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STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS

"Dedicated to making Florida a better place to call home"

JEB BUSH
Governor

COLLEEN CASTILLE
Secretary

July 14, 2003

Paul O'Connor, AICP
Lee County
Post Office Box 398
Fort Myers, Florida 33902-0398

Dear Mr. O'Connor:

Thank you for submitting copies of the Lee County Small Scale Development Plan Amendment adopted by Ordinance No 03-15 on June 24, 2003, for our records. The reference number for the amendments is Lee County 03-S2.

The Department **will not** conduct a compliance review or issue a Notice of Intent regarding the adopted small scale development plan amendments in accordance with procedures contained in Section 163.3187(3)(a), Florida Statutes.

If you have any questions, please contact me for the DRI and Plan Processing Section at (850) 922-1767.

Sincerely,

D. Ray Eubanks, Administrator
Plan Review and Processing

DRE\dj

cc: Dave Bur, Executive Director
Southwest Florida RPC

2555 SHUMARD OAK BOULEVARD • TALLAHASSEE, FLORIDA 32399-2100
Phone: 850.488.8466/Suncom 278.8466 FAX: 850.921.0781/Suncom 291.0781
Internet address: <http://www.dca.state.fl.us>

CRITICAL STATE CONCERN FIELD OFFICE
2796 Overseas Highway, Suite 212
Marathon, FL 33050-2227
(305) 289-2402

COMMUNITY PLANNING
2555 Shumard Oak Boulevard
Tallahassee, FL 32399-2100
(850) 488-2356

EMERGENCY MANAGEMENT
2555 Shumard Oak Boulevard
Tallahassee, FL 32399-2100
(850) 413-9969

HOUSING & COMMUNITY DEVELOPMENT
2555 Shumard Oak Boulevard
Tallahassee, FL 32399-2100
(850) 488-7956

MEMORANDUM
FROM THE
OFFICE OF COUNTY ATTORNEY


LEE COUNTY
RECEIVED

03 JUL -7 AM 9:03

COMPL. DEV/
PUB. WRKS. CNTR.
SECOND FLOOR

DATE: July 3, 2003

To: Paul O'Connor
Director, Planning Division
DCD/Planning

FROM: 
Donna Marie Collins
Assistant County Attorney

RE: Charter School Amendment to the Lee Plan Lee County Ordinance No. 03-15
LU-03-06-2312(A)(3)

Attached to this memorandum please find a certified copy of Lee County Ordinance No. 03-15 amending the Lee Plan by re-designating the legal boundaries of Airport Noise Zones 2 and 3. This copy has been provided for your records.

If I may be of further assistance, do not hesitate to contact me.

DMC/Kab
Attachment (*Lee County Ordinance No. 03-15*)

cc (w/ attachment): Matthew Noble, Principal Planner, DCD/Planning

LEE COUNTY ORDINANCE NO. 03-15
(Small Scale Amendment)
Charter School

AN ORDINANCE AMENDING THE LEE COUNTY COMPREHENSIVE PLAN, COMMONLY KNOWN AS THE "LEE PLAN" AS ADOPTED BY ORDINANCE NO. 89-02, AS AMENDED, SO AS TO ADOPT SMALL SCALE AMENDMENT CPA2003-03 (PERTAINING TO THE REMOVAL OF A 6.8 ± ACRE PARCEL FROM THE AIRPORT NOISE ZONE 3 OVERLAY AND PLACEMENT WITHIN AIRPORT NOISE ZONE 2 OVERLAY) APPROVED DURING A SMALL SCALE COMPREHENSIVE PLAN AMENDMENT EFFORT; PROVIDING FOR AMENDMENT TO THE FUTURE LAND USE MAP SERIES, MAP 1; PURPOSE AND SHORT TITLE; LEGAL EFFECT OF "THE LEE PLAN"; GEOGRAPHICAL APPLICABILITY; SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.

WHEREAS, the Lee County Comprehensive Plan ("Lee Plan") Policy 2.4.1 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 the LPA; and,

WHEREAS, the Lee County Local Planning Agency ("LPA") held a public hearing pursuant to Florida Statutes and Lee County Administrative Code on May 28, 2003; and

WHEREAS, the Board held a public hearing for the adoption of the proposed amendment on June 24, 2003. At that hearing, the Board approved a motion to adopt proposed amendment CPA2003-03 pertaining to the removal of a 6.8 ± acre parcel from the Airport Noise Zone 3 Overlay Special Treatment Area depicted on page 3 of the Future Land Use Map placing the subject property within Airport Noise Zone 2 Overlay. The subject parcel is located within the Gateway DRI, north of Daniels Parkway.

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 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 continued to be the "Lee Plan." This amending ordinance may be referred to as the "Small Scale Amendment CPA 2003-03, Charter School Ordinance."

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

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, Map 1, by removing a 6.8 ± acre parcel from the Airport Noise Zone 3 Overlay reflected on page 5 of the Future Land Use Map (Special Treatment Areas) and placing the subject property within Airport Noise Zone 2 Overlay. The subject parcel is located within the Gateway DRI, north of Daniels Parkway. The corresponding staff report and analysis, along with all attachments for this amendment, are adopted as "support documentation" for the Lee Plan. The Board requires that the property owner execute and record an Avigation Easement and Release in favor of Lee County in acknowledgment of the proximity of the airport and its potential affect on the property.

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: 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 FIVE: 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 SIX: INCLUSION IN CODE, CODIFICATION, SCRIVENERS' ERROR

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

SECTION SEVEN: 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 Community Affairs 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.

THE FOREGOING ORDINANCE was offered by Commissioner Douglas St. Cerny, who moved its adoption. The motion was seconded by Commissioner Robert Janes, and, when put to a vote, the vote was as follows:

Robert P. Janes	Aye
Douglas St. Cerny	Aye
Ray Judah	Aye
Andrew Coy	Aye
John Albion	Aye

DONE AND ADOPTED this 24TH day of June 2003.

ATTEST:
CHARLIE GREEN, CLERK

BY: Michelle A. Cooper
Deputy Clerk



LEE COUNTY
BOARD OF COUNTY COMMISSIONERS

BY: Ray Judah
Chairman

Approved as to form by:

Donna Marie Collins
Donna Marie Collins
County Attorney's Office

Charlie Green
Clerk of Circuit Court
Lee County, Florida

STATE OF FLORIDA

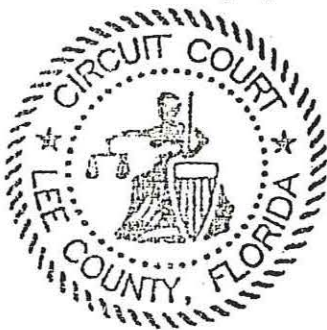
COUNTY OF LEE

I Charlie Green, Clerk of Circuit Court, Lee County, Florida, and ex-Officio Clerk of the Board of County Commissioners, Lee County, Florida, do hereby Certify that the above and foregoing, is a true and correct copy of Ordinance No. 03-15, adopted by the Board of Lee County Commissioners, at their meeting held on the 24th day of June, 2003.

Given under my hand and seal, at Fort Myers, Florida, this 27th day of June, 2003.

CHARLIE GREEN,
Clerk of Circuit Court
Lee County, Florida

By Michelle J. Cooper
Deputy Clerk





LEE COUNTY
SOUTHWEST FLORIDA

BOARD OF COUNTY COMMISSIONERS

Writer's Direct Dial Number: (239) 335-2236

Facsimile (239) 335-2606

Bob Janes
District One

Douglas R. St. Cerny
District Two

Ray Judah
District Three

Andrew W. Coy
District Four

John E. Albion
District Five

Donald D. Stilwell
County Manager

James G. Yaeger
County Attorney

Diana M. Parker
County Hearing
Examiner

July 2, 2003

Charles J. Basinait, Esquire
Henderson Franklin Starnes & Holt
P. O. Box 280
Fort Myers, Florida 33902-0280


Re: Charter School Plan Amendment
Avigation Easement and Release
LU File 03-06-2312(A)(3)

Dear Chuck:

Enclosed in this correspondence please find a certified copy of Lee County Ordinance 03-15, which amends the physical boundaries of Airport Noise Zones 2 and 3 in the Lee Plan. In addition, please find a copy of the Avigation Easement and Release along with the Warning Disclosure that has been recorded in the Public Records of Lee County at OR 3974, Page 2570. These documents have been provided for your records.

If I may be of further assistance do not hesitate to contact me.

Kind regards,


Donna Marie Collins
Assistant County Attorney

DMC/kab

cc: Tim Jones, Chief Assistant County Attorney
Paul O'Connor, Planning Director

Enclosures: 1. Avigation Easement and Release
2. Warning Disclosure
3. Lee Co. Ordinance No. 03-15

S:\LU\DMC\DMCLTR\Basinait - Lee Plan Charter School Amendment.wpd



LEE COUNTY
SOUTHWEST FLORIDA

BOARD OF COUNTY COMMISSIONERS

Bob Janes
District One

Douglas R. St. Cerny
District Two

Ray Judah
District Three

Andrew W. Coy
District Four

John E. Albion
District Five

Donald D. Stilwell
County Manager

James G. Yaeger
County Attorney

Diana M. Parker
County Hearing
Examiner

Writer's Direct Dial Number: (239) 335-2236

Facsimile (239) 335-2606

July 2, 2003

Greg Hagen
Chief Assistant County Attorney
Port Authority
16000 Chamberlin Blvd., Suite 8671
Fort Myers, Florida 33913

Re: Lee Plan Charter School Amendment
Land Use File No. 03-06-2312 (A)(3)

Dear Greg:

Enclosed in this correspondence is the original Avigation Easement and Release along with the Warning Disclosure. This document has been recorded in the Public Records of Lee County in OR 3974, Page 2570. In addition, please find a certified copy of Lee County Ordinance No. 03-15. These documents have been provided for your records.

Thank you for your assistance with this matter.

Kind regards,

Donna Marie Collins
Assistant County Attorney

DMC/kab

cc: Tim Jones, Chief Assistant County Attorney
Paul O'Connor, Planning Director
Chuck Basinait, Esquire

Enclosures: 1. Avigation Easement and Release
2. Warning Disclosure
3. Lee Co. Ordinance No. 03-15

S:\LUDMC\DMCLTR\Hagen - Lee Plan Charter School Amendment.wpd

To: M. Noble

LEE COUNTY BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

BLUE SHEET NO: 20030684

1. REQUESTED MOTION:

ACTION REQUESTED: Adopt a Small Scale amendment to the Lee County Comprehensive Plan.

WHY ACTION IS NECESSARY: A majority of the entire Board of County Commissioners is required to adopt a Small Scale amendment.

WHAT THE ACTION ACCOMPLISHES: Changes the Airport Noise Designation from Zone 3 to Zone 2 for a specified 6.8± acre parcel of land generally located at the northwest quadrant of the intersection of Daniels Parkway and Commonwealth Drive.

2. DEPARTMENTAL CATEGORY:

COMMISSION DISTRICT # 5

5:05 #1

3. MEETING DATE:

06-24-2003

4. AGENDA

- ☐ CONSENT
☐ ADMINISTRATIVE
☐ APPEALS
☒ PUBLIC

TIME REQUIRED:
5 Minutes

5. REQUIREMENT/PURPOSE:

- (Specify)
☒ STATUTE 163.3187
☐ ORDINANCE
☒ ADMIN. CODE 13-6
☐ OTHER

6. REQUESTOR OF INFORMATION:

- A. COMMISSIONER _____
B. DEPARTMENT Community Development
C. DIVISION Planning PC 6/14/03
BY Paul O'Connor, AICP, Director

7. BACKGROUND:

Small Scale amendments to the County's Comprehensive Plan may be proposed at any time during a calendar year. The applicant, John McGarvey, has requested a Small Scale amendment for a specified 6.8± acre parcel as described by the Staff Report dated May 28, 2003. The applicant is proposing to develop a charter school on the subject site. The current designation of Airport Noise Zone 3 does not permit schools. The applicant is seeking an amendment to remove this designation from the property so as to allow the development of a charter school on the subject site.

Attachments
Staff Report
Adopting Ordinance

8. MANAGEMENT RECOMMENDATIONS:

9. RECOMMENDED APPROVAL

A Department Director	B Purchasing or Contracts	C Human Rel.	D Other	E County Attorney	F County Administration				G County Manager
					OM	Risk	GC		
<i>M. J. Cabb</i>	N/A	N/A		<i>DMC 6/16/03 10:00 am</i>	<i>6/9/03</i>	<i>6/9/03</i>	<i>6/9/03</i>	<i>6/9/03</i>	<i>W. J. Cabb</i>

10. COMMISSION ACTION:

- ☒ APPROVED
☐ DENIED
☐ DEFERRED
☐ OTHER

S/JANES

Rec. by CoAtty
Date: 6/5/03
Time: 1:35 PM
Forwarded To: ADMIN 6/6/03

RECEIVED BY
COUNTY ADMIN. TD
6-6-03 2:05
6/11/03

This document prepared by:
Lee County Port Authority Attorney's Office
16000 Chamberlin Parkway, Suite 8671
Fort Myers, FL 33913-8899

Strap No: 19-45-26-05-0000C.0010 and.0020

AVIGATION EASEMENT AND RELEASE

This Avigation Easement and Release is made this 29th day of May, 2003, by and between **COMMONWEALTH FLEX ASSOCIATES, LLC**, hereinafter referred to as "Grantor(s)", whose current address is 27300 Riverview Center Boulevard, Suite 201, Bonita Springs, FL 34134, and **LEE COUNTY**, a political subdivision of the State of Florida, and the **LEE COUNTY PORT AUTHORITY**, a special district and political subdivision of the State of Florida, 16000 Chamberlin Parkway, Suite 8671, Fort Myers, Florida 33913, hereinafter collectively referred to as "Grantees."

WITNESSETH

WHEREAS, Grantor(s) is the fee simple title holder to certain real property located in Lee County, Florida, more particularly described in Exhibit "A", and

WHEREAS, Grantees are the owner and operator, respectively, of the Southwest Florida International Airport in Lee County, Florida; hereinafter referred to as "Airport" which is situated in close proximity to the land described in Exhibit "A", and

WHEREAS, Grantees desire to obtain and preserve, for the use and benefit of the public, a right of free and unobstructed flight for aircraft landing upon, taking off from, or maneuvering about the Airport; and

Post-It™ brand fax transmittal memo 7671

of pages 7

To <u>Matt Noble</u>	From <u>Donna Marie</u>
Co.	Co. <u>C. atty</u>
Dept.	Phone #
Fax # <u>8319</u>	Fax #

WHEREAS, it is the purpose of this Avigation Easement and Release to grant to the Grantees a perpetual avigation easement over the land described in Exhibit "A", and

WHEREAS, it is the further purpose of this Avigation Easement and Release to release the Grantees from all claims, damages or causes of action which may now exist or may hereinafter arise by reason of the operation of the Airport and related aircraft activities,

NOW, THEREFORE, for and in consideration of the sum of ten dollars (\$10.00), paid by Grantees to Grantor(s), the receipt of which is hereby acknowledged, Grantor(s) for themselves, and their heirs, assigns, successors, and all parties of interest, do hereby bargain, sell and convey to Grantees, their successors and assigns, for the benefit of the public at large, a perpetual avigation easement and the right of flight through the Navigable Airspace directly and diagonally above, across and over all of the above described property (Exhibit "A").

And for the consideration set forth above, Grantor(s) agree both for themselves and their heirs, successors and assigns:

1. The use of the easement shall include the right to generate and emit noise, vibrations, fumes, dust and fuel particles from engines, wind and aircraft, to display aircraft landing lights, and to cause other related effects as may be associated with all normal aircraft landing and take-off at the Airport. The use of this easement shall encompass any reasonable future increases in the yearly day-night average sound level of 1.5 dB or greater on the above described property based on the Noise Exposure Maps most recently adopted by FAA and published pursuant to F.A.R., Part 150.

2. Grantor(s), for themselves, and their heirs, assigns, successors, and all parties of interest, do hereby release Grantees, and their respective members, officers, managers, agents, servants, employees and lessees from any and all claims, demands, damages, debts, liabilities, costs, attorneys' fees and causes of action of every kind or nature for which Grantor(s), for themselves and their heirs, assigns, successors, and all parties of interest, may now have or have ever had as a result of normal Airport operations or normal aircraft activities and noise levels, or may hereafter have as a result of the use of this easement, including but not limited to, damages to the above described property (Exhibit "A"), or contiguous property, due to noise, vibrations, fumes, dust, fuel particles and other related effects of the normal operation of the existing Airport and any expansion of the Airport or of normal aircraft landing or take-off at the Airport.

3. This shall be a perpetual easement and all rights appertaining to it shall run with the land for the benefit of the Grantees, and their successors and assigns which shall run with the land.

4. The term "Navigable Airspace" as used in this easement shall be defined as follows:

"Navigable Airspace" shall mean the airspace above the minimum altitudes of flight prescribed by regulations issued under the Federal Aviation Act of 1958, Section 101 (24) 49 U.S. Code 1301, and shall include such airspace as needed to ensure safety in the take-off and landing of aircraft.

IN WITNESS WHEREOF, the Grantor(s) have hereunto set their hands and
seals this 29th day of May, 2003.

[Signature]
Witness

William G. Price, Jr.
Witness' Printed Name

[Signature]
Witness

OLGA TUSE
Witness' Printed Name

GRANTOR:
COMMONWEALTH FLEX ASSOCIATES,
LLC

By: [Signature]
John S. McGarvey

Its: Managing Member

ACCEPTANCE

Accepted by the Executive Director of the Lee County Port Authority or designee
in accordance with the Board of Port Commissioners action of _____.

