plan Map 12 (page 9 of 12) (See Attachment 6). The Water-Dependent Overlay Zone is defined in Policy 1.7.5 of the Lee Plan as follows:

The Water-Dependent overlay zone designates shoreline areas where priority will be granted to water-dependent land uses. Specific requirements are detailed for such zones on San Carlos Island under Goal 12, in the Great Pine Island area under Goal 14 and other areas in Lee County in the Conservation and Coastal Management Element. (Amended by Ordinance No. 94-30, 00-22).

The Lee Plan further addresses water access in Goal 125 which encourages development and implementation of a public water access program.

Objective 125.2: Water Access in Private Developments. The county will encourage private landowners to provide some form of water access to the public. (Amended by Ordinance No. 00-22)

Objective 125.3: Develop techniques to encourage development and expansion of water-dependent recreational uses in Lee County waterways and discourage any conversion of water-dependent uses to non-water dependent uses. (Added by Ordinance No. 07-09)

The Lee Plan, Objective 128.6, establishes policies utilized to evaluate marina design criteria (new or expansion at existing marinas) in order to minimize negative impacts and to complement the county's development regulations.

Policy 128.6.6: Marinas and multi-slip docking facilities must prepare hurricane plans with the assistance of the county which describe measures to be taken to minimize damage to marina sites, neighboring properties and the environment; this hurricane plan is subject to county approval. (Amended by Ordinance No. 00-22)

Policy 128.6.13: Dry storage of small boats should be encouraged, with dry storage structures located inland as far as possible.

Policy 128.6.16: Expansion of dry storage capabilities will be strongly encouraged to reduce dredging. (Amended by Ordinance No. 00-22)

The Burnt Store Marina community is non-conforming in relation to the Rural future land use category. This development is more consistent with an urban or mixed use land use category.

Staff supports the applicant's request to provide for a land use category permitting the expansion of the existing water-dependent recreational facilities such as the dry storage building as set forth in the above-referenced policies. Staff further supports the proposed office space, retail uses, residential and hotel rooms which will support and complement the existing and proposed uses.

COMPREHENSIVE PLAN BACKGROUND

In 1984, upon adoption of the Lee Plan, the subject property was designated as part of the "Fringe" land use category described in the 1984 Lee Plan as follows:

These areas border designated Urban Service Areas yet are not a part of the Urban Service Area. The Plan recognizes these fringe areas as potentially

appropriate for development at Urban Community densities, although their overall lack of requisite infrastructure may delay such development unless private sector provision of services and facilities occurs. The Lee Plan does not target these areas for public expenditures. Therefore, development approvals will be wholly based upon a satisfactory demonstration of necessary infrastructure including potential fiscal mitigation for services such as EMS, police and fire protection, educational facilities, as well as all appropriate Plan Goals, Objectives, Policies and Standards. Developments that have lower levels of infrastructure, environmentally sensitive areas or potential negative impacts on potable water resources should be considered for the lower end of the density range and lower levels of intensity compatible with adjacent land uses.

In 1989, the Board of County Commissioners amended the Lee Plan at which time the “Fringe” land use category was eliminated and the Burnt Store Marina development was included within the “Rural” future land use category. The 1989 Lee Plan described the “Rural” future land use category as follows:

Policy 1.4.1: *The Rural areas are to remain predominantly rural - that is, low density residential, agricultural uses and minimal non-residential land uses that are needed to serve the rural community. These areas are not to be programmed to receive urban-type capital improvements, and they can anticipate a continued level of public services below that of the urban areas. Maximum density in the Rural area is one dwelling unit per acre (1 du/acre), except as may be permitted under the Planned Development District Option.*

The current Lee Plan includes the “Rural” future land use category in Objective 1.4: Non-Urban Areas, which are designated on the Future Land Use Map as categories for those areas not anticipated for urban development at this time as follows:

Policy 1.4.1: *The Rural areas are to remain predominantly rural - that is, low density residential, agricultural and minimal non-residential land uses that are needed to serve the rural community. These areas are not to be programmed to receive urban-type capital improvements and they can anticipate a continued level of public services below that of the urban areas. Maximum density in the Rural area is one dwelling unit per acre (1 du/acre). (Added by Ordinance No. 97-17, Amended by Ordinance No. 98-90, 00-22, 07-12)*

The applicant’s request is to create a new land use category, “Burnt Store Marina Village” area located within a portion of the property in Burnt Store Marina that is zoned for a mixture of commercial and residential uses. The proposed category would facilitate the redevelopment of the existing marina and commercial area of Burnt Store Marina. The

redevelopment will occur on 13.3 acres of the existing development and 4.95 acres of the additional 8.65 acres, for a total redevelopment area of 18.25 acres. The plan includes 15,000 square feet of office space, an addition of 160 residential units, 55,000 square feet of retail with 300 parking spaces (garage), 145 hotel rooms and a maximum of 1,325 wet and dry spaces.

HISTORY

On May 9, 2008, the applicant submitted a letter to the Department of Community Affairs requesting a Binding Letter of Modification (BLIM) to a Development of Regional Impact with Vested Rights Under Section 380.06 and 120.57, Florida Statutes with attachments the following chronological history:

- The first binding letter, dated October 26, 1973 found that proposed development for Section 22 is not vested from DRI review. That finding was reconsidered and reversed in a second binding letter. DCA binding letter dated July 5, 1974, supersedes the October 26, 1973 letter and concluded that the proposed development for Punta Gorda Isles-Section 22 is vested from DRI review.
- The 380.032 Agreement executed on May 20, 1986, stipulated that a total of 2,514 residential units within the Punta Gorda Isles-Section 22 plat is vested from DRI review. The 1986 Agreement between the owner and the County resolved a dispute as to whether the 239 platted home sites for which DCA recognized vested rights in its October 26, 1973 binding letter were sites for multiple-family buildings or for single-family units.
- The second 380.032 agreement was executed on January 30, 1987 and stipulated that a maximum of 323 wet spaces or 525 wet slips and 456 dry spaces in the Punta Gorda Isles - Section 22 project had vested rights from DRI review.

On May 28, 2008, the Department of Community Affairs responded to the applicant's letter requesting a BLIM/BLID for the Burnt Store Marina project requesting additional information. The applicant responded to the Department of Community Affairs on May 30, 2008 and provided the requested, additional information.

In response to the applicant's request, on July 31, 2008, the Department of Community Affairs issued Final Order No. DCA08-BL-204, including a Binding Letter of Modification to a Development with Vested rights (BLIM-09-2007-016) and a Binding Letter of Determination of Development of Regional Impact Status (BLID-09-2007-015) (see Attachment 7) for Punta Gorda Isles, Section 22 (also known as Burnt Store Marina) with the following conclusions:

1. Even though the additional development as demonstrated in paragraphs 9 and 10 exceeds the substantial deviation criteria in Sections 380.06(19)(b)13., F.S., the

Department finds that there are no regional impacts arising from the proposed changes that have not been previously reviewed. Therefore, the currently proposed plan of development for the Punta Gorda Isles Section 22 project does not divest any rights the developer has acquired under Section 380.06(20), F.S., to complete the development of the aforementioned Punta Gorda Isles Section 22 DRI.

2. The proposed development on the adjacent 8.65 acre parcel and portions of Tract C as demonstrated in paragraphs 11, 12 and 13 is below 100 percent of the applicable DRI thresholds as provided in Section 380.0651(2)(D1)1.a., F.S. Therefore, the proposed development on the adjacent 8.65 acres and portions of Tract C would not be required to undergo DRI review.
3. The plan of development on the adjacent 8.5 acre parcel and portions of Tract C is currently inconsistent with the Lee County Comprehensive Plan. No development may proceed until the amendment is made to the Lee County Comprehensive Plan that would allow for the planned development. The comprehensive plan amendment must also be consistent with Chapter 163, F.S., the State Comprehensive Plan and Chapter 9J-5, Florida Administrative Code. Thus, the following order was issued by the Department of Community Affairs.
4. The modification to the vested Punta Gorda Isles Section 22 DRI, as described above, will not be required to comply with the review requirements of Section 380.06, F.S.
5. The proposed modifications to the vested plan will not divest the vested rights to develop. If the changes described in the application for this binding letter are approved by the local government of jurisdiction and incorporated in a new development order, they will constitute the vested plan of development and must be followed by you and your successors. If any further changes are proposed for your project, they would be submitted by the applicant or successor(s) of the Department for comparison together with the impacts of the plan now vested in this letter. Should any of the above representations made by the applicant be substantially changed, further binding letter review of the project may be required.
6. The proposed development on the adjacent 8.65 acre parcel, which is not vested for DRI purposes and portions of Tract C, as described in paragraph 11, is not required to comply with the review requirements of Section 380.06, F.S.
7. The development on the adjacent 8.65 acre parcel, which is not vested for DRI purposes and portions of Tract C, will be considered cumulatively with any future additional development in terms of the guidelines and standards contained in Chapter 28-24, Florida Administrative Code and Section 380.0651, F.S., and its related impacts. Should any of the above representations made by the applicant be substantially changed, further review of the project may be required.

8. The binding letter as it applied to the unvested development on the adjacent 8.65 acre parcel and portions of Tract C will expire and become void as of July 25, 2011, unless the plan of development has been substantially commenced by this date. This date may be extended by mutual agreement of the Department, the local government of jurisdiction and the developer.
9. This determination does not obviate the need to comply with all other applicable federal, state or local government permitting procedures.
10. You have the right to request a formal administrative hearing if you dispute any issue of material fact in this binding letter. If a formal administrative proceeding is not requested, this binding letter constitutes final agency action and is subject to judicial review.

SURROUNDING ZONING, LAND USES AND FUTURE LAND USE DESIGNATION

North: Residential Multiple-Family (RM-2, RM-10)

Rural future land use category
Sunset Key Condominiums and
Prosperity Pointe Condominiums

South: Matecumbe Key Road, then

City of Cape Coral; Pedestrian Commercial District (C-1)
Mixed Land Use future land use category
Resort at Burnt Store Marina amenities

East: Matecumbe Key Road, then

Residential Multiple-Family (RM-10)
Commodore Condominiums; and
Courtside Landings Residential Planned Development (RPD)
A/k/a Harbour Villas
Outlying Suburban future land use category

West: Residential Multiple-Family (RM-2)

Rural future land use category
Marina South Shore Condominiums

The Keel Club Condominiums, consisting of 47 units, is also located adjacent to the subject property in the area between the proposed dry storage buildings and the proposed Marina Village commercial uses.

MAP 16 - PLANNING COMMUNITIES AND TABLE 1(b)

The subject property is located within the Planning Community of Burnt Store. In this community there are 700 acres allocated to residential uses in the Rural land use category. Recent Planning Division data indicates that 600 acres within this community are currently developed with residential uses, leaving a surplus of 100 acres that could be developed with residential uses in the Rural land use category before the year 2030. (see Attachment 8)

There are 50 acres allocated to commercial uses, with 19 acres indicated as currently developed, leaving a surplus of 31 acres that could be developed with commercial uses. There are five acres allocated to industrial uses. Four of these acres have been developed with industrial uses leaving a surplus of 31 acres that could be developed with commercial uses. There are five acres allocated to industrial uses. Four of these acres have been developed with industrial uses, including some allocations to Burnt Store Marina, leaving one acre available for new industrial development.

COASTAL

The Hurricane Storm Tide Atlas depicts the location of the subject property within the Tropical Storm and Category 2 Storm Surge Zones.

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

***Policy 105.1.4:** Through the Lee Plan amendment process, future land use designations of undeveloped areas within coastal high hazard areas will be considered for reduced density categories in order to limit the future population exposed to coastal flooding.*

Mitigation measures are currently established in the Land Development Code (LDC), Chapter 2, Article XI, Hurricane Preparedness. Adoption of the Lee Plan proposed amendment will result in requirement amendments to the LDC to further clarify and enforce that mitigation requirements will be based on a Category 5 storm event consistent with the changes made to Chapter 163.3178, F.S.

The Southwest Florida Regional Planning Council reviewed the subject property in regards to the 1991 Hurricane Storm Tide Atlas for Lee County. The subject property is located on Plates 1 and 4 of the Atlas. The attached maps indicate the current Coastal High Hazard Area along with three plates from the 1991 Hurricane Storm Tide Atlas. Since the parcel runs from

Charlotte Harbor to Burnt Store Road, the property is located in Tropical Storm Surge Zone to Category 3 Surge Zone. The specific surge heights for this site are as follows:

The subject property is located within Time-History Point 48. Based on an elevation of 5 feet, the site would be dry in a tropical storm; have 3 feet over it in a Category 1; 4.3 feet over it during a category 2; 8.5 feet over it during a category 3 and 15.3 feet over it during a category 4/5.

In accordance with the Lee Plan, Map 5, the subject property is not currently located within the designated Coastal High Hazard Area. The applicant is requesting an additional 160 dwelling units within the existing development and a maximum height of 220 feet. The applicant has provided information regarding the location of the proposed development within the Coastal High Hazard Area as depicted on the 1991 Hurricane Storm Tide Atlas for Lee County. This analysis shows the residential development area to be within the Category 2 Storm Surge area, and therefore outside of the Coastal High Hazard Area. (See Attachment 9) Thus, Staff proposes the following language to assure the residential development is not located within the Coastal High Hazard Area:

POLICY 25.1.5: *The residential and hotel development portions of this redevelopment project must be located outside of the Tropical Storm Zone as depicted in the 1991 Hurricane Storm Tide Atlas for Lee County.*

TRANSPORTATION/TRAFFIC CIRCULATION IMPACTS

The Lee County Department of Transportation (LCDOT) reviewed the request and has provided Planning staff written comments dated September 5, 2008 (see Attachment 10). This review was based on the initial submittal provided by the applicant. LCDOT concluded that based on the parameters (of the proposed development), utilizing the 2030 FSUTMS model, LCDOT staff determined that this land use change will not alter the future road network plans in this area. The applicant's subsequent resubmittal proposes a reduction in the amount of square footage originally presented, creating less impact to the road network.

The roads located within Burnt Store Marina are private in accordance with Case Number VAC2003-00072 adopted by the Board of County Commissioners on April 13, 2004 and recorded as Instrument Number 6260603 in the official records of Lee County). An access easement (see Attachment 11) has been entered into the official records of Lee County in Instrument Number 6285414 between the Punta Gorda Isles, Section 22 Homeowners Association, Inc. and Realmark Burnt Store Marina, LLC, (the applicant) providing an exclusive manner of ingress and egress to the subject property. This easement grants and conveys the Grantee (the applicant) and its successors and assigns, and its lessees, their contractors, customers, employees, guests, invitees and licensees, a perpetual, non-exclusive easement for ingress and egress only over and across the roads lying and being in the County of Lee, State of Florida as follows:

Big Pine Lane, Cape Cole Boulevard, Matecumbe Key Road, Sugarloaf Key Road, Marathon Way, Key Largo Lane, Key Largo Circle, Sable Key Circle, Marianne Key Road, Romano Key Circle, Big Pass Lane, Big Bend Circle, Islamorada Road (a/k/a Islamorada Boulevard) and Little Pine Circle, according to the Plat of Punta Gorda Isles, Section 22, recorded in Plat Book 28, at page 118, of the public records of Lee County, Florida and replatted in Plat Book 34, at page 92, of the public records of Lee County, Florida, and any amendments and supplements thereto.

This easement is restricted by and subject to the rules and regulations of the Punta Gorda Isles, Section 22 Homeowners Association, Inc., that may be adopted and amended from time to time, provided, however that such rules and regulations shall not interfere with, hinder or impede in any way grantee's rights as set forth herein. This easement may not be amended or terminated without the written joinder and consent of the grantee, its successors and assigns.

POPULATION ACCOMMODATION

The subject property consists of land that has previously been developed for commercial purposes. Two acres of the parcel are proposed to be redeveloped for 160 residential units. This will result in an a proposed increase of 334 persons (160 x 2.09 PPH) accommodated by the future land use map.

If the requested amendment is approved, it will be necessary to create a new row in the Planning Communities Acreage Table for the Burnt Store Marina Village Planning Community. The revised table should depict four acres of residential uses, seven acres of commercial, 1 acre of public and six acres of industrial uses (to accommodate the marina uses). The industrial and commercial allocations in the table do not need to be amended, there is ample allocation existing. The subject property is currently accommodated in the Rural future land use; thus, will require redistribution of four acres of the allocated residential acreage from the Rural to the proposed Burnt Store Marina Village Planning Community.

ENVIRONMENTAL CONSIDERATIONS

The Division of Environmental Sciences (ES) staff has reviewed the proposed Burnt Store Marina Comprehensive Plan Amendment and offered an analysis included as Attachment 12. Due to the limited scope of the request for Comprehensive Plan amendment, the project does not include environmentally sensitive areas. ES staff does not object to the proposed future land use category.

SOILS

A map of the soils located on the subject property consisting of 18.25± acres is included in the application. The type of indicated soils include Mayakka Fine Sand, Estero Muck,

Peckish Mucky Fine Sand, Immokalee Sand, Smyrna Sand, Myakka Find Sand, depressional and Matlacha Gravely Fine Sand.

SURFACE WATER MANAGEMENT

Burnt Store Marina utilizes multiple drainage basins comprised of existing surface water management systems which include dry detention areas for pretreatment of water runoff and wet detention lakes for rain storage during large flood events. The proposed 18.25 acre redevelopment area is part of an existing Department of Environmental Protection (DEP) permit and South Florida Water Management District Permit (SFWMD), which will require modification and review by Lee County Natural Resources prior to development order approval. The surface water management systems within the redevelopment area are not expected to increase in size due to the fact that the existing site area has about the same impervious area to pervious area ratio.

MANATEE PROTECTION

The Lee County division of Natural Resources reviewed the application relative to manatee protection. The site rates as *preferred* under the Manatee Protection Plan and the number of slips proposed are consistent with that finding. The applicant will be required to comply with all applicable standard construction conditions for manatee protection including development of an education program for marina users.

HISTORIC RESOURCES

The application includes a letter dated September 28, 2007 from the Division of Historical Resources, Florida Department of State (See attachment 13). This letter provides the following information:

*In response to your inquiry of September 27, 2007, the Florida Master Site File lists no previously recorded cultural resources in the following parcels:
T43S, R22E, Section 1*

In interpreting the results of our search, please remember the following points:

- *Areas which have not been completely surveyed, such as yours, may contain unrecorded archaeological sites, unrecorded historically important structures, or both.*
- *As you may know, state and federal laws require formal environmental review for some projects. Record searches by the staff of the Florida Master Site File do not constitute such a review of cultural resources. If your project falls under these laws, you should contact the Compliance Review Section of the Bureau of Historic Preservation.*

Lee County staff notes that there are areas on the subject property designated on the Lee County Archaeological Sensitivity Map as Sensitivity Level 2. Chapter 22 of the Lee County Land Development Code (LDC) defines the Sensitivity Level 2 as follows:

“Those areas containing known archaeological sites that have not been assessed for significant but are likely to conform to the criteria for local designation, or areas where there is a high likelihood that unrecorded sites of potential significance are present.”

Staff is not aware of any historic or archaeological resources occurring on this site; however, the applicant will be required to obtain a “Certificate to dig” permit from Lee County prior to or in conjunction with the issuance of a final development order for activity within areas designated as being within the “Sensitivity Level 2” areas. “Activity” in this context means new construction, filling, digging, removal of trees or any other activity that may alter or reveal an interred archaeological site.

SCHOOL IMPACTS

Lee County School district staff reviewed the proposal and provided written comments dated June 25, 2008 (see Attachment 14). The School District staff reviewed the project on the assumption that the proposal would add a marina, restaurant and other commercial uses as well as 160 new multi-family residential units. The review letter provides that 160 new multi-family dwelling units would generate 20 additional school-aged children and is calculated at .125 per unit. The commercial use would have no impact. Any development of the subject property will be assessed the applicable school impact fees.

PARKS, RECREATION AND OPEN SPACE

The applicant provided an analysis regarding Parks, Recreation and Open Space. The subject property is located within the North Fort Myers Community Park district. The proposed increase of 160 residential units will create a demand for .27 acres of community park acreage in the North Fort Myers district. According to the 2007 Concurrency Inventory, the projected minimum level of service in the North Fort Myers District in 2010 is approximately 50 acres, while 166 acres of developed parks currently exist. The additional residential units contemplated by the amendment application will not adversely impact parks, recreation and open space.

POLICE

The subject property is located within the service area of the Lee County Sheriff's Department. The developer will be required to coordinate with the Office of the Sheriff throughout the development process at which time a Crime Prevention through Environmental Design study will be required for review and approval. This study will be required for implementation into the Planned Development process.

FIRE AND EMERGENCY MEDICAL SERVICES (EMS)

The subject property is located within the Burnt Store Fire District. The applicant has provided a copy of an Interlocal Agreement between the City of Cape Coral and the Burnt Store Area Fire Service Municipal Taxing Unit (MSTU) (see Attachment 15) to provide fire protection to the residents of Burnt Store Marina. This Agreement, which is reviewed and renewed on an annual basis, will consider the addition of new construction, including but not limited to, buildings and marina facilities during the renewal process.

The Interlocal Agreement establishes fire protection and prevention services, such as work, materials and all related professional, technical, administrative, fire suppression and related services, basic first response rescue, fire company level prevention services, fire inspection services and safety activities that are necessary to perform fire protection and prevention services to the Burnt Store Marina community.

Lee County Emergency Medical Services (LCEMS) staff reviewed the request and provided written comments dated April 17, 2008 (see Attachment 16). This letter provides the following comments:

This current location is served by LCEMS Station 28, located at 707 SW 1st Street, Cape Coral, FL, which is approximately 12.50 miles away. Our response time to this location is 15± minutes, which does not meet our core service level response standards of 8:59 minutes or less in 90% of the total emergency responses as required by Lee County Ordinance #02-19. In the event that Station 28 is busy on a response, the next closest station is LCEMS Station 22, located at 152 SE 13th St., Cape Coral, FL, approximately 14.50 miles away. This statement does not indicate that any plans have been received, it just identifies that Lee County EMS has concerns with the ability to provide service to this area. Current resources prohibit establishing and staffing an EMS station close to this department.

Burnt Store Marina is served by the City of Cape Coral Fire Department, Station 7, located at 3942 Burnt Store Road, approximately two miles from the main entrance gate to the development. This station is equipped with first response equipment including an Advanced Life Support (ALS) vehicle. The Cape Coral Fire Department does not provide ambulatory service for transport; however, is responsible for emergency medical services until such time EMS arrives on site. The City of Cape Coral Fire Department offered no objection to the requested height of 220 feet noting that current building, fire and development codes address life safety regulations and they are equipped to provide service to structures built to this height.

SOLID WASTE

The Lee County Solid Waste Division staff has reviewed the request and provided written comments dated June 26, 2008 (see Attachment 17). This letter states that the Lee County Solid Waste Division is capable of providing solid waste collection services for the proposed additional uses requested for the expansion of the Burnt Store Marina Village located on Matecumbe Key Road through our franchised hauling contractors. Disposal of the solid waste from this project will be accomplished at the Lee County Resource Recovery Facility and the Lee Hendry Regional Landfill.

Further, the Solid Waste Ordinance, as amended, and LDC, Chapter 10, Section 10-261 have requirements for providing on-site space for placement and servicing of commercial solid waste containers.

MASS TRANSIT

The applicant indicates that there is no existing or proposed mass transit in conjunction with this request. However, Lee County Transit states that the Lee County Long Range Plan indicates the need for a Park and Ride lot in the vicinity of this project where commuter bus service would begin, providing transportation needs through North Cape Coral and terminating in downtown Fort Myers.

UTILITIES

The subject property is located in the Charlotte County Utilities service area for the provision of potable water and sanitary sewer services. The applicant has provided letters from Charlotte County Government dated June 25, 2008 confirming the availability and capacity of potable water, reclaimed water and sanitary sewer services to the subject property (see Attachment 18).

Potable water services are provided by the Burnt Store Reverse Osmosis Treatment Plant. Sanitary sewer and reclamation water services are provided by the Burnt Store Water Reclamation Facility. Utility services will be made available to the subject property upon extension of the water distribution and wastewater collection system and execution of an agreement with the owner/developer and Charlotte County Utilities.

The applicant states that the existing water and sanitary sewer usage equates to an estimated 21,390 gallons per day (GPD). This entails 7,700 square feet of retail space; 10,300 square feet of restaurant space and 15,000 square feet of office space.

The new proposed uses including 145 new hotel units, additional retail space, additional restaurant space and 160 new multiple family residential units will generate approximately 63,160 GPD. Thus, the existing and proposed uses will generate approximately 84,550 GPD of water and sanitary sewer usage.

STATE AND REGIONAL PLAN CONSISTENCY

The applicant states that the proposed amendment is consistent with the following State and Regional Plan provisions:

State Plan

Policy 8(b)10: The new category permits expanded water-dependent facilities along the shoreline.

Policy 15(b)3: The new category will also encourage a more attractive and functional mix of uses on the site.

Regional Plan

Goal 2, Strategy 1, Action 4: The applicant is proposing to redevelop an existing commercial site to create an attractive and functional mixed use community.

B. CONCLUSION

Most of the urban services required to support the proposed change of land use and redevelopment are in place or can be made available. The applicant is proposing redevelopment of 18.25± acres to accommodate new development of 145 hotel rooms, 160 dwelling units, a maximum of 55,000 square feet of retail with 300 parking spaces (garage), a maximum of 15,000 square feet of office space and a maximum of 525 wet slips (existing) and 800 dry storage spaces.

The proposed amendment does not promote urban sprawl, as the subject property is located within an existing and approved residential and commercial urban development as well as commercial marina uses. The existing uses are not restricted to the residents of Burnt Store Marina and are currently utilized by the public. The existing development is not consistent with the rural future land use category.

The LDC, Article 19, Section 34-1802(4), paragraphs b and d regulates density requirements for hotels and motels. For developments within conventional zoning districts located within Lee Plan future land use map categories that have maximum standard density limits, rental unit density is based on a ratio of the number of units and total floor area. Hotels/motels approved as planned developments are not subject to rental unit size or density requirements provided all other aspects of the development (i.e. height, traffic, intensity of use, etc.) are found to be compatible with the surrounding area and otherwise consistent with the Lee Plan. The applicant will be required to rezone the subject property to a planned development.

