



LEE COUNTY BOARD OF COUNTY COMMISSIONERS

COMPREHENSIVE PLAN AMENDMENT  
**and**  
ZONING HEARING  
AGENDA

Wednesday, March 3, 2021

9:30 AM

CPA2019-00007 / Commerce Lake Parcel – Transmittal Hearing

Development Agreement, FFD Land CO., Inc. v. Lee County, Stipulation of Settlement

cc: DIST 1, DIST 2, DIST 3, DIST 4 and DIST 5, Glen Salyer, David Harner, David Loveland, Audra Ennis, Tina Boone, Lauren Schaefer, Michelle Ervin, Michael Jacob, John Fredyma, Amanda Swindle, Joe Adams, Anthony Rodriguez, Mikki Rozdolski, Rick Burris, Beth Workman, Marcus Evans, John Talmage

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

The Lee County Board of County Commissioners will hold a public hearing to consider proposed amendments to the Lee County Comprehensive Land Use Plan (Lee Plan) on Wednesday, March 3, 2020. The hearing will commence at 9:30 a.m., or as soon thereafter as can be heard, in the Board Chambers, 2120 Main Street in Downtown Fort Myers. At the hearing, the Board will consider the proposed amendments for transmittal to the Florida Department of Economic Opportunity:

CPA2019-00007 Commerce Lake Parcel: Amend the Future Land Use Map (Map 1, Page 1) from Airport Lands and Wetlands to New Community and Wetlands, and update the Airport Noise Zone (Map 1, Page 5) on ±22 acres located at both northern corners of the intersection of Commerce Lakes Drive and Daniels Parkway. The amendment is needed to reflect changes to the airport boundaries.

This transmittal hearing is the first step in a two step public hearing process to amend the Lee Plan. A second hearing will follow the Department of Economic Opportunity's review of the application.

Documentation for the Proposed Comprehensive Plan Amendment is available at <https://www.leegov.com/dcd/planning/cpa> or at the Department of Community Development located at 1500 Monroe Street, Fort Myers, Florida. This meeting is open to the public. Interested parties may appear at the meeting and be heard with respect to the proposed plan amendment. A verbatim record of the proceeding will be necessary to appeal a decision made at this hearing.

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

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**CPA2019-00007**

**COMMERCE LAKE  
PARCEL**

**Summary Sheet**  
**Commerce Lakes Parcel, CPA2019-00007**

**Purpose:**

Amend the Future Land Use Map (Map 1, Page 1) from Airport Lands and Wetlands to New Community and Wetlands, and update the Airport Noise Zone (Map 1, Page 5) on ±22 acres located at both northern corners of the intersection of Commerce Lakes Drive and Daniels Parkway. The amendment is needed to reflect changes to the airport boundaries.

**LPA Comments:**

LPA members wanted to know if it was necessary to update the Airport Noise Zones as proposed since it could allow for placement of residential uses in proximity to the airport. Staff clarified that it was necessary, and that any future residents would receive notification regarding the Airport Noise Zone. LPA members also asked if Airport Noise Zones impacted height restrictions near the airport. Staff clarified that Airport Noise Zones and restrictions on height near airports are two separate requirements and the proposed change to the Airport Noise Zones does not affect building height requirements.

**Public Comments:**

There was no public comment concerning the proposed amendment at the LPA Hearing.

**LPA Motion:**

A motion was made to recommend that the Board of County Commissioners **transmit** CPA2019-00007. The motion passed 5 to 0.

<b>RAYMOND BLACKSMITH</b>	<b>AYE</b>
<b>DUSTIN GARDNER</b>	<b>AYE</b>
<b>JAMES INK</b>	<b>ABSTAIN</b>
<b>ALICIA OLIVO</b>	<b>ABSENT</b>
<b>DON SCHROTENBOER</b>	<b>AYE</b>
<b>STAN STOUDE</b>	<b>AYE</b>
<b>HENRY ZUBA</b>	<b>AYE</b>

**Staff Recommendation:**

Staff recommends that the BoCC ***transmit*** the proposed amendment as provided in Attachment 1 to the staff report.