Executive Director or Designee

Printed Name

Title

APPROVED AS TO FORM:

By: _____
Port Authority Attorney's Office

CORPORATE ACKNOWLEDGMENT

STATE OF Florida)
COUNTY OF Lee)

The foregoing instrument was acknowledged before me this 29th day of may, 2003, by John S. McGarvey, Managing Member of Commonwealth Flex Associates, LLC, a Florida limited liability company, on behalf of the limited liability company. He/she is personally known to me or has produced _____ as identification and did/did not take an oath.

Maria Bernal
Notary Public, State of Florida

My Commission Expires:
My Commission No.:

(SEAL)



Maria E Bernal
My Commission DB184551
Expires February 17, 2007

WARNING DISCLOSURE

TO WHOM IT MAY CONCERN:

Concurrent with the Avigation Easement and Release, each Grantor(s) of property within the Avigational Easement/Airport Noise Zone is required to acknowledge that they alone are responsible for the adding of any soundproofing to their building if they choose to do so.


In the absence of specific regulations by the County, the Grantor(s) should contact a reliable engineer, registered in the State of Florida, to obtain standards in order to comply with accepted engineering practices for the reduction of noise in structures. The Grantor(s) indicates at the bottom of this informational disclosure that he has read and understands that he holds the County harmless and that the Grantor(s) alone is responsible for providing any soundproofing.

I hereby declare that I have read and do understand the above. This applies to a structure located at 12800 and 12850 Commonwealth Dr., Fort Myers, FL 33913.

STRAP NO. 19-45-26-05-0000C.0010 and .0020.


Witness

William G. Peice, Jr.
Witness' Printed Name


Witness

OLGA TUSE
Witness' Printed Name

GRANTOR:
COMMONWEALTH FLEX ASSOCIATES,
LLC
By: 
John S. McGarvey

Its: Managing Member

CORPORATE ACKNOWLEDGMENT

STATE OF Florida
COUNTY OF Lee

The foregoing instrument was acknowledged before me this 21st day of may, 2003, by John S. McGarvey, Managing Member of Commonwealth Flex Associates, LLC, a Florida limited liability company, on behalf of the limited liability

company. He/she is personally known to me or has produced _____
_____ as identification and did/did not take an oath.

Maria Bernal
Notary Public, State of Florida

My Commission Expires:
My Commission No.:

(SEAL)



Maria E Bernal
My Commission DD184631
Expires February 17, 2007

**REGULAR MEETING
OF THE
LOCAL PLANNING AGENCY**

**Wednesday, May 28, 2003
Community Development/Public Works Building
Conference Room 1B, First Floor
8:30 a.m.**

AGENDA

- 1. Call to Order; Certification of Affidavit of Publication**
- 2. Pledge of Allegiance**
- 3. Public Forum**
- 4. Approval of Minutes from April 28, 2003**
- 5. 2002/2003 Regular Round Plan Amendment Review:**
 - A. CPA 2002-04 - Amend the Future Land Use Element of the Lee Plan, text and Future Land Use Map series to incorporate the recommendations of the Caloosahatchee Shores Community Planning effort, establish a new Goal, Vision Statement and subsequent Objectives and Policies.**
 - B. CPA2002-01 - Amend the Future Land Use Element of the Lee Plan, text and Future Land Use Map series to incorporate the recommendations of the ALVA Inc. Community Planning effort, establish a revised Vision Statement and a new Goal and subsequent Objectives and Policies.**
- 6. Small Scale Plan Amendment Review:**
 - A. CPA 2003-03 - Amend the Future Land Use Map series, Map 1, page 5 of 5 for a specified 6.8± acre parcel of land located in Section 19 Township 45 South, Range 26 East to change the boundary of Airport Noise Zone 3 to remove the subject property from that designation.**
- 7. Spring 2003 Land Development Code Amendments**

AN ORDINANCE AMENDING THE LEE COUNTY LAND DEVELOPMENT CODE (LDC) TO AMEND CHAPTERS 2, 6, 10, 14, 30 AND 34; AMENDING CHAPTER 2 (ADMINISTRATION); AMENDING IMPACT MITIGATION (§2-485); AND

AMENDING CHAPTER 6 (BUILDINGS AND BUILDING REGULATION); CREATING COMPLIANCE WITH OUTDOOR LIGHTING STANDARDS (§6-113); BASIS FOR

ESTABLISHING AREAS OF SPECIAL FLOOD HAZARD (§6-408); AND

AMENDING CHAPTER 10 (DEVELOPMENT STANDARDS); AMENDING DEFINITIONS AND RULES OF CONSTRUCTION (§10-1); AMENDING AND RENUMBERING GENERAL REQUIREMENTS (§10-7); AMENDING SPECIFIC REQUIREMENTS (§10-8); TRANSFER (§10-121); AMENDING AND RENUMBERING APPLICATION FORM AND CONTENTS (§10-153); ADDITIONAL REQUIRED SUBMITTALS (§10-154); AMENDING TYPES OF DEVELOPMENT ENTITLED TO LIMITED REVIEW (§10-174); FINAL INSPECTION AND CERTIFICATE OF COMPLIANCE (§10-183); REQUIRED (PLATS) (§10-211); LOT RECOMBINATIONS (§10-217); CONSTRUCTION OF SOIL CONDITIONS AND FLOOD HAZARDS (§10-253); BIKEWAYS AND PEDESTRIAN WAYS (§10-256); CONNECTION SEPARATION (§10-285); CONTROLLED ACCESS ROADS (§10-298); EXCAVATIONS (§10-329); SITE DESIGN STANDARDS AND GUIDELINES FOR COMMERCIAL BUILDINGS AND DEVELOPMENTS (§10-610); AND

AMENDING CHAPTER 14 (ENVIRONMENT AND NATURAL RESOURCES); AMENDING PURPOSE AND INTENT (CLEAN WATER PROVISIONS) (§14-471); PROHIBITIONS (§14-473); DEFINITIONS (§14-475); INDUSTRIAL ACTIVITY (§14-476); STORMWATER POLLUTION PREVENTION PLAN (SWP3) CRITERIA (§14-477); MONITORING (§14-478); ENFORCEMENT (§14-479); AND

AMENDING CHAPTER 30 (SIGNS); AMENDING PROHIBITED SIGNS (§30-5); PERMITS; INSPECTIONS (§30-54); TEMPORARY SIGNS (§30-151); AND

AMENDING CHAPTER 34 (ZONING); AMENDING, PROVIDING FOR OR REMOVING DEFINITIONS OF “ANIMAL KENNEL”, “AMBIENT LIGHT”, “ARTIFICIAL LIGHT OR ARTIFICIAL LIGHTING”, “AVERAGE LIGHTING”, “BACK-LIGHTING”, “BULB”, “CANDELS OR CD”, “CUMULATIVELY ILLUMINATED”, “DIRECT LIGHT”, “EXISTING OUTDOOR LIGHTING”, “EXTERIOR LIGHTING”, “FIXTURE”, “FLOOD OR SPOT LIGHT”, “FOOTCANDLE”, “FULL CUTOFF”, “FULLY SHIELDED”, “HIGH PRESSURE SODIUM OR HPS”, “ILLUMINANCE”, “ILLUMINATING ENGINEERING SOCIETY OF NORTH AMERICA OR IESNA”, “INDIRECT LIGHT”, “LAMP”, “LIGHT LOSS FACTOR OR LLF”, “LIGHT POLLUTION”, “LIGHTING”, “LOW PRESSURE SODIUM OR LPS”, “LUMINAIRE”, “LUMEN”, “MERCURY VAPOR”, “METAL HALIDE OR MH”, “NON-ESSENTIAL LIGHTING”, “OUTDOOR LIGHTING”, “PARTIALLY SHIELDED”, “PHOTOMETRICS”, “PLANNED DEVELOPMENT”, “RECESSED”, “SINGLE MANAGEMENT”, “SKYGLOW”, “UNIFIED CONTROL”, “UNIFIED CONTROL, COVENANT OF”, “TELEPHONE BOOTH OR PAY TELEPHONE STATION”, “UPLIGHTING” (§34-2); AMENDING FUNCTIONS AND AUTHORITY (BOARD OF COUNTY COMMISSIONERS) (§34-83); LOCAL PLANNING AGENCY (§34-111); MEMBERSHIP; TERM OF OFFICE (§38-112); COMPENSATION OF MEMBERS; FUNDING (§34-113); ORGANIZATION AND OPERATION (§34-114); FUNCTIONS AND AUTHORITY (LOCAL PLANNING AGENCY) (§34-115); FUNCTIONS AND AUTHORITY (HEARING EXAMINER) (§34-145); FINAL DECISION; JUDICIAL REVIEW (§34-146); AMENDING AND RENUMBERING GENERAL SUBMITTAL REQUIREMENTS FOR APPLICATIONS REQUIRING PUBLIC HEARING (§34-202); AMENDING ADDITIONAL REQUIREMENTS FOR APPLICATIONS REQUIRING PUBLIC HEARING (§34-203); APPLICATIONS (§34-373); DELETING COVENANT OF UNIFIED CONTROL AND RESERVING SECTION (§34-374); AMENDING PUBLIC HEARING (§34-377); EFFECT OF PLANNED DEVELOPMENT ZONING (§34-378); AMENDING AND RENUMBERING DURATION OF RIGHTS CONFERRED BY ADOPTED MASTER CONCEPT PLAN (§34-381); AMENDING PERFORMANCE STANDARDS, CREATION OF NUISANCE (§34-624); CREATING OUTDOOR LIGHTING STANDARDS (§34-625); AMENDING USE REGULATIONS TABLE FOR AGRICULTURAL DISTRICTS (§34-653); USE REGULATIONS TABLE FOR ONE AND TWO FAMILY DISTRICTS (§34-694); USE

REGULATIONS FOR ONE- AND TWO- FAMILY RESIDENTIAL DISTRICTS (§34-694);
USE REGULATIONS TABLE FOR MOBILE HOME DISTRICTS (§34-735); USE
REGULATIONS TABLE FOR CONVENTIONAL COMMERCIAL DISTRICTS (§34-843);
USE REGULATIONS TABLE FOR PLANNED DEVELOPMENT DISTRICTS (§34-934);
DEFINITIONS (PLANNED DEVELOPMENT DISTRICTS) (§34-1033); TRUCKS AND
COMMERCIAL VEHICLES IN RESIDENTIALLY AND AGRICULTURALLY ZONED
DISTRICTS (§34-1181); ASSISTED LIVING FACILITIES (§34-1411); AMENDING
PURPOSE OF SUBDIVISION (MINING) (§34-1671); CREATING APPENDIX "N"
(POTENTIAL MINING AREAS OF LEE COUNTY) (§34-1672) AMENDING AND
RENUMBERING PERMIT REQUIRED (§34-1673); GENERAL POLICIES FOR
APPROVAL AND OPERATION (§34-1674); APPLICATION FOR A GENERAL MINING
PERMIT; ISSUANCE OF PERMIT (§34-1675); APPLICATION FOR A MINING
OPERATION PERMIT (§34-1676); DURATION OF MINING PERMIT (§34-1677);
RENEWAL OF PERMITS (§34-1678); ADDITIONAL PHASE APPROVALS (§34-1679);
INSPECTIONS (§34-1680); SITE REQUIREMENTS (§34-1681); AMENDING AND
RENUMBERING RESERVED PROVISIONS (§§34-1681 - 34-1710); AMENDING
REQUIRED SPACES (§34-2020); MINIMUM DIMENSIONS GENERALLY (§34-2221);
AMENDING AND RENUMBERING RESERVED PROVISIONS (§§34-3051 - 34-3100);
DELETING DIVISION 38 (TELEPHONE BOOTHS AND PAY PHONE STATIONS;
DELETING LOCATION (§34-3070); DELETING LIGHTING AND SIGNAGE (§34-3071);
RENUMBERING DIVISION 38 (USE, OCCUPANCY AND CONSTRUCTION
REGULATIONS); AMENDING NUMBER OF PRINCIPAL BUILDINGS ON LOT (§34-
3102); RENUMBERING DIVISIONS 40 THRU 42 AS 39 THRU 41; AND

PROVIDING FOR CONFLICTS OF LAW, SEVERABILITY, CODIFICATION,
SCRIVENER'S ERRORS AND AN EFFECTIVE DATE.

8. **Update on Lee County's Evaluation and Appraisal Report process.**
9. **Other Business**
10. **Adjournment**

This meeting is open to the public and all interested parties are encouraged to attend. Interested parties may appear and be heard with respect to all proposed actions. Pursuant to Florida Statutes Section 163.3184(8)(b), persons participating in the Comprehensive Plan Amendment process, who provide their name and address on the record, will receive a courtesy informational statement from the Department of Community Affairs prior to the publication of the Notice of Intent to find a plan amendment in compliance.

If a person decides to appeal any decision made by the board, agency or commission with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

Further information may be obtained by contacting the Lee County Division of Planning at 479-8585.

In accordance with the Americans with Disabilities Act, reasonable accommodations will be made upon request. If you are in need of a reasonable accommodation, please contact Janet Miller at 479-8583.



To: M. Noble
File
CPA 2003-03

FAX TRANSMITTAL SHEET

DATE: May 22, 2003

TO: Matt Noble

FROM: William Horner – Principal Planner
Planning & Environmental Compliance

FAX: 479-8319

PHONE:

FAX: (239) 768-4912

PHONE: (239) 768-4377

SUBJECT: Original Noise Zones at Charter School Site

TOTAL NUMBER OF PAGES (INCLUDING THIS PAGE): 5

Matt,

Appears that the original Ord 78-12 -
creating Airport Hazard Zones (later Noise
Zones) only forbade residential units.

Also didn't include SW portion of Section
18 only NW 1/4 of Section 19.

Bill

LEE COUNTY ORDINANCE NO. 78-12

AN ORDINANCE RELATING TO AIRPORT ZONING DISTRICTS TO PROTECT AND PROMOTE PUBLIC SAFETY AND WELFARE REGARDING LEE COUNTY AIRPORTS, PAGE FIELD AND SOUTHWEST FLORIDA REGIONAL AIRPORT; PROVIDING FOR FLIGHT OBSTRUCTION; NOISE COMPATIBILITY AND NAVIGATIONAL HAZARD RESTRICTIONS; PROVIDING FOR ADMINISTRATIVE AND APPEAL PROCEDURES; RESTRICTING THE USE OF LAND WITHIN THE FOLLOWING AREA: (EXHIBIT A ATTACHED); PROVIDING FOR THE REPEAL OF LEE COUNTY ORDINANCE NO. 73-10, PAGE FIELD HAZARD ZONING ORDINANCE; PROVIDING FOR PENALTIES AND AN EFFECTIVE DATE.

WHEREAS, the Lee County Airports consist of the Southwest Florida Regional Airport, the Page Field Airport, and certain existing and proposed heliports; and,

WHEREAS, certain airport zoning districts are required to regulate and restrict the height of structures and objects of natural growth constituting a flight obstruction endangering the lives and property of users of the Lee County Airports, and property or occupants of land in their vicinity and in effect reducing the size of the area available for the landing, takeoff, and maneuvering of aircraft, thus tending to destroy or impair the utility of the Lee County Airports and the public investment therein; and,

WHEREAS, certain airport zoning districts are required to regulate and restrict land uses to insure that persons living, working or owning property near the Southwest Florida Regional Airport may enjoy freedom from aircraft noise exceeding certain levels and to further protect the public investment in the airport facility; and,

WHEREAS, certain airport zoning districts are required to regulate lighting systems, radio and electronic equipment and smoke which constitute air navigation hazards for aircraft approaching the Southwest Florida Regional Airport;

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

SECTION I: SHORT TITLE

to be cited as the

<u>Composite Noise Ratings For Take-Off and Landings</u>	<u>Zone</u>	<u>Description of Expected Responses</u>
Less than 100 CNR	1	Essentially no complaints would be expected. The noise may, however, interfere occasionally with certain activities of the residents.
100 to 115 CNR	2	Individuals may complain, perhaps vigorously. Concerted group action is possible. Locations of places of public assembly in this, as well as Zone 1 should be carefully studied and if required, provisions made to cope with expected noise levels.
Greater than 115 CNR	3	Individual reactions would likely include repeated, vigorous complaints. Concerted group action might be expected.

Such zones are shown on the Noise Compatibility Plan for the Southwest Florida Regional Airport adopted herein and on file at the Lee County Division of County Development and at the Lee County Division of Transportation. Zone 3 is defined as all of the area within the airport boundary as specified by the legal description included as "Exhibit A". Because of the uncertainties inherent in making CNR calculations and the assumptions necessary in any forecasting procedure, the 100 CNR contour which serves to separate Zone 1 from Zone 2 is not a definable line. Zone 2 is, therefore, defined as the following area:

The NW 1/4 of Section 2, the N 1/2 and SW 1/4 of Section 3, and the E 1/2 and SW 1/4 of Section 4, Township 46S, Range 25E, Lee County, Florida, and; the W 1/2 of the SW 1/4 of Section 26, the SE 1/4 of Section 27, the E 1/2 and the SW 1/4 of Section 34, the W 1/4 of Section 35, and the N 1/2 and SW 1/4 of Section 36, Township 45S, Range 25E, Lee County and; the S 1/2 of Section 9, the S 1/2 of Section 10, the W 1/4 of Section 11, the N 1/2 and SW 1/4 of Section 15, all of Section 16, all of Section 17, the SE 1/4 of Section 18, the NW 1/4 of Section 19, all of Section 20, the NW 1/4 of Section 21, the NW 1/4 of Section 29, and all of Section 30, Township 45 S, Range 26E, Lee County, Florida; (except the area included in Zone 3.)

Zone 1 is any area not included in Zone 2 or Zone 3.

