

LEE COUNTY ORDINANCE NO. 23-04

AN ORDINANCE AMENDING THE LEE COUNTY COMPREHENSIVE PLAN TO ADOPT A SMALL SCALE AMENDMENT (CPA2021-00009) PERTAINING TO BURNT STORE ROAD MIXED USE DEVELOPMENT; PROVIDING FOR PURPOSE, INTENT AND SHORT TITLE; ADOPTION OF SMALL SCALE AMENDMENT TO LEE PLAN MAP 1A, THE FUTURE LAND USE MAP; LEGAL EFFECT OF THE "LEE PLAN"; PERTAINING TO MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING; GEOGRAPHICAL APPLICABILITY; SEVERABILITY; INCLUSION IN CODE, CODIFICATION AND SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.

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

WHEREAS, the Board, in accordance with Section 163.3181, Florida Statutes, and Lee County Administrative Code AC-13-6, provide an opportunity for private individuals to request amendment to the Future Land Use Map through a small scale amendment public hearing process; and

WHEREAS, the Local Planning Agency ("*LPA*") held a public hearing on the adoption of the proposed amendment on January 23, 2023. At that hearing the LPA ended in a tie vote; and

WHEREAS, the Board held a public hearing for the adoption of the proposed amendment on March 8, 2023. At that hearing, the Board approved a motion to adopt proposed amendment CPA2021-00009 pertaining to Burnt Store Road Mixed Use Development, amending Map 1A of the Lee Plan, the Future Land Use Map. The subject parcel is located on the east side of Burnt Store Road, east of the Cape Coral City Limits and Burnt Store Marina, and less than a mile south of Charlotte County.

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

SECTION ONE: PURPOSE, INTENT AND SHORT TITLE

The Board of County Commissioners of Lee County, Florida, in compliance with Chapter 163, Part II, Florida Statutes, and with Lee County Administrative Code AC-13-6, conducted a public hearing to review a proposed small scale amendment to the Future Land Use Map Series of the Lee Plan. The purpose of this ordinance is to adopt the

amendment to the Lee Plan discussed at that meeting and later approved by a majority of the Board of County Commissioners. The short title and proper reference for the Lee County Comprehensive Land Use Plan, as hereby amended, will continue to be the "Lee Plan." This amending ordinance may be referred to as the "Burnt Store Road Mixed Use Development (CPA2021-00009)".

SECTION TWO: ADOPTION OF SMALL SCALE AMENDMENT TO LEE PLAN FUTURE LAND USE MAP SERIES, MAP 1A

The Lee County Board of County Commissioners hereby amends the existing Lee Plan, adopted by Ordinance Number 89-02, as amended, by adopting an amendment to the Future Land Use Map Series, Map1A, the Future Land Use Map.

The amendment to the Future Land Use Map will change the allowable density and uses of the subject property from 1 dwelling unit per 10 acres to allow up to 10 dwelling units an acre. The change will also remove the limitation that commercial uses must be intended to serve residents of the adjacent rural areas. These proposed amendments are anticipated to facilitate the development of residential and nonresidential uses compatible with nearby development anticipated within the City of Cape Coral.

The subject parcel is located on the east side of Burnt Store Road, east of the Cape Coral City Limits and Burnt Store Marina, and less than a mile south of Charlotte County. The corresponding staff report and analysis, along with all attachments for this amendment, are adopted as "support documentation" for the Lee Plan.

SECTION THREE: LEGAL EFFECT OF THE "LEE PLAN"

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

SECTION FOUR: MODIFICATION

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

SECTION FIVE: GEOGRAPHIC APPLICABILITY

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

SECTION SIX: SEVERABILITY

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

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

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

SECTION EIGHT: EFFECTIVE DATE

The small scale Lee Plan amendment adopted by this ordinance will be effective 31 days after adoption unless challenged within 30 days after adoption. If challenged within 30 days after adoption, the small scale amendment to the Lee Plan will not be effective until the Florida Department of Economic Opportunity or the Administrative Commission issues a final order determining the small scale amendment is in compliance with Florida Statutes, Section 163.3184. No development orders, development permits or land uses dependent on this amendment may be issued or commence before the amendment has become effective.

Commissioner Greenwell made a motion to adopt the foregoing ordinance, seconded by Commissioner Pendergrass. The vote was as follows:

Kevin Ruane	Aye
Cecil L Pendergrass	Aye
Raymond Sandelli	Aye
Brian Hamman	Nay
Mike Greenwell	Aye

DONE AND ADOPTED this 8th day of March 2023.

ATTEST:
KEVIN KARNES, CLERK

LEE COUNTY BOARD OF
COUNTY COMMISSIONERS

BY: 
Deputy Clerk

BY: 
Brian Hamman, Chair



DATE: 3/10/2023

APPROVED AS TO FORM FOR THE
RELIANCE OF LEE COUNTY ONLY


Lee County Attorney's Office

Exhibit A (Adopted by BOCC March 8, 2023):
Adopted existing Future Land Use Map 1A
Adopted revisions to Future Land Use Map 1A



CPA2021-00009

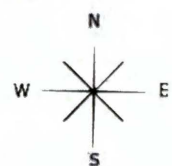


Map Generated: August 2022

- Outlying Suburban
- Rural
- Open Lands
- Conservation Lands - Upland
- Wetlands

- Conservation Lands - Wetland
- City Limits
- Subject Property
- County Boundary

Existing Future Land Use



0 1,000 2,000
Feet



CPA2021-00009

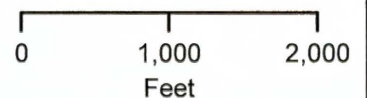
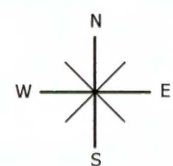
Proposed Future Land Use



Map Generated: August 2022

- Central Urban
- Wetlands
- Outlying Suburban
- Rural
- Open Lands
- Conservation Lands - Upland

- Wetlands
- Conservation Lands - Wetland
- City Limits
- Subject Property
- County Boundary





FLORIDA DEPARTMENT *of* STATE

RON DESANTIS
Governor

CORD BYRD
Secretary of State

March 10, 2023

Honorable Kevin Karnes
Clerk of the Circuit Courts
Lee County
Post Office Box 2469
Fort Myers, Florida 33902-2469

Attn: Chris Jagodzinski

Dear Kevin Karnes:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Lee County Ordinance No. 23-04, which was filed in this office on March 10, 2023.

Sincerely,

Anya Owens
Program Administrator

ACO/rra

RECEIVED

By Chris Jagodzinski at 11:35 am, Mar 10, 2023