**Representative:**  
 Department of  
 Community Development

**Property Location:**  
 Northeast of RSW, At the  
 intersection of Commerce  
 Lakes Drive and Daniels  
 Parkway

**Property Size:**  
 ±22.14 acres

**Planning Community:**  
 Gateway/Airport

**Commissioner District:**  
 District #2

**Hearing Dates:**  
 LPA: January 25, 2021  
 BoCC #1: March 3, 2021

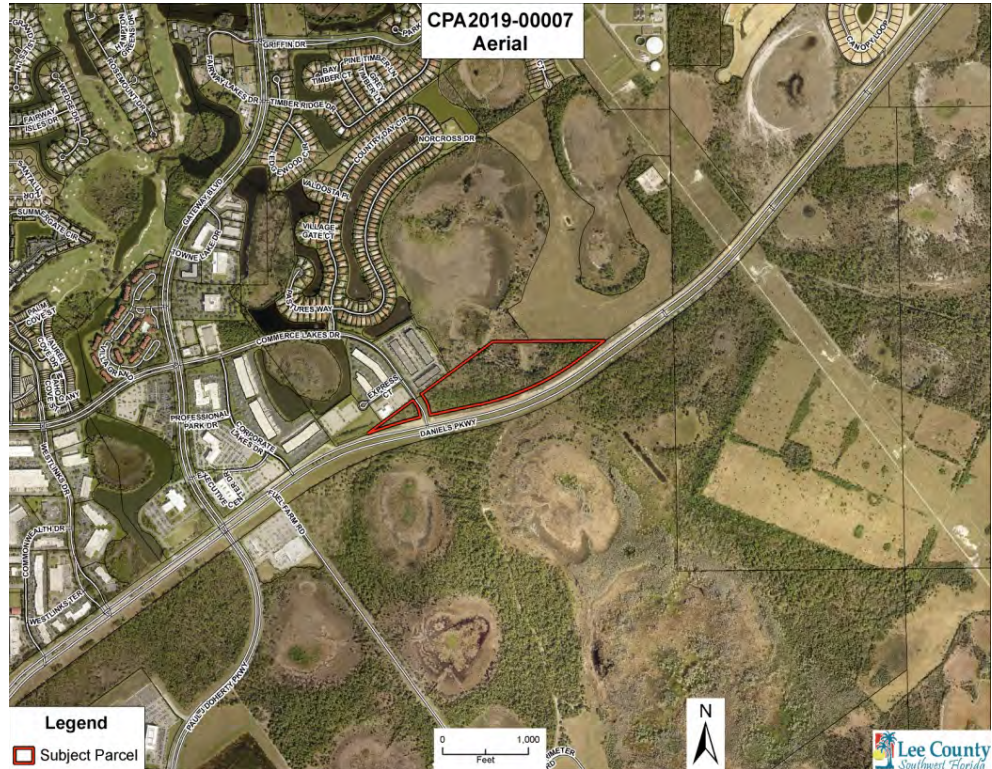
**REQUEST**

Amend the Future Land Use Map (Map 1, Page 1) from Airport Lands and Wetlands to New Community and Wetlands, and update the Airport Noise Zone (Map 1, Page 5) on ±22 acres located at both northern corners of the intersection of Commerce Lakes Drive and Daniels Parkway. The amendment is needed to reflect changes to the airport boundaries.

**SUMMARY**

The requested amendment will change the future land use category and airport noise zone for the “Commerce Lakes Parcel.” The Commerce Lakes Parcel consists of two parcels that are separated from contiguous airport property by Daniels Parkway, a four-lane divided arterial, and was deemed surplus to Southwest International Airport’s (RSW) future aviation operations or airport expansion by the Board of County Commissioners. As surplus, the Airport Lands future land use category is no longer the appropriate designation for these parcels; the proposed New Community future land use category will be consistent with the designations on adjacent properties located north of Daniels Parkway. Wetlands on these parcels will continue to be designated Wetlands on the future land use map.

The requested amendment will not change allowable intensity permitted on the parcels, but will allow for future development by non-Port Authority owners.



**Figure 1: Aerial Location Map**

**RECOMMENDATION**

Staff recommends that the Board of County Commissioners **transmit** CPA2019-00007, based on the analysis and findings provided in this staff report.

## **PART 1 BACKGROUND**

The Commerce Lakes Parcel ("Parcel") was acquired by Lee County as part of the original airport land acquisition and has remained in the airport lands inventory since its acquisition, Port Authority staff determined it is not needed for aviation purposes and has been unsuccessful in leasing the property for a non-aviation use. On June 27, 2019 the Board authorized the sale of the approximately 22.14 acre Parcel as surplus property and directed the Department of Community Development to initiate the necessary Comprehensive Plan amendments to reflect the change in the airport boundaries.

There is also a concurrent rezoning for the subject property, DCI2020-00018, filed by 1227 Holdings, LLC who is under contract to purchase the property. Florida Statutes Chapter 163.3184(12) provides that "At the request of an applicant, a local government shall consider an application for zoning changes that would be required to properly enact any proposed plan amendment transmitted pursuant to this subsection." This requires Lee County to provide concurrent review of the rezoning request.