2. Except as otherwise provided in this Ordinance, no land, body of water and/or structure shall be used or permitted to be used, and no structure shall hereafter be erected, constructed, moved, reconstructed or structurally altered or maintained in any of the Noise Compatibility Zones, which is designed, arranged or intended to be used or occupied for any purpose excepting for one (1) or more of the following uses:

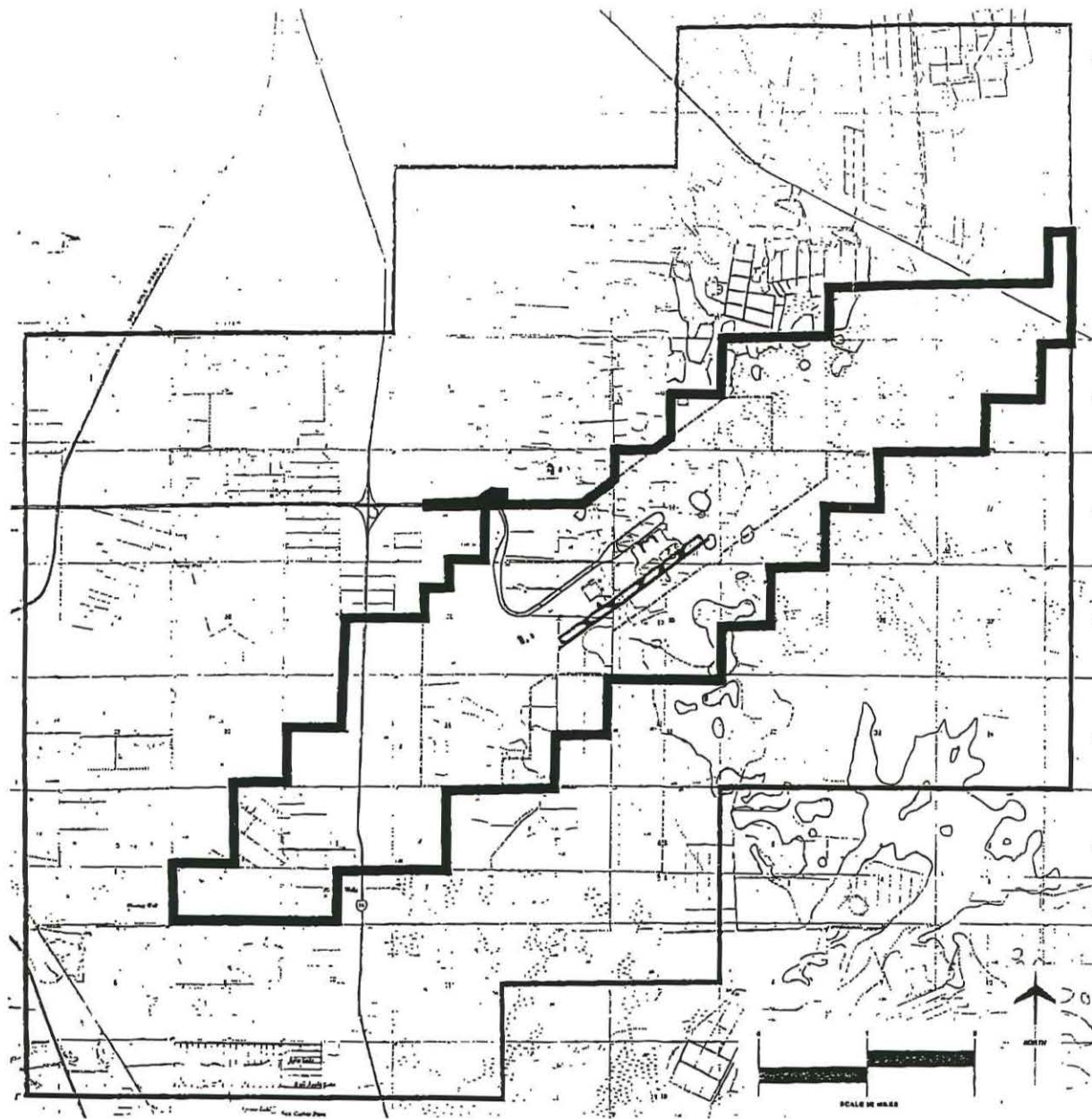
Zone 1: Any use permitted by the Lee County Zoning Regulations as applicable to that parcel of land in question.

Zone 2: Any use permitted by the Lee County Zoning Regulations applicable to that property. PROVIDED THAT, no residential living unit or units shall be permitted.

Zone 3: Airport related uses including, but not limited to, those necessary to provide services and convenience goods principally to airline passengers and those uses generally associated with airport operations including: aircraft and aircraft parts manufacture; air freight terminals; aviation and airline schools; aircraft repair shops; aerial survey offices; aircraft sales; equipment, and parts storage; aviation research and testing laboratories and airline catering services and governmental facilities.

SECTION V: NAVIGATIONAL HAZARD ZONE

A navigational hazard zone for the Southwest Florida Regional Airport consisting of that area defined in this Ordinance as Noise Compatibility Zone 2 is hereby created. The following special requirements shall apply to each permitted use therein:



— Present Airport Hazard Zone
(Adopted 1978)

Southwest Florida Regional Airport

From: Mike Carroll
To: Noble, Matthew
Date: 5/22/03 8:07AM
Subject: Gateway Charter School

Matt:

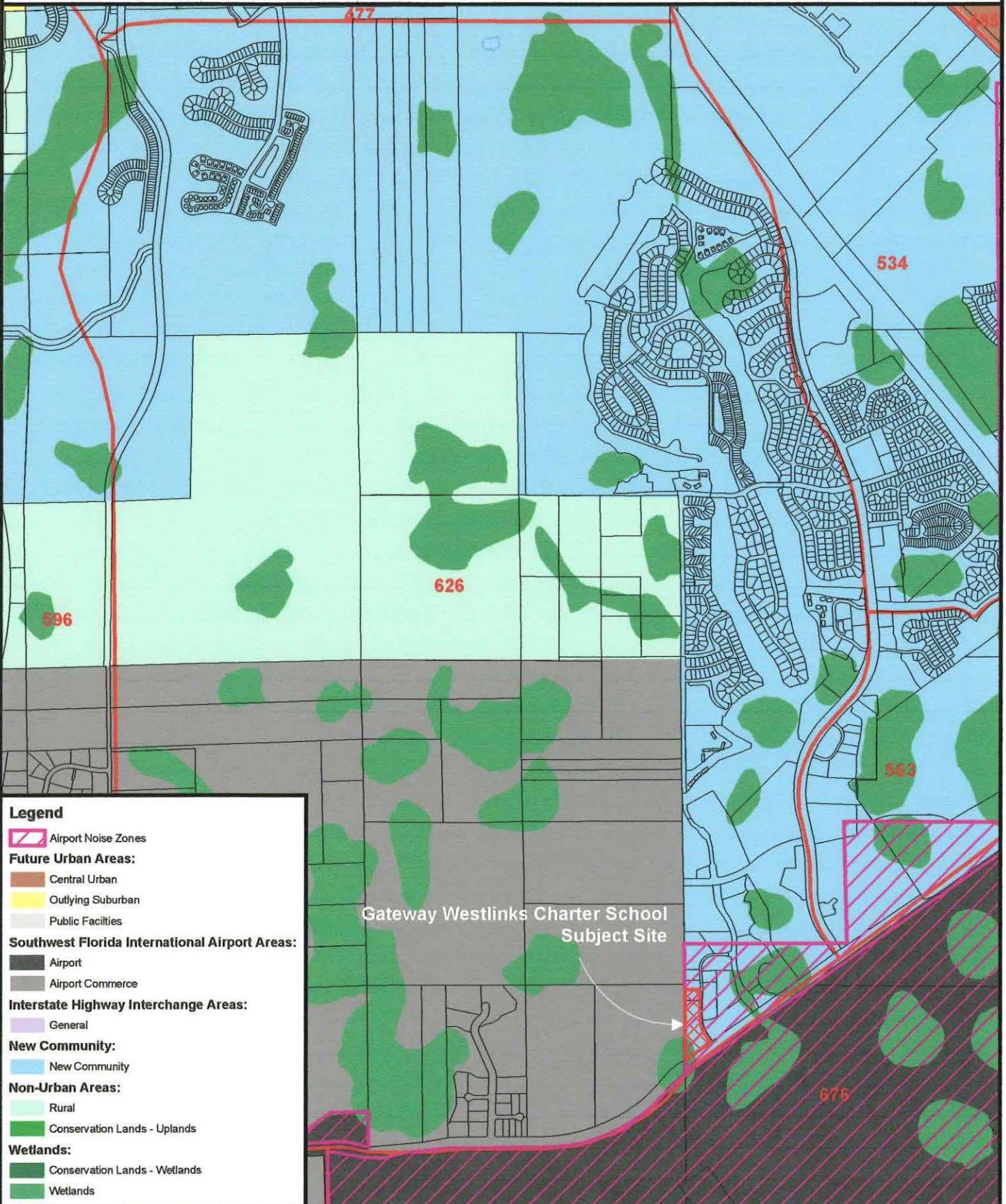
DOS2003-0017 was originally submitted as an application for a 60,000 S.F. building for a charter school. The TIS was reviewed as a school for k-12. We were ready to approve the TIS and issue a Concurrency Certificate Number for the school but because of the Comp Plans issues the building use was temporarily changed to an office building and the TIS was revised accordingly. The Development Order for the office building was approved on April 11, 2003 with Concurrency Certificate No. CNC2003-00936.

As an office building the trip generation will be higher in the p.m. peak hour but lower in the a.m. peak hour than the school.

Let me know if there are any other questions.

Michael Carroll
Manager, Development Services
DCD - Development Services
carrollcm@leegov.com
(941)479-8347
(941)479-8313

Traffic Analysis Zone 626 Future Land Use Map





FAX TRANSMITTAL SHEET

DATE: May 20, 2003

TO: Matthew Noble
Lee County Planning

FROM: William Horner – Principal Planner
Planning & Environmental Compliance

FAX: (239) 479 -8319

FAX: (239) 768-4912

PHONE: (239) 479 -8548

PHONE: (239) 768-4377

SUBJECT: Port Authority Comments on Lehigh Charter School
Lee Plan Amendment to Remove School Site from Noise Zone 3

TOTAL NUMBER OF PAGES (INCLUDING THIS PAGE): 5

MEMO TO: Matthew Noble
Lee County Planning

FROM: William Horner *W. Horner*
Planning/Environmental Compliance

DATE: May 20, 2003

SUBJECT: CPA 2003-00003
Lehigh Charter School
Noise Zone 3 Lee Plan Amendment



Environmental Science Associates (ESA), noise consultants for the Port Authority, have reviewed the Lee Plan Amendment proposing to remove the Lehigh Charter School site from Noise Overlay Zone 3. The site is located across the street from the Southwest Florida International Airport on Commonwealth Drive in Gateway and currently does not allow noise sensitive land uses. Our consultant's recommendation is supported by the Port Authority and is included in the attached letter.

If you have any questions, please contact me.

WBH/nt

Attachment

cc: Charles J. Basinait, Esq.,
Robert M. Ball
Edmund J. Henke
Mark Fisher
Emily Underhill
Gregory S. Hagen



May 19, 2003

Mr. William Horner
Lee County Port Authority
16000 Chamberlin Parkway, Suite 8671
Fort Myers, Florida 33913

Reference: Proposed Lee Plan and LDC Amendments to Noise Overlay Zone 3
Lehigh Charter School Site Noise Considerations

Dear Mr. Horner:

Per your request we have reviewed the information that you provided regarding the construction of the Charter School proposed to be developed off Daniels Parkway.

Project Site and Development Plan

The proposed school site is located in the Gateway area lying north of Daniels Road and within Noise Zone 3. We understand the school site has been cleared and the walls of the building are being erected under an early work permit from the County. We also understand the developer has submitted applications to repeal the site from Noise Zone 3 from the Comp Plan and the Land Development Code.

Overlay Zone Status

The proposed school site is currently included in Noise Zone 3 and our firm is aware that the site was included in Noise Zone 3 following approval of the original FAR Part 150 Study completed around 1990. In fact, we understand from Authority staff that the site has been identified in the high noise exposure area since the Airport opened.

In the update to the FAR Part 150 study in 1995, Noise Zone 3 was expanded to incorporate the flight corridors and noise contours projected to occur from a parallel runway. During that study, the areas included in the Noise Zones established in 1990 (related to the existing runway) were maintained. Following the approval of the 1995 updated Noise Zones, the County Commission directed that a review of the noise zones be made through an Update to the FAR Part 150 Study to be completed by 2006. This Update would be conducted to determine if a change (reduction or expansion) of the noise zone areas should occur.

Recent Noise Studies

Recently new noise contours were developed as part of the Master Plan Update for Southwest Florida International Airport (RSW). Although the departure flight tracks in



the vicinity of the school site have remained the same, the noise contours have reduced in size from those previously published. This reduction in contour size is primarily the result of the elimination of Stage 2 aircraft from the national air carrier fleet (effective January 1, 2000). The proposed school area in question was likely included within Noise Zone 3 due to the influence from departure noise by Boeing 727 aircraft and by other Stage 2 aircraft. Now that all Boeing 727 aircraft have been either retrofitted to meet noise standards or retired altogether, the departure noise in the area in question has reduced. Since the school site is on the extreme edge of Noise Zone 3, it is probable that the site would be removed from Noise Zone 3 following the completion of the FAR Part 150 Study Update in 2006. However, since the location of flight corridors is a decision making element of Noise Zone status, a final determination of the status of the site could not be made until the Part 150 Study Update is completed.

Per your request we have also reviewed the report by Fegan Acoustical Consultants related to the Charter School.

The report is based primarily on short term monitoring conducted by the Consultant and did not indicate the number of aircraft departures that occurred during the noise monitoring period. However, with the lower noise levels from departing aircraft now using RSW, the LEQ values seem appropriate for aircraft generated noise or a combination of aircraft and Daniels Parkway traffic generated noise.

Of importance in the report is that it indicates the construction materials for the proposed school will provide for a significant noise level reduction of 38 dBA. With the location of the proposed school being at the extreme fringe of the overlay zone, considering the noise levels that were monitored and with the type of construction being provided, the interior noise levels should be acceptable for school use.

Recommendations

It should be recognized that, while the school building is currently under construction and the site will probably be removed from Zone 3, it is still influenced by aircraft departure noise. Furthermore, additional aviation facilities will continue to be constructed on airport and future aviation activities will occur in reasonable proximity to the proposed school site. With these factors in mind the following are our recommendations. If it is determined that the school should be approved, the Port Authority should request that sufficient sound insulation be incorporated in the building construction to allow for a maximum 45 dB interior sound level. It appears from the Fegan report that the construction methods and materials will comply with this recommendation. Additionally due to the proximity of future aviation activities, the proposed school developer/property owner should sign an aviation easement, waiver of claim, or similar hold harmless indemnification document that certifies their knowledge of the proximity of the Airport. In addition, it should acknowledge the airport's future anticipated growth and recognize the fact that there is potential for airport-related noise exposure at the school site. In order



to assist in the regulation of compatible land uses in the airport area, avigation easements, waivers of claim, or similar hold harmless indemnification documents should also be signed by all future developers/owners within Noise Overlay Zones 2 and 3 as was recommended and approved in the 1995 Federal Aviation Regulations Part 150 Noise Compatibility Study.

The uniqueness of the school site that is the subject of this letter compared to other areas of Noise Zone 3 is that it is on the fringe of Noise Overlay Zone 3 and within a currently developed community. We would hope in the future that the integrity of the Noise Overlay Zones will be maintained until the FAR Part 150 Study Update is completed.

Should you need anything else from us at this time, please give me a call.

Sincerely,

ENVIRONMENTAL SCIENCE ASSOCIATES

A handwritten signature in cursive script, appearing to read "R. Alberts", followed by a horizontal line and a small dash.

Richard D. Alberts, P.E.
Vice President



Reply to
Charles J. Basinait
Direct Dial Number 239.337.8433
E-Mail: charles.basinaid@henlaw.com

May 14, 2003

VIA HAND DELIVERY

Mr. Matthew Noble
Lee County Community Development
1500 Monroe Street
Fort Myers, FL 33901

Re: West Links Charter School Amendment
File No. 15469/2

Dear Matt:

Enclosed please find a copy of the Noise Study that was done in connection with the above-referenced Lee Plan Small Scale Amendment. You will note that the Noise Study clearly indicates that we are well outside the range of any negative impacts to the School by virtue of the Airport.

I am continuing to work with the Airport in an attempt to facilitate and expedite comments with respect to this request. Please feel free to contact me if you have any questions.

Very truly yours,

Charles J. Basinait

CJB/jma

Enclosure Noise Study

cc: Dave Depew (w/encls.)
Timothy Jones, Esq. (w/encls.)

May 12, 2003

Mr. William J. Horner, Executive Planner
LEE COUNTY PORT AUTHORITY
Southwest Florida International Airport
16000 Chamberlin Parkway, Suite 8671
Ft. Myers, FL 3913-8899

Dear Bill:

I am enclosing five copies of Acoustical Evaluation from Fagen Acoustical consultants for the Lehigh Charter School project at Gateway Westlinks, Daniels and Commonwealth Drive for your review, which is part of the Small Scale Lee Plan Amendment.

If you have any questions, please feel free to contact me. Thank you.

Cordially,

MC GARVEY DEVELOPMENT CO.



John S. McGarvey
President

JSMcG:jhm
Enc.

cc: Robert M. Ball, AAE
Peter Eckenrode, Lee Co. Dev.
Charles J. Basinait, Esq.
Paul O'Connor, AICP

RECEIVED
MAY 13 2003
COMMUNITY DEVELOPMENT



Henderson|Franklin
ATTORNEYS AT LAW

1715 Monroe Street
Post Office Box 280 • Fort Myers, FL 33902-0280
Tel: 239.334.4121 • Fax: 239.334.4100 • www.henlaw.com

Sanibel Office • Tel: 239.472.6700

Reply to
Charles J. Basinait
Direct Dial Number 239.337.8433
E-Mail: charles.basinaid@henlaw.com

May 7, 2003

VIA HAND DELIVERY

Mr. Matthew Noble
Lee County Community Development
1500 Monroe Street
Fort Myers, FL 33901

Re: CPA 03-03-Gateway Charter School Zone 3 Small Scale - Lee Plan Map
Amendment
Our File No. 15469/2

Dear Matt:

Enclosed please find a copy of the Articles of Organization of Commonwealth Flex Associates, LLC indicating that John McGarvey is the Manager. Please let me know if you have any further questions regarding this matter.