REDEVELOPMENT

Redevelopment of an aging or antiquated land uses is an important part of maintaining a healthy and vibrant community. While there has been some redevelopment in Lee County in the past, we are entering a phase where

redevelopment will be needed more and more. How we plan, oversee, regulate and promote this redevelopment is an emerging issue that needs policy direction from the Board of County Commissioners.

The proposed redevelopment plans for both Burnt Store Marina and Old San Carlos Island offer some important challenges and opportunities that need to be addressed. The single biggest issue for these proposals is the challenge of the changing of the existing urban form. Urban form includes density, intensity and building mass.

Redevelopment will be very limited if it is restricted to the demolition of existing uses that can only be rebuilt to their current density and intensity. This is why redevelopment proposals will almost always include an increase in density, more commercial intensity or increases in building mass, or any combination of the three. These increases form the incentives that make the redevelopment project economically viable.

The Burnt Store Marina redevelopment proposal is asking for increased entitlements and also increased building height. Staff has evaluated the proposal and is recommending the full intensity and density request for the Burnt Store Marina Redevelopment Plan. Staff is recommending an increase in the maximum allowable height. The recommendation restricts the increase in height to 135 feet if the parking is not integrated into the structure. If multiple layers of enclosed parking are placed under the multiple-family or hotel use, staff is recommending increasing the height by an additional 50 feet for a maximum height of 185 feet.

This recommendation is based on attaining the desired urban form that will allow the redevelopment to create an at grade pedestrian friendly space where the retail, the water and the people can interact.

BUILDING HEIGHT

Building Height has become a critical component of the Burnt Store Redevelopment proposal. The mixed use pedestrian friendly objective requires an urban form unlike the single use or separated use development patterns typically found in Lee County. Mid-rise multiple-family or hotel development of 9 or 10 stores requires a large amount of surface parking which makes the site very pedestrian unfriendly. Allowing up to four or five levels of enclosed parking structure under the residential or hotel units results in site area to be utilized as a mixed use pedestrian friendly urban space. Locating the parking under the residential or hotel use allows the development to create an at grade atmosphere where the retail, the water and the people can intermingle. This type of site development also allows for additional green areas and enhanced landscaping.

In response to this, staff is recommending restricting the height to 135 feet if the parking is not integrated into the structure. If multiple layers of enclosed parking are placed under the multi family or hotel use, staff is recommending increasing the height by an additional 50 feet for a maximum height of 185 feet.

C. STAFF RECOMMENDATION:

Planning staff recommends that the Board of County Commissioners transmit the proposed amendment, as modified by Staff as follows:

POLICY 1.2.10: The Burnt Store Marina Village area provides for the redevelopment that enhances the existing character of the Burnt Store Marina project, protects natural resources, and provides continuing public access to the water via boat ramps and docks while managing the location and intensity of future commercial, residential and limited industrial uses by establishing realistic aesthetic requirements designed to allow Burnt Store Marina Village the ability to develop as a community center. The following uses are permitted within the Burnt Store Marina Village category; a maximum of 55,000 square feet of retail uses; a maximum of 525 wet slips; a maximum of 800 dry storage spaces; a maximum of 15,000 square feet of office space; a maximum of 145 hotel units; and a maximum of 160 residential units.

GOAL: BURNT STORE MARINA VILLAGE. To promote redevelopment that enhances the existing character of the Burnt Store Marina project, protects natural resources, and provides continuing public access to the water via boat ramps and docks while managing the location and intensity of future commercial, residential and limited industrial uses by establishing realistic aesthetic requirements designed to allow Burnt Store Marina Village the ability to develop as a community center.

OBJECTIVE 25.1: The Burnt Store Marina Village is intended to encourage and facilitate redevelopment of the existing marina and commercial area located internal to the Burnt Store Marina project with an attractive mix of residential, marine, retail, hotel and office uses designed to enhance and protect the public use of, and access to, the waterfront and marina. Development of commercial retail, hotels, general office and marina related uses will predominate in the Burnt Store Marina Village. Limited residential and light industrial marine uses are also permitted to facilitate the proper development mix to allow integration of the Burnt Store Marina Village into the overall Burnt Store Marina project.

POLICY 25.1.1: The following uses are permitted within the Burnt Store Marina Village category; a maximum of 55,000 square feet of retail uses; a maximum of 525 wet slips; a maximum of 800 dry storage spaces; a

maximum of 15,000 square feet of office space; a maximum of 145 hotel units; and a maximum of 160 residential units. The maximum height permitted in this category is 135 feet if the parking is not integrated into the structure. If multiple layers of enclosed parking are placed under the multi-family or hotel use, the height may be increased by an additional 50 feet for a maximum height of 185 feet.

POLICY 25.1.2: Redevelopment of any uses within the Burnt Store Marina Village must be accomplished through the Planned Development rezoning process in order to properly accommodate existing conditions, the proposed redevelopment plan, prevent adverse impacts to the surrounding areas and to ensure that appropriate site development regulations are incorporated into the development plans. Development in this future land use category is not required to comply with the site location criteria provided in Goal 6 if appropriate site development regulations are adopted into the planned development. New development in this category must connect to a potable water and sanitary sewer system.

POLICY 25.1.3: Lee County will cooperate with private developer efforts to create an identity for the Burnt Store Marina Village through unified architectural quality and creative site design that enhances the waterfront community and consists of scenic views, buildings with varying roof lines, open space, a pedestrian and neighborhood oriented activity center and enhanced buffering requirements.

POLICY 25.1.4: Lee County will work in conjunction with private developers to reserve existing marina facilities with on or off-site public parking spaces for vehicles and trailers and access for the benefit of the public.

POLICY 25.1.5: The residential and hotel development portions of this redevelopment project must be located outside of the Tropical Storm Surge Zone as depicted in the 1991 Hurricane Storm Tide Atlas for Lee County.

Planning staff further recommends that the Future Land Use Map 1 be amended by adding a new category to be known as Burnt Store Marina Village.

ATTACHMENTS:

1. Copy of CPA2007-00054 application
2. Aerial/outline of Subject Property
3. Adjacent land uses/Future Land Use Map (2 pages)
4. Existing Land Uses Map (2 pages)
5. Map of Proposed 2030 Use Allocation provided by Applicant
6. Lee Plan Map 12 - Water Dependent Overlay Zones
7. Department of Community Affairs Letter dated July 31, 2008
8. Lee Plan Map 16
9. Lee Plan Coastal High Hazard Area (CHHA)
10. Memorandum from Lee County Department of Transportation (LCDOT) dated September 5, 2008 and applicant's Traffic Circulation Analysis
11. Copy of Access Easement
12. Memorandum from Lee County Environmental Sciences
13. Letter from Division of Historical Resources dated September 28, 2007
14. Letter from The School District of Lee County dated June 25, 2008
15. Interlocal Agreement between City of Cape Coral and the Burnt Store Area Fire Service Municipal Taxing Unit
16. Letter from Lee County Emergency Management Services dated April 17, 2008
17. Letter from Lee County Solid Waste Division dated June 26, 2008
18. Letters from Charlotte County Utilities dated June 25, 2008
19. Memorandum from the Office of County Attorney dated November 28, 2006
20. Communications received from the public

PART III - LOCAL PLANNING AGENCY REVIEW AND RECOMMENDATION

PUBLIC HEARING DATES: **SEPTEMBER 22, 2008**
 SEPTEMBER 29, 2008

A. LOCAL PLANNING AGENCY REVIEW - SEPTEMBER 22, 2008

The first public hearing before the LPA was held on Monday, September 22, 2008. Staff introduced the request and requested a continuance for the staff presentation based on continued discussions with the applicant regarding the requested density, height, continued public access to the boat ramp, provision of truck and trailer parking and additional information regarding coastal high hazard analysis and location of proposed uses. The applicant made a presentation and public comment was accepted.

During the applicant's presentation, it was noted that the Burnt Store Marina is the largest marina on the west coast of Florida. The amendment will permit a mixed use redevelopment plan encompassing the marina. The applicant stressed that the location of the proposed residential and hotel units is outside of the designated Coastal High Hazard Area. The request includes a maximum height of 220 feet to include four to five levels of parking under 10 to 12 stories of residential and hotel uses.

Fifteen Burnt Store Marina residents spoke at the hearing. Six spoke in support and nine spoke in opposition. Those that spoke in support addressed the need to update and improve the existing facilities, provide landscaping and construction of new facilities that meet current building standards. They spoke to the provision of commercial uses for the community and plans for future growth. Residents who reside on Matecumbe Key Road, which is in proximity to the gate utilized for construction and service vehicles, did not oppose the proposed amendment, stressing the need for improvement and progress within the development.

Concern was expressed regarding the absence of many part-time residents of Burnt Store Marina who would not have an opportunity to address the Board.

Those in opposition expressed concern regarding an increase in traffic, density, safety, height, noise and congestion. Specifically, improvements to the marina and the addition of commercial and hotel uses would increase the traffic traveling through a primarily residential community. However, some residents that spoke in opposition did support improvements to the marina for continued operations. Some of the residents questioned if Burnt Store Marina is a vacation destination requiring a hotel and ancillary commercial uses.

LOCAL PLANNING AGENCY REVIEW - SEPTEMBER 29, 2008

Staff presented the requested Plan amendment noting support of the redevelopment and

revitalization plan for the Burnt Store Marina Village. The Burnt Store Marina, a development of 626 acres, has been in existence in Lee County since the early 1970s and although is located in the Rural future land use, the property is not consistent with the definition or description of a rural use. The existing development of Burnt Store Marina consists of high-intensity residential and commercial uses.

Staff recommended the full intensity and density request for the plan consisting of retail, wet slips, dry storage spaces, office space, hotel and residential units. However, staff's recommendation differs from the applicant's request regarding the proposed height. Staff recommends a maximum height of 135 feet if parking is not integrated into the structure. If multiple layers of parking are proposed under multiple family or hotel uses, the height may be increased by an additional 50 feet for a maximum height of 185 feet. Staff recommended that the LPA transmit the request, as amended, for the proposed land use category, Burnt Store Marina Village, in support of the defining statement, Policy 1.2.10, with supporting language in Goal 25, Objective 25.1 and Policies 25.1.1 through 25.1.5 to the Board of County Commissioners.

The LPA questioned Staff regarding the proposed density, coastal high hazard, manatee protection plan and the combination of or separation of the maximum number of wet and dry boat slips and storage.

Staff had initially expressed concern regarding a Memo issued by the Office of County Attorney (see Attachment 20) regarding the density of the existing Marina Village Land Use Plan, which encompasses the subject property. This area is currently vested for a total of 734 dwelling units. In 2006, it appeared that there were 794 dwellings existing in the Marina Village parcel; therefore, a determination was made that no additional dwelling units could be constructed under the current Rural land use category. However, Staff determined that the proposed Burnt Store Marina Village land use category would supercede this determination permitting the request of the applicant for the 160 additional dwelling units.

Staff also addressed additional information regarding the location of the proposed residential and hotel units. The applicant has demonstrated that the proposed dwelling and hotel units are located outside of the designated Coastal High Hazard Area. A Policy is recommended to ensure that these uses will not be permitted within a designated Coastal High Hazard Area.

Staff recommended language whereby separating the number of proposed wet and dry boat slips and storage based on language in the Department of Community Affairs binding letter. The number of slips varies based on the definition and determination of the use. Marina uses are no longer subject to State Statute regulations and review regarding Developments of Regional Impact (DRI); therefore, staff does not object to the recommendation of the LPA to combine the maximum permitted number of wet and dry spaces. It was noted that redevelopment of marina uses will be subject to provisions of the Manatee Protection Plan.

There was no additional public comment regarding the proposed maximum height of the buildings and the additional dwelling units.

B. LOCAL PLANNING AGENCY RECOMMENDATION AND FINDINGS OF FACT SUMMARY

1. **RECOMMENDATION:** The LPA agreed with the applicant regarding the combination of the number of permitted slips and the economics involved with this type of development. This is a function reviewed and permitted by local and state agencies based on the available space. It was further noted that current regulations contained in the Lee Plan do not govern the number of permitted boat slips in a land use category and a cumulative number of 1,325 wet and dry spaces is appropriate.

By a vote of 3 to 1, the LPA voted that the request is consistent with the Lee Plan and recommended that the Board of County Commissioners transmit the amendment as proposed by staff, with the following changes provided in strike-through and double-underline format:

The following uses are permitted within the Burnt Store Marina Village category; a maximum of 55,000 square feet of retail uses; ~~a maximum of 525 wet slips; a maximum of 800 dry storage spaces~~ 1,325 wet and dry spaces; a maximum of 15,000 square feet of office space; a maximum of 145 hotel units; and a maximum of 160 residential units. The maximum height permitted in this category is 220 feet ~~135 feet if the parking is not integrated into the structure. If multiple layers of enclosed parking are placed under the multi-family or hotel use, the height may be increased by an additional 50 feet for a maximum height of 185 feet.~~

2. **BASIS AND RECOMMENDED FINDINGS OF FACT:** As contained in the Staff Report with proposed amendments to permit a combination of wet and dry slips and storage spaces for a total of 1,325 wet and dry spaces and a maximum height of 220 feet.

C. NO VOTE WAS TAKEN ON SEPTEMBER 22, 2008

VOTE: SEPTEMBER 29, 2008

CARLETON RYFFEL **ABSENT**
(Chair)

LES COCHRAN **AYE**
(Vice-Chair)

NOEL ANDRESS **AYE**

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

DATE OF TRANSMITTAL HEARING: October 23, 2008

- A. **BOARD REVIEW:** Staff provided a brief overview of the privately initiated comprehensive plan amendment including a description of the applicant's request, the subject property and the existing Burnt Store Marina development. Staff noted that the current rural future land use category is not consistent with the existing development. Staff reviewed the differences between staff's recommendation and the LPA recommendation. The applicant requested a maximum height of 220 feet, which was supported by the LPA. However, staff's recommendation is a maximum of 135 feet if the parking is not integrated into the structure and surface parking is utilized and 185 feet in height if multiple layers of enclosed parking are placed under the proposed multiple-family or hotel uses.

Staff clarified the recommended language regarding the wet and dry boat storage spaces. Staff recommended a distinction between 525 wet slips and 800 dry storage spaces based on the binding letter and communication with the Department of Community Affairs. The LPA recommended language to combine the uses into a total of 1,325 wet and dry spaces. Staff does not object to this modification. Staff addressed issues related to coastal high hazard designation and the proposed location of the 160 dwelling units and hotel, density, hurricane preparedness and evacuation criteria. Staff stressed that the amendment would provide guidelines for maximum development criteria. The proposed policies require that any development or redevelopment of the subject property requires rezoning through the planned development process which provides staff the opportunity to work with the public and the applicant to develop conditions to address compatibility with the existing land uses.

The applicant provided a comprehensive review of the request and redevelopment plans. This presentation included a conceptual redevelopment plan including proposed location of buildings and architectural renderings. It was noted that the redevelopment plan is to establish guidelines and is not creating specific entitlements.

Seven residents of Burnt Store Marina spoke in opposition to the comprehensive plan amendment. Their comments focused on the proposed density and height, potential increase in traffic, noise, interruption of water views, utilities, Manatee protection and related development issues. At the request of the Board, one additional letter of opposition was read into the record by staff.

At the request of the Board of County Commissioners, the staff and applicant provided the history of the Burnt Store Marina Development noting that the current vesting plan includes development of multiple-family dwellings, marina and hotel uses.

Some members of the Board expressed concern regarding the proposed intensity of the redevelopment plan. There were no traffic concerns relayed by the Lee County Department of Transportation. The Board noted that the comprehensive plan amendment proposes maximum allowable development and redevelopment criteria. Specific regulations will be implemented at the time of zoning to permit revitalization and enhancement of the existing Burnt Store Marina Village. The Board further reiterated that the transmittal hearing provides for the Department of Community Affairs' review of the proposed plan amendment and does not approve the proposed redevelopment project as represented.

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

1. **BOARD ACTION:** The Board voted unanimously to **transmit** the amendment as recommended by staff with the amendments recommended by the LPA.
2. **BASIS AND RECOMMENDED FINDINGS OF FACT:** The Board accepted the finding as advanced by staff and amended by the LPA. The Board proposed transmittal is referenced in Part 1. B. on pages 3 and 4 of this staff report.

C. VOTE:

A. BRIAN BIGELOW	AYE
TAMMARA HALL	AYE
BOB JANES	AYE
RAY JUDAH	AYE
FRANKLIN B. MANN	AYE

**PART V - DEPARTMENT OF COMMUNITY AFFAIRS OBJECTIONS,
RECOMMENDATIONS, AND COMMENTS (ORC) REPORT**

DATE OF ORC REPORT:

- A. DCA OBJECTIONS, RECOMMENDATIONS AND COMMENTS**
- B. STAFF RESPONSE**
- C. STAFF RECOMMENDATION**

**PART VI - BOARD OF COUNTY COMMISSIONERS
HEARING FOR ADOPTION OF PROPOSED AMENDMENT**

DATE OF ADOPTION HEARING:

A. BOARD REVIEW:

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

1. BOARD ACTION:

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

C. VOTE:

A. BRIAN BIGELOW	
TAMMARA HALL	
BOB JANES	
RAY JUDAH	
FRANKLIN B. MANN	

**CPA2007-54
BURNT STORE MARINA
PRIVATE INITIATED
AMENDMENT
TO THE**

LEE COUNTY COMPREHENSIVE PLAN

THE LEE PLAN

Privately Initiated Application
and Lee County Staff Analysis

**BoCC Public Hearing Document
for the
October 22, Public Hearing**

*Lee County Planning Division
1500 Monroe Street
P. O. Box 398
(239) 533-8585*

October 8, 2008

**LEE COUNTY
DIVISION OF PLANNING
REVISED STAFF REPORT FOR
COMPREHENSIVE PLAN AMENDMENT
CPA2007-00054**

✓	Text Amendment	✓	Map Amendment
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This Document Contains the Following Reviews:

✓	Staff Review
✓	Local Planning Agency Review and Recommendation
✓	Board of County Commissioners Hearing for Transmittal
	Staff Response to the DCA Objections, Recommendations and Comments (ORC) Report
	Board of County Commissioners Hearing for Adoption

STAFF REPORT PREPARATION DATE: October 25, 2008

PART I - BACKGROUND AND STAFF RECOMMENDATION

A. SUMMARY OF APPLICATION

1. APPLICANT/REPRESENTATIVE

Realmark Burnt Store Marina, LLC, Applicant

Matthew D. Uhle, Esq., Knott, Consoer, Ebelini, Hart and Swett PA, Authorized Representative

- 2. REQUEST:** Amend the Lee Plan's Future Land Use Map series, Map 1, for 18.25± acres in Section 1, Township 43, South, Range 22 East and Section 6, Township 43 South, Range 23 East, Lee County, Florida from Rural to Burnt Store Marina Village Future Land Use Category. Amend Table 1(b) to reallocate seven acres of commercial, six acres of industrial, four acres of residential and one acre of public land uses acres to accommodate the proposed development. (See Attachment 1 - application)

B. STAFF RECOMMENDATION AND FINDINGS OF FACT SUMMARY

1. **RECOMMENDATION:** Planning staff recommends that the Board of County Commissioners transmit the proposed amendment, as modified by staff. Planning staff recommends that the Future land use Map 1 be amended by adding a new category to be known as Burnt Store Marina Village. Staff further recommends that Table 1(b) be amended so that four acres of the allocated residential acreage from the Rural be allocated to the new Marina Village Planning Community.

Staff recommends the Lee Plan be amended to create a new descriptor policy with an accompanying new Goal, Objective and Policies as follows:

POLICY 1.2.10: The Burnt Store Marina Village area provides for the redevelopment that enhances the existing character of the Burnt Store Marina project, protects natural resources, and provides continuing public access to the water via boat ramps and docks while managing the location and intensity of future commercial, residential and limited industrial uses by establishing realistic aesthetic requirements designed to allow Burnt Store Marina Village the ability to develop as a community center. The following uses are permitted within the Burnt Store Marina Village category; a maximum of 55,000 square feet of retail uses; a maximum of 525 wet slips; a maximum of 800 dry storage spaces; a maximum of 15,000 square feet of office space; a maximum of 145 hotel units; and a maximum of 160 residential units.

GOAL: BURNT STORE MARINA VILLAGE. To promote redevelopment that enhances the existing character of the Burnt Store Marina project, protects natural resources, and provides continuing public access to the water via boat ramps and docks while managing the location and intensity of future commercial, residential and limited industrial uses by establishing realistic aesthetic requirements designed to allow Burnt Store Marina Village the ability to develop as a community center.

OBJECTIVE 25.1: The Burnt Store Marina Village is intended to encourage and facilitate redevelopment of the existing marina and commercial area located internal to the Burnt Store Marina project with an attractive mix of residential, marine, retail, hotel and office uses designed to enhance and protect the public use of, and access to, the waterfront and marina. Development of commercial retail, hotels, general office and marina related uses will predominate in the Burnt Store Marina Village. Limited residential and light industrial marine uses are also permitted to facilitate the proper development mix to allow integration of the Burnt Store Marina Village into the overall Burnt Store Marina project.

POLICY 25.1.1: The following uses are permitted within the Burnt Store Marina Village category; a maximum of 55,000 square feet of retail uses; a maximum of 525 wet slips; a maximum of 800 dry storage spaces; a maximum of 15,000 square feet of office space; a maximum of 145 hotel units; and a maximum of 160 residential units. The maximum height permitted in this category is 135 feet if the parking is not integrated into the structure. If multiple layers of enclosed parking are placed under the multi-family or hotel use, the height may be increased by an additional 50 feet for a maximum height of 185 feet.

POLICY 25.1.2: Redevelopment of any uses within the Burnt Store Marina Village must be accomplished through the Planned Development rezoning process in order to properly accommodate existing conditions, the proposed redevelopment plan, prevent adverse impacts to the surrounding areas and to ensure that appropriate site development regulations are incorporated into the development plans. Development in this future land use category is not required to comply with the site location criteria provided in Goal 6 if appropriate site development regulations are adopted into the planned development. New development in this category must connect to a potable water and sanitary sewer system.

POLICY 25.1.3: Lee County will cooperate with private developer efforts to create an identity for the Burnt Store Marina Village through unified architectural quality and creative site design that enhances the waterfront community and consists of scenic views, buildings with varying roof lines, open space, a pedestrian and neighborhood oriented activity center and enhanced buffering requirements.

POLICY 25.1.4: Lee County will work in conjunction with private developers to reserve existing marina facilities with on or off-site public parking spaces for vehicles and trailers and access for the benefit of the public.

POLICY 25.1.5: The residential and hotel development portions of this redevelopment project must be located outside of the Tropical Storm Surge Zone as depicted in the 1991 Hurricane Storm Tide Atlas for Lee County.

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

- The subject property and existing uses are not consistent with the description and definition of the Rural future land use category. The existing development of Burnt Store Marina consists of high intensity residential and commercial uses with a provision of urban services such as Fire and Police protection and utilities.

- Since 1983 the Department of Community Affairs has reviewed Burnt Store Marina, an existing development consisting of 626 acres, with respect to its Development of Regional Impact (DRI) status. Each time, the Department of Community Affairs has determined that Burnt Store Marina is vested from DRI review.
- On July 31, 2008, the Department of Community Affairs issued a Binding Letter of Modification (BLIM) to a Development with Vested Rights and a Binding Letter of Determination of Development of Regional Impact Status (BLID) for Punta Gorda Isles Section 22 (also known as Burnt Store Marina). Thus, finding that the proposed development in Section 22 and Tract C is below 100 percent of the applicable DRI thresholds as provided in Section 380.0651(2)(d)1.a., F.S. Therefore, the project would not be required to undergo DRI review. However, this determination does not preclude the compliance with all other applicable federal, state or local government procedures such as zoning and development regulations.
- The proposed land use category will permit the redevelopment and expansion of the existing marina and related services. The project will be compatible with the surrounding community and will be served by adequate public facilities.
- No additional commercial acreage is being requested for the project, as the property is currently being utilized for commercial purposes. The applicant is seeking to improve an existing commercial development including water-dependent recreational uses.
- The creation and application of the land use category does not encourage urban sprawl, rather, the amendment represents redevelopment of an already urbanized portion of the Burnt Store Marina development. The proposed category contemplates multi-use development to complement the existing high density residential development within Burnt Store Marina.
- The amendment will create an exception to the commercial site location standards similar to those inherent to the County's new "Commercial" future land use category. The exception is justified in light of the amount of development that currently exists and is vested for Burnt Store Marina.
- The Hurricane Storm Tide Atlas depicts the location of the subject property within the Tropical Storm and Category 2 Storm Surge Zones. The applicant is requesting an additional 160 dwelling units. These new dwelling units will be restricted from location in the Tropical Storm Surge Zone.

C. BACKGROUND INFORMATION

1. **EXISTING CONDITIONS:**

SIZE OF PROPERTY: 18.25± acres; Total Uplands: 18.25± acres; Total Wetlands: None (See Attachment 2)

PROPERTY LOCATION: The Burnt Store development is located in the extreme northwest portion of the County. It is bounded by Charlotte County to the north, Burnt Store Road to the east, Cape Coral to the south and Charlotte Harbor to the west. Burnt Store Marina encompasses a total of 626 acres originally platted in 1973 as Punta Gorda Isles, Section 22 in Plat Book 28, Page 118.

The subject property, consisting of 18.25± acres is generally located on the west side of Burnt Store Road, specifically within the Burnt Store Marina development at 3150, 3090 and 3140-3200 Matecumbe Key Road, Punta Gorda.

EXISTING USE OF LAND: Marina, Hotel, Restaurant, Residential, Wet and Dry boat slips and vacant. (See Attachment 3)

CURRENT ZONING: The property is currently zoned Marine Commercial (CM), Residential Multiple-Family (RM-2) and RM-10.

There was a recent zoning case (Z-08-037; REZ2007-00020) to permit the rezoning of 1.33 acres of the subject property from RM-2 and RM-10 to Commercial Parking (CP). This case was heard before the Board of County Commissioners on Monday, September 15, 2008. The Board voted to deny the application without prejudice.

The RM-10 zoned parcel is currently vested for a maximum of 10 dwelling units per acre. Approval of the requested rezoning would limit future residential development of the subject property to a maximum of one dwelling unit per acre (Rural land use category). Approval of the requested Lee Plan Amendment will supercede this vesting and the proposed policy will set forth maximum land use regulations.