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

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

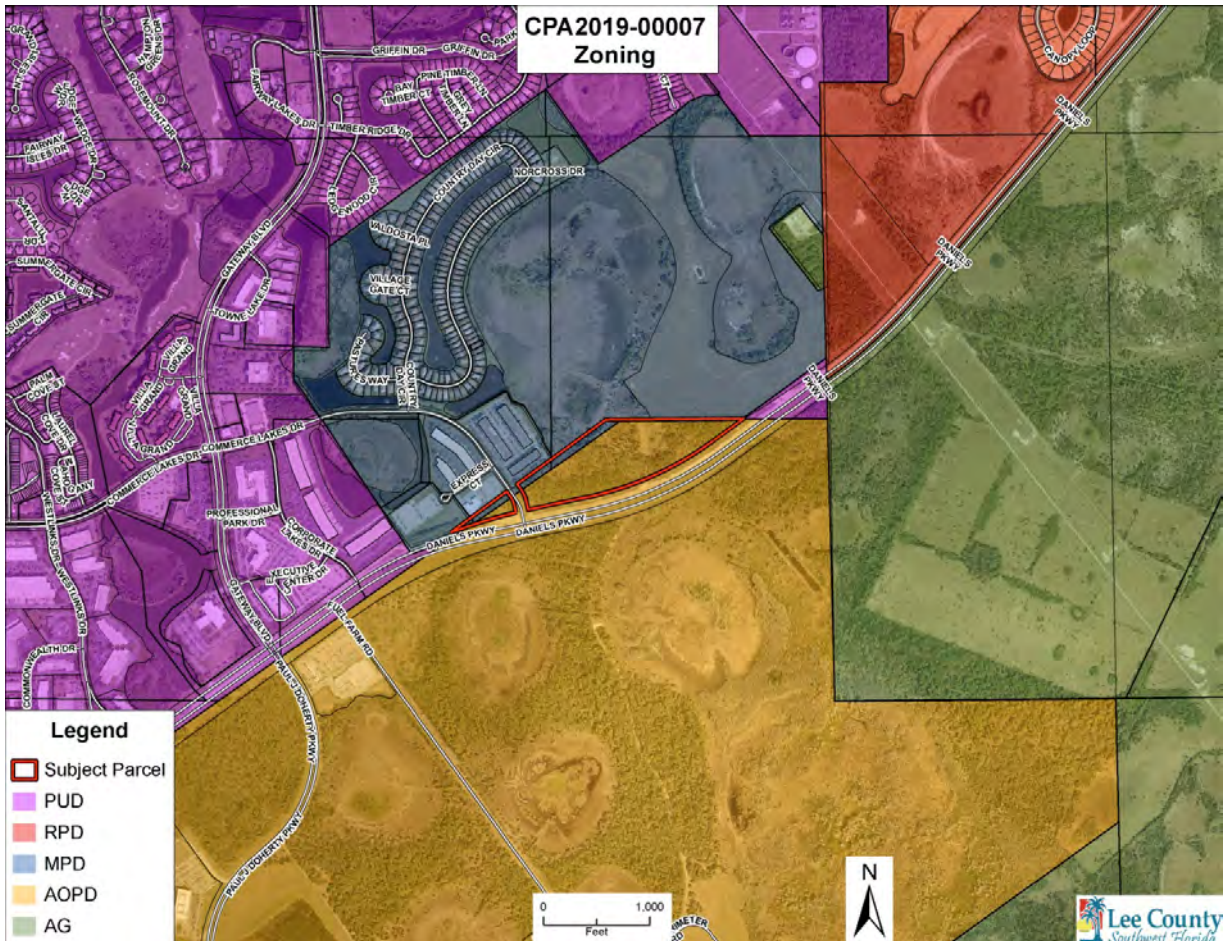
### **Subject Property:**

The Parcel is located northeast of RSW, on the north side of Daniels Parkway, and on either side (east and west) of the intersection of Daniels Parkway and Commerce Lakes Drive. It is within the Gateway/Airport planning community and is currently zoned as an Airport Operations Planned Development (AOPD).

### **Surrounding Properties:**

Lands located to the north, east, and west of the Parcel, on the north side of Daniels Road, contain a mix of light industrial, commercial, and residential uses. These properties are zoned as Planned Unit Development (PUD) and Mixed Use Planned Development (MPD). This area is commonly known as "Gateway," and is in the New Community future land use category.

South of the Parcel is Daniels Parkway then land owned by the Lee County Port Authority, containing RSW. This property is zoned AOPD and is within the Airport Lands future land use category.



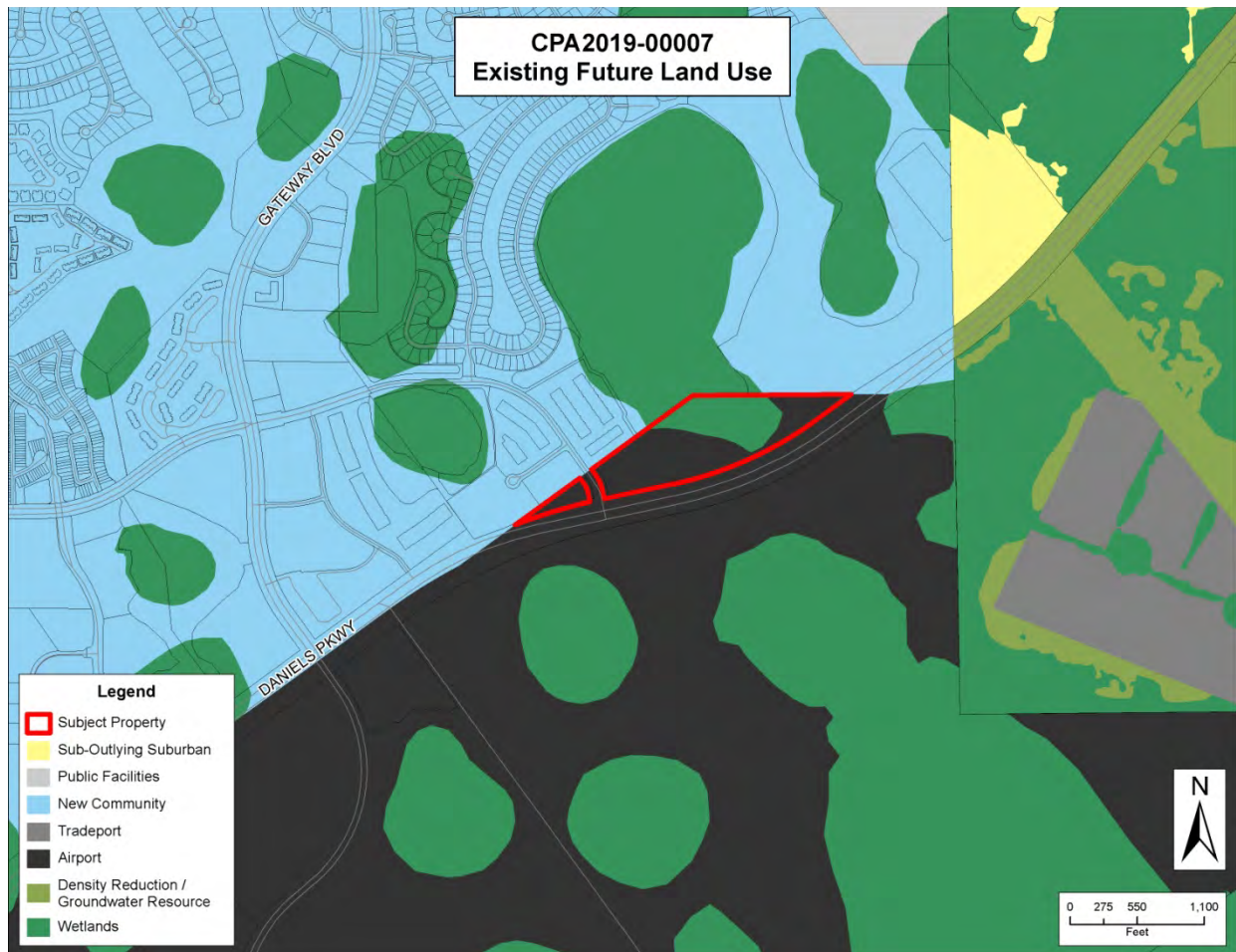
**Figure 2: Surrounding Zoning**

**Current Future Land Use Categories:**

The Parcel is currently designated as Airport Lands and Wetlands on the Future Land Use Map. These future land use categories are described in Policies 1.1.12 and 1.5.1.