Very truly yours,

Charles J. Basinait

CJB/jma

Enclosure Articles of Organization

Henderson, Franklin, Starnes & Holt, P.A.

CPA 2003-00003
RECEIVED
MAY 07 2003
ZONING COUNTER

State of Florida



Department of State

I certify the attached is a true and correct copy of the Articles of Organization of COMMONWEALTH FLEX ASSOCIATES, LLC, a limited liability company organized under the laws of the state of Florida, filed on February 25, 2003, as shown by the records of this office.

The document number of this limited liability company is L03000006839.

CPA 2003-00003

RECEIVED
MAY 07 2003

ZONING COUNTER



CR2EO22 (1-03)

Given under my hand and the
Great Seal of the State of Florida
at Tallahassee, the Capitol, this the
Twenty-fifth day of February, 2003

Ken Detzner
Ken Detzner
Secretary of State

ARTICLES OF ORGANIZATION
OF
COMMONWEALTH FLEX ASSOCIATES, LLC

The undersigned, for the purpose of forming a limited liability company under the Florida Limited Liability Company Act, Chapter 608, Florida Statutes, hereby makes, acknowledges, and files the following Articles of Organization

ARTICLE I -- NAME

The name of the limited liability company shall be COMMONWEALTH FLEX ASSOCIATES, LLC (the "Company").

ARTICLE II -- ADDRESS

The mailing address and street address of the initial principal office of the Company shall be 27300 Riverview Center Boulevard, Suite 201, Bonita Springs, Florida 34134.

ARTICLE III -- DURATION

The Company shall commence its existence as a Florida limited liability company on the date these Articles of Organization are filed by the Florida Department of State. The Company's existence shall be perpetual unless the Company is earlier dissolved as provided in these Articles of Organization or in the Company's operating agreement (the "Operating Agreement").

ARTICLE IV -- REGISTERED OFFICE AND AGENT

The name and street address of the initial registered agent of the Company in the State of Florida are Jeffrey S. Kannensohn, Esq., c/o Porter, Wright, Morris & Arthur LLP, 5801 Pelican Bay Blvd., Suite 300, Naples, Florida 34108-2709.

ARTICLE V -- ADMISSION OF NEW MEMBERS

No additional members shall be admitted to the Company except with the unanimous prior written consent of all members and on such terms and conditions as shall be approved by unanimous consent of all members. A member may transfer its interest in the Company only as set forth in the Operating Agreement of the Company.

ARTICLE VI -- WITHDRAWAL OF MEMBERS

A member of the Company may withdraw from the Company only upon the unanimous prior consent of all the nonwithdrawing members of the Company.

CPA 2003-00003
RECEIVED
MAY 07 2003
ZONING COUNTER


ARTICLE VII -- TERMINATION OF EXISTENCE

The Company shall be dissolved upon the occurrence of events specified in the Company's Operating Agreement.

ARTICLE VIII -- MANAGEMENT

The Company shall be managed by a Manager, John S. McGarvey, in accordance with the Operating Agreement adopted by the members for the management of the business and affairs of the Company. The Operating Agreement may contain any provisions for the regulation and management of the affairs of the Company not inconsistent with law or these articles of organization.

IN WITNESS WHEREOF, the undersigned organizer and member has made and subscribed these Articles of Organization on this 24th day of February, 2003.

By: 
John S. McGarvey, as Its Manager

FILED
03 FEB 25 PM 1:40
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

CPA 2003-00003


RECEIVED
MAY 07 2003

ZONING COUNTER

ACCEPTANCE OF REGISTERED AGENT

The undersigned, being the person named in the Articles of Organization of COMMONWEALTH FLEX ASSOCIATES, L.L.C., as the registered agent of this limited liability company, hereby consents to accept service of process for the above stated company at the place designated in the Articles of Organization, and accepts the appointment as registered agent and agrees to act in this capacity. The undersigned further agrees to comply with the provisions of all statutes relating to the proper and complete performance of his duties, and is familiar with and accept the obligations of the position of registered agent.

Date: February 24, 2003.


Jeffrey S. Kannensohn, Esq.

CPA 2003-00003
RECEIVED
MAY 07 2003
ZONING COUNTER



FLORIDA DEPARTMENT OF STATE
Ken Detzner
Secretary of State

February 25, 2003

NORMA HULL
CSC
TALLAHASSEE, FL

The Articles of Organization for **COMMONWEALTH FLEX ASSOCIATES, LLC** were filed on February 25, 2003, and assigned document number L03000006839. Please refer to this number whenever corresponding with this office.

In accordance with section 608.406(2), F.S., the name of this limited liability company is filed with the Department of State for public notice only and is granted without regard to any other name recorded with the Division of Corporations.

The certification you requested is enclosed.

A limited liability annual report/uniform business report will be due this office between January 1 and May 1 of the year following the calendar year of the file date. A Federal Employer Identification (FEI) number will be required before this report can be filed. Please apply NOW with the Internal Revenue Service by calling 1-800-829-3676 and requesting form SS-4.

Please be aware if the limited liability company address changes, it is the responsibility of the limited liability to notify this office.

Should you have any questions regarding this matter, please telephone (850) 245-6051, the Registration Section.

Diane Cushing
Corporate Specialist
Division of Corporations

Letter Number: 803A00012149

Account number: 072100000032

Amount charged: 155.00

CPA 2003-00003

RECEIVED
MAY 07 2003

ZONING COUNTER

Division of Corporations - P.O. BOX 6327 -Tallahassee, Florida 32314

MEMORANDUM
FROM THE
DEPARTMENT OF
PUBLIC WORKS

LEE COUNTY
RECEIVED

03 MAY -6 AM 11:43

COMM. DEV/
PUB. WRKS. CNTR.
SECOND FLOOR

DATE: May 5, 2003

To: Matt Noble
Principal Planner

FROM: Michael P. Pavese
Principal Planner



RE: Lee County Comprehensive Plan Amendment
Gateway Charter School
Strap #'s 19-45-26-05-0000C .0020 and 19-45-26-05-0000C .0050

Staff has reviewed your request for comments regarding the adequacy of existing and proposed support facilities relative to the proposed plan amendment referenced above.

Based on the information provided in the application for this request, the subject parcel (approximately 6.8 ± acres) is currently zoned Planned Unit Development (PUD) and located in the New Community and Wetlands future land use categories. The applicant has indicated that they are requesting an amendment to remove the subject property from the Airport Noise Zone 3 Overlay classification. The amendment is being requested to permit the construction of a school which is otherwise prohibited within the Noise Zone 3 classification. The underlying future land use designation of the subject property will not change as a result of this amendment. Since the proposed amendment will not have any impact on population projections, it is our determination that existing and proposed support facilities provided by Lee County Parks and Recreation will not be impacted by the proposed amendment.

Should you have any questions or require any additional information, please do not hesitate to contact me directly at 479-8762.

cc: John Yarbrough, Director, Lee County Parks and Recreation
Jim Lavender, Director, Department of Public Works

MEMORANDUM

from the
TRANSIT DIVISION

LEE COUNTY
RECEIVED

03 MAY -5 AM 11:46

COMM. DEV/
PUB. WRKS. CNTR.
SECOND FLOOR



Your Ride Is Here.

DATE: May 1, 2003

To: Matthew Noble

FROM: Steve Myers

A handwritten signature in blue ink, appearing to read "Sm", written over a horizontal line.

RE: CPA 03-03 – Gateway Charter School Zone 3 Small Scale-Lee Plan Map Amendment

Lee Tran staff has reviewed the above referenced Lee Plan amendment and has determined that the proposed amendment to the future land use map would have no impacts on existing or planned services Lee Tran provides, nor would it have any impact to the budget of Lee County's transit division.

If you have any further questions regarding this amendment, please call me at 277-5012.



LEE COUNTY
SOUTHWEST FLORIDA

**DEPARTMENT OF
TRANSPORTATION**

To: M. Noble

Memorandum

To: Paul O'Connor, Division of Planning
From: ^{W~}Lili Wu, Senior Planner
Date: April 25, 2003
Subject: **Lee Plan Small Scale Amendment –
Gateway Charter School**

LEE COUNTY
RECEIVED
03 APR 28 AM 11:38
COMM. DEV/
PUB. WRKS. CNTR.
SECOND FLOOR

We have no objection to the above application since TAZ 626, in which the proposed project is located, includes a projected 1,800 students in the Lee County MPO's 2020 Financially Feasible Plan Model, and the proposed project has only 900 students. According to the School Board plans, there are no other schools being planned in TAZ 626. We have determined the proposed project will not alter the future road network plans.

LW/mlb

Cc: David Loveland
Andy Getch
Central File – Administrative

**MORRIS-DEPEW ASSOCIATES, INC.**

ENGINEERS • PLANNERS • SURVEYORS & MAPPERS

2216 Altamont Avenue • Fort Myers, Florida 33901 • (941) 337-3993 • FAX (941) 337-3994

FAX **RECEIVED**
APR 24 2003
COMMUNITY DEVELOPMENT

Date: April 24, 2003Number of pages including cover 3
sheet: _____**To: Mr. Matthew Noble**
Lee County Planning

Phone: (239) 479-8548

Fax: (239) 479-8319

CC: Charles J. Basinait, Esquire

Fax: (239) 334-4100

CC: Mr. John McGarvey

Fax: (239) 992-6434

From: David W. Depew, AICP**President**

Project No: 03053.P3a

Project Name: McGarvey Charter School

E-Mail: planning@m-da.com

Phone: (239) 337-3993

Fax phone: (239) 337-3994

REMARKS: ☐ Urgent ☒ For your review ☐ Reply ASAP ☐ Please comment

Please see attached letter regarding water and sewer service. The original will follow via US mail. Should you have any questions or concerns please contact me.

Thank you.



MORRIS-DEPEW ASSOCIATES, INC.
ENGINEERS • PLANNERS • SURVEYORS & MAPPERS
2216 Altamont Avenue • Fort Myers, Florida 33901 • (941) 337-3993 • FAX (941) 337-3994

April 24, 2003

Mr. Matt Noble
Lee County Division of Planning
P. O. Box 398
Ft. Myers, FL 33902

Subject: McGarvey Charter School Small-Scale Map Amendment

Dear Mr. Noble:

After a discussion with Howard Wegis at Lee County Utilities, I am prompted to write a short explanation regarding water and sewer service for the subject property. Upon inquiry with the engineers (Hole Montes, Inc.), I was informed that the subject property is in the Gateway Utilities service district. The property itself is in the Westlinks development, formally described as Lot 1, Block C, Gateway Phase 15 according to the plat thereof recorded in Plat Book 53 at pages 15 through 21 of the public records of Lee County, Florida, and the south one-half (S ½) of Lot 2, Block C, Gateway Phase 15, as recorded in Plat Book 53, Pages 15 through 21, of the public records of Lee County, Florida. I am informed that when the original subdivision was platted, provisions for utilities were made and approved by the County for all parcels in the subdivision, including the subject property. I can provide copies of the approved development order for the subdivision if that is deemed necessary, but I believe that the existence of the plat, a copy of which was provided as part of the application materials, should suffice as evidence that all improvements, including utilities, were either constructed or bonded in accordance with the County's requirements. Thus, the County has already approved the design and capacity issues associated with the utilities for the subject property, and there should be no question regarding whether this infrastructure is available to the site.

If there are additional questions or concerns, please let me know. If you would like copies of any of the original development order approvals, I

Mr. Matt Noble

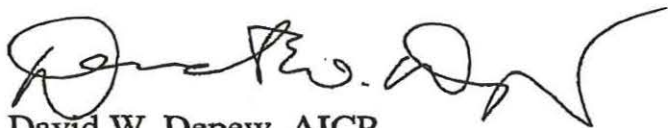
April 24, 2003

2

would be happy to provide them for you. Thank you in advance for your kind consideration.

Regards,

Morris-Depew Associates, Inc.

A handwritten signature in black ink, appearing to read 'David W. Depew', with a stylized flourish extending to the right.

David W. Depew, AICP
President

cc: Charles J. Basinait, Esq.
John McGarvey

From: Kim Trebatoski
To: Campbell, John; Carroll, Mike; Collins, Donna Marie; Diaz, Rick; Eckenrode, Pete; Hansen, Chris; Horner, Bill; Houck, Pam; Jones, Timothy; Joyce, Rick; Keyes, Stephanie; Lavender, James; Loveland, David; Myers, Steve; Noble, Matthew; Ottolini, Roland; Pavese, Michael; Sampson, Lindsey; Vance, Brad; Watermeier, Janet; Wegis, Howard; Wilson, John; Wu, Lili; Yarbrough, John
Date: 4/24/03 1:46PM
Subject: Re: Lee Plan Small Scale Amendment - Gateway Charter School

ES staff has reviewed the submittal. There are no environmental issues in regard to the proposal. I verified that the wetland area in southeast corner of the property shown on Exhibit 1 was permitted to be impacted through the SFWMD permit (DOS2003-00017 file).

Kim Trebatoski
Principal Environmental Planner
DCD - Planning/Environmental Sciences
trebatkm@leegov.com
239-479-8183
FAX 239-479-8319

>>> Matthew Noble 04/23/03 03:20PM >>>

Planning staff has received the attached proposed Lee Plan Amendment. Staff is asking your help in the review of this application. Planning staff requests comments by May 5th if possible...

CC: O'Connor, Paul

From: Donna Marie Collins
To: Basinait, Chuck
Date: 4/24/03 11:53AM
Subject: Westlinks Charter School Amendment

Greetings Chuck

Just a quick note to let you know that the Florida Corporation Online does not list McGarvey as a member of the Commonwealth Flex Associates, LLC.

I am sure it is just a glitch in the system, but it would be helpful if you could submit formal documentation confirming McGarvey's legal status as the managing member of the Limited Liability Company.

I noted on the application that scheduling of this small scale amendment hearing is an issue, so please accept this note as an early heads up to avoid delay in the future.

Hope everything is going well for you.

Peace.

dmc

Donna Marie Collins
Assistant County Attorney
Lee County Attorney's Office
Phone: 941-335-2236
Fax: 941-335-2606
Email: collinsd@leegov.com

CC: DePew, Dave; Noble, Matthew

A2

From: Howard Wegis
To: Noble, Matthew
Date: 4/23/03 5:00PM
Subject: Re: Lee Plan Small Scale Amendment - Gateway Charter School

I did not see the applicant address B: Public Facilities Impacts, 2: Existing and Future condition analysis. That is they did not address water and sanitary sewer. Are they required to?

From: Roland Ottolini
To: Noble, Matthew
Date: 4/23/03 3:37PM
Subject: Re: Lee Plan Small Scale Amendment - Gateway Charter School

I dont see any problems from our perspective

>>> Matthew Noble 04/23/03 03:20PM >>>

Planning staff has received the attached proposed Lee Plan Amendment. Staff is asking your help in the review of this application. Planning staff requests comments by May 5th if possible...

From: "William B. Horner" <wbhorner@swfia.com>
To: "Matthew Noble" <NOBLEMA@leegov.com>
Date: 4/18/03 4:32PM
Subject: RE: Charter School

Matt,

We have reviewed the Lee Plan Small Scale Amendment Application for the Gateway/Westlinks/Lehigh Charter School. The planned school is currently in Noise Overlay Zone 3 as defined in the Land Development Code and the Lee Plan. This zone does not allow such schools due to anticipated noise impacts. As indicated in David Depew's transmittal letter, future meetings between the Port Authority and the proponents of the school are scheduled. We also have not yet coordinated with the Port Authority's noise consultant on this issue. Until such meetings and coordination have been completed, more definitive comments on this application cannot be made.

Best Regards, Bill

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

From: Matthew Noble [mailto:NOBLEMA@leegov.com]
Sent: Thursday, April 17, 2003 9:40 AM
To: jmccormick@SWFIA.com; wbhorner@SWFIA.com
Cc: StephanieK@lee.k12.fl.us; Brandy Gonzalez; David Loveland; Paul O'Connor
Subject: Charter School

Lee County Planning staff has received the small scale amendment request as we assumed we would. I would appreciate Port Authority comments as soon as possible, they are of course, in a hurry. We anticipate scheduling the request on the May LPA agenda. If you need more info from the applicant, just let me know...

David, I would appreciate DOT taking a look at the application...

CC: Jami McCormick <jmccormick@swfia.com>, "Gregory S. Hagen" <gshagen@swfia.com>, "Mark R. Fisher" <mrfisher@swfia.com>, "Emily M. Underhill" <emunderhill@swfia.com>

To: M. Noble



MORRIS-DEPEW ASSOCIATES, INC.

ENGINEERS • PLANNERS • SURVEYORS & MAPPERS

2216 Altamont Avenue • Fort Myers, Florida 33901 • (941) 337-3993 • FAX (941) 337-3994

03 APR 18 AM 9:31

April 17, 2003

LEE COUNTY
RECEIVED
COMM. DEV./
PUB. WRKS. CNTR.
SECOND FLOOR

Ms. Mary Gibbs, AICP

Director, Lee County Dept. of Community Development

P. O. Box 398

Fort Myers, FL 33902-0398

Subject: LDC Amendment Modifying Airport Noise Zone 3 Legal Description
(Lehigh Charter School)

Dear Ms. Gibbs:

Pursuant to discussions with Staff, the small-scale FLUM amendment has been submitted for the proposed Lehigh Charter School under the name of J. McGarvey Development Co., Inc. and the property owner, Commonwealth Flex Associates, LLC. As you know, if the BOCC approves the proposed small-scale plan amendment, a modification to the LDC will be required to re-describe the limits of Airport Noise Zone 3. Attached please find a copy of an amended legal description for Airport Noise Zone 3. I believe that Section 34-1006(b)(2)b of the LDC is the applicable section, and I have included the amended language in the usual underline/crosstake fashion. At this point, I am uncertain as to whether the County would prefer the language as supplied, or in the form of a draft ordinance. If the ordinance format is the preferred, please let me know and I will prepare the description in that fashion.