CURRENT FUTURE LAND USE CATEGORY: The subject property is designated Rural (See Attachment 4)

2. **REQUEST:**

The applicant is requesting a change in the subject property's future land use category from Rural to a new category entitled "Burnt Store Marina Village" future land use category. This category is proposed to permit redevelopment of existing uses on the subject property. The Rural future land use category currently permits a maximum of one dwelling unit per acre and minimal non-residential land uses that are needed to serve the rural community. There is not a specific limit for office and marine related uses.

The application encompasses four parcels, two of which are developed with the existing marina, wet and dry boat slips and ancillary uses.(see Attachment 5)

The application proposes a new land use category entitled (Burnt Store Marina Village” as follows:

Burnt Store Marina Village area is located within a portion of the property in Burnt Store Marina that was zoned for a mixture of commercial and residential uses in Lee County Resolution Z-77-63. The category is intended to facilitate the redevelopment of the existing marina and commercial area of Burnt Store Marina for an attractive mix of marine, retail, hotel and office uses that enhances the public use of the waterfront. The following uses are permitted within this category; retail uses, up to a maximum of 55,000 square feet; wet slips, up to a maximum of 525; dry storage spaces, up to a maximum of 800; office space, up to a maximum of 15,000 square feet; a maximum of 145 hotel units; and a maximum of 160 residential units. The maximum height permitted in this category is 220 feet.

The applicant further proposes to amend the 2030 Planning Communities Acreage Table as follows:

1. Add a new line for “Burnt Store Marina Village” in the table;
2. Revise the acreage table as follows:
 - a. Commercial - 7 acres;
 - b. Industrial - 6 acres;
 - c. Residential - 4 acres;
 - d. Public - 1 acre

The applicant proposes to redevelop approximately 18.25± acres of Burnt Store Marina which currently houses wet boat slips, a dry storage building, office space, a restaurant and recreational uses. The surrounding uses are predominantly multiple-family residential structures with some single-family residential. The proposed amendment, if approved, will permit the applicant to add 15,000 square feet of office space; 160 residential units; 55,000 square feet of retail use with 300 parking spaces (garage); 145 hotel rooms, 525 wet slips (existing) and 800 dry boat storage spaces. The proposed dry storage buildings are depicted as industrial uses in accordance with the 2030 Planning Communities Acreage.

PART II - STAFF ANALYSIS

A. STAFF DISCUSSION INTRODUCTION

The proposed amendment is the result of a desire by a new owner to redevelop and expand the existing uses of the property from a limited mix of marine, residential, commercial-retail, hotel and office uses by creating a new future land use category specific to Burnt Store Marina. The new future land use category would facilitate the redevelopment of the existing uses that enhance the waterfront as well as permit continued public use of the boat ramp.

Burnt Store Marina is a unique community, consisting of 626± acres. The development is divided into two distinct sections, Marina Village located within Tract C and the Golf Course Subdivision located within Punta Gorda Isles, Section 22. The proposed amendment encompasses 13.3 acres of Tract C and the addition of an adjacent 4.95 acres included within the Punta Gorda Isles, Section 22.

The Lee Plan, in the Vision for 2030, identifies the Burnt Store Planning Community as follows:

This community is located in the northwest corner of the mainland of unincorporated Lee County. The property east of Burnt Store Road is designated Open Lands and the land west of Burnt Store Road is designated as Rural (also known as Burnt Store Marina) with the exception of 10 acres designated as Outlying Suburban. Most of the Burnt Store Marina development was approved prior to the adoption of the 1984 Lee Plan and is "vested" for densities higher than allowed by the current plan. The development is primarily residential with a high percentage of seasonal residents. There are some commercial and marine oriented amenities within the Burnt Store Marina development primarily serving residents of that development. This area is expected to substantially grow through the year 2030. Today, most of the community's commercial needs are served outside of the community in Cape Coral, North Fort Myers and Fort Myers, or in Charlotte County. This development pattern is expected to remain through 2020. (Added by Ordinance No. 99-15, Amended by Ordinance No. 07-12)

The subject property currently houses some existing commercial land uses. The applicant is proposing to redevelop the subject property including enhancements to an existing marina and ancillary uses. The commercial uses will provide services to the surrounding residential land uses as well as provide the foundation for a mixed use community.

Two of the subject parcels are located in a designated "Water-Dependent Overlay Zone"

depicted in Lee Plan Map 12 (page 9 of 12) (See Attachment 6). The Water-Dependent Overlay Zone is defined in Policy 1.7.5 of the Lee Plan as follows:

The Water-Dependent overlay zone designates shoreline areas where priority will be granted to water-dependent land uses. Specific requirements are detailed for such zones on San Carlos Island under Goal 12, in the Great Pine Island area under Goal 14 and other areas in Lee County in the Conservation and Coastal Management Element. (Amended by Ordinance No. 94-30, 00-22).

The Lee Plan further addresses water access in Goal 125 which encourages development and implementation of a public water access program.

Objective 125.2: Water Access in Private Developments. *The county will encourage private landowners to provide some form of water access to the public. (Amended by Ordinance No. 00-22)*

Objective 125.3: *Develop techniques to encourage development and expansion of water-dependent recreational uses in Lee County waterways and discourage any conversion of water-dependent uses to non-water dependent uses. (Added by Ordinance No. 07-09)*

The Lee Plan, Objective 128.6, establishes policies utilized to evaluate marina design criteria (new or expansion at existing marinas) in order to minimize negative impacts and to complement the county's development regulations.

Policy 128.6.6: *Marinas and multi-slip docking facilities must prepare hurricane plans with the assistance of the county which describe measures to be taken to minimize damage to marina sites, neighboring properties and the environment; this hurricane plan is subject to county approval. (Amended by Ordinance No. 00-22)*

Policy 128.6.13: *Dry storage of small boats should be encouraged, with dry storage structures located inland as far as possible.*

Policy 128.6.16: *Expansion of dry storage capabilities will be strongly encouraged to reduce dredging. (Amended by Ordinance No. 00-22)*

The Burnt Store Marina community is non-conforming in relation to the Rural future land use category. This development is more consistent with an urban or mixed use land use category.

Staff supports the applicant's request to provide for a land use category permitting the

expansion of the existing water-dependent recreational facilities such as the dry storage building as set forth in the above-referenced policies. Staff further supports the proposed office space, retail uses, residential and hotel rooms which will support and complement the existing and proposed uses.

COMPREHENSIVE PLAN BACKGROUND

In 1984, upon adoption of the Lee Plan, the subject property was designated as part of the “Fringe” land use category described in the 1984 Lee Plan as follows:

These areas border designated Urban Service Areas yet are not a part of the Urban Service Area. The Plan recognizes these fringe areas as potentially appropriate for development at Urban Community densities, although their overall lack of requisite infrastructure may delay such development unless private sector provision of services and facilities occurs. The Lee Plan does not target these areas for public expenditures. Therefore, development approvals will be wholly based upon a satisfactory demonstration of necessary infrastructure including potential fiscal mitigation for services such as EMS, police and fire protection, educational facilities, as well as all appropriate Plan Goals, Objectives, Policies and Standards. Developments that have lower levels of infrastructure, environmentally sensitive areas or potential negative impacts on potable water resources should be considered for the lower end of the density range and lower levels of intensity compatible with adjacent land uses.

In 1989, the Board of County Commissioners amended the Lee Plan at which time the “Fringe” land use category was eliminated and the Burnt Store Marina development was included within the “Rural” future land use category. The 1989 Lee Plan described the “Rural” future land use category as follows:

Policy 1.4.1: *The Rural areas are to remain predominantly rural - that is, low density residential, agricultural uses and minimal non-residential land uses that are needed to serve the rural community. These areas are not to be programmed to receive urban-type capital improvements, and they can anticipate a continued level of public services below that of the urban areas. Maximum density in the Rural area is one dwelling unit per acre (1 du/acre), except as may be permitted under the Planned Development District Option.*

The current Lee Plan includes the “Rural” future land use category in Objective 1.4: Non-Urban Areas, which are designated on the Future Land Use Map as categories for those areas not anticipated for urban development at this time as follows:

Policy 1.4.1: *The Rural areas are to remain predominantly rural - that is,*

low density residential, agricultural and minimal non-residential land uses that are needed to serve the rural community. These areas are not to be programmed to receive urban-type capital improvements and they can anticipate a continued level of public services below that of the urban areas. Maximum density in the Rural area is one dwelling unit per acre (1 du/acre). (Added by Ordinance No. 97-17, Amended by Ordinance No. 98-90, 00-22, 07-12)

The applicant's request is to create a new land use category, "Burnt Store Marina Village" area located within a portion of the property in Burnt Store Marina that is zoned for a mixture of commercial and residential uses. The proposed category would facilitate the redevelopment of the existing marina and commercial area of Burnt Store Marina. The redevelopment will occur on 13.3 acres of the existing development and 4.95 acres of the additional 8.65 acres, for a total redevelopment area of 18.25 acres. The plan includes 15,000 square feet of office space, an addition of 160 residential units, 55,000 square feet of retail with 300 parking spaces (garage), 145 hotel rooms and a maximum of 1,325 wet and dry spaces.

HISTORY

On May 9, 2008, the applicant submitted a letter to the Department of Community Affairs requesting a Binding Letter of Modification (BLIM) to a Development of Regional Impact with Vested Rights Under Section 380.06 and 120.57, Florida Statutes with attachments the following chronological history:

- The first binding letter, dated October 26, 1973 found that proposed development for Section 22 is not vested from DRI review. That finding was reconsidered and reversed in a second binding letter. DCA binding letter dated July 5, 1974, supersedes the October 26, 1973 letter and concluded that the proposed development for Punta Gorda Isles-Section 22 is vested from DRI review.
- The 380.032 Agreement executed on May 20, 1986, stipulated that a total of 2,514 residential units within the Punta Gorda Isles-Section 22 plat is vested from DRI review. The 1986 Agreement between the owner and the County resolved a dispute as to whether the 239 platted home sites for which DCA recognized vested rights in its October 26, 1973 binding letter were sites for multiple-family buildings or for single-family units.
- The second 380.032 agreement was executed on January 30, 1987 and stipulated that a maximum of 323 wet spaces or 525 wet slips and 456 dry spaces in the Punta Gorda Isles - Section 22 project had vested rights from DRI review.

On May 28, 2008, the Department of Community Affairs responded to the applicant's letter requesting a BLIM/BLID for the Burnt Store Marina project requesting additional

information. The applicant responded to the Department of Community Affairs on May 30, 2008 and provided the requested, additional information.

In response to the applicant's request, on July 31, 2008, the Department of Community Affairs issued Final Order No. DCA08-BL-204, including a Binding Letter of Modification to a Development with Vested rights (BLIM-09-2007-016) and a Binding Letter of Determination of Development of Regional Impact Status (BLID-09-2007-015) (see Attachment 7) for Punta Gorda Isles, Section 22 (also known as Burnt Store Marina) with the following conclusions:

1. Even though the additional development as demonstrated in paragraphs 9 and 10 exceeds the substantial deviation criteria in Sections 380.06(19)(b)13., F.S., the Department finds that there are no regional impacts arising from the proposed changes that have not been previously reviewed. Therefore, the currently proposed plan of development for the Punta Gorda Isles Section 22 project does not divest any rights the developer has acquired under Section 380.06(20), F.S., to complete the development of the aforementioned Punta Gorda Isles Section 22 DRI.
2. The proposed development on the adjacent 8.65 acre parcel and portions of Tract C as demonstrated in paragraphs 11, 12 and 13 is below 100 percent of the applicable DRI thresholds as provided in Section 380.0651(2)(D1)1.a., F.S. Therefore, the proposed development on the adjacent 8.65 acres and portions of Tract C would not be required to undergo DRI review.
3. The plan of development on the adjacent 8.5 acre parcel and portions of Tract C is currently inconsistent with the Lee County Comprehensive Plan. No development may proceed until the amendment is made to the Lee County Comprehensive Plan that would allow for the planned development. The comprehensive plan amendment must also be consistent with Chapter 163, F.S., the State Comprehensive Plan and Chapter 9J-5, Florida Administrative Code. Thus, the following order was issued by the Department of Community Affairs.
4. The modification to the vested Punta Gorda Isles Section 22 DRI, as described above, will not be required to comply with the review requirements of Section 380.06, F.S.
5. The proposed modifications to the vested plan will not divest the vested rights to develop. If the changes described in the application for this binding letter are approved by the local government of jurisdiction and incorporated in a new development order, they will constitute the vested plan of development and must be followed by you and your successors. If any further changes are proposed for your project, they would be submitted by the applicant or successor(s) of the Department for comparison together with the impacts of the plan now vested in this letter. Should any of the above representations made by the applicant be substantially changed,

further binding letter review of the project may be required.

6. The proposed development on the adjacent 8.65 acre parcel, which is not vested for DRI purposes and portions of Tract C, as described in paragraph 11, is not required to comply with the review requirements of Section 380.06, F.S.
7. The development on the adjacent 8.65 acre parcel, which is not vested for DRI purposes and portions of Tract C, will be considered cumulatively with any future additional development in terms of the guidelines and standards contained in Chapter 28-24, Florida Administrative Code and Section 380.0651, F.S., and its related impacts. Should any of the above representations made by the applicant be substantially changed, further review of the project may be required.
8. The binding letter as it applied to the unvested development on the adjacent 8.65 acre parcel and portions of Tract C will expire and become void as of July 25, 2011, unless the plan of development has been substantially commenced by this date. This date may be extended by mutual agreement of the Department, the local government of jurisdiction and the developer.
9. This determination does not obviate the need to comply with all other applicable federal, state or local government permitting procedures.
10. You have the right to request a formal administrative hearing if you dispute any issue of material fact in this binding letter. If a formal administrative proceeding is not requested, this binding letter constitutes final agency action and is subject to judicial review.

SURROUNDING ZONING, LAND USES AND FUTURE LAND USE DESIGNATION

North: Residential Multiple-Family (RM-2, RM-10)

Rural future land use category
Sunset Key Condominiums and
Prosperity Pointe Condominiums

South: Matecumbe Key Road, then

City of Cape Coral; Pedestrian Commercial District (C-1)
Mixed Land Use future land use category
Resort at Burnt Store Marina amenities

East: Matecumbe Key Road, then

Residential Multiple-Family (RM-10)
Commodore Condominiums; and
Courtside Landings Residential Planned Development (RPD)

A/k/a Harbour Villas
Outlying Suburban future land use category

West: Residential Multiple-Family (RM-2)
Rural future land use category
Marina South Shore Condominiums

The Keel Club Condominiums, consisting of 47 units, is also located adjacent to the subject property in the area between the proposed dry storage buildings and the proposed Marina Village commercial uses.

MAP 16 - PLANNING COMMUNITIES AND TABLE 1(b)

The subject property is located within the Planning Community of Burnt Store. In this community there are 700 acres allocated to residential uses in the Rural land use category. Recent Planning Division data indicates that 600 acres within this community are currently developed with residential uses, leaving a surplus of 100 acres that could be developed with residential uses in the Rural land use category before the year 2030. (see Attachment 8)

There are 50 acres allocated to commercial uses, with 19 acres indicated as currently developed, leaving a surplus of 31 acres that could be developed with commercial uses. There are five acres allocated to industrial uses. Four of these acres have been developed with industrial uses leaving a surplus of 31 acres that could be developed with commercial uses. There are five acres allocated to industrial uses. Four of these acres have been developed with industrial uses, including some allocations to Burnt Store Marina, leaving one acre available for new industrial development.

COASTAL

The Hurricane Storm Tide Atlas depicts the location of the subject property within the Tropical Storm and Category 2 Storm Surge Zones.

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

***Policy 105.1.4:** Through the Lee Plan amendment process, future land use designations of undeveloped areas within coastal high hazard areas will be considered for reduced density categories in order to limit the future population exposed to coastal flooding.*

Mitigation measures are currently established in the Land Development Code (LDC),

Chapter 2, Article XI, Hurricane Preparedness. Adoption of the Lee Plan proposed amendment will result in requirement amendments to the LDC to further clarify and enforce that mitigation requirements will be based on a Category 5 storm event consistent with the changes made to Chapter 163.3178, F.S.

The Southwest Florida Regional Planning Council reviewed the subject property in regards to the 1991 Hurricane Storm Tide Atlas for Lee County. The subject property is located on Plates 1 and 4 of the Atlas. The attached maps indicate the current Coastal High Hazard Area along with three plates from the 1991 Hurricane Storm Tide Atlas. Since the parcel runs from Charlotte Harbor to Burnt Store Road, the property is located in Tropical Storm Surge Zone to Category 3 Surge Zone. The specific surge heights for this site are as follows:

The subject property is located within Time-History Point 48. Based on an elevation of 5 feet, the site would be dry in a tropical storm; have 3 feet over it in a Category 1; 4.3 feet over it during a category 2; 8.5 feet over it during a category 3 and 15.3 feet over it during a category 4/5.

In accordance with the Lee Plan, Map 5, the subject property is not currently located within the designated Coastal High Hazard Area. The applicant is requesting an additional 160 dwelling units within the existing development and a maximum height of 220 feet. The applicant has provided information regarding the location of the proposed development within the Coastal High Hazard Area as depicted on the 1991 Hurricane Storm Tide Atlas for Lee County. This analysis shows the residential development area to be within the Category 2 Storm Surge area, and therefore outside of the Coastal High Hazard Area. (See Attachment 9) Thus, Staff proposes the following language to assure the residential development is not located within the Coastal High Hazard Area:

POLICY 25.1.5: *The residential and hotel development portions of this redevelopment project must be located outside of the Tropical Storm Zone as depicted in the 1991 Hurricane Storm Tide Atlas for Lee County.*

TRANSPORTATION/TRAFFIC CIRCULATION IMPACTS

The Lee County Department of Transportation (LCDOT) reviewed the request and has provided Planning staff written comments dated September 5, 2008 (see Attachment 10). This review was based on the initial submittal provided by the applicant. LCDOT concluded that based on the parameters (of the proposed development), utilizing the 2030 FSUTMS model, LCDOT staff determined that this land use change will not alter the future road network plans in this area. The applicant's subsequent resubmittal proposes a reduction in the amount of square footage originally presented, creating less impact to the road network.

The roads located within Burnt Store Marina are private in accordance with Case Number VAC2003-00072 adopted by the Board of County Commissioners on April 13, 2004 and

recorded as Instrument Number 6260603 in the official records of Lee County). An access easement (see Attachment 11) has been entered into the official records of Lee County in Instrument Number 6285414 between the Punta Gorda Isles, Section 22 Homeowners Association, Inc. and Realmark Burnt Store Marina, LLC, (the applicant) providing an exclusive manner of ingress and egress to the subject property. This easement grants and conveys the Grantee (the applicant) and its successors and assigns, and its lessees, their contractors, customers, employees, guests, invitees and licensees, a perpetual, non-exclusive easement for ingress and egress only over and across the roads lying and being in the County of Lee, State of Florida as follows:

Big Pine Lane, Cape Cole Boulevard, Matecumbe Key Road, Sugarloaf Key Road, Marathon Way, Key Largo Lane, Key Largo Circle, Sable Key Circle, Marianne Key Road, Romano Key Circle, Big Pass Lane, Big Bend Circle, Islamorada Road (a/k/a Islamorada Boulevard) and Little Pine Circle, according to the Plat of Punta Gorda Isles, Section 22, recorded in Plat Book 28, at page 118, of the public records of Lee County, Florida and replatted in Plat Book 34, at page 92, of the public records of Lee County, Florida, and any amendments and supplements thereto.

This easement is restricted by and subject to the rules and regulations of the Punta Gorda Isles, Section 22 Homeowners Association, Inc., that may be adopted and amended from time to time, provided, however that such rules and regulations shall not interfere with, hinder or impede in any way grantee's rights as set forth herein. This easement may not be amended or terminated without the written joinder and consent of the grantee, its successors and assigns.

POPULATION ACCOMMODATION

The subject property consists of land that has previously been developed for commercial purposes. Two acres of the parcel are proposed to be redeveloped for 160 residential units. This will result in an a proposed increase of 334 persons (160 x 2.09 PPH) accommodated by the future land use map.

If the requested amendment is approved, it will be necessary to create a new row in the Planning Communities Acreage Table for the Burnt Store Marina Village Planning Community. The revised table should depict four acres of residential uses, seven acres of commercial, 1 acre of public and six acres of industrial uses (to accommodate the marina uses). The industrial and commercial allocations in the table do not need to be amended, there is ample allocation existing. The subject property is currently accommodated in the Rural future land use; thus, will require redistribution of four acres of the allocated residential acreage from the Rural to the proposed Burnt Store Marina Village Planning Community.

ENVIRONMENTAL CONSIDERATIONS

The Division of Environmental Sciences (ES) staff has reviewed the proposed Burnt Store Marina Comprehensive Plan Amendment and offered an analysis included as Attachment 12. Due to the limited scope of the request for Comprehensive Plan amendment, the project does not include environmentally sensitive areas. ES staff does not object to the proposed future land use category.

SOILS

A map of the soils located on the subject property consisting of 18.25± acres is included in the application. The type of indicated soils include Mayakka Fine Sand, Estero Muck, Peckish Mucky Fine Sand, Immokalee Sand, Smyrna Sand, Myakka Find Sand, depressional and Matlacha Gravely Fine Sand.

SURFACE WATER MANAGEMENT

Burnt Store Marina utilizes multiple drainage basins comprised of existing surface water management systems which include dry detention areas for pretreatment of water runoff and wet detention lakes for rain storage during large flood events. The proposed 18.25 acre redevelopment area is part of an existing Department of Environmental Protection (DEP) permit and South Florida Water Management District Permit (SFWMD), which will require modification and review by Lee County Natural Resources prior to development order approval. The surface water management systems within the redevelopment area are not expected to increase in size due to the fact that the existing site area has about the same impervious area to pervious area ratio.

MANATEE PROTECTION

The Lee County division of Natural Resources reviewed the application relative to manatee protection. The site rates as *preferred* under the Manatee Protection Plan and the number of slips proposed are consistent with that finding. The applicant will be required to comply with all applicable standard construction conditions for manatee protection including development of an education program for marina users.

HISTORIC RESOURCES

The application includes a letter dated September 28, 2007 from the Division of Historical Resources, Florida Department of State (See attachment 13). This letter provides the following information:

In response to your inquiry of September 27, 2007, the Florida Master Site File lists no previously recorded cultural resources in the following parcels:
T43S, R22E, Section 1

In interpreting the results of our search, please remember the following points:

- *Areas which have not been completely surveyed, such as yours, may contain unrecorded archaeological sites, unrecorded historically important structures, or both.*
- *As you may know, state and federal laws require formal environmental review for some projects. Record searches by the staff of the Florida Master Site File do not constitute such a review of cultural resources. If your project falls under these laws, you should contact the Compliance Review Section of the Bureau of Historic Preservation.*

Lee County staff notes that there are areas on the subject property designated on the Lee County Archaeological Sensitivity Map as Sensitivity Level 2. Chapter 22 of the Lee County Land Development Code (LDC) defines the Sensitivity Level 2 as follows:

"Those areas containing known archaeological sites that have not been assessed for significance but are likely to conform to the criteria for local designation, or areas where there is a high likelihood that unrecorded sites of potential significance are present."

Staff is not aware of any historic or archaeological resources occurring on this site; however, the applicant will be required to obtain a "Certificate to dig" permit from Lee County prior to or in conjunction with the issuance of a final development order for activity within areas designated as being within the "Sensitivity Level 2" areas. "Activity" in this context means new construction, filling, digging, removal of trees or any other activity that may alter or reveal an interred archaeological site.

SCHOOL IMPACTS

Lee County School district staff reviewed the proposal and provided written comments dated June 25, 2008 (see Attachment 14). The School District staff reviewed the project on the assumption that the proposal would add a marina, restaurant and other commercial uses as well as 160 new multi-family residential units. The review letter provides that 160 new multi-family dwelling units would generate 20 additional school-aged children and is calculated at .125 per unit. The commercial use would have no impact. Any development of the subject property will be assessed the applicable school impact fees.

PARKS, RECREATION AND OPEN SPACE

The applicant provided an analysis regarding Parks, Recreation and Open Space. The subject property is located within the North Fort Myers Community Park district. The proposed increase of 160 residential units will create a demand for .27 acres of community park acreage in the North Fort Myers district. According to the 2007

Concurrency Inventory, the projected minimum level of service in the North Fort Myers District in 2010 is approximately 50 acres, while 166 acres of developed parks currently exist. The additional residential units contemplated by the amendment application will not adversely impact parks, recreation and open space.

POLICE

The subject property is located within the service area of the Lee County Sheriff's Department. The developer will be required to coordinate with the Office of the Sheriff throughout the development process at which time a Crime Prevention through Environmental Design study will be required for review and approval. This study will be required for implementation into the Planned Development process.

FIRE AND EMERGENCY MEDICAL SERVICES (EMS)

The subject property is located within the Burnt Store Fire District. The applicant has provided a copy of an Interlocal Agreement between the City of Cape Coral and the Burnt Store Area Fire Service Municipal Taxing Unit (MSTU) (see Attachment 15) to provide fire protection to the residents of Burnt Store Marina. This Agreement, which is reviewed and renewed on an annual basis, will consider the addition of new construction, including but not limited to, buildings and marina facilities during the renewal process.

The Interlocal Agreement establishes fire protection and prevention services, such as work, materials and all related professional, technical, administrative, fire suppression and related services, basic first response rescue, fire company level prevention services, fire inspection services and safety activities that are necessary to perform fire protection and prevention services to the Burnt Store Marina community.

Lee County Emergency Medical Services (LCEMS) staff reviewed the request and provided written comments dated April 17, 2008 (see Attachment 16). This letter provides the following comments:

This current location is served by LCEMS Station 28, located at 707 SW 1st Street, Cape Coral, FL, which is approximately 12.50 miles away. Our response time to this location is 15± minutes, which does not meet our core service level response standards of 8:59 minutes or less in 90% of the total emergency responses as required by Lee County Ordinance #02-19. In the event that Station 28 is busy on a response, the next closest station is LCEMS Station 22, located at 152 SE 13th St., Cape Coral, FL, approximately 14.50 miles away. This statement does not indicate that any plans have been received, it just identifies that Lee County EMS has concerns with the ability to provide service to this area. Current resources prohibit establishing

and staffing an EMS station close to this department.