Policy 1.1.12 provides that *“Allowable land uses and intensities within the Airport Lands future land use category are subject to the plans for the airport properties outlined in the Southwest Florida International Airport Master Plan Update...”* This land use category accommodates the Port Authority’s airports and projected need for growth in order to continue viable airport operations.

Policy 1.5.1 states that *“Permitted land uses in Wetlands consist of very low density residential uses and recreational uses that will not adversely affect the ecological functions of wetlands. All development in Wetlands must be consistent with Goal 124 of this plan. The maximum density is one dwelling unit per twenty acres (1 du/20 acre) except as otherwise provided in Table 1(a) and Chapter XIII of this plan.”*



**Figure 3: Existing Future Land Use Map**

The Airport Lands future land use category describes land owned by the Port Authority and allows land uses and intensities consistent with the most recently adopted Airport Master Plan for each airport. Development in the Airport Lands future land use category requires approval through the AOPD zoning process. A change to the airport boundary, via the sale of surplus property, requires that the boundary of the Airport Lands future land use category also be amended to reflect the change in ownership and allow rezoning of the property to a non-AOPD zoning district.

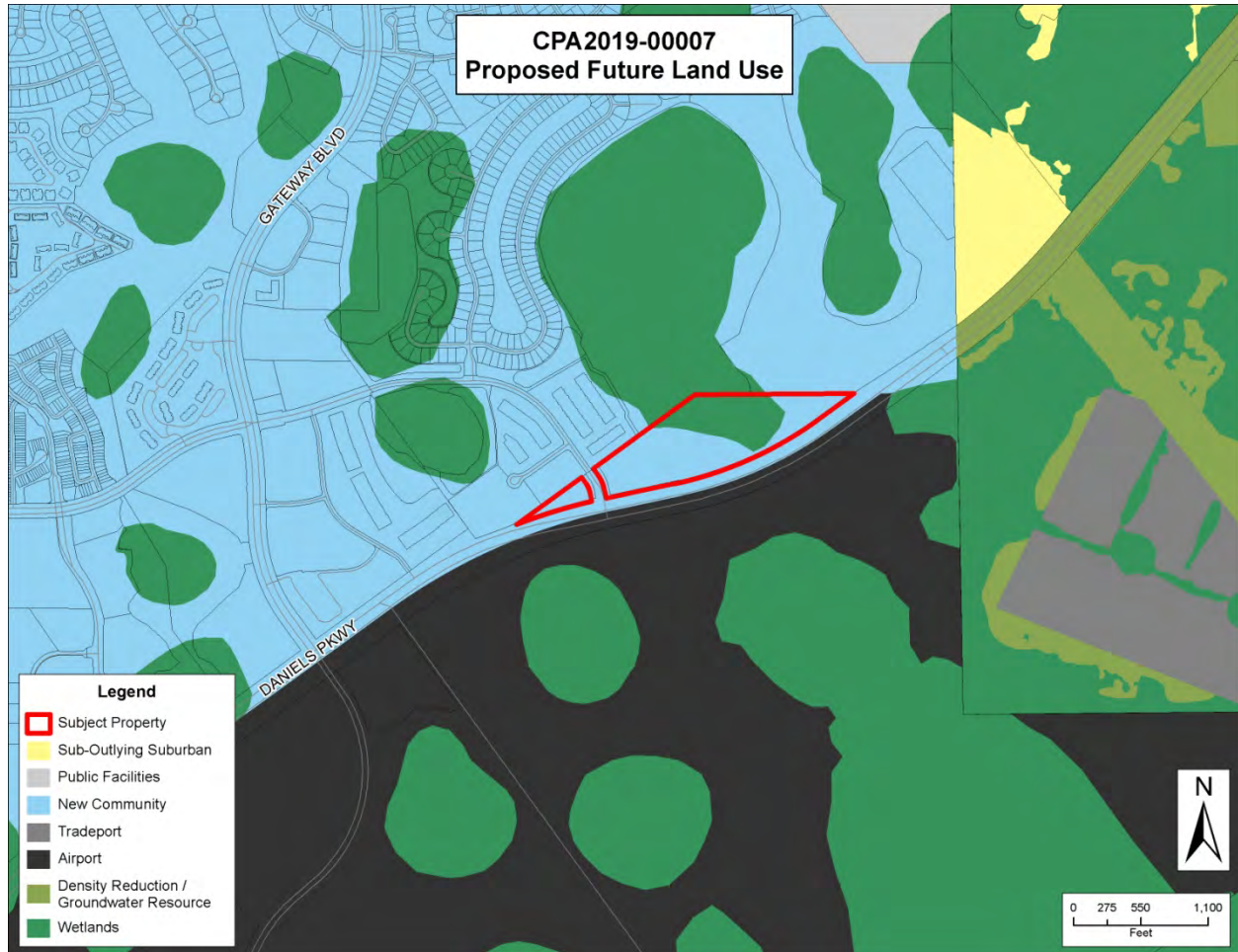
**Proposed Future Land Use Categories:**

Upland areas within the Parcel currently in the Airport Lands future land use category are proposed to be re-designated to the New Community future land use category described in Policy 1.6.1. Wetland areas within the Parcel will remain designated as in the Wetlands future land category.