I am forwarding this letter and the draft legal description to you in electronic format (as well as paper) in order to assist in Staff's preparation of the necessary documents. I am also available to help put together any additional background material that you deem necessary. Thank you for your kind assistance in this matter.

Regards,
Morris-Depew Associates, Inc.

A handwritten signature in blue ink, appearing to read 'David W. Depew', followed by a checkmark.

David W. Depew, AICP
President

cc: John McGarvey
Charles J. Basinait, Esq.
Tim Jones, Esq.
Paul O'Connor, AICP
Pam Houck



**Amended Legal Description: Airport Noise Zone 3
Excludes Commonwealth Flex Associates, LLC Property
(Lehigh Charter School Site)**

(Additions underlined, deletions ~~crossed out~~.)

34-1006 (b) (2)

b. Zone 3 is legally defined as the following area:

A tract or parcel of land lying in Lee County, Florida, more particularly described as follows:

Within Township 46 South, Range 25 East:

All of Section 1;

All of Section 2;

All of Section 3;

All of Section 4;

All of Section 5: less and except:

the North Two-Thirds (N-2/3) of the Northwest Quarter (NW-1/4) lying North of the North line of the easement for the Briarcliff Canal;

All of Section 6: less and except:

the North Half (N-1/2) of the North Half (N-1/2) lying North of the North line of the easement for the Briarcliff Canal;

the North Half (N-1/2) of Section 10; and

the Northwest Quarter (NW-1/4) and the West Half (W-1/2) of the Northeast Quarter (NE-1/4) of Section 11.

TOGETHER WITH:

Within Township 45 South, Range 25 East:

The West Half (W-1/2) of the Southwest Quarter (SW-1/4) of Section 26; the Southeast Quarter (SE-1/4) of Section 27; all of Section 34; less and except:

the Northwest Quarter (NW-1/4); the West Half (W-1/2) of the West Half (W-1/2) of Section 35;

TOGETHER WITH:

Within Township 46 South, Range 26 East: the Northwest Quarter (NW-1/4) of Section 5; the North Half (N-1/2) and the west 915 feet of the South Half (S-1/2) of Section 6;

TOGETHER WITH:

Within Township 45 South, Range 26 East:

That portion of the Southwest Quarter (SW-1/4) of Section 4 lying south of State Road No. 82;

That portion of the Southeast Quarter (SE-1/4) of Section 5 lying south of State Road No. 82;

That portion of the Southwest Quarter (SW-1/4) of Section 11 lying south of State Road No. 82;

That portion of Section 10 lying south of State Road No. 82;

All of Section 9: less and except:

that portion of the Northeast Quarter (NE-1/4) of Section 9 lying north of State Road No. 82;



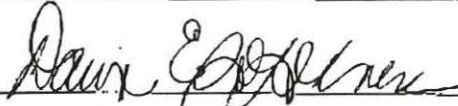
The East Half (E-1/2) of the East Half (E-1/2) together with the Southwest Quarter (SW-1/4) of the Southeast Quarter (SE-1/4) of Section 8;
All of Section 14: less and except:
that portion of the Northeast Quarter (NE-1/4) of Section 14 lying north of State Road No. 82;
All of Section 15;
All of Section 16;
All of Section 17: less and except:
that portion of the Southwest Quarter (SW-1/4) described as follows:
Beginning at the southwest corner of the Southwest Quarter (SW-1/4) of said Section 17 run N 89° 27' 32" E along the south line of the Southwest Quarter (SW-1/4) a distance of 2,643.37 feet to the southeast corner of the Southwest Quarter (SW-1/4) of Section 17; thence run N 01° 00' 03" W along the east line of the Southwest Quarter (SW-1/4) a distance of 2,663.49 feet to the northeast corner of the Southwest Quarter (SW-1/4) of Section 17; thence run S 89° 30' 50" W along the north line of the Southwest Quarter (SW-1/4) of Section 17 a distance of 2,110.98 feet; thence run S 54° 00' 00" W a distance of 649.21 feet to a point lying along the west line of the Southwest Quarter (SW-1/4) of Section 17; thence run S 00° 58' 41" E along the west line of the Southwest Quarter (SW-1/4) of Section 17 a distance of 2,288.89 feet to the point of beginning;
All that part of the Southeast Quarter (SE-1/4) of Section 18 lying north of Daniels Parkway: less and except:
those portions as described in the Parcel C and Parcel D descriptions included in the Zone 4 Noise Overlay Description;
Together with the South Half (S-1/2) of the South Half (S-1/2) of the Southwest Quarter (SW-1/4) of Section 18;
All that part of the Northwest Quarter (NW-1/4) of Section 19 lying north of Daniels Parkway less and except Lot 1, Block C, Gateway Phase 15, according to the plan thereof recorded on Plat Book 53 at Pages 15 through 21 of the Public Records of Lee County, Florida and less and except the south one-half (S ½) of Lot 2, Block C, Gateway Phase 15 as recorded in Plat Book 53, pages 15 through 21 of the Public Records of Lee County, Florida;
That portion of Section 20 as described and recorded in Official Record Book 1535 at page 1480 in the Lee County Public Records;
All of Section 21;
All of Section 22;
All of Section 23;
All of Section 26;
All of Section 27;
All of Section 28;
All of Section 33;
All of Section 34.

**MEMORANDUM
FROM THE
OFFICE OF COUNTY ATTORNEY**

Via Facsimile and Interoffice Mail

DATE: March 31, 2003

To: Pete Eckenrode
Director, Development Services

FROM: 
Dawn E. Perry-Lehnert
Assistant County Attorney

**RE: Charter School USA
DOS2003-00017
Airport Noise Zone 3
File LU-2282**

Subsequent to our conversation on Friday, March 28, 2003, I received the attached e-mail from Chuck Basinait regarding Charter Schools USA. As we discussed, I believe it is appropriate for your office to provide Mr. Basinait with a letter regarding issuance of development order DOS2003-00017. To assist in preparing this letter, I offer the following for your consideration:

1. Development Order DOS2003-00017 has not been approved to date. The latest comments outlining the reasons for denial are contained in the letter from Development Services dated March 4, 2003.
2. The Early Work Authorization dated February 20, 2003, allowing the Developer to go forward at his own risk with minor site clearing/grubbing and installation of a floor slab, was provided as a courtesy. This authorization does not obligate the County to issue a development order to erect a school at this location.
3. The site is located in Airport Noise Zone 3. This noise zone prohibits the construction of a school. See LDC 34-1006(b)(2).
4. Lee Plan Objective 32.2 specifically adopted the FAR Part 150 study establishing the noise zone boundaries as set forth in LDC §34-1006.
5. Relief from LDC §34-1006 is not available via variance or deviation from either the LDC or the Lee Plan.
6. The noise zone contours and legal descriptions as established by the Airport Master Plan and FAR Part 150 study underwent scrutiny prior to adoption by the Board. Any amendments to the noise zone boundaries can be accomplished only by adoption of

Re: Charter School USA

appropriate ordinances.

7. Noise Zone 3 does not prevent the developer from constructing the proposed building at this location. However, the building may not be used as a school unless and until appropriate amendments allowing this use are adopted by the Board.

In accordance with the above, Development Order 2003-00017, if approved, may not allow the construction of a school at this location absent appropriate amendment of the Lee Plan and LDC §34-1006.

Should you have any questions concerning the above, please do not hesitate to contact me.

DPL

cc: James G. Yaeger, County Attorney
Timothy Jones, Chief Assistant County Attorney
Charles Basinait, Esq.

**CPA 2003-03
J. McGARVEY SMALL SCALE
AMENDMENT
TO THE**

LEE COUNTY COMPREHENSIVE PLAN

THE LEE PLAN

**Privately Sponsored Application
and Staff Analysis**

**BoCC Public Hearing Document
for the
June 24th Public Hearing**

*Lee County Planning Division
1500 Monroe Street
P.O. Box 398
Fort Myers, FL 33902-0398
(941) 479-8585*

May 28, 2003

**LEE COUNTY
DIVISION OF PLANNING
STAFF REPORT FOR
SMALL SCALE
COMPREHENSIVE PLAN AMENDMENT
CPA 2003-03**

	This Document Contains the Following Reviews:
✓	Staff Review
✓	Local Planning Agency Review and Recommendation
	Board of County Commissioners Hearing for Adoption

STAFF REPORT PREPARATION DATE: May 22, 2003

PART I - BACKGROUND AND STAFF RECOMMENDATION

A. SUMMARY OF APPLICATION

1. **APPLICANT:** John McGarvey, Mgr. Partner, Commonwealth Flex Associates, LLC., represented by Mr. Charles J. Basinait, Henderson, Franklin, Starnes & Holt, P.A.
2. **REQUEST:** Amend the Future Land Use Map series, Map 1, page 5 of 5 for a specified 6.8± acre parcel of land located in Section 19 Township 45 South, Range 26 East to change the boundary of Airport Noise Zone 3 to remove the subject property from that designation.

3. SUMMARY DISCUSSION

The applicant is proposing to develop a charter school on the subject site. The subject site is depicted by the Lee Plan as being within Airport Noise Zone 3. Policy 1.7.1 does not permit schools, as well as other specified uses, within Airport Noise Zone 3. Policy 46.3.11 prohibits the location of schools "in the areas designated on the Future Land Use Map as Airport Noise Zone 3 or within other high noise impact areas. The applicant proposes through this amendment to remove this designation from the property so as to allow the development of a charter school on the subject site.

B. BACKGROUND INFORMATION

1. EXISTING CONDITIONS

SIZE OF PROPERTY: ±6.8 acres

PROPERTY LOCATION: 12850 Commonwealth Drive, at the northwest quadrant of the intersection of Commonwealth Drive and Daniels Parkway, in the Gateway/Airport Planning Community.

EXISTING USE OF LAND: Vacant, structure currently being developed on the site.

CURRENT ZONING: PUD

CURRENT FUTURE LAND USE CLASSIFICATIONS: "New Community."

2. INFRASTRUCTURE AND SERVICES

WATER & SEWER: The property is located within the Lee County Utilities potable water franchise area and within the Gateway Utilities sewer franchise area.

FIRE: The property is located within the South Trail Fire District.

TRANSPORTATION: Access to the property is via Daniels Parkway and Commonwealth Drive.

SOLID WASTE FRANCHISE: The property is located within the Florida Recycling Services solid waste collection service area.

C. STAFF RECOMMENDATION AND FINDINGS OF FACT SUMMARY

- 1. RECOMMENDATION:** Staff recommends that the Future Land Use Map series, Map 1, page 5 of 5 for the specified 6.8± acre parcel of land located in Section 19, Township 45 South, Range 26 East be amended to changed the subject property from Airport Noise Zone 3 to Airport Noise Zone 2.

Additionally, staff recommends that the property owner be required to execute an Avigation Easement that is to be recorded in the county records. This easement acknowledges that there will be noise generated by airport activities including overflight of aircraft and holds the Port Authority harmless as a result of these activities. This easement should be acceptable to the Port Authority and should be executed and recorded prior to the Board of County Commissioners adopting this amendment.

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

- Utilization of this parcel for a charter school will eliminate the need for Lee County District Schools to construct these classrooms on district campuses.
- It alleviates the pressing need to meet increasing enrolments at this time in the East Choice Zone which is one of the districts fastest growing areas.
- There are currently three new schools under construction in the East Zone, but these facilities will not be open for two more years. The charter school is proposed to be opened this fall.
- The Port Authority staff and consultant believe that since the school site is on the extreme edge of Noise Zone 3, it is probable that the site would be removed from Noise Zone 3 following the completion of the FAR Part 150 Study Update which is expected in 2006.
- The desired use of the property, a school, is an envisioned land use within the New Community land use category.
- Existing utilities and infrastructure are in place or available to support the proposed charter school development. The proposed action will not require changes to future road network plans. The approved Development Order for an office building on the site and the approved Concurrency Certificate No. CNC2003-00936 are evidence of the adequacy of services to the parcel.
- The proposed action will result in no population capacity increase of the FLUM.
- The proposal is for a charter school, which could draw students from all over Lee County, thus the neighborhood school concept is not applicable.

PART II - STAFF ANALYSIS

A. STAFF DISCUSSION

INTRODUCTION

The applicant has requested a change in the boundary of Airport Noise Zone 3 to remove a ± 6.8 acre parcel from that designation. The request has been submitted to accommodate the development of a charter school. The application provides that "Due to the inclusion of the subject property in Zone 3, the site is currently being permitted as an office use, but the eventual intent, if the small-scale amendment is approved, is to then amend the development order to permit the school function."

The original Comprehensive Plan Amendment Application and Applicant Supplementary Information are attached hereto as "Attachment 1 - Applicant Supplementary Info"

PROJECT SUMMARY

The applicant proposes to develop the subject property with a 900 student charter school in an approximate 60,000 square foot building commercial uses that are consistent with a high traffic tourist area and workforce commute corridor. The requested future land use amendment would allow such development on this site to be consistent with the overall policies and considerations of the Lee Plan.

COMPREHENSIVE PLAN BACKGROUND

The subject property was designated "New Community" by the original Lee County Future Land Use Map, adopted in 1984. The New Community Future Land Use designation was meant to be applied to lands that are capable of being planned and developed as a cohesive free-standing community offering a complete range of land uses. The New Community land use category permits a full mix of housing types up to six dwelling units per gross acre, community commercial, industrial, office, and community facilities.

ADJACENT ZONING AND USES

The subject site is located within the Westlinks Business Park portion (Gateway Phase 15) of Gateway. Properties to the north and east of the subject site are within the New Community land use area and are zoned PUD. To the north of the subject parcel is a South Trail Fire Station and then several light industrial and commercial businesses. In general, the Westlinks area is characterized with light industrial and commercial businesses. To the South is Daniels Parkway and then the Southwest Florida International Airport property.

The lands to the west and northwest are designated Airport Commerce. Immediately to the west is the approved Airside Plaza DRI which is zoned CPD. The approved phasing schedule provides for up to 125,000 square feet of commercial uses, 140,000 square feet of office uses, 150 hotel/motel rooms, and 290,000 square feet of light industrial uses. The Airside Plaza site is currently vacant and utilized for passive agricultural uses.

POPULATION ACCOMMODATION CAPACITY DISCUSSION

The application notes that "the proposed change will have no effect upon the population projections." Staff concurs in that the request is not changing the underlying New Community Future Land Use Map category. Staff does note that the current restrictions in Airport Noise Zone 3 prohibit residential development on the subject site and the affect of removing this designation would allow the development of residential units on the subject site. Staff believes, however, that it is unlikely that residential uses will be developed on the site given the location of the parcel in a industrial/commercial area and that the parcel fronts on Daniels Parkway. Thus, given the location of the property and existing surrounding uses, it seems unlikely that the property owner will in the future develop the parcel with residential uses.

CONSISTENCY WITH THE "NEW COMMUNITY" LAND USE CATEGORY

The subject property is located within the "New Community" Future Land Use Category. The Lee Plan's Objective and Policy that describes this category is reproduced below:

OBJECTIVE 1.6: NEW COMMUNITY. *Designate on the Future Land Use Map areas which are suitable for the development of large-scale multi-use communities developed pursuant to an overall master plan. This category is also considered a Future Urban Area.*

POLICY 1.6.1: *New Community areas are lands that are capable of being planned and developed as a cohesive unit in order to better achieve conservation of important environmental resources and to initiate areawide surface water management. New Community 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. New Community areas will be developed as freestanding economic units and will not impose negative fiscal impacts on the county (other than those associated with the delay in placing property improvements on the tax rolls).*

New Communities will not exceed a residential density of six dwelling units per gross acre and must have at least the following characteristics:

1. *The land will be developed under a well-conceived overall master plan;*
2. *The land can be served with all necessary facilities and services at no expense to the county. Uniform Community Development Districts and special taxing districts may be utilized toward achieving this objective;*
3. *Population, recreation, open space, educational, office, and research facilities are distributed in an orderly and attractive manner;*
4. *The land must be developed in such a manner as to protect environmentally sensitive areas;*
5. *The land must be developed as a free-standing community offering a complete range of land uses (e.g. a full mix of housing types for a range of household incomes, industrial and office employment centers, and community facilities such as fire departments, schools, law enforcement offices, public recreational areas, health care facilities, and community commercial areas);*
6. *Off-site impacts must be mitigated; and,*
7. *On-site levels of service must meet the county-wide standards contained in this plan.*

The desired use of the property, a school, is an envisioned land use within the New Community land use category.

MAP 16 - PLANNING COMMUNITIES AND TABLE 1(b)

Map 16 and Table 1(b) do not regulate public facilities such as schools.

TRANSPORTATION ISSUES

Lee County Department of Transportation has reviewed the proposed action and provided a letter which states, "We have no objection to the above application since TAZ 626, in which the proposed project is located, includes a projected 1,800 students in the Lee County MPO's 2020 Financially Feasible Plan Model, and the proposed project has only 900 students...We have determined the proposed project will not alter the future road network plans."

SCHOOL IMPACTS

Lee County School District staff has reviewed the proposed amendment and provided an email to planning staff. This email provides that "This application would have a very positive impact on the Lee County School District, as it would eliminate the need to construct these classrooms on Lee County School District school campuses. It alleviates the pressing need to meet increasing enrollments at this time in the East Choice Zone which is one of the District's fastest growing areas. Currently, three new schools are under construction in the East zone which will not open for two more years, thus this proposal will help offset the growth experienced in this choice zone while these new schools are under construction." This email further provides that "In the future, improved coordination with Lee County planning, the charter school applicants, and the District's Department of Construction and Planning should occur to assist in the location of these facilities and possibly avoid their future location in industrial parks or other commercial locations."