Burnt Store Marina is served by the City of Cape Coral Fire Department, Station 7, located at 3942 Burnt Store Road, approximately two miles from the main entrance gate to the development. This station is equipped with first response equipment including an Advanced Life Support (ALS) vehicle. The Cape Coral Fire Department does not provide ambulatory service for transport; however, is responsible for emergency medical services until such time EMS arrives on site. The City of Cape Coral Fire Department offered no objection to the requested height of 220 feet noting that current building, fire and development codes address life safety regulations and they are equipped to provide service to structures built to this height.

SOLID WASTE

The Lee County Solid Waste Division staff has reviewed the request and provided written comments dated June 26, 2008 (see Attachment 17). This letter states that the Lee County Solid Waste Division is capable of providing solid waste collection services for the proposed additional uses requested for the expansion of the Burnt Store Marina Village located on Matecumbe Key Road through our franchised hauling contractors. Disposal of the solid waste from this project will be accomplished at the Lee County Resource Recovery Facility and the Lee Hendry Regional Landfill.

Further, the Solid Waste Ordinance, as amended, and LDC, Chapter 10, Section 10-261 have requirements for providing on-site space for placement and servicing of commercial solid waste containers.

MASS TRANSIT

The applicant indicates that there is no existing or proposed mass transit in conjunction with this request. However, Lee County Transit states that the Lee County Long Range Plan indicates the need for a Park and Ride lot in the vicinity of this project where commuter bus service would begin, providing transportation needs through North Cape Coral and terminating in downtown Fort Myers.

UTILITIES

The subject property is located in the Charlotte County Utilities service area for the provision of potable water and sanitary sewer services. The applicant has provided letters from Charlotte County Government dated June 25, 2008 confirming the availability and capacity of potable water, reclaimed water and sanitary sewer services to the subject property (see Attachment 18).

Potable water services are provided by the Burnt Store Reverse Osmosis Treatment Plant. Sanitary sewer and reclamation water services are provided by the Burnt Store Water Reclamation Facility. Utility services will be made available to the subject

property upon extension of the water distribution and wastewater collection system and execution of an agreement with the owner/developer and Charlotte County Utilities.

The applicant states that the existing water and sanitary sewer usage equates to an estimated 21,390 gallons per day (GPD). This entails 7,700 square feet of retail space; 10,300 square feet of restaurant space and 15,000 square feet of office space.

The new proposed uses including 145 new hotel units, additional retail space, additional restaurant space and 160 new multiple family residential units will generate approximately 63,160 GPD. Thus, the existing and proposed uses will generate approximately 84,550 GPD of water and sanitary sewer usage.

STATE AND REGIONAL PLAN CONSISTENCY

The applicant states that the proposed amendment is consistent with the following State and Regional Plan provisions:

State Plan

Policy 8(b)10: The new category permits expanded water-dependent facilities along the shoreline.

Policy 15(b)3: The new category will also encourage a more attractive and functional mix of uses on the site.

Regional Plan

Goal 2, Strategy 1, Action 4: The applicant is proposing to redevelop an existing commercial site to create an attractive and functional mixed use community.

B. CONCLUSION

Most of the urban services required to support the proposed change of land use and redevelopment are in place or can be made available. The applicant is proposing redevelopment of 18.25± acres to accommodate new development of 145 hotel rooms, 160 dwelling units, a maximum of 55,000 square feet of retail with 300 parking spaces (garage), a maximum of 15,000 square feet of office space and a maximum of 525 wet slips (existing) and 800 dry storage spaces.

The proposed amendment does not promote urban sprawl, as the subject property is located within an existing and approved residential and commercial urban development as well as commercial marina uses. The existing uses are not restricted to the residents of Burnt Store Marina and are currently utilized by the public. The existing development is not consistent with the rural future land use category.

The LDC, Article 19, Section 34-1802(4), paragraphs b and d regulates density

requirements for hotels and motels. For developments within conventional zoning districts located within Lee Plan future land use map categories that have maximum standard density limits, rental unit density is based on a ratio of the number of units and total floor area. Hotels/motels approved as planned developments are not subject to rental unit size or density requirements provided all other aspects of the development (i.e. height, traffic, intensity of use, etc.) are found to be compatible with the surrounding area and otherwise consistent with the Lee Plan. The applicant will be required to rezone the subject property to a planned development.

REDEVELOPMENT

Redevelopment of an aging or antiquated land uses is an important part of maintaining a healthy and vibrant community. While there has been some redevelopment in Lee County in the past, we are entering a phase where redevelopment will be needed more and more. How we plan, oversee, regulate and promote this redevelopment is an emerging issue that needs policy direction from the Board of County Commissioners.

The proposed redevelopment plans for both Burnt Store Marina and Old San Carlos Island offer some important challenges and opportunities that need to be addressed. The single biggest issue for these proposals is the challenge of the changing of the existing urban form. Urban form includes density, intensity and building mass.

Redevelopment will be very limited if it is restricted to the demolition of existing uses that can only be rebuilt to their current density and intensity. This is why redevelopment proposals will almost always include an increase in density, more commercial intensity or increases in building mass, or any combination of the three. These increases form the incentives that make the redevelopment project economically viable.

The Burnt Store Marina redevelopment proposal is asking for increased entitlements and also increased building height. Staff has evaluated the proposal and is recommending the full intensity and density request for the Burnt Store Marina Redevelopment Plan. Staff is recommending an increase in the maximum allowable height. The recommendation restricts the increase in height to 135 feet if the parking is not integrated into the structure. If multiple layers of enclosed parking are placed under the multiple-family or hotel use, staff is recommending increasing the height by an additional 50 feet for a maximum height of 185 feet.

This recommendation is based on attaining the desired urban form that will allow the redevelopment to create an at grade pedestrian friendly space where the retail, the water and the people can interact.

BUILDING HEIGHT

Building Height has become a critical component of the Burnt Store Redevelopment proposal. The mixed use pedestrian friendly objective requires an urban form unlike the single use or separated use development patterns typically found in Lee County. Mid-rise multiple-family or hotel development of 9 or 10 stories requires a large amount of surface parking which makes the site very pedestrian unfriendly. Allowing up to four or five levels of enclosed parking structure under the residential or hotel units results in site area to be utilized as a mixed use pedestrian friendly urban space. Locating the parking under the residential or hotel use allows the development to create an at grade atmosphere where the retail, the water and the people can intermingle. This type of site development also allows for additional green areas and enhanced landscaping.

In response to this, staff is recommending restricting the height to 135 feet if the parking is not integrated into the structure. If multiple layers of enclosed parking are placed under the multi family or hotel use, staff is recommending increasing the height by an additional 50 feet for a maximum height of 185 feet.

C. STAFF RECOMMENDATION:

Planning staff recommends that the Board of County Commissioners transmit the proposed amendment, as modified by Staff as follows:

POLICY 1.2.10: The Burnt Store Marina Village area provides for the redevelopment that enhances the existing character of the Burnt Store Marina project, protects natural resources, and provides continuing public access to the water via boat ramps and docks while managing the location and intensity of future commercial, residential and limited industrial uses by establishing realistic aesthetic requirements designed to allow Burnt Store Marina Village the ability to develop as a community center. The following uses are permitted within the Burnt Store Marina Village category; a maximum of 55,000 square feet of retail uses; a maximum of 525 wet slips; a maximum of 800 dry storage spaces; a maximum of 15,000 square feet of office space; a maximum of 145 hotel units; and a maximum of 160 residential units.

GOAL: BURNT STORE MARINA VILLAGE. To promote redevelopment that enhances the existing character of the Burnt Store Marina project, protects natural resources, and provides continuing public access to the water via boat ramps and docks while managing the location and intensity of future commercial, residential and limited industrial uses by establishing realistic aesthetic requirements designed to allow Burnt Store Marina Village the ability to develop as a community center.

OBJECTIVE 25.1: The Burnt Store Marina Village is intended to encourage and facilitate redevelopment of the existing marina and commercial area located internal

to the Burnt Store Marina project with an attractive mix of residential, marine, retail, hotel and office uses designed to enhance and protect the public use of, and access to, the waterfront and marina. Development of commercial retail, hotels, general office and marina related uses will predominate in the Burnt Store Marina Village. Limited residential and light industrial marine uses are also permitted to facilitate the proper development mix to allow integration of the Burnt Store Marina Village into the overall Burnt Store Marina project.

POLICY 25.1.1: The following uses are permitted within the Burnt Store Marina Village category; a maximum of 55,000 square feet of retail uses; a maximum of 525 wet slips; a maximum of 800 dry storage spaces; a maximum of 15,000 square feet of office space; a maximum of 145 hotel units; and a maximum of 160 residential units. The maximum height permitted in this category is 135 feet if the parking is not integrated into the structure. If multiple layers of enclosed parking are placed under the multi-family or hotel use, the height may be increased by an additional 50 feet for a maximum height of 185 feet.

POLICY 25.1.2: Redevelopment of any uses within the Burnt Store Marina Village must be accomplished through the Planned Development rezoning process in order to properly accommodate existing conditions, the proposed redevelopment plan, prevent adverse impacts to the surrounding areas and to ensure that appropriate site development regulations are incorporated into the development plans. Development in this future land use category is not required to comply with the site location criteria provided in Goal 6 if appropriate site development regulations are adopted into the planned development. New development in this category must connect to a potable water and sanitary sewer system.

POLICY 25.1.3: Lee County will cooperate with private developer efforts to create an identity for the Burnt Store Marina Village through unified architectural quality and creative site design that enhances the waterfront community and consists of scenic views, buildings with varying roof lines, open space, a pedestrian and neighborhood oriented activity center and enhanced buffering requirements.

POLICY 25.1.4: Lee County will work in conjunction with private developers to reserve existing marina facilities with on or off-site public parking spaces for vehicles and trailers and access for the benefit of the public.

POLICY 25.1.5: The residential and hotel development portions of this redevelopment project must be located outside of the Tropical Storm Surge Zone as depicted in the 1991 Hurricane Storm Tide Atlas for Lee County.

Planning staff further recommends that the Future Land Use Map 1 be amended by adding a new category to be known as Burnt Store Marina Village.

ATTACHMENTS:

1. Copy of CPA2007-00054 application
2. Aerial/outline of Subject Property
3. Adjacent land uses/Future Land Use Map (2 pages)
4. Existing Land Uses Map (2 pages)
5. Map of Proposed 2030 Use Allocation provided by Applicant
6. Lee Plan Map 12 - Water Dependent Overlay Zones
7. Department of Community Affairs Letter dated July 31, 2008
8. Lee Plan Map 16
9. Lee Plan Coastal High Hazard Area (CHHA)
10. Memorandum from Lee County Department of Transportation (LCDOT) dated September 5, 2008 and applicant's Traffic Circulation Analysis
11. Copy of Access Easement
12. Memorandum from Lee County Environmental Sciences
13. Letter from Division of Historical Resources dated September 28, 2007
14. Letter from The School District of Lee County dated June 25, 2008
15. Interlocal Agreement between City of Cape Coral and the Burnt Store Area Fire Service Municipal Taxing Unit
16. Letter from Lee County Emergency Management Services dated April 17, 2008
17. Letter from Lee County Solid Waste Division dated June 26, 2008
18. Letters from Charlotte County Utilities dated June 25, 2008
19. Memorandum from the Office of County Attorney dated November 28, 2006
20. Communications received from the public

PART III - LOCAL PLANNING AGENCY REVIEW AND RECOMMENDATION

**PUBLIC HEARING DATES: SEPTEMBER 22, 2008
 SEPTEMBER 29, 2008**

A. LOCAL PLANNING AGENCY REVIEW - SEPTEMBER 22, 2008

The first public hearing before the LPA was held on Monday, September 22, 2008. Staff introduced the request and requested a continuance for the staff presentation based on continued discussions with the applicant regarding the requested density, height, continued public access to the boat ramp, provision of truck and trailer parking and additional information regarding coastal high hazard analysis and location of proposed uses. The applicant made a presentation and public comment was accepted.

During the applicant's presentation, it was noted that the Burnt Store Marina is the largest marina on the west coast of Florida. The amendment will permit a mixed use redevelopment plan encompassing the marina. The applicant stressed that the location of the proposed residential and hotel units is outside of the designated Coastal High Hazard Area. The request includes a maximum height of 220 feet to include four to five levels of parking under 10 to 12 stories of residential and hotel uses.

Fifteen Burnt Store Marina residents spoke at the hearing. Six spoke in support and nine spoke in opposition. Those that spoke in support addressed the need to update and improve the existing facilities, provide landscaping and construction of new facilities that meet current building standards. They spoke to the provision of commercial uses for the community and plans for future growth. Residents who reside on Matecumbe Key Road, which is in proximity to the gate utilized for construction and service vehicles, did not oppose the proposed amendment, stressing the need for improvement and progress within the development.

Concern was expressed regarding the absence of many part-time residents of Burnt Store Marina who would not have an opportunity to address the Board.

Those in opposition expressed concern regarding an increase in traffic, density, safety, height, noise and congestion. Specifically, improvements to the marina and the addition of commercial and hotel uses would increase the traffic traveling through a primarily residential community. However, some residents that spoke in opposition did support improvements to the marina for continued operations. Some of the residents questioned if Burnt Store Marina is a vacation destination requiring a hotel and ancillary commercial uses.

LOCAL PLANNING AGENCY REVIEW - SEPTEMBER 29, 2008

Staff presented the requested Plan amendment noting support of the redevelopment and

revitalization plan for the Burnt Store Marina Village. The Burnt Store Marina, a development of 626 acres, has been in existence in Lee County since the early 1970s and although is located in the Rural future land use, the property is not consistent with the definition or description of a rural use. The existing development of Burnt Store Marina consists of high-intensity residential and commercial uses.

Staff recommended the full intensity and density request for the plan consisting of retail, wet slips, dry storage spaces, office space, hotel and residential units. However, staff's recommendation differs from the applicant's request regarding the proposed height. Staff recommends a maximum height of 135 feet if parking is not integrated into the structure. If multiple layers of parking are proposed under multiple family or hotel uses, the height may be increased by an additional 50 feet for a maximum height of 185 feet. Staff recommended that the LPA transmit the request, as amended, for the proposed land use category, Burnt Store Marina Village, in support of the defining statement, Policy 1.2.10, with supporting language in Goal 25, Objective 25.1 and Policies 25.1.1 through 25.1.5 to the Board of County Commissioners.

The LPA questioned Staff regarding the proposed density, coastal high hazard, manatee protection plan and the combination of or separation of the maximum number of wet and dry boat slips and storage.

Staff had initially expressed concern regarding a Memo issued by the Office of County Attorney (see Attachment 20) regarding the density of the existing Marina Village Land Use Plan, which encompasses the subject property. This area is currently vested for a total of 734 dwelling units. In 2006, it appeared that there were 794 dwellings existing in the Marina Village parcel; therefore, a determination was made that no additional dwelling units could be constructed under the current Rural land use category. However, Staff determined that the proposed Burnt Store Marina Village land use category would supercede this determination permitting the request of the applicant for the 160 additional dwelling units.

Staff also addressed additional information regarding the location of the proposed residential and hotel units. The applicant has demonstrated that the proposed dwelling and hotel units are located outside of the designated Coastal High Hazard Area. A Policy is recommended to ensure that these uses will not be permitted within a designated Coastal High Hazard Area.

Staff recommended language whereby separating the number of proposed wet and dry boat slips and storage based on language in the Department of Community Affairs binding letter. The number of slips varies based on the definition and determination of the use. Marina uses are no longer subject to State Statute regulations and review regarding Developments of Regional Impact (DRI); therefore, staff does not object to the recommendation of the LPA to combine the maximum permitted number of wet and dry spaces. It was noted that redevelopment of marina uses will be subject to provisions of the Manatee Protection Plan.

There was no additional public comment regarding the proposed maximum height of the buildings and the additional dwelling units.

B. LOCAL PLANNING AGENCY RECOMMENDATION AND FINDINGS OF FACT SUMMARY

1. **RECOMMENDATION:** The LPA agreed with the applicant regarding the combination of the number of permitted slips and the economics involved with this type of development. This is a function reviewed and permitted by local and state agencies based on the available space. It was further noted that current regulations contained in the Lee Plan do not govern the number of permitted boat slips in a land use category and a cumulative number of 1,325 wet and dry spaces is appropriate.

By a vote of 3 to 1, the LPA voted that the request is consistent with the Lee Plan and recommended that the Board of County Commissioners transmit the amendment as proposed by staff, with the following changes provided in strike-through and double-underline format:

The following uses are permitted within the Burnt Store Marina Village category; a maximum of 55,000 square feet of retail uses; ~~a maximum of 525 wet slips; a maximum of 800 dry storage spaces~~ 1,325 wet and dry spaces; a maximum of 15,000 square feet of office space; a maximum of 145 hotel units; and a maximum of 160 residential units. The maximum height permitted in this category is 220 feet ~~135 feet~~ ~~if the parking is not integrated into the structure. If multiple layers of enclosed parking are placed under the multi-family or hotel use, the height may be increased by an additional 50 feet for a maximum height of 185 feet.~~

2. **BASIS AND RECOMMENDED FINDINGS OF FACT:** As contained in the Staff Report with proposed amendments to permit a combination of wet and dry slips and storage spaces for a total of 1,325 wet and dry spaces and a maximum height of 220 feet.

C. NO VOTE WAS TAKEN ON SEPTEMBER 22, 2008

VOTE: SEPTEMBER 29, 2008

CARLETON RYFFEL (Chair)	<u>ABSENT</u>
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LES COCHRAN (Vice-Chair)	<u>AYE</u>
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NOEL ANDRESS	<u>AYE</u>
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RONALD INGE	<u>AYE</u>
RAE ANN WESSEL	<u>NAY</u>
LELAND M. TAYLOR	<u>ABSENT</u>
JACQUE RIPPE	<u>ABSENT</u>

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

DATE OF TRANSMITTAL HEARING:

A. BOARD REVIEW:

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

1. BOARD ACTION:

2. BASIS AND RECOMMENDED FINDINGS OF FACT;

C. VOTE:

**PART V - DEPARTMENT OF COMMUNITY AFFAIRS OBJECTIONS,
RECOMMENDATIONS, AND COMMENTS (ORC) REPORT**

DATE OF ORC REPORT:

- A. DCA OBJECTIONS, RECOMMENDATIONS AND COMMENTS**
- B. STAFF RESPONSE**
- C. STAFF RECOMMENDATION**

**CPA2007-54
BURNT STORE MARINA
PRIVATE INITIATED
AMENDMENT
TO THE**

LEE COUNTY COMPREHENSIVE PLAN

THE LEE PLAN

Privately Initiated Application
and Lee County Staff Analysis

LPA Public Hearing Document
for the
September 22, Public Hearing

*Lee County Planning Division
1500 Monroe Street
P. O. Box 398
(239) 533-8585*

September 22, 2008

**LEE COUNTY
DIVISION OF PLANNING
STAFF REPORT FOR
COMPREHENSIVE PLAN AMENDMENT
CPA2007-00054**

✓	Text Amendment	✓	Map Amendment
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This Document Contains the Following Reviews:

✓	Staff Review
	Local Planning Agency Review and Recommendation
	Board of County Commissioners Hearing for Transmittal
	Staff Response to the DCA Objections, Recommendations and Comments (ORC) Report
	Board of County Commissioners Hearing for Adoption

STAFF REPORT PREPARATION DATE: September 12, 2008

PART I - BACKGROUND AND STAFF RECOMMENDATION

A. SUMMARY OF APPLICATION

1. APPLICANT/REPRESENTATIVE

Realmark Burnt Store Marina, LLC, Applicant

Matthew D. Uhle, Esq., Knott, Consoer, Ebelini, Hart and Swett PA, Authorized Representative

- 2. REQUEST:** Amend the Lee Plan's Future Land Use Map series, Map 1, for 18.25± acres in Section 1, Township 43, South, Range 22 East and Section 6, Township 43 South, Range 23 East, Lee County, Florida from Rural to Burnt Store Marina Village Future Land Use Category. Amend Table 1(b) to reallocate two acres of residential and one acre of industrial acreage to accommodate the proposed development. (see Attachment 1)

B. STAFF RECOMMENDATION AND FINDINGS OF FACT SUMMARY

- 1. RECOMMENDATION:** Planning staff recommends that the Board of County Commissioners transmit the proposed amendment, as modified by Staff. Planning staff further recommends that the Future Land Use Map 1 be amended by adding a new category to be known as Burnt Store Marina Village.

Staff recommends the Lee Plan be amended to create a new Policy as follows:

Policy 1.4.8. *The Burnt Store Marina Village is intended to facilitate the redevelopment of the existing marina and commercial area of Burnt Store Marina for an attractive mix of marine, retail, hotel, and office uses that will enhance the public use of the waterfront. The following uses are permitted within this category: a maximum of 55,000 square feet of retail uses; a maximum of 525 wet slips (existing); a maximum of 800 dry storage spaces; a maximum of 15,000 square feet of office space; a maximum of 145 hotel units; ~~and a maximum of 160 residential units.~~ The maximum height permitted in this category is ~~220~~ 135 feet.*

Commercial retail development, marina related uses, hotels and motels and general office development will predominate in the Burnt Store Marina Village. Limited light industrial uses are also permitted to facilitate the proper development of marinas and other uses incidental to such facilities. The planned development rezoning process must be used to accommodate existing conditions, prevent adverse impacts to the surrounding areas and to ensure that appropriate site development regulations are incorporated into the development plans. Development in this future land use category overlay is not required to comply with the site location criteria provided in Goal 6 when appropriate site development regulations are incorporated into the planned development. New development in this category must connect to a potable water and sanitary sewer system.

ALTERNATIVE RECOMMENDATION:

Should the Board of County Commissioners be desirous of including the proposed, additional 160 residential dwelling units, Staff recommends the following language be included in the proposed Policy 1.4.8:

An on-site shelter must be constructed to accommodate residents and hotel guests to withstand Category 5 hurricane force winds and storm surge. The owner/developer must submit a post storm recovery plan including post storm evacuation plan for review and approval by Lee County Emergency Management. This plan must include annual training of on-site shelter managers provided by the Red Cross and approved by Lee County Emergency Management.

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

- The subject property and existing uses are not consistent with the description and definition of the Rural future land use category. The existing development of Burnt Store Marina consists of high-intensity residential and commercial uses with a provision of urban services such as Fire and Police protection and utilities.
- Since 1973 the Department of Community Affairs has reviewed Burnt Store Marina, an existing development consisting of 626 acres, with respect to its Development of Regional Impact (DRI) status. Each time, the Department of Community Affairs has determined that Burnt Store Marina is vested from DRI review.
- On July 31, 2008, the Department of Community Affairs issued a Binding Letter of Modification (BLIM) to a Development with Vested Rights and a Binding Letter of Determination of Development of Regional Impact Status (BLID) for Punta Gorda Isles Section 22 (also known as

Burnt Store Marina). Thus, finding that the proposed development in Section 22 and Tract C is below 100 percent of the applicable DRI thresholds as provided in Section 380.0651(2)(d)1.a., F.S. Therefore, the project would not be required to undergo DRI review. However, this determination does not preclude the compliance with all other applicable federal, state or local government procedures such as zoning and development regulations.

- The proposed land use category will permit the redevelopment and expansion of the existing marina and related services. The project will be compatible with the surrounding community and will be served by adequate public facilities.
- No additional commercial acreage is being requested for the project, as the property is currently being utilized for commercial purposes. The applicant is seeking to improve an existing commercial development including water-dependent recreational uses.
- The creation and application of the land use category does not encourage urban sprawl, rather, the amendment represents redevelopment of an already urbanized portion of the Burnt Store Marina development. The proposed category contemplates multi-use development to complement the existing high density residential development within Burnt Store Marina.
- The amendment will create an exception to the commercial site location standards similar to those inherent to the County's new "Commercial" future land use category. The exception is justified in light of the amount of development that currently exists and is vested for Burnt Store Marina.
- The Hurricane Storm Tide Atlas depicts the location of the subject property within the Tropical Storm and Category 1 Storm Surge categories. The Lee Plan, Policy 5.1.2 prohibits residential development where physical constraints or hazards exist, or require the density and design to be adjusted accordingly. Such constraints or hazards include but are not included to flood, storm, or hurricane hazards; unstable soil or geologic conditions; environmental limitations; aircraft noise; or other characteristics that may endanger the residential community.
- Lee Plan Policy 105.1.4 further states that through the Lee Plan amendment process, future land use designations of undeveloped areas within coastal high hazard areas will be considered for reduced density categories in order to limit the future population exposed to coastal flooding. There is an existing tract adjacent to the subject property currently developed with multiple-family residential known as Keel Club Condominium.
- The applicant is requesting an additional 160 dwelling units within the existing development and a maximum height of 220 feet. There is a pending Lee Plan amendment, CPA2007-59, currently under review to amend the Glossary definition of the Coastal High Hazard Area to change the defined Coastal High Hazard Area from the category 1 evacuation zone to the category 1 storm surge line. The changes made to Chapter 163.3178, F.S. define the coastal high hazard area as the area below the elevation of the category 1 storm surge line as established by a Sea, Lake and Overland Surges from Hurricanes (SLOSH) computerized storm surge model. This change will require an amendment to Lee Plan Map 5, Coastal High Hazard Area of the future land use map

series reflecting the updated definition of the Coastal High Hazard Area. As a result of this amendment, required to comply with State statutes, the subject property will be designated within an area that will be reclassified on Lee Plan Map 5.

The portion of the subject property that is proposed for 160 units of residential dwelling units is located within Tract C. A Memorandum from the Office of County Attorney was issued on November 28, 2006 regarding Burnt Store Marina. This Memorandum states the following:

Under the Marina Village Land use Plan the project is vested for a total of 734 dwelling units (4.8 units per acre x 153 acres = 734 units). Based upon the documents provided as updated by the information available on the Property Appraiser website, it appears that a total of 794 dwelling units currently exist within the Marina Village parcel. Therefore, no additional dwelling units may be constructed. (see Attachment 2)

Thus, Staff is unable to recommend approval of an additional 160 residential dwelling units within Tract C.

C. BACKGROUND INFORMATION

1. EXISTING CONDITIONS:

SIZE OF PROPERTY: 18.25± acres; Total Uplands: 18.25± acres; Total Wetlands: None (See Attachment 3)

PROPERTY LOCATION: The Burnt Store development is located in the extreme northwest portion of the County. It is bounded by Charlotte County to the north, Burnt Store Road to the east, Cape Coral to the south and Charlotte Harbor to the north. Burnt Store Marina encompasses a total of 626 acres originally platted in 1973 as Punta Gorda Isles, Section 22 in Plat Book 28, Page 118.