Development within the New Community future land use category must be, in part, *“capable of being planned and developed as a cohesive unit...land must be located such that the area is capable of being developed with a balance of residential and non-residential uses and that major impacts of the development are internalized and/or alleviated by infrastructure that is existing or will be funded privately.”*



The expansion of the New Community future land use boundary onto the Parcel and will allow for the Parcel to be developed in a manner that is cohesive and compatible with the existing development on contiguous New Community properties. Policy 1.6.1 requires the minimum land area of a New Community exceed 2,000 acres to ensure an appropriate balance of land uses. The New Community future land use category in the Gateway area, if expanded to encompass the Parcel, will include approximately 2,524 acres, and is consistent with Policy 1.6.1.



**Figure 4: Proposed Future Land Use Map**

The primary difference in uses allowed in the New Community future land use category and the Airport Lands future land use category is that New Community allows for residential uses. Staff notes that the concurrent rezoning request does not include residential uses; therefore the proposed change will have no impacts based on allowable uses or intensities.

**Airport Noise Zones**

The Parcel is currently identified in Airport Noise Zone A on Map 1, Page 5 of the Lee Plan. Policy 1.7.1 provides that Noise Zone A is the designation given to Airport Property and that “Upon disposition of any Port Authority property, the land is then subject to the Noise Zone as applicable based on the most recent Composite Day-Night Average Noise Level (DNL) Noise Contours map for Southwest Florida International Airport approved by the Federal Aviation Administration.”

To maintain consistency with Policy 1.7.1, Lee Plan Map 1, Page 5 will be amended to reflect the appropriate Noise Zone on the Parcel based on the most recent DNL Noise Contours map on the Parcel (see Attachment 1).

**Growth Management/Compatibility:**

Goal 2 discusses the need for appropriate growth management. Objective 2.2 specifies that new growth should be directed to future urban areas where adequate public facilities exist, as well as areas where contiguous development patterns can be created. The Parcel is in an area with adequate facilities and substantial development on all sides. Expansion of the New Community designation onto the Parcel will allow for contiguous development patterns and is consistent with Goal 2 and Objective 2.2 of the Lee Plan.

Policy 6.1.4 also states that commercial development will be approved only when compatible with adjacent existing and proposed land uses, as well as with existing and proposed public services and facilities. The proposed land use is compatible with the currently existing commercial development, and is located in an area that currently has appropriate programmed public services. The proposed amendment is consistent with Policy 6.1.4

**Public Service Availability:**

As previously stated, the proposed amendment to the Future Land Use Map will not change either the uses or the intensities of the subject property. The adequacy of the public facilities services will be reviewed as part of the zoning process, where the specific proposed uses and intensities can be evaluated.

Transit: The subject area is not within one-quarter mile of a fixed-route corridor. The area has not been identified as needing enhanced or additional transit services.

Utilities: There is sufficient capacity to provide potable water and sanitary sewer service to the Parcel. Service will be provided by Gateway Water Reclamation Facility.

Solid Waste: Solid waste collection services will be provided by Lee County using the Lee County Resource Recovery Facility and the Lee-Hendry Regional Landfill.

Fire: The Parcel will be served by the South Trail Fire Protection & Rescue Service District.

EMS: The primary ambulance for this location is located 4.3 miles from the property, with a secondary ambulance located 6.1 miles away.

Police: The Lee County Sheriff will provide law enforcement services primarily from the Central District sub-station in Fort Myers. The Sheriff indicated in a letter dated October 2, 2020 that the development of the subject property will not affect the ability of the Lee County Sheriff's Office to provide core services at this time.

### **PART 3 CONCLUSIONS**

Board of County Commissioners initiated this amendment to maintain consistency with the Lee Plan since the existing Airport Lands future land use category and Airport Noise Zone A designations are only for lands owned by the Lee County Port Authority. The amendments will accommodate the sale of the surplus property to a private entity for development.

- The New Community future land use category and updated Airport Noise Zone will allow for privately developed commercial and/or light industrial uses on the subject property adjacent to a primarily light industrial area within the Gateway community.
- While New Community allows for residential uses and Airport Lands does not, there is no difference in the intensities of non-residential uses allowed in the existing and proposed future land use categories.
- A concurrent planned development rezoning application filed by the purchaser of the property is limited to commercial and light industrial uses; therefore the proposed future land use category will result in no increase in allowable densities or intensities.
- There is currently, and will continue to be, adequate public services to meet the demands of the New Community future land use category.

For the reasons discussed in this staff report, Staff recommends that the Board of County Commissioners *transmit* the proposed amendments.

### **PART 4 LOCAL PLANNING AGENCY REVIEW AND RECOMMENDATION**

DATE OF PUBLIC HEARING: January 25, 2021

#### **A. LOCAL PLANNING AGENCY REVIEW:**

Staff provided a brief presentation for the proposed amendment, which included the purpose of the amendment, Lee Plan consistency, a comparison between the current and proposed future land use categories, and staff's recommendation.

Members of the LPA asked for clarification about why this was a county initiated amendment. Staff responded that the change to the future land use category was necessary in order to sell the Port Authority property as surplus land.

Members of the LPA had questions about the proposed revision to the Airport Noise Zones. Staff stated that the revision was necessary because the property would no longer be part of the airport property. Concern was expressed by an LPA member that the change in Noise Zones would potentially allow for residential uses, which may cause compatibility issues with the airport. Staff stated that residents would receive notification regarding the airport noise based on the proposed Airport Noise Zone C. The LPA member asked staff whether height restrictions would be modified or removed. Staff responded that height restrictions are not based on the noise zones.

Another LPA member asked staff if the amendment could move forward without changing the noise zones. Staff responded that this would create an inconsistency with Lee Plan Policy 1.7.1.

Members of the LPA also asked questions related to the property's appraisal and sales contract, which were addressed by staff.

There was no public comment concerning the proposed amendment.