The Lee Plan seeks to direct the location of schools (as well as other "noise sensitive" uses) away from areas impacted by noise, such as adjacent to the international airport. For example, Policy 1.7.1 provides that Airport Noise Zone 3 does not permit schools. Policy 46.3.11 also provides that it is the County's policy to "Prohibit the location of schools in the areas designated on the Future Land Use Map as Airport Noise Zone 3 or within other high noise impact areas."

The Lee Plan seeks to protect schools from incompatible uses:

Policy 46.3.1: Protect the integrity of schools so that educational functions are not disrupted by the intrusion of incompatible land uses.

Policy 46.3.5: Land uses and development will not be permitted to the extent that it could necessitate the relocation of schools due to pressures from incompatible uses.

Policy 46.3.10: Prohibit school sites that are or will be exposed to physical constraints, hazards, or nuisances which are detrimental to the health and safety of students and to the general operation of the school.

The Lee Plan, as provided in 46.3.6, encourages "the location of neighborhood elementary schools within walking distance of the residential areas they serve." Staff notes that the nearest residential unit in Gateway is approximately 3,500 feet north of the subject site following existing roads through the Westlinks business park. As the proposal is a charter school, which could draw students from all over Lee County, the neighborhood school concept is not applicable.

NOISE AND THE INTERNATIONAL AIRPORT

The subject site is located just north of the Southwest Florida International Airport across Daniels Parkway. The site is located, as previously stated, within Airport Noise Zone 3. The specific location of the subject property in this Zone is on the western edge of the Zone. The portion of this Zone that the subject property is located within is a relatively small triangular shape that contains approximately 70 acres from the western edge of the Gateway development to Gateway Boulevard. The site has been identified in the high noise exposure area since the Airport opened.

The applicant has provided a brief noise study entitled "Acoustical Evaluation of Potential Noise Impact at planned Lehigh Charter School at Daniels Parkway & Commonwealth Dr." The Lee County Port Authority noise consultants, Environmental Science Associates (ESA), have reviewed the proposed plan amendment and have provided comments (attached) dated May 19, 2003. This memorandum provides the following concerning the applicant's noise study:

"The report is based primarily on short term monitoring conducted by the Consultant and did not indicate the number of aircraft departures that occurred during the noise monitoring period. However, with the lower noise levels from departing aircraft now using RSW, the LEQ values seem appropriate for aircraft generated noise or a combination of aircraft and Daniels Parkway traffic generated noise.

Of importance in the report is that it indicates the construction materials for the proposed school will provide for a significant noise level reduction of 38 dBA. With the location of the proposed school being at the extreme fringe of the overlay zone, considering the noise levels that were monitored and with the type of construction being provided, the interior noise levels should be acceptable for school use."

The ESA memorandum contains the following "Recommendations:"

"It should be recognized that, while the school building is currently under construction and the site will probably be removed from Zone 3, it is still influenced by aircraft departure noise. Furthermore, additional aviation

facilities will continue to be constructed on airport and future aviation activities will occur in reasonable proximity to the proposed school site. With these factors in mind the following are our recommendations. If it is determined that the school should be approved, the Port Authority should request that sufficient sound insulation be incorporated in the building construction to allow for a maximum 45 dB interior sound level. It appears from the Fegan report that the construction methods and materials will comply with this recommendation. Additionally due to the proximity of future aviation activities, the proposed school developer/property owner should sign an aviation easement, waiver of claim, or similar hold harmless indemnification document that certifies their knowledge of the proximity of the Airport. In addition, it should acknowledge the airport's future anticipated growth and recognize the fact that there is potential for airport-related noise exposure at the school site. In order to assist in the regulation of compatible land uses in the airport area, aviation easements, waivers of claim, or similar hold harmless indemnification documents should also be signed by all future developers/owners within Noise Overlay Zones 2 and 3 as was recommended and approved in the 1995 Federal Aviation Regulations Part 150 Noise Compatibility Study.

The uniqueness of the school site that is the subject of this letter compared to other areas of noise Zone 3 is that it is on the fringe of Noise Overlay Zone 3 and within a currently developed community. We would hope in the future that the integrity of the Noise Overlay Zones will be maintained until the FAR Part 150 Study Update is completed."

The ESA memorandum also provides that new noise contours were developed as part of the Master Plan Update for the airport. The memorandum notes that the departure flight tracks in the vicinity of the school site have remained the same. The memorandum also notes that the noise contours have reduced in size "from those previously published." The memorandum provides the following explanation:

This reduction in contour size is primarily the result of the elimination of Stage 2 aircraft from the national air carrier fleet (effective January 1, 2000). The proposed school area in question was likely included within Noise Zone 3 due to the influence from departure noise by Boeing 727 aircraft and by other Stage 2 aircraft. Now that all Boeing 727 aircraft have been either retrofitted to meet noise standards or retired altogether, the departure noise in the area in question has reduced. Since the school site is on the extreme edge of (sic) Noise Zone 3, it is probable that the site would be removed from Noise Zone 3 following the completion of the FAR Part 150 Study Update in 2006. However, since the location of flight corridors is a decision making element of Noise Zone status, a final determination of the status of the site could not be made until the Part 150 Study Update is completed.

PRECEDENTIAL NATURE OF THE REQUEST

The proposed amendment is the first private amendment to ever propose amending the Airport Noise Zone Overlay. Staff is aware of only one other request to place "noise sensitive" uses within Airport Noise Zone 3. Miromar Lakes DRI initially requested time share units in the vicinity of Ben Hill Griffin Parkway in Airport Noise Zone 3. Ultimately these units were not approved.

SOILS

The applicant has provided information indicating that soils present on the site are Felda fine sand and Felda fine sand, depressional. A "Soils Map" and a description of the soils are included in the original application material. The application notes that "the entire site, however, has been cleared and filled, so that the natural conditions no longer apply."

HISTORICAL AND ARCHAEOLOGICAL IMPACTS

The application provides that "There are no historic districts or sites located on the subject property or on adjacent properties." The subject parcel is not located on either Level 1 or Level 2 zones of archaeological sensitivity.

ENDANGERED SPECIES

The application provides that "the subject property is currently under construction, has been cleared and filled, and contains no species that are threatened, endangered, or are of special concern."

County Environmental Sciences (ES) staff are familiar with the property and have verified that the property was previously cleared and that no listed species are present. ES staff further verified that the wetland area in the southeast corner of the property shown on application Exhibit 1 was permitted to be impacted through the South Florida Water Management District permit.

PARKS, RECREATION AND OPEN SPACE

The Department of Public Works has reviewed the proposal and determined "that existing and proposed support facilities provided by Lee County Parks and Recreation will not be impacted by the proposed amendment." Public Works staff notes that this is so because the request will not have any impact on population projections for the County.

DRAINAGE/SURFACE WATER MANAGEMENT

The application does not provide an existing and future conditions analysis for surface water/drainage basins. Staff notes that this issue has been dealt with through various permitting activities that have taken place concerning the subject site.

MASS TRANSIT

Lee County Transit Division has reviewed the proposed action and provided a letter of response which states that Lee Tran staff has reviewed the proposed amendment and "has determined that the proposed amendment to the future land use map would have no impacts on existing or planned services Lee Tran provides, nor would it have any impact to the budget of Lee County's transit division."

UTILITIES

Concerning utilities, the applicant has provided supplemental information that provides the following:

"Upon inquiry with the engineers (Hole Montes, Inc.), I was informed that the subject property is in the Gateway Utilities service district...I am informed that when the original subdivision was platted, provisions for utilities were made and approved by the County for all parcels in the subdivision, including the subject property. I can provide copies of the approved development order for the subdivision if that is deemed necessary, but I believe that the existence of the plat, a copy of which was provided as part of the application materials, should suffice as evidence that all improvements, including utilities, were either constructed or bonded in accordance with the County's requirements. Thus, the County has already approved the design and capacity issues associated with the utilities for the subject property, and there should be no question regarding whether this infrastructure is available to the site."

Staff agrees that availability of utilities to the site has previously been addressed. In fact, the provision of most infrastructure issues have been adequately addressed. The approved Development Order for an office building on the site and the approved Concurrency Certificate No. CNC2003-00936 are evidence of the adequacy of services to the parcel.

B. CONCLUSIONS

Staff finds that the necessary infrastructure is in place to accommodate the desired use. Staff also finds that there is a need for additional classroom space to accommodate the ever growing student population. Both the applicants noise consultant and the Port Authority noise consultant agree that

the noise contours associated with airport activities have been reduced as Stage 2 aircraft have been replaced by quieter Stage 3 aircraft. The Port Authority staff and consultant believe that since the school site is on the extreme edge of Noise Zone 3, it is probable that the site would be removed from Noise Zone 3 following the completion of the FAR Part 150 Study Update which is expected in 2006. The subject property while currently in Airport Noise Zone 3 is outside of the actual 65 dBA noise contour. Noise contours generally do not follow recognizable boundaries but were essentially "squared off" to allow easy identification on the ground. Considering the above conclusions, the removal of the Airport Noise Zone 3 and inclusion of the subject site within Airport Noise Zone 2 would not violate the purpose and intent in establishing the noise zones, but would allow for the construction of needed classrooms.

C. STAFF RECOMMENDATION

Staff recommends that the Future Land Use Map series, Map 1, page 5 of 5 for the specified 6.8± acre parcel of land located in Section 19, Township 45 South, Range 26 East be amended to changed the subject property from Airport Noise Zone 3 to Airport Noise Zone 2.

Additionally, staff recommends that the property owner be required to execute an Avigation Easement that is to be recorded in the county records. This easement acknowledges that there will be noise generated by airport activities including overflight of aircraft and holds the Port Authority harmless as a result of these activities. This easement should be acceptable to the Port Authority and should be executed and recorded prior to the Board of County Commissioners adopting this amendment.

**PART III - LOCAL PLANNING AGENCY
REVIEW AND RECOMMENDATION**

DATE OF PUBLIC HEARING: May 28, 2003

A. LOCAL PLANNING AGENCY REVIEW

Planning staff provide a brief summary of the proposed amendment. The applicant's agent also presented the request to the LPA. No members of the public appeared to testify concerning the proposal.

B. LOCAL PLANNING AGENCY RECOMMENDATION AND FINDINGS OF FACT SUMMARY

1. **RECOMMENDATION:** The LPA recommends that the Board of County Commissioners adopt the proposed amendment.
2. **BASIS AND RECOMMENDED FINDINGS OF FACT:** The LPA accepted the findings of fact as advanced by the staff report.

C. VOTE:

NOEL ANDRESS	<u>AYE</u>
SUSAN BROOKMAN	<u>AYE</u>
MATT BIXLER	<u>AYE</u>
RONALD INGE	<u>AYE</u>
GORDON REIGELMAN	<u>ABSENT</u>
DAN DELISI	<u>ABSTAINED</u>
ROBERT PRITT	<u>AYE</u>

PART IV - BOARD OF COUNTY COMMISSIONERS
HEARING FOR ADOPTION OF PROPOSED AMENDMENT

DATE OF ADOPTION HEARING: June 24, 2003

A. BOARD REVIEW:

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

1. BOARD ACTION:

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

C. VOTE:

JOHN ALBION

ANDREW COY

RAY JUDAH

JOHN MANNING

DOUG ST. CERNY

STAFF REPORT
ATTACHMENTS

00002
0010

Airport Noise Zone 3 Line

DE LOOP RD

00001
4000

Subject Site

0000C
0050

0000A
0030

0000C
0000

00001
1120

PUD

PUD

COMMONWEALTH DR

VESTINKS DR

DANIELS PKWY

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003A

0000B
003A

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002A

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0020

0000B
0020

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0010

PUD

WESTINKS TER

DANIELS PKWY

0000C
0010

AIRSIDE L

DANIELS PKWY

PAUL J DOHERTY PKWY

MEMO TO: Matthew Noble
Lee County Planning

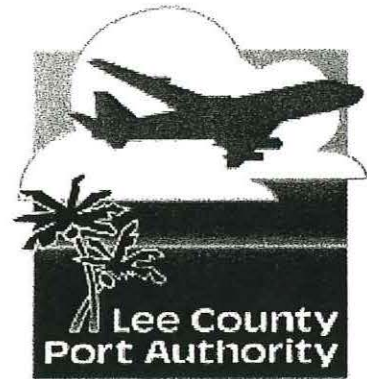
LEE COUNTY
RECEIVED

03 MAY 21 AM 11:31

FROM: William Horner *W Horner*
Planning/Environmental Compliance
COMM. DEV/
BUS. WRKS. CNTR.
SECOND FLOOR

DATE: May 20, 2003

SUBJECT: CPA 2003-00003
Lehigh Charter School
Noise Zone 3 Lee Plan Amendment



Environmental Science Associates (ESA), noise consultants for the Port Authority, have reviewed the Lee Plan Amendment proposing to remove the Lehigh Charter School site from Noise Overlay Zone 3. The site is located across the street from the Southwest Florida International Airport on Commonwealth Drive in Gateway and currently does not allow noise sensitive land uses. Our consultant's recommendation is supported by the Port Authority and is included in the attached letter.

If you have any questions, please contact me.

WBH/nt
Attachment

cc: Charles J. Basinait, Esq.,
Robert M. Ball, Executive Director
Edmund J. Henke, Asst. Executive Director
Mark Fisher, Development
Emily Underhill, Development
Gregory S. Hagen, Legal Services

May 19, 2003

Mr. William Horner
Lee County Port Authority
16000 Chamberlin Parkway, Suite 8671
Fort Myers, Florida 33913

Reference: Proposed Lee Plan and LDC Amendments to Noise Overlay Zone 3
Lehigh Charter School Site Noise Considerations

Dear Mr. Horner:

Per your request we have reviewed the information that you provided regarding the construction of the Charter School proposed to be developed off Daniels Parkway.

Project Site and Development Plan

The proposed school site is located in the Gateway area lying north of Daniels Road and within Noise Zone 3. We understand the school site has been cleared and the walls of the building are being erected under an early work permit from the County. We also understand the developer has submitted applications to repeal the site from Noise Zone 3 from the Comp Plan and the Land Development Code.

Overlay Zone Status

The proposed school site is currently included in Noise Zone 3 and our firm is aware that the site was included in Noise Zone 3 following approval of the original FAR Part 150 Study completed around 1990. In fact, we understand from Authority staff that the site has been identified in the high noise exposure area since the Airport opened.

In the update to the FAR Part 150 study in 1995, Noise Zone 3 was expanded to incorporate the flight corridors and noise contours projected to occur from a parallel runway. During that study, the areas included in the Noise Zones established in 1990 (related to the existing runway) were maintained. Following the approval of the 1995 updated Noise Zones, the County Commission directed that a review of the noise zones be made through an Update to the FAR Part 150 Study to be completed by 2006. This Update would be conducted to determine if a change (reduction or expansion) of the noise zone areas should occur.

Recent Noise Studies

Recently new noise contours were developed as part of the Master Plan Update for Southwest Florida International Airport (RSW). Although the departure flight tracks in

the vicinity of the school site have remained the same, the noise contours have reduced in size from those previously published. This reduction in contour size is primarily the result of the elimination of Stage 2 aircraft from the national air carrier fleet (effective January 1, 2000). The proposed school area in question was likely included within Noise Zone 3 due to the influence from departure noise by Boeing 727 aircraft and by other Stage 2 aircraft. Now that all Boeing 727 aircraft have been either retrofitted to meet noise standards or retired altogether, the departure noise in the area in question has reduced. Since the school site is on the extreme edge of Noise Zone 3, it is probable that the site would be removed from Noise Zone 3 following the completion of the FAR Part 150 Study Update in 2006. However, since the location of flight corridors is a decision making element of Noise Zone status, a final determination of the status of the site could not be made until the Part 150 Study Update is completed.

Per your request we have also reviewed the report by Fegan Acoustical Consultants related to the Charter School.

The report is based primarily on short term monitoring conducted by the Consultant and did not indicate the number of aircraft departures that occurred during the noise monitoring period. However, with the lower noise levels from departing aircraft now using RSW, the LEQ values seem appropriate for aircraft generated noise or a combination of aircraft and Daniels Parkway traffic generated noise.

Of importance in the report is that it indicates the construction materials for the proposed school will provide for a significant noise level reduction of 38 dBA. With the location of the proposed school being at the extreme fringe of the overlay zone, considering the noise levels that were monitored and with the type of construction being provided, the interior noise levels should be acceptable for school use.

Recommendations

It should be recognized that, while the school building is currently under construction and the site will probably be removed from Zone 3, it is still influenced by aircraft departure noise. Furthermore, additional aviation facilities will continue to be constructed on airport and future aviation activities will occur in reasonable proximity to the proposed school site. With these factors in mind the following are our recommendations. If it is determined that the school should be approved, the Port Authority should request that sufficient sound insulation be incorporated in the building construction to allow for a maximum 45 dB interior sound level. It appears from the Fegan report that the construction methods and materials will comply with this recommendation. Additionally due to the proximity of future aviation activities, the proposed school developer/property owner should sign an aviation easement, waiver of claim, or similar hold harmless indemnification document that certifies their knowledge of the proximity of the Airport. In addition, it should acknowledge the airport's future anticipated growth and recognize the fact that there is potential for airport-related noise exposure at the school site. In order

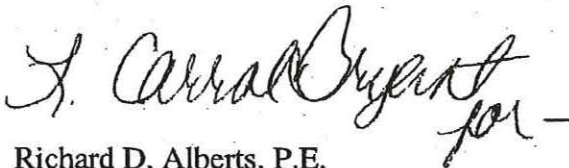
to assist in the regulation of compatible land uses in the airport area, avigation easements, waivers of claim, or similar hold harmless indemnification documents should also be signed by all future developers/owners within Noise Overlay Zones 2 and 3 as was recommended and approved in the 1995 Federal Aviation Regulations Part 150 Noise Compatibility Study.