The subject property, consisting of 18.25 ± acres is generally located on the west side of Burnt Store Road, specifically within the Burnt Store Marina development at 3150, 3090 and 3140-3200 Matecumbe Key Road, Punta Gorda

EXISTING USE OF LAND: Marina, Hotel, Restaurant, Residential, Wet and Dry boat slips and vacant. (See Attachment 4)

CURRENT ZONING: The property is currently zoned Marine Commercial (CM), Residential Multiple-Family (RM-2) and RM-10.

There is a pending zoning case (Z-08-037; REZ2007-00020) to permit the rezoning of 1.33 acres of the subject property from RM-2 and RM-10 to Commercial Parking (CP). This case is scheduled before the Board of County Commissioners on Monday, September 15, 2008. The RM-10 zoned parcel is located within Section 22 of Burnt Store Marina. Approval of this rezoning will permit additional parking to complement the redevelopment of the existing marina.

The RM-10 zoned parcel is currently vested for a maximum of 10 dwelling units per acre. Approval of the requested rezoning would limit future residential development of the subject property to a maximum of one dwelling unit per acre (Rural land use category). Approval of the requested Lee Plan amendment will supercede this vesting and the proposed policy will set forth maximum land use regulations.

CURRENT FUTURE LAND USE CATEGORY: The subject property is designated Rural (See Attachment 5)

2. REQUEST:

The applicant is requesting a change in the subject property's future land use category from Rural to a new category entitled "Burnt Store Marina Village" future land use category. This category is proposed to permit redevelopment of existing uses on the subject property. The Rural future land use category currently permits a maximum of one dwelling unit per acre and minimal non-residential land uses that are needed to serve the rural community. There is not a specific limit for office or marine related uses.

The application encompasses four parcels, two of which are developed with the existing marina, wet (existing) and dry boat slips and ancillary uses.

The application proposes a new land use category entitled "Burnt Store Marina Village" as follows:

Burnt Store Marina Village area is located within a portion of the property in Burnt Store Marina that was zoned for a mixture of commercial and residential uses in Lee County Resolution Z-77-63. The category is intended to facilitate the redevelopment of the existing marina and commercial area of Burnt Store Marina for an attractive mix of marine, retail, hotel, and office uses that enhances the public use of the waterfront. The following uses are permitted within this category; retail uses, up to a maximum of 55,000 square feet ; wet slips, up to a maximum of 525 (vested/existing); dry storage spaces, up to a maximum of 800; office space, up to a maximum of 15,000 square feet; a maximum of 145 hotel units; and a maximum of 160 residential units. The maximum height permitted in this category is 220 feet.

The applicant further proposes to amend the 2030 Planning Communities Acreage Table (See Attachment 6)as follows:

1. Add a new line for "Burnt Store Marina Village" in the table;
2. Allocate two acres of residential to the new category;
3. Move one acre from the existing Burnt Store commercial allocation to the Industrial category.

The applicant proposes to redevelop approximately 18.25 acres of Burnt Store Marina which currently houses wet boat slips, a dry storage building, office space, a restaurant and recreational uses. The surrounding uses are predominantly multiple-family residential structures. The proposed amendment, if approved, will permit the applicant to add 15,000 square feet of office space; 160 residential units; 55,000 square feet of retail uses with 300 parking spaces; 145 hotel rooms and 560 dry boat storage spaces. The proposed dry storage buildings are depicted as industrial uses in accordance with the 2030 Planning Communities Acreage.

PART II - STAFF ANALYSIS

A. STAFF DISCUSSION

INTRODUCTION

The proposed amendment is the result of a desire by a new owner to redevelop and expand the existing uses of the property from a limited mix of marine, residential, commercial-retail, hotel and office uses by creating a new future land use category specific to Burnt Store Marina. The new future land use category would facilitate the redevelopment of the existing uses that enhance the waterfront and public uses.

Burnt Store Marina, consisting of 626± acres, is divided into two distinct sections, Marina Village located within Tract C and the Golf Course Subdivision located within Punta Gorda Isles, Section 22. The proposed amendment encompasses 13.3 acres of Tract C and the addition of an adjacent 4.95 acres included within the Punta Gorda Isles, Section 22.

The Lee Plan, in the Vision for 2030, identifies the Burnt Store Planning Community as follows:

This community is located in the northwest corner of the mainland of unincorporated Lee County. The property east of Burnt Store Road is designated Open Lands and the land west of Burnt Store Road is designated as Rural (also known as Burnt Store Marina) with the exception of 10 acres designated as Outlying Suburban. Most of the Burnt Store Marina development was approved prior to the adoption of the 1984 Lee Plan and is "vested" for densities higher than allowed by the current plan. This development is primarily residential with a high percentage of seasonal residents. There are some commercial and marine oriented amenities within the Burnt Store Marina development primarily serving residents of that development. This area is expected to substantially grow through the year 2030. Today, most of the community's commercial needs are served outside of the community in Cape Coral, North Fort Myers and Fort Myers, or in Charlotte County. This development pattern is expected to remain through 2020. (Added by Ordinance No. 99-15, Amended by Ordinance No. 07-12)

Policy 6.1.7: *Prohibit commercial developments from locating in such a way as to open new areas to premature, scattered, or strip development; but permit commercial development to infill on small parcels in areas where existing commercial development will make a residential use clearly unreasonable.*

Policy 6.1.8: *Commercial development may take place, when properly zoned and when meeting the standards in Policy 6.1.2, within the Future Urban Areas. Minor or rural commercial uses which serve rural residents of marine traffic, neighborhood commercial uses which serve major non-commercial public attractions, (e.g. Lee County Civic Center), limited agricultural - commercial uses which serve rural areas and agriculturally related needs and limited commercial marinas (non including heavy marine commercial, such as extensive storage and hull, engine and electronic repairs) may be permitted in non-urban areas.*

The subject property currently houses some existing commercial land uses. The applicant is proposing to redevelop the subject property including enhancements to an existing marina and ancillary uses. The

commercial uses will provide services to the surrounding residential land uses as well as provide the foundation for a mixed use community.

Two of the subject parcels are located in a designated "Water-Dependent Overlay Zone" depicted in Lee Plan Map 12 (page 9 of 12) (See Attachment 7). The Water-Dependent overlay zone is defined in Policy 1.7.5 of the Lee Plan as follows:

The Water-Dependent overlay zone designates shoreline areas where priority will be granted to water-dependent land uses. Specific requirements are detailed for such zones on San Carlos Island under Goal 12, in the Great Pine Island area under Goal 14 and for other areas in Lee County in the Conservation and Coastal Management Element. (Amended by Ordinance No. 94-30, 00-22).

The Lee Plan further addresses water access in Goal 125 which encourages development and implementation of a public water access program.

Objective 125.2: Water Access in Private Developments. *The county will encourage private landowners to provide some form of water access to the public. (Amended by Ordinance No. 00-22)*

Objective 125.3: *Develop techniques to encourage development and expansion of water-dependent recreational uses in Lee County waterways and discourage any conversion of water-dependent uses to non-water dependent uses. (Added by Ordinance No. 07-09)*

The Lee Plan, Objective 128.6, establishes policies utilized to evaluate marina design criteria (new or expansion at existing marinas) in order to minimize negative impacts and to complement the county's development regulations.

Policy 128.6.6: *Marinas and multi-slip docking facilities must prepare hurricane plans with the assistance of the county which describe measures to be taken to minimize damage to marina sites, neighboring properties and the environment; this hurricane plan is subject to county approval. (Amended by Ordinance No. 00-22)*

Policy 128.6.13: *Dry storage of small boats should be encouraged, with dry storage structures located inland as far as feasible.*

Policy 128.6.16: *Expansion of dry storage capabilities will be strongly encouraged to reduce dredging. (Amended by Ordinance No. 00-22)*

The Burnt Store Marina community is non-conforming in relation to the Rural future land use category. This development is more consistent with the culture of an urban or mixed use land use category.

Staff supports the applicant's request to provide for a land use category permitting the expansion of the existing water-dependent recreational facilities such as the dry storage building as set forth in the above-referenced policies. Staff further supports office space, retail uses and hotel rooms which will

complement the existing and proposed uses. However, Staff cannot recommend approval of 160 additional residential uses within Tract C based on the opinion of the Office of the County Attorney.

COMPREHENSIVE PLAN BACKGROUND

In 1984, upon adoption of the Lee Plan, the subject property was designated as part of the "Fringe" land use category described in the 1984 Lee Plan as follows:

These areas border designated Urban Service Areas yet are not a part of the Urban Service Area. The Plan recognizes these fringe areas as potentially appropriate for development at Urban Community densities, although their overall lack of requisite infrastructure may delay such development unless private sector provision of services and facilities occurs. The Lee Plan does not target these areas for public expenditures. Therefore, development approvals will be wholly based upon a satisfactory demonstration of necessary infrastructure including potential fiscal mitigation for services such as EMS, police and fire protection, educational facilities, as well as all appropriate Plan Goals, Objectives, Policies and Standards. Developments that have lower levels of infrastructure, environmentally sensitive areas or potential negative impacts on potable water resources should be considered for the lower end of the density range and lower levels of intensity compatible with adjacent land uses.

In 1989, the Board of County Commissioners amended the Lee Plan at which time the "Fringe" land use category was eliminated and the Burnt Store Marina development was included within the "Rural" future land use category. The 1989 Lee Plan described the "Rural" future land use category as follows:

Policy 1.4.1: *The Rural areas are to remain predominantly rural - that is, low density residential, agricultural uses, and minimal non-residential land uses that are needed to serve the rural community. These areas are not to be programmed to receive urban-type capital improvements, and they can anticipate a continued level of public services below that of the urban areas. Maximum density in the Rural area is one dwelling unit per acre (1 du/acre), except as may be permitted under the Planned Development District Option.*

The current Lee Plan includes the "Rural" future land use category in Objective 1.4: Non-Urban Areas, which are designated on the Future Land Use Map as categories for those areas not anticipated for urban development at this time as follows:

Policy 1.4.1: *The Rural areas are to remain predominantly rural - that is, low density residential, agricultural uses and minimal non-residential land uses that are needed to serve the rural community. These areas are not to be programmed to receive urban-type capital improvements and they can anticipate a continued level of public services below that of the urban areas. Maximum density in the Rural area is one dwelling unit per acre (1 du/acre). (Added by Ordinance No. 97-17, Amended by Ordinance No. 98-09, 00-22, 07-12)*

The applicant's request is to create a new land use category, "Burnt Store Marina Village" area located within a portion of the property in Burnt Store Marina that is zoned for a mixture of commercial and residential uses. The proposed category would facilitate the redevelopment of the existing marina and commercial area of Burnt Store Marina. The redevelopment will occur on 13.3 acres of the existing

development and 4.95 acres of the additional 8.65 acres, for a total redevelopment area of 18.25 acres. The plan includes 15,000 square feet of office, an addition of 160 residential units, 55,000 square feet of retail with 300 parking spaces, 145 hotel rooms, a maximum of 525 wet slips and a maximum of 800 dry storage spaces.

HISTORY

On May 9, 2008, the applicant submitted a letter to the Department of Community Affairs requesting a Binding Letter of Modification (BLIM) to a Development of Regional Impact with Vested Rights Under Sections 380.06 and 120.57, Florida Statutes with attachments (See Attachment 8) and the following chronological history:

- The first binding letter, dated October 26, 1973 found that proposed development for Section 22 is not vested from DRI review. That finding was reconsidered and reversed in a second binding letter. DCA binding letter dated July 5, 1974, supersedes the October 26, 1973 letter and concluded that the proposed development for Punta Gorda Isles-Section 22 is vested from DRI review.
- The 380.032 Agreement executed on May 20, 1986, stipulated that a total of 2,514 residential units within the Punta Gorda Isles-Section 22 plat is vested from DRI review. The 1986 Agreement between the owner and the County resolved a dispute as to whether the 239 platted home sites for which DCA recognized vested rights in its October 26, 1973 binding letter were sites for multiple-family buildings or for single-family units.
- The second 380.032 agreement was executed on January 30, 1987 and stipulates that a maximum of 323 wet spaces or 525 wet slips, and 456 dry spaces in the Punta Gorda Isles-Section 22 project had vested rights from DRI review.

On May 27, 2008, the Department of Community Affairs responded to the applicant's letter requesting a BLIM/BLID for the Burnt Store Marina project requesting additional information. The applicant responded to the Department of Community Affairs on May 30, 2008 and provided the requested, additional information.

In response to the applicant's request, on July 31, 2008, the Department of Community Affairs issued Final Order No. DCA08-BL-204, including a Binding letter of Modification to a Development with Vested Rights (BLIM-09-2007-016) and a Binding Letter of Determination of Development of Regional Impact Status (BLID-09-2007-015) for Punta Gorda Isles, Section 22 (also known as Burnt Store Marina) with the following conclusions:

1. Even though the additional development as demonstrated in paragraphs 9 and 10 exceeds the substantial deviation criteria in Sections 380.06(19)(b)13., F.S., the Department finds that there are no regional impacts arising from the proposed changes that have not been previously reviewed. Therefore, the currently proposed plan of development for the Punta Gorda Isles Section 22 project does not divest any rights the developer has acquired under Section 380.06(20), F.S., to complete the development of the aforementioned Punta Gorda Isles Section 22 DRI.

2. The proposed development on the adjacent 8.65 acre parcel and portions of Tract C as demonstrated in paragraphs 11, 12 and 13 is below 100 percent of the applicable DRI thresholds as provided in Section 380.0651(2)(d)1.a., F.S. Therefore, the proposed development on the adjacent 8.65 acres and portions of Tract C would not be required to undergo DRI review.
3. The plan of development on the adjacent 8.5 acre parcel and portions of Tract C is currently inconsistent with the Lee County Comprehensive Plan. No development may proceed until the amendment is made to the Lee County Comprehensive Plan that would allow for the planned development. The comprehensive plan amendment must also be consistent with Chapter 163, F.S., the State Comprehensive Plan and Chapter 9J-5, Florida Administrative Code. Thus, the following order was issued by the Department of Community Affairs:
 1. The modifications to the vested Punta Gorda Isles Section 22 DRI, as described above, will not be required to comply with the review requirements of Section 380.06, F.S.
 2. The proposed modifications to the vested plan will not divest the vested rights to develop. If the changes described in the application for this binding letter are approved by the local government of jurisdiction and incorporated in a new development order, they will constitute the vested plan of development and must be followed by you and your successors. If any further changes are proposed for your project, they should be submitted by the applicant or successor(s) to the Department for comparison together with the impacts of the plan now vested in this letter. Should any of the above representations made by the applicant be substantially changed, further binding letter review of the project may be required.
 3. The proposed development on the adjacent 8.65 acre parcel, which is not vested for DRI purposes and portions of Tract C, as described in paragraph 11, is not required to comply with the review requirements of Section 380.06, F.S.
 4. The development on the adjacent 8.65 acre parcel, which is not vested for DRI purposes and portions of Tract C, will be considered cumulatively with any future additional development in terms of the guidelines and standards contained in Chapter 28-24, Florida Administrative Code and Section 380.0651.F.S., and its related impacts. Should any of the above representations made by the applicant be substantially changed, further review of the project may be required.
 5. The binding letter as it applied to the unvested development on the adjacent 8.65 acre parcel and portions of Tract C will expire and become void as of July 25, 2011, unless the plan of development has been substantially commenced by this date. This date may be extended by mutual agreement of the Department, the local government of jurisdiction and the developer.
 6. This determination does not obviate the need to comply with all other applicable federal, state, or local government permitting procedures.

7. You have the right to request a formal administrative hearing if you dispute any issue of material fact in this binding letter. If a formal administrative proceeding is not requested, this binding letter constitutes final agency action and is subject to judicial review.

SURROUNDING ZONING, LAND USES AND FUTURE LAND USE DESIGNATION

North: Residential Multiple-Family (RM-2, RM-10)

Rural future land use category

Sunset Key Condominiums and

Prosperity Pointe Condominiums

South: Matecumbe Key Road, then

City of Cape Coral; Pedestrian Commercial District (C-1)

Mixed Land Use future land use category

Resort at Burnt Store Marina and amenities

East: Matecumbe Key Road, then

Residential Multiple-Family (RM-10)

Commodore Condominiums; and

Courtside Landings Residential Planned Development (RPD)

a/k/a Harbour Villas

Outlying Suburban future land use category

West: Residential Multiple-Family (RM-2)

Rural future land use category

Marina South Shore Condominiums

The Keel Club Condominium, consisting of 47 units, is also located adjacent to the subject property in the area between the proposed dry storage buildings and the proposed Marina Village commercial uses.

MAP 16 - PLANNING COMMUNITIES AND TABLE 1(b)

The subject property is located within the Planning Community of Burnt Store. In this community there are 700 acres allocated to residential uses in the Rural land use category. Recent Planning Division data indicates that 600 acres within this community are currently developed with residential uses, leaving a surplus of 100 acres that could be developed with residential uses in the Rural land use category before the year 2030. (see Attachment 9)

There are 50 acres allocated to commercial uses, with 19 acres indicated as currently developed, leaving a surplus of 31 acres that could be developed with commercial uses. There are five acres allocated to industrial uses. Four of these acres have been developed with industrial uses leaving one acre available for industrial development.

COASTAL

The Hurricane Storm Tide Atlas depicts the location of the subject property within the Tropical Storm and Category 1 Storm Surge categories.

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

Policy 105.1.4. Through the Lee Plan amendment process, future land use designations of undeveloped areas within coastal high hazard areas will be considered for reduced density categories in order to limit the future population exposed to coastal flooding. Although a portion of the subject property is currently developed with multiple-family residential uses, the applicant is proposing 160 additional (new) dwelling units.

The applicant is requesting an additional 160 dwelling units within the existing development and a maximum height of 220 feet. There is a pending Lee Plan amendment, CPA2007-59, currently under review to amend the Glossary definition of the Coastal High Hazard Area to change the defined Coastal High Hazard Area from the category 1 evacuation zone to the category 1 storm surge line. The changes made to Chapter 163.3178, F.S. define the coastal high hazard area as the area below the elevation of the category 1 storm surge line as established by a Sea, Lake and Overland Surges from Hurricanes (SLOSH) computerized storm surge model. This change will require an amendment to the Lee Plan, Map 5, Coastal High Hazard Area of the future land use map series reflecting the updated definition of the Coastal High Hazard Area. The subject property is proposed to be located within this newly defined area of the Lee Plan, Map 5.

The changes made to Chapter 163.3178, F.S. also require identification of mitigation measures that will satisfy the requirements for a category 5 storm event evacuation time to shelter and out of county evacuation. The current Lee Plan Policy 109.1.1 addresses mitigation requirements for impacts to the hurricane evacuation network and hurricane evacuation times. The policy states that impacts will require mitigation through structural provisions or non-structural methods or techniques. Staff is proposing additional language to Policy 109.1.1 to clarify that mitigation measures must be consistent with a category 5 storm event.

Mitigation measures are currently established in the Land Development Code, Chapter 2, Article XI, Hurricane Preparedness. Adoption of the Lee Plan amendments will result in required amendments to the LDC to further clarify and enforce that mitigation requirements will be based on a Category 5 storm event consistent with the changes made to Chapter 163.3178, F.S.

The Southwest Florida Regional Planning Council reviewed the subject property in regards to the 1991 Hurricane Storm Tide Atlas for Lee County. The subject property is located on Plates 1 and 4 of the Atlas. Since the parcel runs from Charlotte Harbor to Burnt Store Road, the property is located in Tropical Storm Surge Zone to Category 3 Surge Zone. The specific surge heights for this site are as follows:

The subject property is located within Time-History Point 48. Based on an elevation of 5 feet, the site would be dry in a tropical storm; have 3 feet over it in a Category 1; 4.3 feet over it during a category 2; 8.5 feet over it during a category 3 and 15.3 feet over it during a category 4/5.

In accordance with the Lee Plan, Map 5, the subject property is not currently located within the designated Coastal High Hazard Area. The proposed Lee Plan Amendment, CPA2007-59 proposes an amendment to the Conservation and Coastal Management Element of the Lee Plan to establish a Category 5 hurricane evacuation standard, a shelter time standard and mitigation measures. Subsequently, this amendment will impact Map 5, Coastal High Hazard Area, and redefine this area reflecting the updated definition of the Coastal High Hazard Area. The subject property will be included within the Coastal High Hazard Area.

This further reiterates Staff's review and analysis of the requested Lee Plan amendment. In conjunction with the opinion of the County Attorney's Office regarding the number of existing residential units within Tract C and the above-referenced Lee Plan policies, staff is unable to support the applicant's request to permit an additional 160 dwelling units.

TRANSPORTATION/TRAFFIC CIRCULATION IMPACTS

The Lee County Department of Transportation (LCDOT) reviewed the request and has provided Planning staff written comments dated September 5, 2008 (see Attachment 10). This review was based on the initial submittal provided by the applicant. LCDOT concluded that based on the parameters (of the proposed development), utilizing the 2030 FSUTMS model, LCDOT staff determined that this land use change will not alter the future road network plans in this area. The applicant's subsequent resubmittal proposes a reduction in the amount of square footage originally presented; thus, creating less impact to the road network.

The roads located within Burnt Store Marina are private. An access easement (See Attachment 10) has been entered into the Official Records of Lee County in Instrument Number 6285414 in Book 4307, Page 1374 between the Punta Gorda Isles, Section 22 Homeowners Association, Inc. And Realmark Burnt Store Marina, LLC. (the applicant) providing an exclusive manner of ingress and egress to the subject property. This easement grants and conveys the Grantee (the applicant) and its successors and assigns, and its lessees, their contractors, customers, employees, guests, invitees and licensees, a perpetual, non-exclusive easement for ingress and egress only over and across the roads lying and being in the County of Lee, State of Florida as follows:

Big Pine Lane, Cape Cole Boulevard, Matecumbe Key Road, Sugarloaf Key Road, Marathon Way, Key Largo Lane, Key Largo Circle, Sable Key Circle, Marianne Key Road, Romano Key Circle, Big Pass lane, Big Bend Circle, Islamorada Road (a/k/a Islamorada Boulevard) and Little Pine Circle, according to the Plat of Punta Gorda Isles, Section 22, recorded in Plat Book 28, at page 118, of the public records of Lee County, Florida, and replatted in Plat Book 34, at page 92, of the public records of Lee County, Florida, and any amendments and supplements thereto.

This easement is restricted by and subject to the rules and regulations of the Punta Gorda Isles, Section 22 Homeowners Association, Inc., that may be adopted and amended from time to time, provided, however that such rules and regulations shall not interfere with, hinder or impede in any way grantee's rights as set forth herein. This easement may not be amended or terminated without the written joinder and consent of the grantee, its successors and assigns.

POPULATION ACCOMMODATION

The subject property consists of land that has previously been developed for commercial purposes. Two acres of the parcel are proposed to be redeveloped for 160 residential units. This will result in a proposed increase of 334 persons (160 x 2.09 PPH) accommodated by the future land use map.

If the requested amendment is approved, it will be necessary to create a new row in the Planning Communities Acreage Table for the Burnt Store Marina Village Planning Community. The revised table should depict two acres of residential uses, six acres of "industrial" uses (to accommodate the dry storage buildings), seven acres of commercial uses and three acres of public uses to accommodate the project. The subject property is currently accommodated in the commercial category for the Rural future land use; thus, will require redistribution of the allocated residential, commercial and industrial uses to the proposed Burnt Store Marina Village Planning Community.

ENVIRONMENTAL CONSIDERATIONS

The Division of Environmental Sciences (ES) staff has reviewed the proposed Burnt Store Marina Comprehensive Plan Amendment and offered an analysis included as Attachment 11. Due to the limited scope of the request for Comprehensive Plan amendment, the project does not include environmentally sensitive areas. ES staff does not object to the proposed future land use category.

SOILS

A map of the soils located on the subject property consisting of 18.25± acres is included in the application. The type of indicated soils include Mayakka Fine Sand, Estero Muck, Peckish Mucky Fine Sand, Immokalee Sand, Smyrna Sand, Myakka Fine Sand, depressional and Matlacha Gravely Find Sand.

SURFACE WATER MANAGEMENT

Burnt Store Marina utilizes multiple drainage basins comprised of existing surface water management systems which include dry detention areas for pretreatment or water runoff and wet detention lakes for rain stage storage during large flood events. The proposed 18.25 acre redevelopment area is part of an existing Department of Environmental Protection (DEP) permit and South Florida Water Management District Permit (SFWMD), which will require modification and review by Lee County Natural Resources prior to development order approval. The surface water management systems within the redevelopment area are not expected to increase in size due to the fact that the existing site area has about the same impervious area to pervious area ratio.

MANATEE PROTECTION

The Lee County Division of Natural Resources reviewed the application relative to manatee protection. The site rates as *preferred* under the Manatee Protection Plan and the number of slips proposed are consistent with that finding. The applicant will be required to comply with all applicable standard construction conditions for manatee protection including development of an education program for marina users.

HISTORIC RESOURCES

The application includes a letter dated September 28, 2007 from the Division of Historical Resources, Florida Department of State (See Attachment 12). This letter provides the following information:

In response to your inquiry of September 27, 2007, the Florida Master Site File lists no previously recorded cultural resources in the following parcels: T43S, R22E, Section 1

In interpreting the results of our search, please remember the following points:

- *Areas which have not been completely surveyed, such as yours, may contain unrecorded archaeological sites, unrecorded historically important structures, or both.*
- *As you may know, state and federal laws require formal environmental review for some projects. Record searches by the staff of the Florida Master Site File do not constitute such a review of cultural resources. If your project falls under these laws, you should contact the Compliance Review Section of the Bureau of Historic Preservation at 850-245-6333 or at this address.*

Lee County staff notes that there are areas on the subject property designated on the Lee County Archaeological Sensitivity Map as Sensitivity Level 2. Chapter 22 of the Lee County Land Development Code (LDC) defines the Sensitivity Level 2 as follows:

"Those areas containing known archaeological sites that have not been assessed for significance but are likely to conform to the criteria for local designation, or areas where there is a high likelihood that unrecorded sites of potential significance are present."