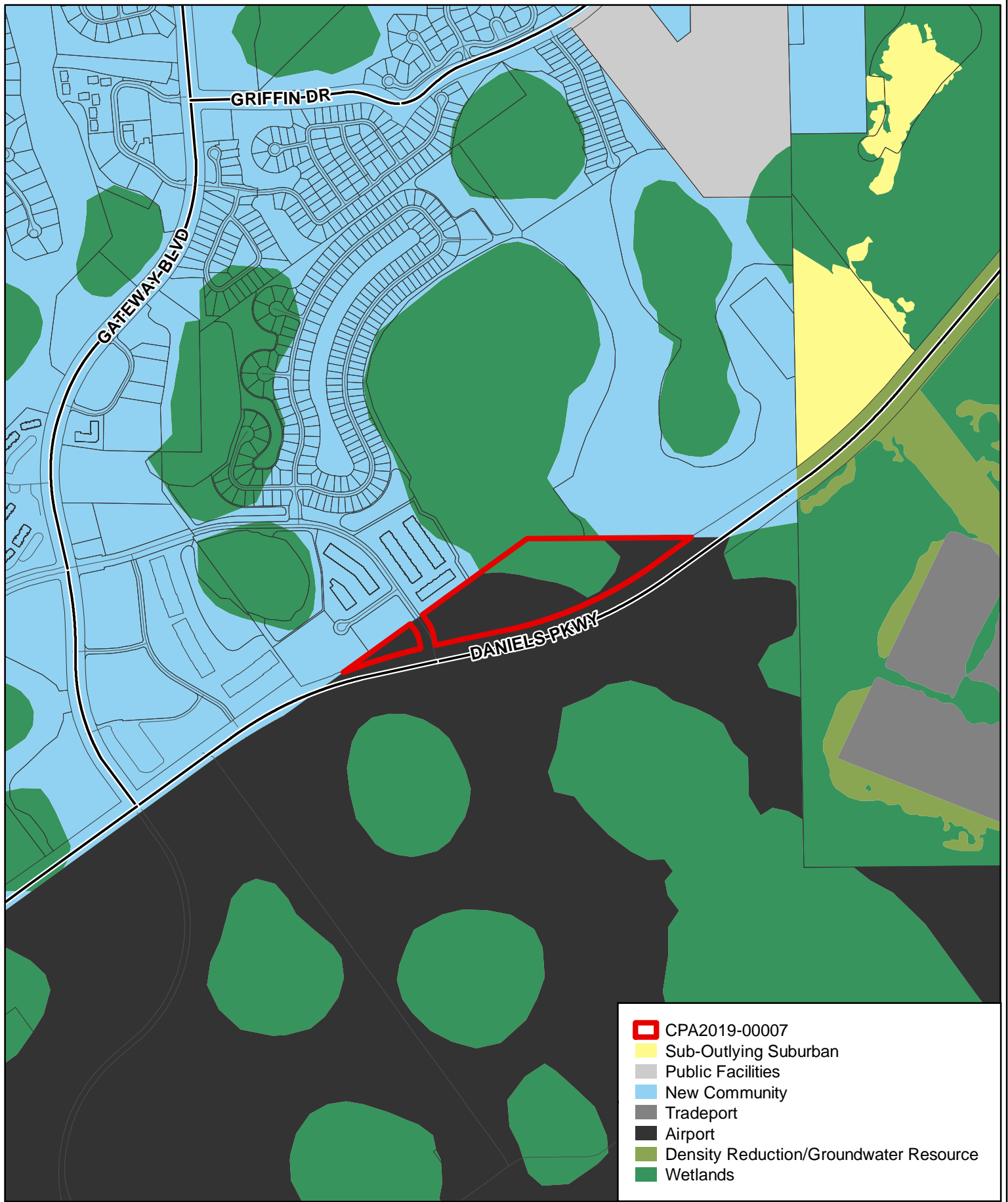
**B. LOCAL PLANNING AGENCY RECOMMENDATION:**

A motion was made to recommend that the Board of County Commissioners transmit CPA2019-00007. The motion passed 5 to 0.

**VOTE:**

RAYMOND BLACKSMITH	<u>AYE</u>
DUSTIN GARDNER	<u>AYE</u>
JAMES INK	<u>ABSTAIN</u>
ALICIA OLIVO	<u>ABSENT</u>
DON SCHROTENBOER	<u>AYE</u>
STAN STOUDE	<u>AYE</u>
HENRY ZUBA	<u>AYE</u>