The uniqueness of the school site that is the subject of this letter compared to other areas of Noise Zone 3 is that it is on the fringe of Noise Overlay Zone 3 and within a currently developed community. We would hope in the future that the integrity of the Noise Overlay Zones will be maintained until the FAR Part 150 Study Update is completed.

Should you need anything else from us at this time, please give me a call.

Sincerely,

ENVIRONMENTAL SCIENCE ASSOCIATES

A handwritten signature in cursive script, appearing to read "R. Alberts", followed by a horizontal line and a dash.

Richard D. Alberts, P.E.
Vice President

MEMORANDUM

from the
TRANSIT DIVISION

LEE COUNTY
RECEIVED

03 MAY -5 AM 11:46

COMM. DEV/
PUB. WRKS. CNTR.
SECOND FLOOR



Your Ride Is Here.

DATE: May 1, 2003

To: Matthew Noble

FROM: Steve Myers

A handwritten signature in black ink, appearing to be "Sm", written over the line for the "FROM" field.

RE: CPA 03-03 – Gateway Charter School Zone 3 Small Scale-Lee Plan Map Amendment

Lee Tran staff has reviewed the above referenced Lee Plan amendment and has determined that the proposed amendment to the future land use map would have no impacts on existing or planned services Lee Tran provides, nor would it have any impact to the budget of Lee County's transit division.

If you have any further questions regarding this amendment, please call me at 277-5012.



LEE COUNTY
SOUTHWEST FLORIDA

**DEPARTMENT OF
TRANSPORTATION**

Memorandum

To: Paul O'Connor, Division of Planning
From: ^{Wu} Lili Wu, Senior Planner
Date: April 25, 2003
Subject: **Lee Plan Small Scale Amendment –
Gateway Charter School**

COMM. DEV./
PUB. WRKS. CNTR.
SECOND FLOOR

03 APR 28 AM 11:38

LEE COUNTY
RECEIVED

We have no objection to the above application since TAZ 626, in which the proposed project is located, includes a projected 1,800 students in the Lee County MPO's 2020 Financially Feasible Plan Model, and the proposed project has only 900 students. According to the School Board plans, there are no other schools being planned in TAZ 626. We have determined the proposed project will not alter the future road network plans.

LW/mlb

Cc: David Loveland
Andy Getch
Central File – Administrative

From: Howard Wegis
To: Noble, Matthew
Date: 4/23/03 5:00PM
Subject: Re: Lee Plan Small Scale Amendment - Gateway Charter School

I did not see the applicant address B: Public Facilities Impacts, 2: Existing and Future condition analysis. That is they did not address water and sanitary sewer. Are they required to?

MEMORANDUM
FROM THE
DEPARTMENT OF
PUBLIC WORKS


LEE COUNTY
RECEIVED

03 MAY -6 AM 11:43

COMM. DEV/
PUB. WRKS. CNTR.
SECOND FLOOR

DATE: May 5, 2003

TO: Matt Noble
Principal Planner

FROM: Michael P. Pavese 
Principal Planner

RE: Lee County Comprehensive Plan Amendment
Gateway Charter School
Strap #'s 19-45-26-05-0000C .0020 and 19-45-26-05-0000C .0050

Staff has reviewed your request for comments regarding the adequacy of existing and proposed support facilities relative to the proposed plan amendment referenced above.

Based on the information provided in the application for this request, the subject parcel (approximately 6.8 ± acres) is currently zoned Planned Unit Development (PUD) and located in the New Community and Wetlands future land use categories. The applicant has indicated that they are requesting an amendment to remove the subject property from the Airport Noise Zone 3 Overlay classification. The amendment is being requested to permit the construction of a school which is otherwise prohibited within the Noise Zone 3 classification. The underlying future land use designation of the subject property will not change as a result of this amendment. Since the proposed amendment will not have any impact on population projections, it is our determination that existing and proposed support facilities provided by Lee County Parks and Recreation will not be impacted by the proposed amendment.

Should you have any questions or require any additional information, please do not hesitate to contact me directly at 479-8762.

cc: John Yarbrough, Director, Lee County Parks and Recreation
Jim Lavender, Director, Department of Public Works

Michael P. Pavese/mpp

P:\WPDOCS\CONSTRUCTION & DESIGN\PAVESE\PWCompPlanAmendGatewaySchoolMemo.WPD

From: Kim Trebatoski
To: Campbell, John; Carroll, Mike; Collins, Donna-Marie; Diaz, Rick; Eckenrode, Pete; Hansen, Chris; Horner, Bill; Houck, Pam; Jones, Timothy; Joyce, Rick; Keyes, Stephanie; Lavender, James; Loveland, David; Myers, Steve; Noble, Matthew; Ottolini, Roland; Pavese, Michael; Sampson, Lindsey; Vance, Brad; Watermeier, Janet; Wegis, Howard; Wilson, John; Wu, Lili; Yarbrough, John
Date: 4/24/03 1:46PM
Subject: Re: Lee Plan Small Scale Amendment - Gateway Charter School

ES staff has reviewed the submittal. There are no environmental issues in regard to the proposal. I verified that the wetland area in southeast corner of the property shown on Exhibit 1 was permitted to be impacted through the SFWMD permit (DOS2003-00017 file).

Kim Trebatoski
Principal Environmental Planner
DCD - Planning/Environmental Sciences
trebatkm@leegov.com
239-479-8183
FAX 239-479-8319

>>> Matthew Noble 04/23/03 03:20PM >>>

Planning staff has received the attached proposed Lee Plan Amendment. Staff is asking your help in the review of this application. Planning staff requests comments by May 5th if possible...

CC: O'Connor, Paul

From: Roland Ottolini
To: Noble, Matthew
Date: 4/23/03 3:37PM
Subject: Re: Lee Plan Small Scale Amendment - Gateway Charter School

I dont see any problems from our perspective

>>> Matthew Noble 04/23/03 03:20PM >>>

Planning staff has received the attached proposed Lee Plan Amendment. Staff is asking your help in the review of this application. Planning staff requests comments by May 5th if possible...

From: "Keyes, Stephanie" <StephanieK@lee.k12.fl.us>
To: 'Kim Trebatoski' <TREBATKM@leegov.com>, "Keyes, Stephanie" <StephanieK@lee.k12.fl.us>, John Campbell <CAMPBEJM@leegov.com>, Mike Carroll <CARROLCM@leegov.com>, Chris Hansen <CHRISH@leegov.com>, Donna Marie Collins <COLLINS@leegov.com>, Pete Eckenrode <ECKENRPJ@leegov.com>, Timothy Jones <JONEST@leegov.com>, Rick Joyce <JOYCERK@leegov.com>, Janet Watermeier <jwatermeier@leegov.com>, John Yarbrough <JY@leegov.com>, James Lavender <LAVENDJH@leegov.com>, David Loveland <LOVELADM@leegov.com>, Matthew Noble <NOBLEMA@leegov.com>, Roland Ottolini <OTTOLIRE@leegov.com>, Michael Pavese <PAVESEMP@leegov.com>, Pam Houck <PHOUCK@leegov.com>, Rick Diaz <RDIAZ@leegov.com>, Lindsey Sampson <SAMPSONLJ@leegov.com>, Steve Myers <SLMYERS@leegov.com>, Brad Vance <VANCEBS@leegov.com>, Howard Wegis <WEGISHS@leegov.com>, John Wilson <WILSONJD@leegov.com>, Lili Wu <WULX@leegov.com>, <wbhorner@swfia.com>
Date: 4/29/03 8:57AM
Subject: RE: Lee Plan Small Scale Amendment - Gateway Charter School

This application would have a very positive impact on the Lee County School District, as it would eliminate the need to construct these classrooms on Lee County School District school campuses. It alleviates the pressing need to meet increasing enrollments at this time in the East Choice Zone which is one of the District's fastest growing areas. Currently, three new schools are under construction in the East zone which will not open for two more years, thus this proposal will help offset the growth experienced in this choice zone while these new schools are under construction.

In the future, improved coordination with Lee County planning, the charter school applicants, and the District's Department of Construction and Planning should occur to assist in the location of these facilities and possibly avoid their future location in industrial parks or other commercial locations. In addition, such coordination would assist in reviewing comprehensive plan issues and other related matters. If I may be of further assistance, please give me a call.

>Stephanie Keyes, AICP
 >Lee County School District
 >Facilities Planner, Department of Construction and Planning
 >3308 Canal Street
 >Fort Myers, FL 33916
 >239-479-4205
 >Fax 239-334-8637
 >

>>> Matthew Noble 04/23/03 03:20PM >>>

Planning staff has received the attached proposed Lee Plan Amendment. Staff is asking your help in the review of this application. Planning staff requests comments by May 5th if possible...

CC: Paul O'Connor <OCONNOPS@leegov.com>, "Martin, Keith" <KeithM2@lee.k12.fl.us>, "Patak, Tyler" <TylerP@lee.k12.fl.us>, "Humbaugh, William" <WilliamH2@lee.k12.fl.us>, "Pottorf, Lynn" <LynnP@lee.k12.fl.us>

APPLICATION MATERIALS

MORRIS-DEPEW ASSOCIATES, INC.
ENGINEERS • PLANNERS • SURVEYORS & MAPPERS

April 14, 2003

Ms. Mary Gibbs, AICP
Director, Lee County Dept. of Community Development
P. O. Box 398
Ft. Myers, FL 33902-0398

Subject: Charter School Zone 3 Lee Plan Amendment

Dear Ms. Gibbs:

Attached please find six (6) copies of an application for a small-scale Lee Plan Future Land Use Map amendment. Requested is an amendment to change the boundaries of Zone 3, Map 1, Page 5 of the FLUM, eliminating the +/- 6.8 acre proposed Lehigh Charter School site from the Zone 3 Overlay. The subject property is located approximately ½ mile from the 60 noise contour according to the Port Authority maps, and as such need not be considered as in need of noise restricted uses. The owner has agreed to provide avigation easements to the Port Authority as needed, and it is my understanding that the County Attorney is working with Mr. Charles Basinait, the owners attorney, to craft the required language for such an easement.

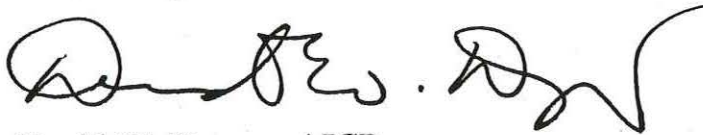
As you may know, the parcel is currently under review by the Division of Development Services for the necessary development order, and the site is part of the existing Westlinks commercial subdivision. All of the requisite infrastructure is in place to service the proposed school, and the owner is making the associated site improvements for the school as part of his design and permitting efforts. Due to the inclusion of the subject property in Zone 3, the site is currently being permitted as an office use, but the eventual intent, if the small-scale amendment is approved, is to then amend the development order to permit the school function.

The real difficulties involved in the request are twofold: first, the Airport is concerned that amending Zone 3 may create a precedent for future changes;

and second, the timing of the request is critical in that the school must receive a certificate of occupancy not later than July 14, 2003, in order for the School Board to take possession for the coming school year. The owner has been assured that the physical improvements can be completed in accordance with code requirements in time to receive the CO. The only timing problem then becomes the speed at which the small-scale plan amendment can be processed. It is my understanding that Paul O'Connor believes that the request can be placed on the May agenda of the LPA, and come before the Commission in June. This would allow enough time for any appeal period to expire prior to the July 14 date, if approved. The question of the Airport and the precedential nature of the request is one that will be addressed in meetings with the Port Authority Staff and at the various public hearings. I would like to state that all concerns have been addressed in that area, but I cannot at this time. I am hopeful, however, that the Airport's difficulties will be addressed prior to the LPA hearing, and I can assure you that meetings with Port Authority Staff are on tap in the very near future. I will coordinate with Mr. O'Connor and his staff in the event that they wish to attend any of those meetings.

Thank you for your assistance in this matter, and if there are any questions, comments, or additional concerns, please do not hesitate to call either myself, or Mr. Basinait.

Regards,
Morris-Depew Associates, Inc.

A handwritten signature in black ink, appearing to read 'David W. Depew', followed by a period and another signature or initials.

David W. Depew, AICP
President

cc: Charles J. Basinait, Esq.
John McGarvey



MORRIS-DEPEW ASSOCIATES, INC.

ENGINEERS • PLANNERS • SURVEYORS & MAPPERS

2216 Altamont Avenue • Fort Myers, Florida 33901 • (941) 337-3993 • FAX (941) 337-3994

Small Scale Lee Plan Amendment
J. McGarvey Development Co., Inc.
Gateway Westlinks Charter School



MORRIS-DEPEW ASSOCIATES, INC.

ENGINEERS • PLANNERS • SURVEYORS & MAPPERS

2216 Altamont Avenue • Fort Myers, Florida 33901 • (941) 337-3993 • FAX (941) 337-3994

Application Form



Lee County Board of County Commissioners
Department of Community Development
Division of Planning
Post Office Box 398
Fort Myers, FL 33902-0398
Telephone: (941) 479-8585
FAX: (941) 479-8519

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.

4.11.03

DATE


SIGNATURE OF OWNER OR AUTHORIZED REPRESENTATIVE

I. APPLICANT/AGENT/OWNER INFORMATION

John McGarvey, Mgr. Partner, Commonwealth Flex Associates, LLC

APPLICANT

27300 Riverview Center Boulevard

ADDRESS

Bonita Springs

FL

34134

CITY

STATE

ZIP

(239) 992-8940

(239) 992-6434

TELEPHONE NUMBER

FAX NUMBER

Mr. Charles J. Basinait, Henderson, Franklin, Starnes & Holt, P.A.

AGENT*

P.O. Box 280

ADDRESS

Fort Myers

FL

33902-0280

CITY

STATE

ZIP

(239) 334-4121

(239) 334-4100

TELEPHONE NUMBER

FAX NUMBER

Commonwealth Flex Associates, LLC

OWNER(s) OF RECORD

27300 Riverview Center Boulevard

ADDRESS

Bonita Springs

FL

34134

CITY

STATE

ZIP

(239) 992-8940

(239) 992-6434

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.

Morris-Depew Associates, Inc.

2216 Altamont Avenue

Fort Myers, Florida 33901

Tel: (239) 337-3993

Fax: (239) 337-3994

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

A. TYPE: (Check appropriate type)

☐ Text Amendment

☒ Future Land Use Map Series Amendment
(Maps 1 thru 20)

List Number(s) of Map(s) to be amended

Map #1, Page 5 of 5

B. SUMMARY OF REQUEST (Brief explanation):

A change in the boundary of Airport Hazard Zone 3 is requested to remove
the subject property from that designation.

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

A. Property Location:

1. Site Address: _____

2. STRAP(s): 19-45-26-05-0000C.0010; 19-45-26-05-0000C.0020

B. Property Information

Total Acreage of Property: +/- 6.8 acres

Total Acreage included in Request: +/- 6.8 acres

Area of each Existing Future Land Use Category: +/- 6.8 acres

Total Uplands: +/- 6.8 acres

Total Wetlands: 0

Current Zoning: PUD

Current Future Land Use Designation: New Community

Existing Land Use: Vacant

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: No

Airport Noise Zone 2 or 3: Yes, Zone 3

Acquisition Area: No

Joint Planning Agreement Area (adjoining other jurisdictional lands): No

Community Redevelopment Area: No

D. Proposed change for the Subject Property:

Removal from Airport Noise Zone 3

E. Potential development of the subject property:

1. Calculation of maximum allowable development under existing FLUM:

Residential Units/Density N/A

Commercial intensity 60,000 S.F.

Industrial intensity N/A

2. Calculation of maximum allowable development under proposed FLUM:

Residential Units/Density N/A

Commercial intensity 60,000 S.F.

Industrial intensity N/A

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.
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.
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.
4. Map and describe existing zoning of the subject property and surrounding properties.
5. The legal description(s) for the property subject to the requested change.
6. A copy of the deed(s) for the property subject to the requested change.
7. An aerial map showing the subject property and surrounding properties.
8. If applicant is not the owner, a letter from the owner of the property authorizing the applicant to represent the owner.

B. Public Facilities Impacts

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:

- 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:
- 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

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

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

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)
 - 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
 - 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.

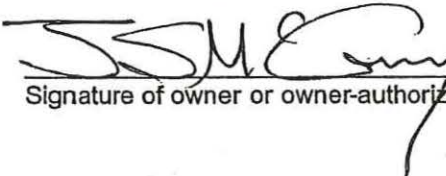
3. Requests involving lands in critical areas for future water supply must be evaluated based on policy 2.4.2.
 4. Requests moving lands from Density Reduction/Groundwater Resource must fully address Policy 2.4.3 of the Lee Plan Future Land Use Element.
- G. Justify the proposed amendment based upon sound planning principles. Be sure to support all conclusions made in this justification with adequate data and analysis.

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 up to a maximum of \$2,255.00
Small Scale Amendment (10 acres or less)	\$1,500.00 each
Text Amendment Flat Fee	\$2,500.00 each

AFFIDAVIT

I, John McGarvey, 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

4.11.03
 Date

 Typed or printed name

STATE OF FLORIDA)
 COUNTY OF LEE)

The foregoing instrument was certified and subscribed before me this _____ day of _____ 19____, by _____, who is personally known to me or who has produced _____ as identification.