Staff is not aware of any historic or archaeological resources occurring on this site; however, the applicant will be required to obtain a "Certificate to dig" permit from Lee County prior to or in conjunction with the issuance of a final development order for activity within areas designated as being within the "Sensitivity Level 2" areas. "Activity" in this context means new construction, filling, digging, removal of trees or any other activity that may alter or reveal an interred archaeological site.

SCHOOL IMPACTS

Lee County School district staff reviewed the proposal and provided written comments dated June 25, 2008 (See Attachment 14). The School District staff reviewed the project on the assumption that the proposal would add a marina, restaurant and other commercial uses as well as 160 new multi-family residential units. The review letter provides that 160 new multi-family dwelling units would generate 20 additional school-aged children and is calculated at .125 per unit. The commercial use would have no impact. Any development of the subject property will be assessed the applicable school impact fees.

PARKS, RECREATION AND OPEN SPACE

The applicant provided an analysis regarding Parks, Recreation and Open Space. The subject property is located within the North Fort Myers Community Park district. The proposed increase of 160 residential units will create a demand for .27 acres of community park acreage in the North Fort Myers district. According to the 2007 Concurrency Inventory, the projected minimum level of service in the North Fort Myers District in 2010 is approximately 50 acres, while 166 acres of developed parks currently exist. The additional residential units contemplated by the amendment application will not adversely impact parks, recreation and open space.

POLICE

The subject property is located within the service area of the Lee County Sheriff's Department.

FIRE AND EMERGENCY MEDICAL SERVICES (EMS)

The subject property is located within the Burnt Store Fire District. The applicant has provided a copy of an Interlocal Agreement between the City of Cape Coral and the Burnt Store Area Fire Service Municipal Taxing Unit (MSTU) (See Attachment 15) to provide fire protection to the residents of Burnt Store Marina. This Agreement, which is reviewed and renewed on an annual basis, will consider the addition of new construction, including but not limited to, buildings and marina facilities during the renewal process.

The Interlocal Agreement establishes fire protection and prevention services, such as work, materials and all related professional, technical, administrative, fire suppression and related services, basic first response rescue, fire company level prevention services, fire inspection services and safety activities that are necessary to perform fire protection and prevention services to the Burnt Store Marina community.

Lee County Emergency Medical Services (LCEMS) staff reviewed the request and provided written comments dated April 17, 2008 (See Attachment 16). This letter provides the following comments:

This current location is served by LCEMS Station 28, located at 707 SW 1st Street, Cape Coral, FL, which is approximately 12.50 miles away. Our response time to this location is 15± minutes, which does not meet our core service level response standards of 8:59 minutes or less in 90% of the total emergency responses as required by Lee County Ordinance #02-19. In the event that Station 28 is busy on a response, the next closest station is LCEMS Station 22, located at 152 SE 13th St., Cape Coral, FL, approximately 14.50 miles away. This statement does not indicate that any plans have been received, it just identifies that Lee County EMS has concerns with the ability to provide service to this area. Current resources prohibit establishing and staffing an EMS station close to this development.

Burnt Store Marina is served by the City of Cape Coral Fire Department, Station 7, located at 3942 Burnt Store Road. This station is equipped with first response equipment including an Advanced Life Support (ALS) vehicle. The Cape Coral Fire Department does not provide ambulatory service for transport; however, is responsible for emergency medical services until such time EMS arrived on site. The City of Cape Coral Fire Department offered no objection to the requested height of 220 feet or staff's recommended height of 135 feet noting that current building, fire and development codes address life safety regulations and they are equipped to provide service structures built to this height.

LEE COUNTY EMERGENCY MANAGEMENT

Lee County Public Safety expressed concern regarding a proposed increase in residential density in an area proposed for designation as Coastal High Hazard. However, if the requested amendment is approved for transmittal including the requested 160 additional dwelling units, the following language was provided to be included in the proposed Policy as follows:

An on-site shelter must be constructed to accommodate residents and hotel guests to withstand Category 5 hurricane force winds and storm surge. The owner/developer must submit a post storm recovery plan including post storm evacuation plan for review and approval by Lee County Emergency Management. This plan must include annual training of on-site shelter managers provided by the Red Cross and approved by Lee County Emergency Management.

SOLID WASTE

The Lee County Solid Waste Division staff has reviewed the request and provided written comments dated June 26, 2008 (See Attachment 17). This letter states that the Lee County Solid Waste Division is capable of providing solid waste collection service for the proposed additional uses requested for the expansion of the Burnt Store Marina Village located on Matecumbe Key Road through our franchised hauling contractors. Disposal of the solid waste from this project will be accomplished at the Lee County Resource Recovery Facility and the Lee-Hendry Regional Landfill.

Further, the Solid Waste Ordinance and the LDC, Chapter 10, Section 10-261 have requirements for providing on-site space for placement and servicing of commercial solid waste containers.

MASS TRANSIT

The applicant indicates that there is no existing or proposed mass transit in conjunction with this request. However, Lee County Transit states that the Lee County Long Range Plan indicates the need for a Park and Ride lot in the vicinity of this project where commuter bus service would begin, providing transportation needs through North Cape Coral and terminating in downtown Fort Myers.

UTILITIES

The subject property is located in the Charlotte County Utilities service area for the provision of potable water and sanitary sewer services. The applicant has provided letters from Charlotte County Government dated June 25, 2008 confirming the availability and capacity of potable water, reclaimed water and sanitary sewer services to the subject property (See Attachment 18).

Potable water services are provided by the Burnt Store Reverse Osmosis Treatment Plant. Sanitary sewer and reclamation water services are provided by the Burnt Store Water Reclamation Facility. Utility services will be made available to the subject property upon extension of the water distribution and wastewater collection system and execution of an agreement with the owner/developer and Charlotte County Utilities.

The applicant states that the existing water and sanitary sewer usage equates to an estimated 21,390 gallons per day (GPD). This entails 7,700 sf of retail space; 10,300 sf of restaurant space and 15,000 sf of office space.

The new proposed uses including 145 new hotel units, additional retail space, additional restaurant space and 160 new multiple-family residential units will generate approximately 63,160 GPD. Thus, the existing and proposed uses will generate approximately 84,550 GPD of water and sanitary sewer usage.

STATE AND REGIONAL PLAN CONSISTENCY

The applicant states that the proposed amendment is consistent with the following State and Regional Plan provisions:

State Plan

Policy 8(b)10: The new category permits expanded water-dependent facilities along the shoreline.

Policy 15(b)3: The new category will also encourage a more attractive and functional mix of uses on the site.

Regional Plan

Goal 2, Strategy 1, Action 4: The applicant is proposing to redevelop an existing commercial site to create an attractive and functional mixed use community.

B. CONCLUSION

Most of the urban services required to support the proposed change of land use and redevelopment are in place or can be made available. The applicant is proposing redevelopment of 18.25 acres to accommodate new development of 145 hotel rooms; 160 dwelling units; a maximum of 60,000 square feet of retail (an increase of 55,000 square feet) with 300 parking spaces; a maximum of 15,000 square feet of office space; a maximum of 525 wet slips (currently existing vested) and a maximum of 800 dry storage spaces.

The proposed amendment does not promote urban sprawl, as the subject property is located within an existing and approved residential and commercial urban development as well as commercial marina uses. The existing uses are not restricted to the residents of Burnt Store Marina and are currently utilized by the public. The existing development is not consistent with the Rural future land use category.

However, as provided in preceding discussion and analysis, Staff is unable to recommend approval of an additional 160 residential dwelling units within Tract C subsequent to an opinion from the Office of County Attorney and the proposed amendment to Lee Plan Map 5.

Therefore, Staff is recommending denial of the 160 additional dwelling units and a reduction in the requested maximum height of 220 feet to a maximum height of 135 feet.

The Land Development Code (LDC), Article 19, Section 34-1802 (4), paragraphs b and d regulates density requirements for hotels and motels. For developments within conventional zoning districts located within Lee Plan future land use map categories that have maximum standard density limits, rental unit density is based on a ratio of the number of units and total floor area. Hotels/motels approved as planned developments are not subject to rental unit size or density requirements provided all other aspects of the development (i.e. height, traffic, intensity of use, etc.) are found to be compatible with the surrounding area and otherwise consistent with the Lee Plan. The applicant will be required to rezone the subject property to a planned development.

Staff recommends the following language:

Policy 1.4.8. *The Burnt Store Marina Village is intended to facilitate the redevelopment of the existing marina and commercial area of Burnt Store Marina for an attractive mix of marine, retail, hotel, and office uses that will enhance the public use of the waterfront. The following uses are permitted within this category: a maximum of 55,000 square feet of retail uses; a maximum of 525 wet slips; a maximum of 800 dry storage spaces; a maximum of 15,000 square feet of office space; a maximum of 145 hotel units; ~~and a maximum of 160 residential units.~~ The maximum height permitted in this category is ~~220~~ 135 feet.*

Commercial retail development, marina related uses, hotels and motels and general office development will predominate in the Burnt Store Marina Village. Limited light industrial uses are also permitted to facilitate the proper development of marinas and other uses incidental to such facilities. The planned development rezoning process must be used to accommodate existing conditions, prevent adverse impacts to the surrounding areas and to ensure that appropriate site development regulations are incorporated into the development plans. Development in this future land use category overlay is not required to comply with the site location criteria provided in Goal 6 when appropriate site development regulations are incorporated into the planned development. New development in this category must connect to a potable water and sanitary sewer system.

C. STAFF RECOMMENDATION

Planning staff recommends that the Board of County Commissioners transmit the proposed amendment, as modified by Staff. Planning staff further recommends that the Future Land Use Map 1 be amended by adding a new category to be known as Burnt Store Marina Village.

ALTERNATIVE RECOMMENDATION:

Should the Board of County Commissioners be desirous of including the proposed, additional 160 residential dwelling units, Staff recommends the following language be included in the proposed Policy 1.4.8:

On-site shelters must be constructed to accommodate residents and hotel guests to withstand Category 5 hurricane force winds and storm surge. The owner/developer must submit a post storm recovery plan including post storm evacuation plan for review and approval by Lee County Emergency Management. This plan must include annual training of on-site shelter managers provided by the Red Cross and approved by Lee County Emergency Management.

ATTACHMENTS:

1. Copy of CPA2007-00054 application
2. Memorandum from the Office of County Attorney dated November 28, 2006
3. Aerial/outline of Subject Property
4. Adjacent land uses/Future Land Use Map
5. Existing Land Uses Map
6. Map of Proposed 2030 Use Allocation provided by Applicant
7. Lee Plan Map 12 - Water Dependent Overlay Zones
8. Department of Community Affairs Package including letters and related correspondence dated May 9, 2008, May 30, 2008 and July 31, 2008
9. Map 16, Table 1(b) (3 pages)
10. Memorandum from Lee County Department of Transportation (LCDOT) dated September 5, 2008 and applicant's Traffic Circulation Analysis
11. Copy of Access Easement
12. Memorandum from Lee County Environmental Sciences dated - **PENDING**
13. Letter from Division of Historical Resources dated September 28, 2007
14. Letter from The School District of Lee County dated June 25, 2008
15. Interlocal Agreement between City of Cape Coral and the Burnt Store Area Fire Service Municipal Taxing Unit
16. Letter from Lee County Emergency Management Services dated April 17, 2008
17. Letter from Lee County Solid Waste Division dated June 26, 2008
18. Letters from Charlotte County Utilities dated June 25, 2008
19. Communications received from the public

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

DATE OF PUBLIC HEARING: September 22, 2008

A. LOCAL PLANNING AGENCY REVIEW

B. LOCAL PLANNING AGENCY RECOMMENDATION AND FINDINGS OF FACT SUMMARY

1. RECOMMENDATION:

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

C. VOTE:

NOEL ANDRESS

LES COCHRAN

RONALD INGE

JACQUE RIPPE

CARLETON RYFFEL

LELAND TAYLOR

RAE ANN WESSEL

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

DATE TRANSMITTAL HEARING: October 22, 2008

A. BOARD REVIEW:

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

1. BOARD ACTION:

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

C. VOTE:

A. BRIAN BIGELOW

TAMMARA HALL

ROBERT P. JANES

RAY JUDAH

FRANKLIN B. MANN

**PART V - DEPARTMENT OF COMMUNITY AFFAIRS OBJECTIONS,
RECOMMENDATIONS, AND COMMENTS (ORC) REPORT**

DATE OF ORC REPORT: _____

A. DCA OBJECTIONS, RECOMMENDATIONS AND COMMENTS

B. STAFF RECOMMENDATION

**PART VI - BOARD OF COUNTY COMMISSIONERS
HEARING FOR ADOPTION OF PROPOSED AMENDMENT**

DATE OF ADOPTION HEARING: _____

A. BOARD REVIEW:

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

1. BOARD ACTION:

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

C. VOTE:

A. BRIAN BIGELOW

TAMMARA HALL

ROBERT P. JANES

RAY JUDAH

FRANKLIN B. MANN

Knott, Consoer, Ebelini
Hart & Swett, P.A.
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Director of Zoning
and Land Use Planning
Michael E. Roeder, AICP

August 13, 2008

Ms. Lisa Hines
Lee County Dept. of Community Development
P.O. Box 298
Fort Myers, FL 33902

Re: CPA2007-00054, Lee Plan Future Land Use Amendment
Burnt Store Marina

Dear Lisa:

As we discussed during our meeting on June 30th, we are revising the proposed parameters of development in the Burnt Store Marina Village FLUM category to be consistent with the BLIM/BLID application that was filed with DCA on May 9th. Copies of the BLIM/BLID request and DCD's response are included in this package.

Our responses to the remaining items are as follows:

Section IV

A. General Information and Maps

A.2: An 11 x 17 2007 aerial is included in this package as Exhibit A.7.

A.3 and 4: Detailed information regarding existing zoning and land uses was provided previously.

B. Public Facility Impacts

B.1: The resubmittal package includes a copy of an easement over the roads in BSM to Realmark and Burnt Store Marina, LLC and "its lessees, their contractors, customers, employees, guests, invitees and licencees...."



B.2: This package includes the requested existing and future conditions analyses.

B.3: The items requested in a. - c. and four of the items under e. are included in the resubmittal package. Items b. and c. under your B.3.e. will be provided by separate cover. The Section 22 Homeowners Association is responsible for road maintenance.

IV.C. Environmental Impacts

C.1: The existing wet and dry slips are owned by the Applicant and rented to the general public. The property contains approximately 525 wet slips and 456 dry spaces. The submerged lands are owned by the Applicant, as evidenced by the deed and title insurance policy which are included in the resubmittal package.

C.2: See response to C.1 above.

C.3: Please refer to the 100 Year Flood Map enclosed with this submittal as Exhibit C.3.

E. Internal Consistency with the Lee Plan

E.1: A revised analysis of the impacts to the 2030 acreage allocations is included in the resubmittal package.

E.2: The previous Lee Plan narrative was sufficiently detailed. In light of the revised development parameters, which include residential uses, please be advised that the request is also consistent with Policy 5.1.2 (the property is not located in the CHHA, and is already surrounded by large multi-family buildings) and Policy 5.1.6 (the redevelopment plan improves the appearance of the area, which currently has little or no open space other than water, significantly).

E.3: The Applicant believes the adjacent local government analysis that was done previously was adequate.

Exhibit F.2 Requests moving lands from a Non-Urban Area to a Future Urban Area

F.2.1: An analysis of the Smart Growth principles is attached.

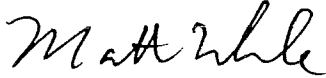
Ms. Lisa Hines
Lee County Dept. of Community Development
August 13, 2008

Miscellaneous Information/Comments

1. The golf course is not included in the request. A voluntary organization is currently leasing it for a minimal sum of money from the Applicant.
2. As noted above, copies of the BLIM/BLID Application and approval are included in the resubmittal package.
3. and 4. A survey, legal description, and sketch are also included in the package.

Sincerely,

KNOTT, CONSOER, EBELINI,
HART & SWETT, P.A.



Matthew D. Uhle

MDU/zw

Enclosures

cc: Craig Dearden
Bill Edwards
Brendan Sloan

**CPA2007-54
BURNT STORE MARINA
PRIVATELY INITIATED
AMENDMENT
TO THE**

LEE COUNTY COMPREHENSIVE PLAN

THE LEE PLAN

Privately Sponsored Application
and Lee County Staff Analysis

LPA Public Hearing Document
for the
September 29, Public Hearing

*Lee County Planning Division
1500 Monroe Street
P. O. Box 398
(239) 533-8585*

September 25, 2008

**LEE COUNTY
DIVISION OF PLANNING
REVISED STAFF REPORT FOR
COMPREHENSIVE PLAN AMENDMENT
CPA2007-00054**

✓	Text Amendment	✓	Map Amendment
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This Document Contains the Following Reviews:

✓	Staff Review
	Local Planning Agency Review and Recommendation
	Board of County Commissioners Hearing for Transmittal
	Staff Response to the DCA Objections, Recommendations and Comments (ORC) Report
	Board of County Commissioners Hearing for Adoption

STAFF REPORT PREPARATION DATE: September 12, 2008

Revised: September 25, 2008

PART I - BACKGROUND AND STAFF RECOMMENDATION

A. SUMMARY OF APPLICATION

1. APPLICANT/REPRESENTATIVE

Realmark Burnt Store Marina, LLC, Applicant

Matthew D. Uhle, Esq., Knott, Consoer, Ebelini, Hart and Swett PA, Authorized Representative

- 2. REQUEST:** Amend the Lee Plan's Future Land Use Map series, Map 1, for 18.25± acres in Section 1, Township 43, South, Range 22 East and Section 6, Township 43 South, Range 23 East, Lee County, Florida from Rural to Burnt Store Marina Village Future Land Use Category. Amend Table 1(b) to reallocate two acres of residential and one acre of industrial acreage to accommodate the proposed development. (see Attachment 1)

B. STAFF RECOMMENDATION AND FINDINGS OF FACT SUMMARY

1. **RECOMMENDATION:** Planning staff recommends that the Board of County Commissioners transmit the proposed amendment, as modified by Staff. Planning staff recommends that the Future Land Use Map 1 be amended by adding a new category to be known as Burnt Store Marina Village. Staff further recommends that Table 1(b) be amended so that four acres the allocated residential acreage from the Rural be reallocated to the new Marina Village Planning Community.

Staff recommends the Lee Plan be amended to create a new descriptor policy and a new Goal, Objective, and policies as follows:

POLICY 1.2.10: The Burnt Store Marina Village area provides for the redevelopment that enhances the existing character of the Burnt Store Marina project, protects natural resources, and provides continuing public access to the water via boat ramps and docks while managing the location and intensity of future commercial, residential and limited industrial uses by establishing realistic aesthetic requirements designed to allow Burnt Store Marina Village the ability to develop as a community center. The following uses are permitted within the Burnt Store Marina Village category: a maximum of 55,000 square feet of retail uses; a maximum of 525 wet slips; a maximum of 800 dry storage spaces; a maximum of 15,000 square feet of office space; a maximum of 145 hotel units; and a maximum of 160 residential units.

GOAL 25: BURNT STORE MARINA VILLAGE. To promote redevelopment that enhances the existing character of the Burnt Store Marina project, protects natural resources, and provides continuing public access to the water via boat ramps and docks while managing the location and intensity of future commercial, residential and limited industrial uses by establishing realistic aesthetic requirements designed to allow Burnt Store Marina Village the ability to develop as a community center.

OBJECTIVE 25.1: The Burnt Store Marina Village is intended to encourage and facilitate redevelopment of the existing marina and commercial area located internal to the Burnt Store Marina project with an attractive mix of residential, marine, retail, hotel, and office uses designed to enhance and protect the public use of, and access to, the waterfront and marina. Development of commercial retail, hotels, general office and marina related uses will predominate in the Burnt Store Marina Village. Limited residential and light industrial marine uses are also permitted to facilitate the proper development mix to allow integration of the Burnt Store Marina Village into the overall Burnt Store Marina project.

POLICY 25.1.1: The following uses are permitted within the Burnt Store Marina Village category: a maximum of 55,000 square feet of retail uses; a maximum of 525 wet slips; a maximum of 800 dry storage spaces; a maximum of 15,000 square feet of office space; a maximum of 145 hotel units; and a maximum of 160 residential units. The maximum height permitted in this category is 135 feet if the parking is not integrated into the structure. If multiple layers of enclosed parking are placed under the multifamily or hotel use, the height may be increased by an additional 50 feet for a maximum height of 185 feet.

POLICY 25.1.2: Redevelopment of any uses within the Burnt Store Marina Village must be accomplished through the Planned Development rezoning process in order to properly accommodate existing conditions, the proposed redevelopment plan, prevent adverse impacts to the surrounding areas and to ensure that appropriate site development regulations are incorporated into the development plans. Development in this future land use category is not required to comply with the site location criteria provided in Goal 6 if appropriate site development regulations are adopted into the planned development. New development in this category must connect to a potable water and sanitary sewer system.

POLICY 25.1.3: Lee County will cooperate with private developer efforts to create an identity for the Burnt Store Marina Village through unified architectural quality and creative site design that enhances the waterfront community and consists of scenic views, buildings with varying roof lines, open space, a pedestrian and neighborhood oriented activity center and enhanced buffering requirements.

POLICY 25.1.4: Lee County will work in conjunction with private developers to preserve existing marina facilities with on or off-site public parking spaces for vehicles and trailers and access for the benefit of the public.

POLICY 25.1.5: The residential and hotel development portions of this redevelopment project must be located outside of the Tropical Storm Surge Zone as depicted in the 1991 Hurricane Storm Tide Atlas for Lee County.

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

- The subject property and existing uses are not consistent with the description and definition of the Rural future land use category. The existing

development of Burnt Store Marina consists of high-intensity residential and commercial uses with a provision of urban services such as Fire and Police protection and utilities.

- Since 1973 the Department of Community Affairs has reviewed Burnt Store Marina, an existing development consisting of 626 acres ,with respect to its Development of Regional Impact (DRI) status. Each time, the Department of Community Affairs has determined that Burnt Store Marina is vested from DRI review.
- On July 31, 2008, the Department of Community Affairs issued a Binding Letter of Modification (BLIM) to a Development with Vested Rights and a Binding Letter of Determination of Development of Regional Impact Status (BLID) for Punta Gorda Isles Section 22 (also known as Burnt Store Marina). Thus, finding that the proposed development in Section 22 and Tract C is below 100 percent of the applicable DRI thresholds as provided in Section 380.0651(2)(d)1.a., F.S. Therefore, the project would not be required to undergo DRI review. However, this determination does not preclude the compliance with all other applicable federal, state or local government procedures such as zoning and development regulations.
- The proposed land use category will permit the redevelopment and expansion of the existing marina and related services. The project will be compatible with the surrounding community and will be served by adequate public facilities.
- No additional commercial acreage is being requested for the project, as the property is currently being utilized for commercial purposes. The applicant is seeking to improve an existing commercial development including water-dependent recreational uses.
- The creation and application of the land use category does not encourage urban sprawl, rather, the amendment represents redevelopment of an already urbanized portion of the Burnt Store Marina development. The proposed category contemplates multi-use development to complement the existing high density residential development within Burnt Store Marina.
- The amendment will create an exception to the commercial site location standards similar to those inherent to the County's new "Commercial" future land use category. The exception is justified in light of the amount of development that currently exists and is vested for Burnt Store Marina.

- The Hurricane Storm Tide Atlas depicts the location of the subject property within the Tropical Storm and Category 2 Storm Surge Zones. The applicant is requesting an additional 160 dwelling units. These new dwelling units will be restricted from locating in the Tropical Storm Surge Zone.

C. BACKGROUND INFORMATION

1. EXISTING CONDITIONS:

SIZE OF PROPERTY: 18.25± acres; Total Uplands: 18.25± acres; Total Wetlands: None (See Attachment 3)

PROPERTY LOCATION: The Burnt Store development is located in the extreme northwest portion of the County. It is bounded by Charlotte County to the north, Burnt Store Road to the east, Cape Coral to the south and Charlotte Harbor to the north. Burnt Store Marina encompasses a total of 626 acres originally platted in 1973 as Punta Gorda Isles, Section 22 in Plat Book 28, Page 118.

The subject property, consisting of 18.25 ± acres is generally located on the west side of Burnt Store Road, specifically within the Burnt Store Marina development at 3150, 3090 and 3140-3200 Matecumbe Key Road, Punta Gorda

EXISTING USE OF LAND: Marina, Hotel, Restaurant, Residential, Wet and Dry boat slips and vacant. (See Attachment 4)

CURRENT ZONING: The property is currently zoned Marine Commercial (CM), Residential Multiple-Family (RM-2) and RM-10.

There was a pending zoning case (Z-08-037; REZ2007-00020) to permit the rezoning of 1.33 acres of the subject property from RM-2 and RM-10 to Commercial Parking (CP). This case was scheduled before the Board of County Commissioners on Monday, September 15, 2008. The Board voted to deny the application without prejudice.

The RM-10 zoned parcel is currently vested for a maximum of 10 dwelling units per acre. Approval of the requested rezoning would limit future residential development of the subject property to a maximum of one dwelling unit per acre (Rural land use category). Approval of the requested Lee Plan amendment will supercede this vesting and the proposed policy will set forth maximum land use regulations.

CURRENT FUTURE LAND USE CATEGORY: The subject property is designated Rural (See Attachment 5)

2. REQUEST:

The applicant is requesting a change in the subject property's future land use category from Rural to a new category entitled "Burnt Store Marina Village" future land use category. This category is proposed to permit redevelopment of existing uses on the subject property. The Rural future land use category currently permits a maximum of one dwelling unit per acre and minimal non-residential land uses that are needed to serve the rural community. There is not a specific limit for office or marine related uses.

The application encompasses four parcels, two of which are developed with the existing marina, wet (existing) and dry boat slips and ancillary uses.

The application proposes a new land use category entitled "Burnt Store Marina Village" as follows:

Burnt Store Marina Village area is located within a portion of the property in Burnt Store Marina that was zoned for a mixture of commercial and residential uses in Lee County Resolution Z-77-63. The category is intended to facilitate the redevelopment of the existing marina and commercial area of Burnt Store Marina for an attractive mix of marine, retail, hotel, and office uses that enhances the public use of the waterfront. The following uses are permitted within this category; retail uses, up to a maximum of 55,000 square feet; wet slips, up to a maximum of 525 (vested/existing); dry storage spaces, up to a maximum of 800; office space, up to a maximum of 15,000 square feet; a maximum of 145 hotel units; and a maximum of 160 residential units. The maximum height permitted in this category is 220 feet.