# ATTACHMENT 1



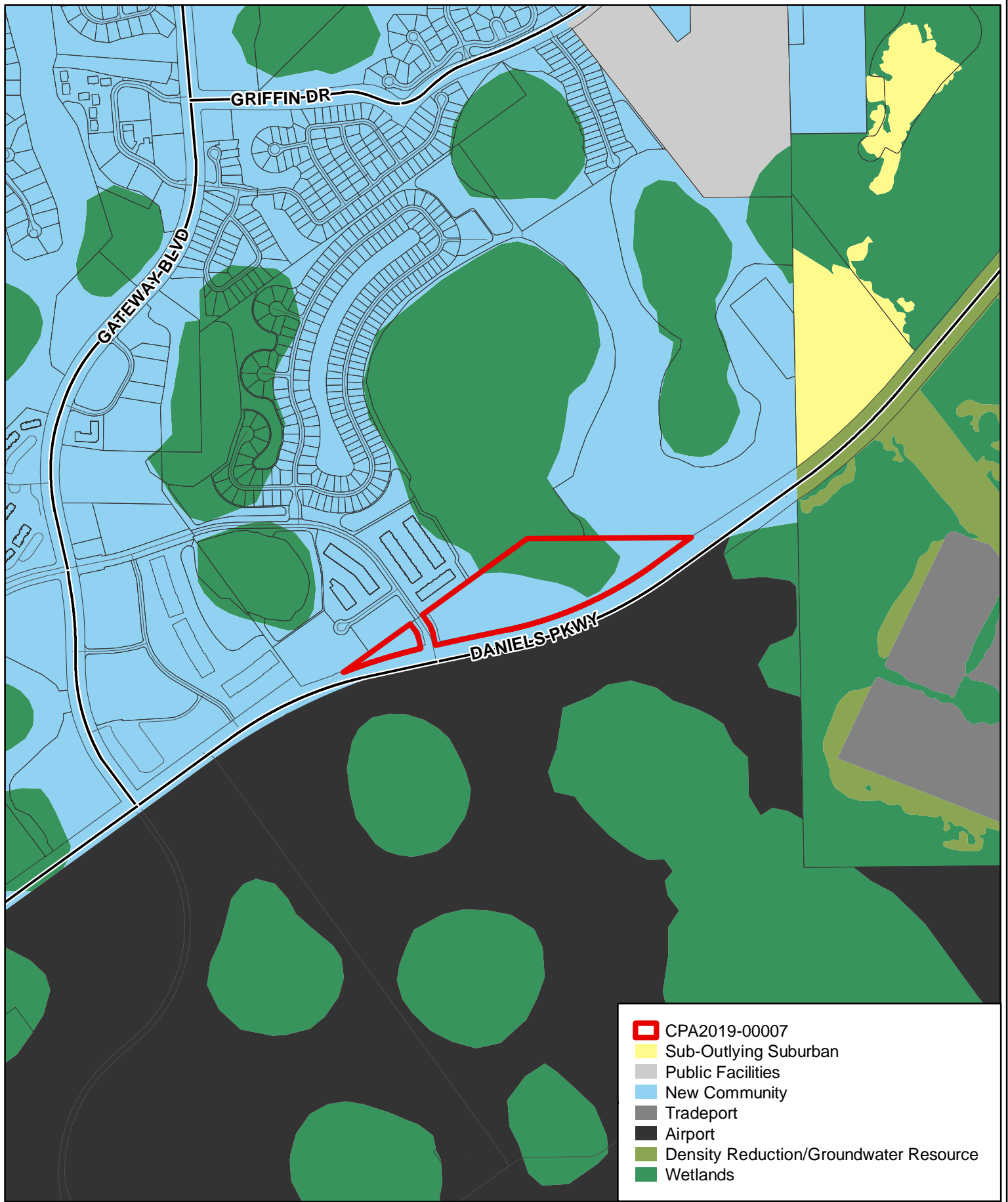
- CPA2019-00007
- Sub-Outlying Suburban
- Public Facilities
- New Community
- Tradeport
- Airport
- Density Reduction/Groundwater Resource
- Wetlands

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Map Generated January 2021

**CPA2019-00007 - Commerce Lake Parcel**  
**EXISTING LEE PLAN**  
**FUTURE LAND USE MAP**



- CPA2019-00007
- Sub-Outlying Suburban
- Public Facilities
- New Community
- Tradeport
- Airport
- Density Reduction/Groundwater Resource
- Wetlands

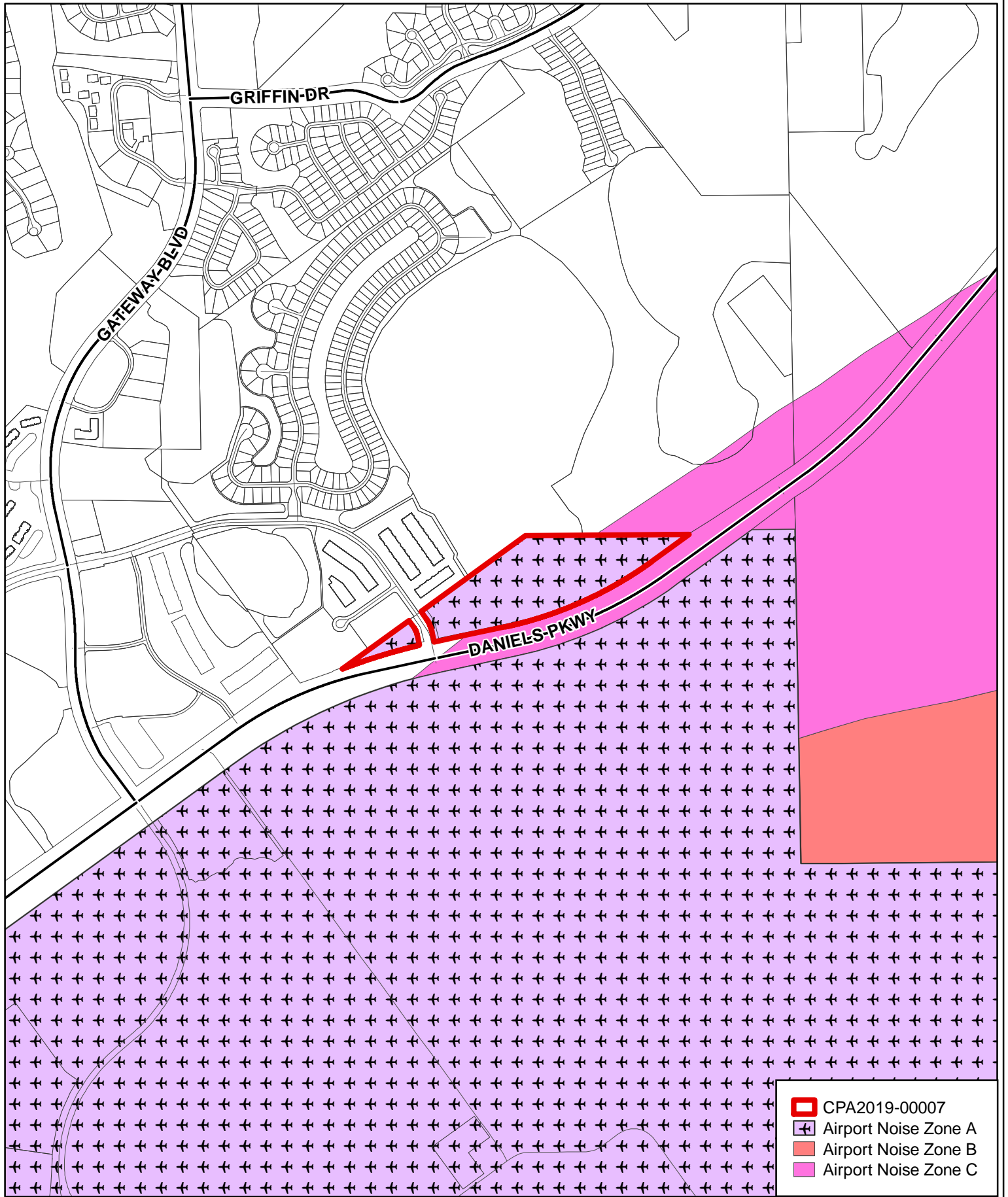
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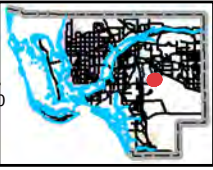
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**CPA2019-00007 - Commerce Lake Parcel**  
**PROPOSED LEE PLAN**  
**FUTURE LAND USE MAP**



	CPA2019-00007
	Airport Noise Zone A
	Airport Noise Zone B
	Airport Noise Zone C

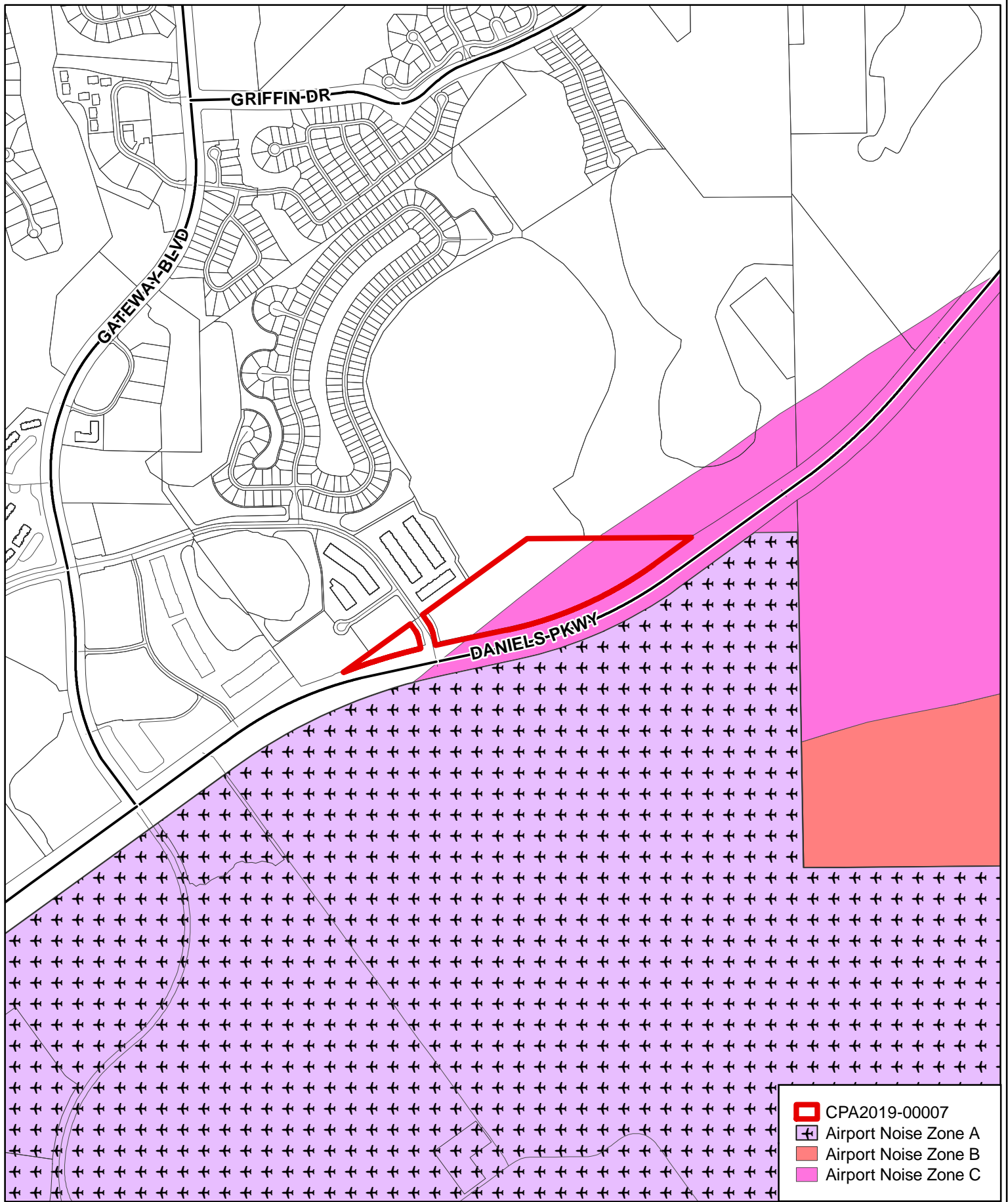
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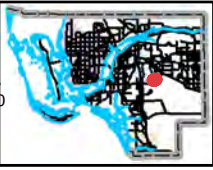
**CPA2019-00007 - Commerce Lake Parcel**  
**EXISTING LEE PLAN**  
**AIRPORT NOISE ZONE MAP**





	CPA2019-00007
	Airport Noise Zone A
	Airport Noise Zone B
	Airport Noise Zone C

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**CPA2019-00007 - Commerce Lake Parcel**  
**PROPOSED LEE PLAN**  
**AIRPORT NOISE ZONE MAP**