The applicant further proposes to amend the 2030 Planning Communities Acreage Table (See Attachment 6) as follows:

1. Add a new line for "Burnt Store Marina Village" in the table;
2. Allocate two acres of residential to the new category;
3. Move one acre from the existing Burnt Store commercial allocation to the Industrial category.

The applicant proposes to redevelop approximately 18.25 acres of Burnt Store Marina which currently houses wet boat slips, a dry storage building, office space, a restaurant and recreational uses. The surrounding uses are predominantly multiple-family residential structures with some single-family residential. The proposed amendment, if approved, will permit the applicant to add 15,000 square feet of office space; 160 residential units; 55,000 square feet of retail uses with 300 parking spaces (garage); 145 hotel rooms, 525 wet slips (existing) and 800 dry boat storage spaces.

The proposed dry storage buildings are depicted as industrial uses in accordance with the 2030 Planning Communities Acreage.

PART II - STAFF ANALYSIS

A. STAFF DISCUSSION INTRODUCTION

The proposed amendment is the result of a desire by a new owner to redevelop and expand the existing uses of the property from a limited mix of marine, residential, commercial-retail, hotel and office uses by creating a new future land use category specific to Burnt Store Marina. The new future land use category would facilitate the redevelopment of the existing uses that enhance the waterfront as well as permit continued public use of the boat ramp.

Burnt Store Marina is a unique community, consisting of 626± acres. The development is divided into two distinct sections, Marina Village located within Tract C and the Golf Course Subdivision located within Punta Gorda Isles, Section 22. The proposed amendment encompasses 13.3 acres of Tract C and the addition of an adjacent 4.95 acres included within the Punta Gorda Isles, Section 22.

The Lee Plan, in the Vision for 2030, identifies the Burnt Store Planning Community as follows:

This community is located in the northwest corner of the mainland of unincorporated Lee County. The property east of Burnt Store Road is designated Open Lands and the land west of Burnt Store Road is designated as Rural (also known as Burnt Store Marina) with the exception of 10 acres designated as Outlying Suburban. Most of the Burnt Store Marina development was approved prior to the adoption of the 1984 Lee Plan and is "vested" for densities higher than allowed by the current plan. This development is primarily residential with a high percentage of seasonal residents. There are some commercial and marine oriented amenities within the Burnt Store Marina development primarily serving residents of that development. This area is expected to substantially grow through the year 2030. Today, most of the community's commercial needs are served outside of the community in Cape Coral, North Fort Myers and Fort Myers, or in Charlotte County. This development pattern is expected to remain through 2020. (Added by Ordinance No. 99-15, Amended by Ordinance No. 07-12)

The subject property currently houses some existing commercial land uses. The applicant is proposing to redevelop the subject property including enhancements to an existing marina

and ancillary uses. The commercial uses will provide services to the surrounding residential land uses as well as provide the foundation for a mixed use community.

Two of the subject parcels are located in a designated “Water-Dependent Overlay Zone” depicted in Lee Plan Map 12 (page 9 of 12) (See Attachment 7). The Water-Dependent overlay zone is defined in Policy 1.7.5 of the Lee Plan as follows:

The Water-Dependent overlay zone designates shoreline areas where priority will be granted to water-dependent land uses. Specific requirements are detailed for such zones on San Carlos Island under Goal 12, in the Great Pine Island area under Goal 14 and for other areas in Lee County in the Conservation and Coastal Management Element. (Amended by Ordinance No. 94-30, 00-22).

The Lee Plan further addresses water access in Goal 125 which encourages development and implementation of a public water access program.

Objective 125.2: Water Access in Private Developments. *The county will encourage private landowners to provide some form of water access to the public. (Amended by Ordinance No. 00-22)*

Objective 125.3: *Develop techniques to encourage development and expansion of water-dependent recreational uses in Lee County waterways and discourage any conversion of water-dependent uses to non-water dependent uses. (Added by Ordinance No. 07-09)*

The Lee Plan, Objective 128.6, establishes policies utilized to evaluate marina design criteria (new or expansion at existing marinas) in order to minimize negative impacts and to complement the county’s development regulations.

Policy 128.6.6: *Marinas and multi-slip docking facilities must prepare hurricane plans with the assistance of the county which describe measures to be taken to minimize damage to marina sites, neighboring properties and the environment; this hurricane plan is subject to county approval. (Amended by Ordinance No. 00-22)*

Policy 128.6.13: *Dry storage of small boats should be encouraged, with dry storage structures located inland as far as feasible.*

Policy 128.6.16: *Expansion of dry storage capabilities will be strongly encouraged to reduce dredging. (Amended by Ordinance No. 00-22)*

The Burnt Store Marina community is non-conforming in relation to the Rural future land use category. This development is more consistent with an urban or mixed use land use category.

Staff supports the applicant's request to provide for a land use category permitting the expansion of the existing water-dependent recreational facilities such as the dry storage building as set forth in the above-referenced policies. **Staff further supports the proposed office space, retail uses, residential and hotel rooms which will support and complement the existing and proposed uses.**

COMPREHENSIVE PLAN BACKGROUND

In 1984, upon adoption of the Lee Plan, the subject property was designated as part of the "Fringe" land use category described in the 1984 Lee Plan as follows:

These areas border designated Urban Service Areas yet are not a part of the Urban Service Area. The Plan recognizes these fringe areas as potentially appropriate for development at Urban Community densities, although their overall lack of requisite infrastructure may delay such development unless private sector provision of services and facilities occurs. The Lee Plan does not target these areas for public expenditures. Therefore, development approvals will be wholly based upon a satisfactory demonstration of necessary infrastructure including potential fiscal mitigation for services such as EMS, police and fire protection, educational facilities, as well as all appropriate Plan Goals, Objectives, Policies and Standards. Developments that have lower levels of infrastructure, environmentally sensitive areas or potential negative impacts on potable water resources should be considered for the lower end of the density range and lower levels of intensity compatible with adjacent land uses.

In 1989, the Board of County Commissioners amended the Lee Plan at which time the "Fringe" land use category was eliminated and the Burnt Store Marina development was included within the "Rural" future land use category. The 1989 Lee Plan described the "Rural" future land use category as follows:

Policy 1.4.1: *The Rural areas are to remain predominantly rural - that is, low density residential, agricultural uses, and minimal non-residential land uses that are needed to serve the rural community. These areas are not to be programmed to receive urban-type capital improvements, and they can anticipate a continued level of public services below that of the urban areas. Maximum density in the Rural area is one dwelling unit per acre (1 du/acre), except as may be permitted under the Planned Development District Option.*

The current Lee Plan includes the “Rural” future land use category in Objective 1.4: Non-Urban Areas, which are designated on the Future Land Use Map as categories for those areas not anticipated for urban development at this time as follows:

Policy 1.4.1: The Rural areas are to remain predominantly rural - that is, low density residential, agricultural uses and minimal non-residential land uses that are needed to serve the rural community. These areas are not to be programmed to receive urban-type capital improvements and they can anticipate a continued level of public services below that of the urban areas. Maximum density in the Rural area is one dwelling unit per acre (1 du/acre). (Added by Ordinance No. 97-17, Amended by Ordinance No. 98-09, 00-22, 07-12)

The applicant’s request is to create a new land use category, “Burnt Store Marina Village” area located within a portion of the property in Burnt Store Marina that is zoned for a mixture of commercial and residential uses. The proposed category would facilitate the redevelopment of the existing marina and commercial area of Burnt Store Marina. The redevelopment will occur on 13.3 acres of the existing development and 4.95 acres of the additional 8.65 acres, for a total redevelopment area of 18.25 acres. The plan includes 15,000 square feet of office, an addition of 160 residential units, 55,000 square feet of retail with 300 parking spaces, 145 hotel rooms, a maximum of 525 wet slips (existing) and a maximum of 800 dry storage spaces.

HISTORY

On May 9, 2008, the applicant submitted a letter to the Department of Community Affairs requesting a Binding Letter of Modification (BLIM) to a Development of Regional Impact with Vested Rights Under Sections 380.06 and 120.57, Florida Statutes with attachments (See Attachment 8) and the following chronological history:

- The first binding letter, dated October 26, 1973 found that proposed development for Section 22 is not vested from DRI review. That finding was reconsidered and reversed in a second binding letter. DCA binding letter dated July 5, 1974, supersedes the October 26, 1973 letter and concluded that the proposed development for Punta Gorda Isles-Section 22 is vested from DRI review.
- The 380.032 Agreement executed on May 20, 1986, stipulated that a total of 2,514 residential units within the Punta Gorda Isles-Section 22 plat is vested from DRI review. The 1986 Agreement between the owner and the County resolved a dispute as to whether the 239 platted home sites for which DCA recognized vested rights in its October 26, 1973 binding letter were sites for multiple-family buildings or for single-family units.

- The second 380.032 agreement was executed on January 30, 1987 and stipulates that a maximum of 323 wet spaces or 525 wet slips, and 456 dry spaces in the Punta Gorda Isles-Section 22 project had vested rights from DRI review.

On May 27, 2008, the Department of Community Affairs responded to the applicant's letter requesting a BLIM/BLID for the Burnt Store Marina project requesting additional information. The applicant responded to the Department of Community Affairs on May 30, 2008 and provided the requested, additional information.

In response to the applicant's request, on July 31, 2008, the Department of Community Affairs issued Final Order No. DCA08-BL-204, including a Binding letter of Modification to a Development with Vested Rights (BLIM-09-2007-016) and a Binding Letter of Determination of Development of Regional Impact Status (BLID-09-2007-015) for Punta Gorda Isles, Section 22 (also known as Burnt Store Marina) with the following conclusions:

1. Even though the additional development as demonstrated in paragraphs 9 and 10 exceeds the substantial deviation criteria in Sections 380.06(19)(b)13., F.S., the Department finds that there are no regional impacts arising from the proposed changes that have not been previously reviewed. Therefore, the currently proposed plan of development for the Punta Gorda Isles Section 22 project does not divest any rights the developer has acquired under Section 380.06(20), F.S., to complete the development of the aforementioned Punta Gorda Isles Section 22 DRI.
2. The proposed development on the adjacent 8.65 acre parcel and portions of Tract C as demonstrated in paragraphs 11, 12 and 13 is below 100 percent of the applicable DRI thresholds as provided in Section 380.0651(2)(d)1.a., F.S. Therefore, the proposed development on the adjacent 8.65 acres and portions of Tract C would not be required to undergo DRI review.
3. The plan of development on the adjacent 8.5 acre parcel and portions of Tract C is currently inconsistent with the Lee County Comprehensive Plan. No development may proceed until the amendment is made to the Lee County Comprehensive Plan that would allow for the planned development. The comprehensive plan amendment must also be consistent with Chapter 163, F.S., the State Comprehensive Plan and Chapter 9J-5, Florida Administrative Code. Thus, the following order was issued by the Department of Community Affairs:
 1. The modifications to the vested Punta Gorda Isles Section 22 DRI, as described above, will not be required to comply with the review requirements of Section 380.06, F.S.
 2. The proposed modifications to the vested plan will not divest the vested rights to develop. If the changes described in the application for this binding letter are

approved by the local government of jurisdiction and incorporated in a new development order, they will constitute the vested plan of development and must be followed by you and your successors. If any further changes are proposed for your project, they should be submitted by the applicant or successor(s) to the Department for comparison together with the impacts of the plan now vested in this letter. Should any of the above representations made by the applicant be substantially changed, further binding letter review of the project may be required.

3. The proposed development on the adjacent 8.65 acre parcel, which is not vested for DRI purposes and portions of Tract C, as described in paragraph 11, is not required to comply with the review requirements of Section 380.06, F.S.
4. The development on the adjacent 8.65 acre parcel, which is not vested for DRI purposes and portions of Tract C, will be considered cumulatively with any future additional development in terms of the guidelines and standards contained in Chapter 28-24, Florida Administrative Code and Section 380.0651.F.S., and its related impacts. Should any of the above representations made by the applicant be substantially changed, further review of the project may be required.
5. The binding letter as it applied to the unvested development on the adjacent 8.65 acre parcel and portions of Tract C will expire and become void as of July 25, 2011, unless the plan of development has been substantially commenced by this date. This date may be extended by mutual agreement of the Department, the local government of jurisdiction and the developer.
6. This determination does not obviate the need to comply with all other applicable federal, state, or local government permitting procedures.
7. You have the right to request a formal administrative hearing if you dispute any issue of material fact in this binding letter. If a formal administrative proceeding is not requested, this binding letter constitutes final agency action and is subject to judicial review.

SURROUNDING ZONING, LAND USES AND FUTURE LAND USE DESIGNATION

North: Residential Multiple-Family (RM-2, RM-10)

Rural future land use category

Sunset Key Condominiums and

Prosperity Pointe Condominiums

South: Matecumbe Key Road, then

City of Cape Coral; Pedestrian Commercial District (C-1)

Mixed Land Use future land use category

Resort at Burnt Store Marina and amenities

East: Matecumbe Key Road, then
Residential Multiple-Family (RM-10)
Commodore Condominiums; and
Courtside Landings Residential Planned Development (RPD)
a/k/a Harbour Villas
Outlying Suburban future land use category

West: Residential Multiple-Family (RM-2)
Rural future land use category
Marina South Shore Condominiums

The Keel Club Condominium, consisting of 47 units, is also located adjacent to the subject property in the area between the proposed dry storage buildings and the proposed Marina Village commercial uses.

MAP 16 - PLANNING COMMUNITIES AND TABLE 1(b)

The subject property is located within the Planning Community of Burnt Store. In this community there are 700 acres allocated to residential uses in the Rural land use category. Recent Planning Division data indicates that 600 acres within this community are currently developed with residential uses, leaving a surplus of 100 acres that could be developed with residential uses in the Rural land use category before the year 2030. (see Attachment 9)

There are 50 acres allocated to commercial uses, with 19 acres indicated as currently developed, leaving a surplus of 31 acres that could be developed with commercial uses. There are five acres allocated to industrial uses. Four of these acres have been developed with industrial uses leaving one acre available for industrial development.

COASTAL

The Hurricane Storm Tide Atlas depicts the location of the subject property within the Tropical Storm and Category 2 Storm Surge Zones.

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

***Policy 105.1.4.** Through the Lee Plan amendment process, future land use designations of undeveloped areas within coastal high hazard areas will be*

considered for reduced density categories in order to limit the future population exposed to coastal flooding..

Mitigation measures are currently established in the Land Development Code, Chapter 2, Article XI, Hurricane Preparedness. Adoption of the Lee Plan amendments will result in required amendments to the LDC to further clarify and enforce that mitigation requirements will be based on a Category 5 storm event consistent with the changes made to Chapter 163.3178, F.S.

The Southwest Florida Regional Planning Council reviewed the subject property in regards to the 1991 Hurricane Storm Tide Atlas for Lee County. The subject property is located on Plates 1 and 4 of the Atlas. The attached maps indicate the current Coastal High Hazard Area along with three plates from the 1991 Hurricane Storm Tide Atlas. Since the parcel runs from Charlotte Harbor to Burnt Store Road, the property is located in Tropical Storm Surge Zone to Category 3 Surge Zone. The specific surge heights for this site are as follows:

The subject property is located within Time-History Point 48. Based on an elevation of 5 feet, the site would be dry in a tropical storm; have 3 feet over it in a Category 1; 4.3 feet over it during a category 2; 8.5 feet over it during a category 3 and 15.3 feet over it during a category 4/5.

In accordance with the Lee Plan, Map 5, the subject property is not currently located within the designated Coastal High Hazard Area. The applicant is requesting an additional 160 dwelling units within the existing development and a maximum height of 220 feet. The applicant has provided information regarding the location of the proposed development within the Coastal High Hazard Area as depicted on the 1991 Hurricane Storm Tide Atlas for Lee County. This analysis shows the residential development area to be within the Category 2 Storm Surge area, and therefore outside of the Coastal High Hazard Area. Staff proposes the following policy language to assure the residential development is not located in the Coastal High Hazard Area.

POLICY 25.1.5: The residential and hotel development portions of this redevelopment project must be located outside of the Tropical Storm Surge Zone as depicted in the 1991 Hurricane Storm Tide Atlas for Lee County.

TRANSPORTATION/TRAFFIC CIRCULATION IMPACTS

The Lee County Department of Transportation (LCDOT) reviewed the request and has provided Planning staff written comments dated September 5, 2008 (see Attachment 10). This review was based on the initial submittal provided by the applicant. LCDOT concluded that based on the parameters (of the proposed development), utilizing the 2030 FSUTMS model, LCDOT staff determined that this land use change will not alter the future road network plans in this area. The applicant's subsequent resubmittal proposes a reduction in

the amount of square footage originally presented; thus, creating less impact to the road network.

The roads located within Burnt Store Marina are private. An access easement (See Attachment 10) has been entered into the Official Records of Lee County in Instrument Number 6285414 in Book 4307, Page 1374 between the Punta Gorda Isles, Section 22 Homeowners Association, Inc. And Realmark Burnt Store Marina, LLC. (the applicant) providing an exclusive manner of ingress and egress to the subject property. This easement grants and conveys the Grantee (the applicant) and its successors and assigns, and its lessees, their contractors, customers, employees, guests, invitees and licensees, a perpetual, non-exclusive easement for ingress and egress only over and across the roads lying and being in the County of Lee, State of Florida as follows:

Big Pine Lane, Cape Cole Boulevard, Matecumbe Key Road, Sugarloaf Key Road, Marathon Way, Key Largo Lane, Key Largo Circle, Sable Key Circle, Marianne Key Road, Romano Key Circle, Big Pass lane, Big Bend Circle, Islamorada Road (a/k/a Islamorada Boulevard) and Little Pine Circle, according to the Plat of Punta Gorda Isles, Section 22, recorded in Plat Book 28, at page 118, of the public records of Lee County, Florida, and replatted in Plat Book 34, at page 92, of the public records of Lee County, Florida, and any amendments and supplements thereto.

This easement is restricted by and subject to the rules and regulations of the Punta Gorda Isles, Section 22 Homeowners Association, Inc., that may be adopted and amended from time to time, provided, however that such rules and regulations shall not interfere with, hinder or impede in any way grantee's rights as set forth herein. This easement may not be amended or terminated without the written joinder and consent of the grantee, its successors and assigns.

POPULATION ACCOMMODATION

The subject property consists of land that has previously been developed for commercial purposes. Two acres of the parcel are proposed to be redeveloped for 160 residential units. This will result in a proposed increase of 334 persons (160 x 2.09 PPH) accommodated by the future land use map.

If the requested amendment is approved, it will be necessary to create a new row in the Planning Communities Acreage Table for the Burnt Store Marina Village Planning Community. The revised table should depict two acres of residential uses, six acres of "industrial" uses (to accommodate the dry storage buildings), seven acres of commercial uses and three acres of public uses to accommodate the project. The industrial and commercial allocations in the table do not need to be amended, there is ample allocation existing. The subject property is currently accommodated in the Rural future land use; thus, will require

redistribution of four acres the allocated residential acreage from the Rural to the proposed Burnt Store Marina Village Planning Community.

ENVIRONMENTAL CONSIDERATIONS

The Division of Environmental Sciences (ES) staff has reviewed the proposed Burnt Store Marina Comprehensive Plan Amendment and offered an analysis included as Attachment 11. Due to the limited scope of the request for Comprehensive Plan amendment, the project does not include environmentally sensitive areas. ES staff does not object to the proposed future land use category.

SOILS

A map of the soils located on the subject property consisting of 18.25± acres is included in the application. The type of indicated soils include Mayakka Fine Sand, Estero Muck, Peckish Mucky Fine Sand, Immokalee Sand, Smyrna Sand, Myakka Fine Sand, depressional and Matlacha Gravely Find Sand.

SURFACE WATER MANAGEMENT

Burnt Store Marina utilizes multiple drainage basins comprised of existing surface water management systems which include dry detention areas for pretreatment or water runoff and wet detention lakes for rain stage storage during large flood events. The proposed 18.25 acre redevelopment area is part of an existing Department of Environmental Protection (DEP) permit and South Florida Water Management District Permit (SFWMD), which will require modification and review by Lee County Natural Resources prior to development order approval. The surface water management systems within the redevelopment area are not expected to increase in size due to the fact that the existing site area has about the same impervious area to pervious area ratio.

MANATEE PROTECTION

The Lee County Division of Natural Resources reviewed the application relative to manatee protection. The site rates as *preferred* under the Manatee Protection Plan and the number of slips proposed are consistent with that finding. The applicant will be required to comply with all applicable standard construction conditions for manatee protection including development of an education program for marina users.

HISTORIC RESOURCES

The application includes a letter dated September 28, 2007 from the Division of Historical Resources, Florida Department of State (See Attachment 12). This letter provides the following information:

*In response to your inquiry of September 27, 2007, the Florida Master Site File lists no previously recorded cultural resources in the following parcels:
T43S, R22E, Section 1*

In interpreting the results of our search, please remember the following points:

- *Areas which have not been completely surveyed, such as yours, may contain unrecorded archaeological sites, unrecorded historically important structures, or both.*
- *As you may know, state and federal laws require formal environmental review for some projects. Record searches by the staff of the Florida Master Site File do not constitute such a review of cultural resources. If your project falls under these laws, you should contact the Compliance Review Section of the Bureau of Historic Preservation at 850-245-6333 or at this address.*

Lee County staff notes that there are areas on the subject property designated on the Lee County Archaeological Sensitivity Map as Sensitivity Level 2. Chapter 22 of the Lee County Land Development Code (LDC) defines the Sensitivity Level 2 as follows:

“Those areas containing known archaeological sites that have not been assessed for significance but are likely to conform to the criteria for local designation, or areas where there is a high likelihood that unrecorded sites of potential significance are present.”

Staff is not aware of any historic or archaeological resources occurring on this site; however, the applicant will be required to obtain a “Certificate to dig” permit from Lee County prior to or in conjunction with the issuance of a final development order for activity within areas designated as being within the “Sensitivity Level 2” areas. “Activity” in this context means new construction, filling, digging, removal of trees or any other activity that may alter or reveal an interred archaeological site.

SCHOOL IMPACTS

Lee County School district staff reviewed the proposal and provided written comments dated June 25, 2008 (See Attachment 14). The School District staff reviewed the project on the assumption that the proposal would add a marina, restaurant and other commercial uses as well as 160 new multi-family residential units. The review letter provides that 160 new multi-family dwelling units would generate 20 additional school-aged children and is calculated at .125 per unit. The commercial use would have no impact. Any development of the subject property will be assessed the applicable school impact fees.

PARKS, RECREATION AND OPEN SPACE

The applicant provided an analysis regarding Parks, Recreation and Open Space. The subject property is located within the North Fort Myers Community Park district. The proposed increase of 160 residential units will create a demand for .27 acres of community park

acreage in the North Fort Myers district. According to the 2007 Concurrency Inventory, the projected minimum level of service in the North Fort Myers District in 2010 is approximately 50 acres, while 166 acres of developed parks currently exist. The additional residential units contemplated by the amendment application will not adversely impact parks, recreation and open space.

POLICE

The subject property is located within the service area of the Lee County Sheriff's Department.

FIRE AND EMERGENCY MEDICAL SERVICES (EMS)

The subject property is located within the Burnt Store Fire District. The applicant has provided a copy of an Interlocal Agreement between the City of Cape Coral and the Burnt Store Area Fire Service Municipal Taxing Unit (MSTU) (See Attachment 15) to provide fire protection to the residents of Burnt Store Marina. This Agreement, which is reviewed and renewed on an annual basis, will consider the addition of new construction, including but not limited to, buildings and marina facilities during the renewal process.

The Interlocal Agreement establishes fire protection and prevention services, such as work, materials and all related professional, technical, administrative, fire suppression and related services, basic first response rescue, fire company level prevention services, fire inspection services and safety activities that are necessary to perform fire protection and prevention services to the Burnt Store Marina community.

Lee County Emergency Medical Services (LCEMS) staff reviewed the request and provided written comments dated April 17, 2008 (See Attachment 16). This letter provides the following comments:

This current location is served by LCEMS Station 28, located at 707 SW 1st Street, Cape Coral, FL, which is approximately 12.50 miles away. Our response time to this location is 15± minutes, which does not meet our core service level response standards of 8:59 minutes or less in 90% of the total emergency responses as required by Lee County Ordinance #02-19. In the event that Station 28 is busy on a response, the next closest station is LCEMS Station 22, located at 152 SE 13th St., Cape Coral, FL, approximately 14.50 miles away. This statement does not indicate that any plans have been received, it just identifies that Lee County EMS has concerns with the ability to provide service to this area. Current resources prohibit establishing and staffing an EMS station close to this development.

Burnt Store Marina is served by the City of Cape Coral Fire Department, Station 7, located at 3942 Burnt Store Road. This station is equipped with first response equipment including an Advanced Life Support (ALS) vehicle. The Cape Coral Fire Department does not provide

ambulatory service for transport; however, is responsible for emergency medical services until such time EMS arrived on site. The City of Cape Coral Fire Department offered no objection to the requested height of 220 feet or staff's recommended height of 135 feet noting that current building, fire and development codes address life safety regulations and they are equipped to provide service structures built to this height. **The City of Cape Coral Fire Department, Station 7 is located approximately two miles from the main entrance gate to Burnt Store Marina.**

SOLID WASTE

The Lee County Solid Waste Division staff has reviewed the request and provided written comments dated June 26, 2008 (See Attachment 17). This letter states that the Lee County Solid Waste Division is capable of providing solid waste collection service for the proposed additional uses requested for the expansion of the Burnt Store Marina Village located on Matecumbe Key Road through our franchised hauling contractors. Disposal of the solid waste from this project will be accomplished at the Lee County Resource Recovery Facility and the Lee-Hendry Regional Landfill.

Further, the Solid Waste Ordinance and the LDC, Chapter 10, Section 10-261 have requirements for providing on-site space for placement and servicing of commercial solid waste containers.

MASS TRANSIT

The applicant indicates that there is no existing or proposed mass transit in conjunction with this request. However, Lee County Transit states that the Lee County Long Range Plan indicates the need for a Park and Ride lot in the vicinity of this project where commuter bus service would begin, providing transportation needs through North Cape Coral and terminating in downtown Fort Myers.

UTILITIES

The subject property is located in the Charlotte County Utilities service area for the provision of potable water and sanitary sewer services. The applicant has provided letters from Charlotte County Government dated June 25, 2008 confirming the availability and capacity of potable water, reclaimed water and sanitary sewer services to the subject property (See Attachment 18).

Potable water services are provided by the Burnt Store Reverse Osmosis Treatment Plant. Sanitary sewer and reclamation water services are provided by the Burnt Store Water Reclamation Facility. Utility services will be made available to the subject property upon extension of the water distribution and wastewater collection system and execution of an agreement with the owner/developer and Charlotte County Utilities.

The applicant states that the existing water and sanitary sewer usage equates to an estimated 21,390 gallons per day (GPD). This entails 7,700 sf of retail space; 10,300 sf of restaurant space and 15,000 sf of office space.

The new proposed uses including 145 new hotel units, additional retail space, additional restaurant space and 160 new multiple-family residential units will generate approximately 63,160 GPD. Thus, the existing and proposed uses will generate approximately 84,550 GPD of water and sanitary sewer usage.

STATE AND REGIONAL PLAN CONSISTENCY

The applicant states that the proposed amendment is consistent with the following State and Regional Plan provisions:

State Plan

Policy 8(b)10: The new category permits expanded water-dependent facilities along the shoreline.

Policy 15(b)3: The new category will also encourage a more attractive and functional mix of uses on the site.

Regional Plan

Goal 2, Strategy 1, Action 4: The applicant is proposing to redevelop an existing commercial site to create an attractive and functional mixed use community.

B. CONCLUSION

Most of the urban services required to support the proposed change of land use and redevelopment are in place or can be made available. The applicant is proposing redevelopment of 18.25 acres to accommodate new development of 145 hotel rooms; 160 dwelling units; a maximum of 60,000 square feet of retail (an increase of 55,000 square feet) with 300 parking spaces; a maximum of 15,000 square feet of office space; a maximum of 525 wet slips (currently existing vested) and a maximum of 800 dry storage spaces.

The proposed amendment does not promote urban sprawl, as the subject property is located within an existing and approved residential and commercial urban development as well as commercial marina uses. The existing uses are not restricted to the residents of Burnt Store Marina and are currently utilized by the public. The existing development is not consistent with the Rural future land use category.

The Land Development Code (LDC), Article 19, Section 34-1802 (4), paragraphs b and d regulates density requirements for hotels and motels. For developments within conventional zoning districts located within Lee Plan future land use map categories that have maximum standard density limits, rental unit density is based on a ratio of the number of units and total floor area. Hotels/motels approved as planned developments are not subject to rental unit size

or density requirements provided all other aspects of the development (i.e. height, traffic, intensity of use, etc.) are found to be compatible with the surrounding area and otherwise consistent with the Lee Plan. The applicant will be required to rezone the subject property to a planned development.

REDEVELOPMENT

Redevelopment of an aging or antiquated land use is an important part of maintaining a healthy and vibrant community. While there has been some redevelopment in Lee County in the past, we are entering a phase where redevelopment will be needed more and more. How we plan, oversee, regulate and promote this redevelopment is an emerging issue that needs policy direction from the Board of County Commissioners.

The proposed redevelopment plans for both Burnt Store Marina and Old San Carlos Island offer some important challenges and opportunities that need to be addressed. The single biggest issue for these proposals is the challenge of the changing of the existing urban form. Urban form includes density, intensity and building mass.

Redevelopment will be very limited if it is restricted to the demolition of existing uses that can only be rebuilt to their current density and intensity. This is why redevelopment proposals will almost always include an increase in density, more commercial intensity or increases in building mass, or any combination of the three. These increases form the incentives that make the redevelopment project economically viable.

The Burnt Store Marina redevelopment proposal is asking for increased entitlements and also increased building height. Staff has evaluated the proposal and is recommending the full intensity and density request for the Burnt Store Marina Redevelopment Plan. Staff is recommending an increase in the maximum allowable height. The recommendation restricts the increase in height to 135 feet if the parking is not integrated into the structure. If multiple layers of enclosed parking are placed under the multiple-family or hotel use, staff is recommending increasing the height by an additional 50 feet for a maximum height of 185 feet.

This recommendation is based on attaining the desired urban form that will allow the redevelopment to create an at grade pedestrian friendly space where the retail, the water and the people can interact.

BUILDING HEIGHT

Building height has become a critical component of the Burnt Store Redevelopment proposal. The mixed use pedestrian friendly objective requires an urban form unlike the single use or separated use development patterns typically found in Lee County. Mid-rise multiple-family or hotel development of 9 or 10 stories requires a large amount of surface parking which makes the site very pedestrian unfriendly. Allowing up to four or five levels of enclosed parking structure under the residential or hotel units results in site area to be

utilized as a mixed use pedestrian friendly urban space. Locating the parking under the residential or hotel use allows the development to create an at grade atmosphere where the retail, the water and the people can intermingle. This type of site development also allows for additional green areas and enhanced landscaping.

In response to this, staff is recommending restricting the height to 135 feet if the parking is not integrated into the structure. If multiple layers of enclosed parking are placed under the multifamily or hotel use, staff is recommending increasing the height by an additional 50 feet for a maximum height of 185 feet.

C. STAFF RECOMMENDATION

Planning staff recommends that the Board of County Commissioners transmit the proposed amendment, as modified by Staff, as follows:

POLICY 1.2.10: The Burnt Store Marina Village area provides for the redevelopment that enhances the existing character of the Burnt Store Marina project, protects natural resources, and provides continuing public access to the water via boat ramps and docks while managing the location and intensity of future commercial, residential and limited industrial uses by establishing realistic aesthetic requirements designed to allow Burnt Store Marina Village the ability to develop as a community center. The following uses are permitted within the Burnt Store Marina Village category: a maximum of 55,000 square feet of retail uses; a maximum of 525 wet slips; a maximum of 800 dry storage spaces; a maximum of 15,000 square feet of office space; a maximum of 145 hotel units; and a maximum of 160 residential units.

GOAL 25: BURNT STORE MARINA VILLAGE. To promote redevelopment that enhances the existing character of the Burnt Store Marina project, protects natural resources, and provides continuing public access to the water via boat ramps and docks while managing the location and intensity of future commercial, residential and limited industrial uses by establishing realistic aesthetic requirements designed to allow Burnt Store Marina Village the ability to develop as a community center. This Goal and subsequent objectives and policies apply to the Burnt Store Marina Village as depicted on Map 1(b).

OBJECTIVE 25.1: The Burnt Store Marina Village is intended to encourage and facilitate redevelopment of the existing marina and commercial area located internal to the Burnt Store Marina project with an attractive mix of residential, marine, retail, hotel, and office uses designed to enhance and protect the public use of, and access to, the waterfront and marina. Development of commercial retail, hotels, general office and marina related uses will predominate in the Burnt Store Marina Village. Limited residential and light industrial marine uses are also permitted to facilitate the proper development mix to allow integration of the Burnt Store Marina Village into the overall Burnt Store Marina project.

POLICY 25.1.1: The following uses are permitted within the Burnt Store Marina Village category: a maximum of 55,000 square feet of retail uses; a maximum of 525 wet slips; a maximum of 800 dry storage spaces; a maximum of 15,000 square feet of office space; a maximum of 145 hotel units; and a maximum of 160 residential units. The maximum height permitted in this category is 135 feet if the parking is not integrated into the structure. If multiple layers of enclosed parking are placed under the multifamily or hotel use, the height may be increased by an additional 50 feet for a maximum height of 185 feet. is 185 feet.

POLICY 25.1.2: Redevelopment of any uses within the Burnt Store Marina Village must be accomplished through the Planned Development rezoning process in order to properly accommodate existing conditions, the proposed redevelopment plan, prevent adverse impacts to the surrounding areas and to ensure that appropriate site development regulations are incorporated into the development plans. Development in this future land use category is not required to comply with the site location criteria provided in Goal 6 if appropriate site development regulations are adopted into the planned development. New development in this category must connect to a potable water and sanitary sewer system.

POLICY 25.1.3: Lee County will cooperate with private developer efforts to create an identity for the Burnt Store Marina Village through unified architectural quality and creative site design that enhances the waterfront community and consists of scenic views, buildings with varying roof lines, open space, a pedestrian and neighborhood oriented activity center and enhanced buffering requirements.

POLICY 25.1.4: Lee County will work in conjunction with private developers to preserve existing marina facilities with on or off-site public parking spaces for vehicles and trailers and access for the benefit of the public.

POLICY 25.1.5: The residential and hotel development portions of this redevelopment must be located outside of the Tropical Storm Surge Zone as depicted in the 1991 Hurricane Storm Tide Atlas for Lee County.

Planning staff further recommends that the Future Land Use Map 1 be amended by adding a new category to be known as Burnt Store Marina Village

ATTACHMENTS:

1. Copy of CPA2007-00054 application
2. Memorandum from the Office of County Attorney dated November 28, 2006
3. Aerial/outline of Subject Property
4. Adjacent land uses/Future Land Use Map
5. Existing Land Uses Map
6. Map of Proposed 2030 Use Allocation provided by Applicant
7. Lee Plan Map 12 - Water Dependent Overlay Zones
8. Department of Community Affairs Package including letters and related correspondence dated May 9, 2008, May 30, 2008 and July 31, 2008
9. Map 16, Table 1(b) (3 pages)
10. Memorandum from Lee County Department of Transportation (LCDOT) dated September 5, 2008 and applicant's Traffic Circulation Analysis
11. Copy of Access Easement
12. Memorandum from Lee County Environmental Sciences
13. Letter from Division of Historical Resources dated September 28, 2007
14. Letter from The School District of Lee County dated June 25, 2008
15. Interlocal Agreement between City of Cape Coral and the Burnt Store Area Fire Service Municipal Taxing Unit
16. Letter from Lee County Emergency Management Services dated April 17, 2008
17. Letter from Lee County Solid Waste Division dated June 26, 2008
18. Letters from Charlotte County Utilities dated June 25, 2008
19. Communications received from the public
20. Coastal High Hazard information provided by applicant

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

PUBLIC HEARING DATE: SEPTEMBER 29, 2008

A. LOCAL PLANNING AGENCY REVIEW

**B. LOCAL PLANNING AGENCY RECOMMENDATION AND FINDINGS OF FACT
SUMMARY**

1. RECOMMENDATION:

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

C. VOTE:

**CARLETON RYFFEL
(Chair)**

**LES COCHRAN
(Vice-Chair)**

NOEL ANDRESS

RONALD INGE

RAE ANN WESSEL

LELAND M. TAYLOR

JACQUE RIPPE

Knott, Consoer, Ebelini
Hart & Swett, P.A.
A T T O R N E Y S - A T - L A W

George H. Knott *+
George L. Consoer, Jr. **
Mark A. Ebelini
Thomas B. Hart
H. Andrew Swett

* Board Certified Civil Trial Lawyer
** Board Certified Real Estate Lawyer
+ Board Certified Business Litigation Lawyer

1625 Hendry Street • Third Floor (33901)
P.O. Box 2449
Fort Myers, Florida 33902-2449

Telephone (239) 334-2722
Telecopier (239) 334-1446

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Matthew D. Uhle
Aaron A. Haak
Derrick S. Eihausen
Nady Torres-Alvarado
David A. Burt
Madeline Ebelini

Director of Zoning
and Land Use Planning
Michael E. Roeder, AICP

August 13, 2008

Ms. Lisa Hines
Lee County Dept. of Community Development
P.O. Box 298
Fort Myers, FL 33902

Re: CPA2007-00054, Lee Plan Future Land Use Amendment
Burnt Store Marina

2007-00054

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COMMUNITY DEVELOPMENT

Dear Lisa:

As we discussed during our meeting on June 30th, we are revising the proposed parameters of development in the Burnt Store Marina Village FLUM category to be consistent with the BLIM/BLID application that was filed with DCA on May 9th. Copies of the BLIM/BLID request and DCD's response are included in this package.

Our responses to the remaining items are as follows:

Section IV

A. General Information and Maps

A.2: An 11 x 17 2007 aerial is included in this package as Exhibit A.7.

A.3 and 4: Detailed information regarding existing zoning and land uses was provided previously.

B. Public Facility Impacts

B.1: The resubmittal package includes a copy of an easement over the roads in BSM to Realmark and Burnt Store Marina, LLC and "its lessees, their contractors, customers, employees, guests, invitees and licencees...."

B.2: This package includes the requested existing and future conditions analyses.

B.3: The items requested in a. - c. and four of the items under e. are included in the resubmittal package. Items b. and c. under your B.3.e. will be provided by separate cover. The Section 22 Homeowners Association is responsible for road maintenance.

IV.C. Environmental Impacts

C.1: The existing wet and dry slips are owned by the Applicant and rented to the general public. The property contains approximately 525 wet slips and 456 dry spaces. The submerged lands are owned by the Applicant, as evidenced by the deed and title insurance policy which are included in the resubmittal package.

C.2: See response to C.1 above.

C.3: Please refer to the 100 Year Flood Map enclosed with this submittal as Exhibit C.3.

E. Internal Consistency with the Lee Plan

E.1: A revised analysis of the impacts to the 2030 acreage allocations is included in the resubmittal package.

E.2: The previous Lee Plan narrative was sufficiently detailed. In light of the revised development parameters, which include residential uses, please be advised that the request is also consistent with Policy 5.1.2 (the property is not located in the CHHA, and is already surrounded by large multi-family buildings) and Policy 5.1.6 (the redevelopment plan improves the appearance of the area, which currently has little or no open space other than water, significantly).

E.3: The Applicant believes the adjacent local government analysis that was done previously was adequate.

Exhibit F.2 Requests moving lands from a Non-Urban Area to a Future Urban Area

F.2.1: An analysis of the Smart Growth principles is attached.

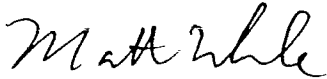
Ms. Lisa Hines
Lee County Dept. of Community Development
August 13, 2008

Miscellaneous Information/Comments

1. The golf course is not included in the request. A voluntary organization is currently leasing it for a minimal sum of money from the Applicant.
2. As noted above, copies of the BLIM/BLID Application and approval are included in the resubmittal package.
3. and 4. A survey, legal description, and sketch are also included in the package.

Sincerely,

KNOTT, CONSOER, EBELINI,
HART & SWETT, P.A.



Matthew D. Uhle

MDU/zw

Enclosures

cc: Craig Dearden
Bill Edwards
Brendan Sloan



Lee County Board of County Commissioners
Department of Community Development
Division of Planning
Post Office Box 398
Fort Myers, FL 33902-0398
Telephone: (239) 533-8585
FAX: (239) 485-8319

APPLICATION FOR A COMPREHENSIVE PLAN AMENDMENT

(To be completed at time of intake)

DATE REC'D _____

REC'D BY: _____

APPLICATION FEE _____

TIDEMARK NO: _____

THE FOLLOWING VERIFIED:

Zoning ☐

Commissioner District ☐

Designation on FLUM ☐

(To be completed by Planning Staff)

Plan Amendment Cycle: ☐ Normal ☐ Small Scale ☐ DRI ☐ Emergency

Request No: _____

APPLICANT PLEASE NOTE:

Answer all questions completely and accurately. Please print or type responses. If additional space is needed, number and attach additional sheets. The total number of sheets in your application is: _____

Submit **6** copies of the complete application and amendment support documentation, including maps, to the Lee County Division of Planning. Additional copies may be required for Local Planning Agency, Board of County Commissioners hearings and the Department of Community Affairs' packages.

I, the undersigned owner or authorized representative, hereby submit this application and the attached amendment support documentation. The information and documents provided are complete and accurate to the best of my knowledge.

8/13/08
DATE

Matthew A. White
SIGNATURE OF OWNER OR AUTHORIZED REPRESENTATIVE

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2007-00054

I. APPLICANT/AGENT/OWNER INFORMATION

Realmark Burnt Store Marina, LLC

APPLICANT

5789 Cape Harbour Drive #201

ADDRESS

Cape Coral

FL

33914

CITY

STATE

ZIP

541-1372

541-1377

TELEPHONE NUMBER

FAX NUMBER

Matthew D. Uhle, Esq.

AGENT*

1625 Hendry Street, Suite 301

ADDRESS

Fort Myers

FL

33901

CITY

STATE

ZIP

334-2722

334-1446

TELEPHONE NUMBER

FAX NUMBER

Realmark Burnt Store Marina, LLC

OWNER(s) OF RECORD

5789 Cape Harbour Drive #201

ADDRESS

Cape Coral

FL

33914

CITY

STATE

ZIP

541-1372

541-1377

TELEPHONE NUMBER

FAX NUMBER

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

* This will be the person contacted for all business relative to the application.

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II. REQUESTED CHANGE (Please see Item 1 for Fee Schedule)

A. TYPE: (Check appropriate type)

x Text Amendment

x Future Land Use Map Series Amendment
(Maps 1 thru 21)

List Number(s) of Map(s) to be amended

B. SUMMARY OF REQUEST (Brief explanation):

Creation of new Burnt Store Marina Village FLUM category; Application of the new category to the subject parcel; Amendment to 2030 Planning Community Acreage Table

III. PROPERTY SIZE AND LOCATION OF AFFECTED PROPERTY (for amendments affecting development potential of property)

A. Property Location:

1. Site Address: 3150, 3090, & 3140-3200 Matecumbe Key Rd., Punta Gorda
2. STRAP(s): 06-43-23-07-0000A.0000 01-43-22-00-00004.0000
 01-43-22-01-0000C.0000 01-43-22-00-0000C.0010

B. Property Information

Total Acreage of Property: 18.25 +/- acres

Total Acreage included in Request: 18.25 +/- acres

Area of each Existing Future Land Use Category: all in Rural

Total Uplands: 18.25 +/- acres

Total Wetlands: None

Current Zoning: CM, RM-2 and RM-10

Current Future Land Use Designation: Rural

Existing Land Use: Marina; Hotel; Restaurant

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- C. State if the subject property is located in one of the following areas and if so how does the proposed change effect the area:

Lehigh Acres Commercial Overlay: NA

Airport Noise Zone 2 or 3: NA

Acquisition Area: NA

Joint Planning Agreement Area (adjoining other jurisdictional lands): NA

Community Redevelopment Area: NA

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- D. Proposed change for the Subject Property:

To new Burnt Store Marina Village category.

COMMUNITY DEVELOPMENT

- E. Potential development of the subject property:

1. Calculation of maximum allowable development under existing FLUM:

Residential Units/Density 18.25 +/- acres / 1 unit per acre

Commercial intensity 30,000 sf retail; no specific limit for office or marina; +/- 22,000 sf of existing office; 981 wet/dry slips permitted

Industrial intensity None

2. Calculation of maximum allowable development under proposed FLUM:

Residential Units/Density 160 units

Commercial intensity 55,000 sf of retail; 15,000 sf of office; 145 hotel units; 1,325 slips

Industrial intensity None (Note: Dry storage buildings are shown as "Industrial" in 2030 acreage calculations per staff's direction)

IV. AMENDMENT SUPPORT DOCUMENTATION

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

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and analysis electronically. (Please contact the Division of Planning for currently accepted formats)

A. General Information and Maps

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

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

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

B. Public Facilities Impacts **ATTACHED**

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

1. Traffic Circulation Analysis

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

Long Range – 20-year Horizon:

- a. Working with Planning Division staff, identify the traffic analysis zone

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

Short Range – 5-year CIP horizon:

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

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

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

- Franchise Area, Basin, or District in which the property is located;
- Current LOS, and LOS standard of facilities serving the site;
- Projected 2020 LOS under existing designation;
- Projected 2020 LOS under proposed designation;
- Improvements/expansions currently programmed in 5 year CIP, 6-10 year CIP, and long range improvements; and
- Anticipated revisions to the Community Facilities and Services Element and/or Capital Improvements Element (state if these revisions are included in this amendment).

3. Provide a letter from the appropriate agency determining the adequacy/provision of existing/proposed support facilities, including: **ATTACHED**
 - a. Fire protection with adequate response times;
 - b. Emergency medical service (EMS) provisions;
 - c. Law enforcement;
 - c. Solid Waste;
 - d. Mass Transit; and
 - e. Schools.

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

C. Environmental Impacts **ATTACHED**

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

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

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

D. Impacts on Historic Resources ATTACHED

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

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

E. Internal Consistency with the Lee Plan ATTACHED

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

F. Additional Requirements for Specific Future Land Use Amendments

1. Requests involving Industrial and/or categories targeted by the Lee Plan as employment centers (to or from) **NA**
 - a. State whether the site is accessible to arterial roadways, rail lines, and cargo airport terminals,
 - b. Provide data and analysis required by Policy 2.4.4,
 - c. The affect of the proposed change on county's industrial employment goal specifically policy 7.1.4.
2. Requests moving lands from a Non-Urban Area to a Future Urban Area
ATTACHED

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2007-00054

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

Item 1: Fee Schedule

Map Amendment Flat Fee	\$2,000.00 each
Map Amendment > 20 Acres	\$2,000.00 and \$20.00 per 10 acres ATTACHED
Small Scale Amendment (10 acres or less)	\$1,500.00 each
Text Amendment Flat Fee	\$2,500.00 each ATTACHED

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CPA 2007-00054

AFFIDAVIT

I, Craig A. Dearden as Vice President of Realmark Burnt Store Marina, LLC, a Florida Limited Liability Company, certify that I am the owner or authorized representative of the property described herein, and that all answers to the questions in this application and any sketches, data, or other supplementary matter attached to and made a part of this application, are honest and true to the best of my knowledge and belief. I also authorize the staff of Lee County Community Development to enter upon the property during normal working hours for the purpose of investigating and evaluating the request made through this application.

Craig A. Dearden
Signature of owner or owner-authorized agent

8/5/08
Date

Craig A. Dearden
Typed or printed name

STATE OF FLORIDA)

COUNTY OF LEE)

The foregoing instrument was certified and subscribed before me this 5 day of August 2008, by Craig A. Dearden as Vice-President of Realmark Burnt Store Marina, LLC, a Florida Limited Liability Company, who is personally known to me or who has produced _____ as identification.



Lynn Gantz
Signature of notary public

Lynn Gantz
Printed name of notary public

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**Text Amendment
EXHIBIT A.1.**

Burnt Store Marina Village Category Description


The Burnt Store Marina Village area is located within a portion of the property in Burnt Store Marina that was zoned for a mixture of commercial and residential uses in Lee County Resolution Z-77-63. The category is intended to facilitate the redevelopment of the existing marina and commercial area of Burnt Store Marina for an attractive mix of marine, retail, hotel, and office uses that enhances the public use of the waterfront. The following uses are permitted within this category: retail uses, up to a maximum of 55,000 square feet; wet slips, up to a maximum of 525; dry storage spaces, up to a maximum of 800; office space, up to a maximum of 15,000 square feet; a maximum of 145 hotel units; and a maximum of 160 residential units. The maximum height permitted in this category is 220 feet.

2030 Planning Communities Acreage Table Amendments

- (1) Add a new line for "Burnt Store Marina Village" in the table.
- (2) Allocate 2 acres of residential to the new category.
- (3) Move 1 acre from the existing Burnt Store commercial allocation to the industrial category.

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LEE COUNTY ZONING DESIGNATIONS

RM-2	RESIDENTIAL MULTI-FAMILY
RM-10	RESIDENTIAL MULTI-FAMILY
RPD	RESIDENTIAL PLANNED DEVELOPMENT
CM	COMMERCIAL MARINE
EC	ENVIRONMENTALLY CRITICAL

CITY OF CAPE CORAL ZONING DESIGNATIONS

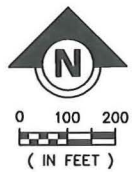
C-1	PEDESTRIAN COMMERCIAL DISTRICT
R-1A	RESIDENTIAL SINGLE FAMILY DISTRICT
R-3	RESIDENTIAL MULTI-FAMILY DISTRICT

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CPA 2007-00054

--- SUBJECT PROPERTY (18.25± AC.)
--- LEE COUNTY ZONING LIMITS

EXHIBIT A.4.2.



MV-MAPS-11x17.dwg

Joseph W. Edwards, P.E.
FL LICENSE# 38615

DATE	BY	REVISION DESCRIPTION
08/06/08	BE	PER LEE COUNTY COMMENTS DATED 06/13/08

AVALON ENGINEERING, INC.
2503 DEL PRADO BLVD. #200
CAPE CORAL, FLORIDA 33904
FBPE#3128 (239) 573-2077



BURNT STORE
MARINA VILLAGE

EXISTING USES
MAP

07-431

1 of 1

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CPA 2007-0005

LEGEND

- SUBJECT PROPERTY (18.25± AC.)
- MULTI-FAMILY EXISTING LAND USE CONDITIONS
- | | |
|-----------------|-------------------|
| 1 HOTEL/CONDO | 4 YACHT CLUB |
| 2 OFFICE | 5 MARINA FACILITY |
| 3 OFFICE/RETAIL | 6 MARINA REPAIR |

EXISTING LAND USES
EXHIBIT A.3.

The existing land uses on the property consist of wet boat slips, a dry storage building, office space, a restaurant, and recreational uses. The surrounding uses are predominantly multi-family residential structures. The proposed amendment, if approved, would permit the applicant to replace the existing obsolete dry storage building with one or more larger and vastly more attractive state-of-the-art buildings, along with an increased amount of support retail, office, and hotel space. These uses will be compatible with the intense residential uses that exist or are permitted in the County's RM-2 and RM-10 zoning categories.

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**EXISTING ZONING
EXHIBIT A.4**

The subject property is zoned CM and RM-2. The surrounding parcels are zoned RM-2, RM-10, and RPD.

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CDA 2007-00054

EXHIBIT A.4.1.

CITY OF CAPE CORAL SURROUNDING PROPERTIES ZONING DESIGNATION

Single-Family Residential Districts (R-1A and R-1B)

These districts are established to:

Encourage and protect single-family development at a variety of densities with varying dimensional requirements; Permit other uses generally compatible with such residential uses; and otherwise implement this ordinance.

R-3 Multi-Family Residential District

This district is established to:

Permit multi-family residential development; Permit other uses generally compatible with such residential uses; and otherwise implement this ordinance.

C-1 Pedestrian Commercial District

These districts are established to: Permit areas designed to encourage and facilitate commercial activities intended to serve a large trade area, including major shopping facilities oriented to pedestrian shoppers; Permit other uses generally compatible with such commercial uses; and otherwise implement this ordinance.

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