(SEAL)

 Signature of notary public

 Printed name of notary public



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Supporting Documentation



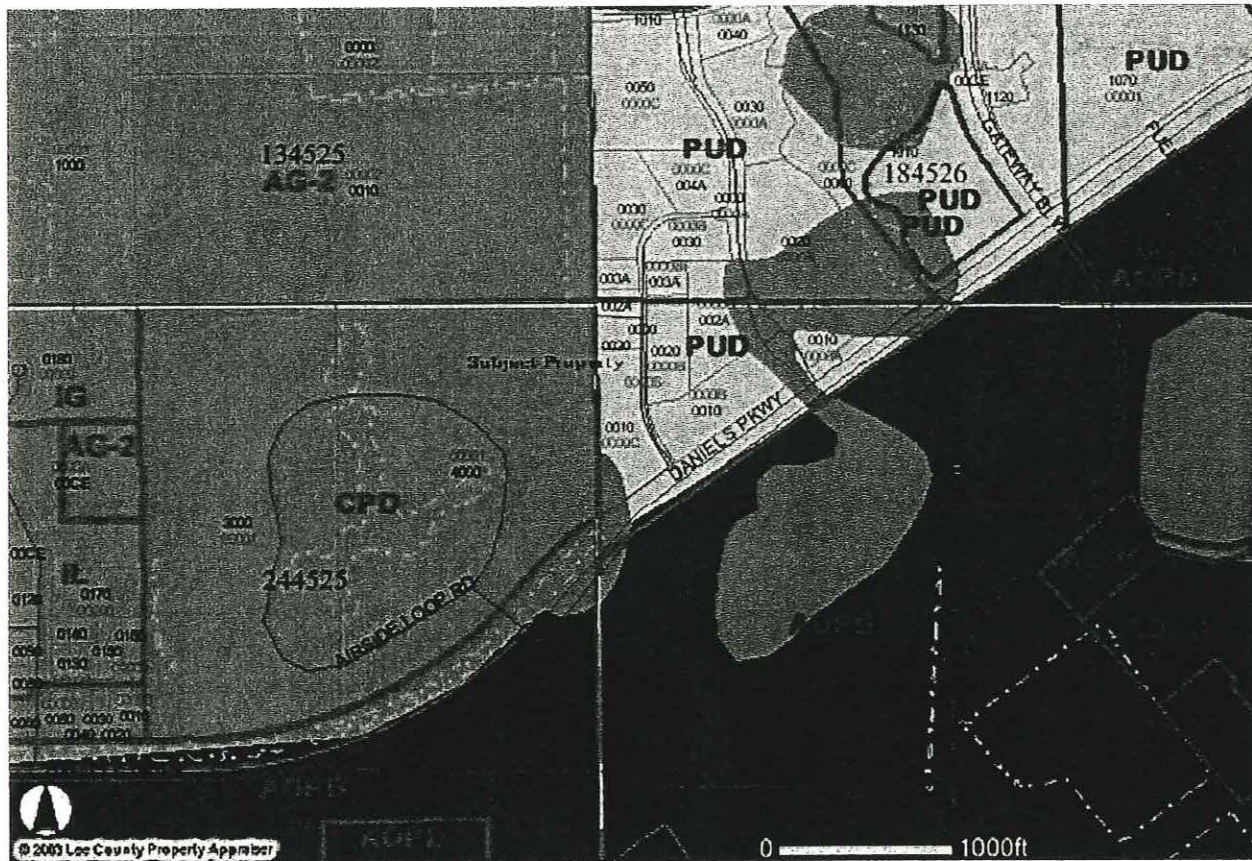
Applicant's Amendment Support Documentation:

J. McGarvey Development Company, Inc.

Small-Scale Lee Plan Map Amendment

A. General Information and Maps.

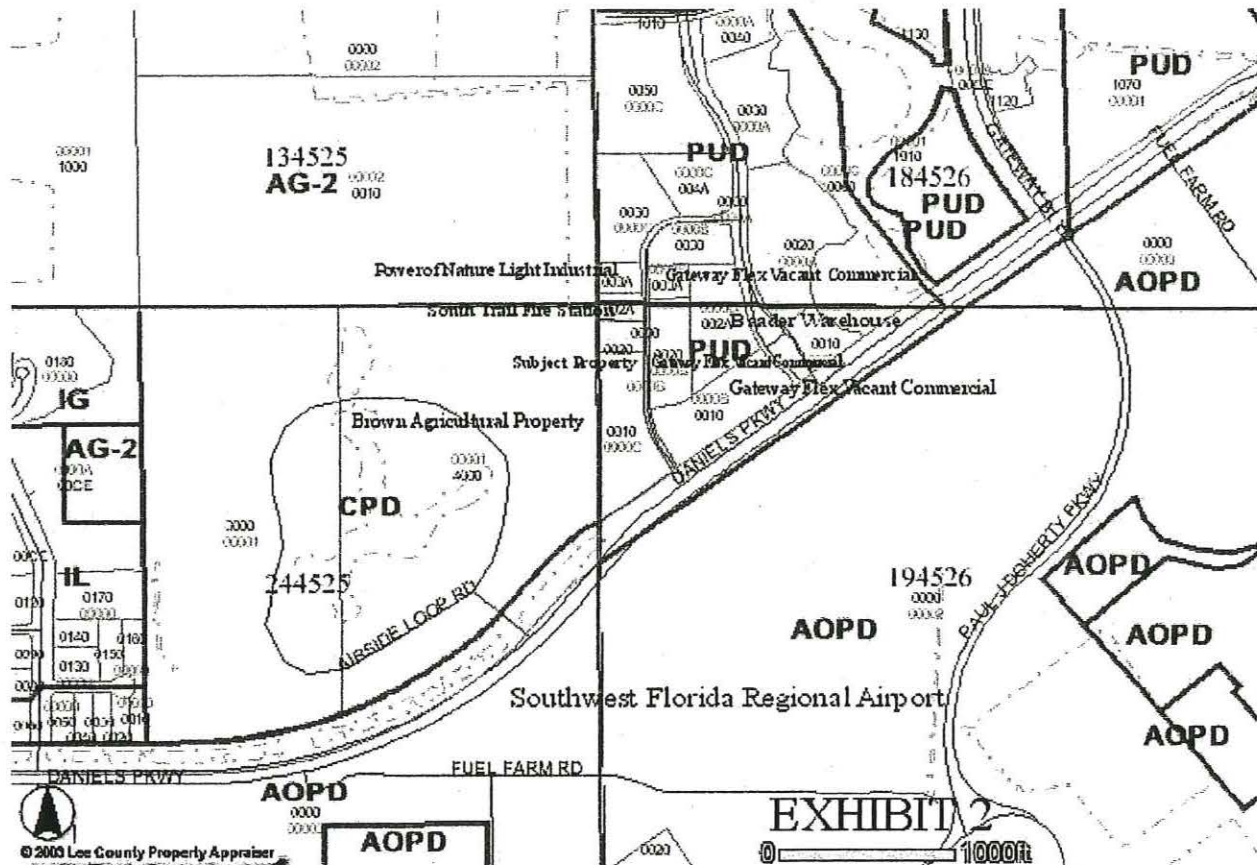
1. Provide any proposed text changes: **None proposed.**
2. Provide a Future Land Use Map showing the boundaries of the subject property, surrounding street network, surrounding designated future land uses, and natural resources. **Please see attached Exhibit 1 for an 8.5" X 11" map.**



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. **Please see attached Exhibit 2 for 8.5" X 11" map.** **Directly to the south and southwest of the subject property is Daniels**



Parkway and the Southwest Florida Regional Airport property. To the southeast of the subject property, across Gateway Commonwealth Drive, is vacant commercial property owned by Gateway Flex Associates, L. L. C. To the north of that parcel, and directly east of the subject property, is Gateway Commonwealth Drive and a second vacant commercial parcel owned by Gateway Flex Associates. Just east of that property is an industrial use, warehousing, owned by Baader North America Corporation. Directly north of the subject property is a fire station owned by the South Trail Fire Protection and Rescue Services District. To the northeast of the South Trail station is a third vacant commercial parcel owned by Gateway Flex, while directly north of the station is a light manufacturing (industrial) facility owned by Power of Nature, L. L. C. To the northwest and west of the subject property is a vacant commercial planned development owned by David C. Brown and currently being used for pasture land (agriculture).



4. Map and describe existing zoning of the subject property and the surrounding properties. Please see attached Exhibit 2 for an 8.5" X 11" map of surrounding zoning. The subject property is part of the Gateway PUD/DRI. To the north and east are other parcels that are part of the Gateway

PUD/DRI. Exhibit 2 denotes the zoning boundaries for these parcels. To the west is the Brown CPD, currently vacant and used for pasture. To the south is the Airport, zoned AOPD.

5. The legal description of the property subject to the requested change. **The legal description for the parcel is as follows: Lot 1, Block C, Gateway Phase 15 according to the plat thereof recorded in Plat Book 53 at pages 15 through 21 of the public records of Lee County, Florida, AND the south one-half (S ½) of Lot 2, Block C, Gateway Phase 15, as recorded in Plat Book 53, Pages 15 through 21, of the public records of Lee County, Florida.**
6. A copy of the deed for the property subject to the requested change. **Attached please find Exhibit 3, the deed for the subject property.**
7. An aerial map showing the subject properties and the surrounding properties. **Attached please find Exhibit 4, an aerial photograph of the subject property and surrounding properties.**
8. If applicant is not the owner, a letter from the owner of the property authorizing the applicant to represent the owner. **Applicant is the owner of the subject property.**

B. Public Facilities Impacts.

1. Traffic Circulation Analysis, Long-Range Horizon.

- i. Identify the traffic analysis zone (TAZ) in which the property is located and the socio-economic data forecasts for that zone. **The subject property is in Zone 626.**
- ii. 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.). **No modification of the data forecasts are required. The use proposed for the site (charter school) is consistent with the data forecasts for the TAZ.**
- iii. If the proposal is based on a specific development plan, then the site plan should indicate how the facilities from the current adopted Financially Feasible Plan and/or the Official Trafficways Map will be accommodated. **The proposal is indeed predicated upon a specific development plan. The Lehigh Charter School is being proposed for the subject property, and the Master Site Plan prepared by Hole Montes is attached as Exhibit 5. Pursuant to LDC requirements, the proposed site plan has accommodated all site related impacts associated with the proposed development plan. There are no facilities on the Financially Feasible Plan or the Official Trafficways Map that have**



not been accommodated in the proposed site development plan attached as Exhibit 5.

2. Traffic Circulation Analysis, Short-Range, 5-year CIP Horizon:

- i. Identify existing roadways serving the site and within a 3-mile radius. **Primary access is provided by Gateway Commonwealth Drive. That street intersects with Daniels Parkway which proceeds northeast to an intersection with Gateway Boulevard, the main entrance to the Gateway development. Further east and north Daniels Parkway extends to intersect with S. R. 82. To the west on Daniels Parkway is Chamberlain Parkway and the entrance to the Southwest Florida Regional Airport. Further west is the intersection with Treeline Boulevard and I-75.**
- ii. 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. **Currently funded for construction is Treeline/Ben Hill Griffin Parkway between Daniels Parkway and Alico Road. Additionally, the northerly extension of Treeline to S. R. 82 is projected to begin construction in F. Y. 2006. Also projected to begin construction in F. Y. 2006 are improvements to I-75, south of the Daniels Parkway interchange. No other improvements to the road network have been identified within the 3-mile radius from the subject property.**
- iii. For the five-year horizon, identify the projected roadway conditions with the programmed improvements in place, with and without the proposed development project. **Please see attached Exhibit 6, a Traffic Impact Statement prepared by Hole Montes.**
- iv. Identify the additional improvements needed on the network beyond those programmed in the five-year horizon due to the development proposal. **No additional improvements are needed on the network beyond those programmed due to the development of the proposed charter school.**

C. Environmental Impacts.

1. A map of the plant communities as defined by the Florida Land Use Cover and Classification system (FLUCCS). **See attached Exhibit 7. Please note that the entirety of the site has been cleared, and there are no environmentally sensitive areas left on the property.**
2. A map and description of the soils found on the property. **According to the USGS Soils Atlas of Lee County, the subject property is composed of soil type 12, Felda fine sand, and soil type 49, Felda fine sand, depressional. The soils of the Felda series are loamy, siliceous, hyperthermic Arenic Ochraqualfs. They are deep, poorly drained, moderately permeable soils**

Soils Map Exhibit 8

Subject Property

Felda Fine Sand

Felda Fine Sand, Depressional

AIRSIDE LOOP RD

COMMONWEALTH DR

WESTLINKS DR

DANIELS PKWY

Parcel numbers: 134525, 184526, 244525, 194526, 45, 28, 49, 34, 73, 6

Soil codes: 0010, 0000, 0001, 0002, 0003, 0004, 0005, 0006, 0007, 0008, 0009, 0011, 0012, 0013, 0014, 0015, 0016, 0017, 0018, 0019, 0020, 0021, 0022, 0023, 0024, 0025, 0026, 0027, 0028, 0029, 0030, 0031, 0032, 0033, 0034, 0035, 0036, 0037, 0038, 0039, 0040, 0041, 0042, 0043, 0044, 0045, 0046, 0047, 0048, 0049, 0050, 0051, 0052, 0053, 0054, 0055, 0056, 0057, 0058, 0059, 0060, 0061, 0062, 0063, 0064, 0065, 0066, 0067, 0068, 0069, 0070, 0071, 0072, 0073, 0074, 0075, 0076, 0077, 0078, 0079, 0080, 0081, 0082, 0083, 0084, 0085, 0086, 0087, 0088, 0089, 0090, 0091, 0092, 0093, 0094, 0095, 0096, 0097, 0098, 0099

© 2003 Lee County Property Appraiser

0 700ft

- 5



4. A map delineating wetlands, aquifer recharge areas, and rare and unique uplands. **The entirety of the site has been cleared and filled. There are no wetlands, no aquifer recharge areas, and no rare and unique uplands. There is some native vegetation in the southwest corner of the site, as can be seen on the aerial photograph (Exhibit 4) that is proposed for preservation according to the site plan prepared by Hole Montes (Exhibit 5).**
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). **The subject property is currently under construction, has been cleared and filled, and contains no species that are threatened, endangered, or are of special concern. The attached Exhibit 5 shows the extent of development on the subject property and demonstrates that there are no areas where such habitat still exists.**

D. Impacts on Historic Resources

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. **There are no historic districts or sites located on the subject property or on adjacent properties.**
2. A map showing the subject property location on the archeological sensitivity map for Lee County. **See attached Exhibit 10.**

E. Internal Consistency with the Lee Plan.

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. **The proposed change will have no effect upon the population projections. The removal of the subject property from the Zone 3 designation will not change any acreage in the Year 2020 Allocation Table. There will be no impact upon the total population capacity of the Future Land Use Map in that the site is already under development as a Charter School.**
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. **Policy 1.7.1 defines the various Airport Noise Zones and describes the uses permitted in each. The removal of the subject property from Zone 3 will have no effect upon this policy. Policy 46.3.11 states, "Prohibit the location of schools in the areas designated on the Future Land Use Map as Airport Noise Zone 3 or within other high noise impact areas." The removal of the subject property will serve to implement Policy**

46.3.11 in that the proposed Lehigh Charter School will be removed from Zone 3. Additionally, attached as Exhibit 11, is a noise study that demonstrates the subject property is not subject to high noise impacts. Also attached, as Exhibit 12-1, is the 1994 Noise Contour Map prepared for the Lee County Port Authority demonstrating that the subject property is outside of the 60 noise contour line. Additionally, Exhibit 12-2 shows the future noise contours, and again the subject property is outside the 60 contour. Finally, Exhibit 12-3 shows the Zone 3 boundary and the location of the subject property. It is noted that the subject property is on the westerly edge of the Zone 3 designation north of Daniels Parkway, and is approximately one-half mile from the 60 contour line that delineates restrictions based upon noise sensitive uses. Thus, there is no scientific basis for placing the noise restriction upon the subject property, and the removal of this parcel from Zone 3 will serve to implement Policy 46.3.11.

3. Describe how the proposal affects adjacent local governments and their comprehensive plans. **The proposal will have no impact upon local governments. The proposal will, however, aid in the establishment of a Charter School, promoting the educational resources of the County at large.**
4. List State Policy Plan and Regional Policy Plan goals and policies which are relevant to this plan amendment. **Goal 1 of the Regional Policy Plan's Economic Development element states that the RPC will seek, "A well-maintained social, health, and educational infrastructure to support business and industry." As a strategy, the Council will, "Continually improve the educational system to produce an educated and trained work force." The transfer of the subject property from Zone 3 into Zone 1 supports this Goal and strategy as articulated in the Regional Policy Plan. In the State Comprehensive Plan, Health Policy 2.d. states, "All Florida students should be provided with comprehensive, continuous health education in prekindergarten through grade 12 settings." The proposed amendment will assist in the implementation of this Policy in that it will allow for the provision of educational opportunities for children grades K through 12. Land Use Policy 7 states, "Provide educational programs and research to meet state, regional, and local planning and growth management needs." The proposed amendment will serve to promote this policy through the ability to establish the Charter School on the subject property.**

F. Additional Requirements for Specific Future Land Use Amendments.

1. Requests involving industrial and/or commercial categories targeted by the Lee Plan as employment centers. **Not applicable.**
2. Requests moving lands from a Non-Urban Area to a Future Urban Area. **Not applicable.**

3. Requests involving lands in critical areas for future water supply must be evaluated based on Policy 2.4.2. **Not applicable.**
 4. Requests moving lands from Density Reduction/Groundwater must fully address Policy 2.4.3 of the Lee Plan Future Land Use Element. **Not applicable.**
- 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.

The subject property is a +/- 6.8 acre parcel located at the extreme westerly edge of the Zone 3 designated land north of Daniels Parkway. It is part of a platted commercial subdivision, a copy of which is attached as Exhibit 13. A review of the noise contour maps (composite Exhibit 12) demonstrates that the subject property is located well outside the lowest noise sensitivity designation by a distance of approximately one-half mile. The underlying land use is 'New Community' and the growth anticipated for this planning district between now and 2020 is significant. The proposed Charter School will support the growth in the proximate area, as well as throughout the County, through the provision of unique educational opportunities for the Counties children. The site is well located in regard to infrastructure, and there are no environmental issues associated with the location of the facility. The attached noise study undertaken by the owner demonstrates that the site is not negatively affected by airport operations, and the existing contract between the owner and the Lee County School Board demonstrates that the location of the facility meets the long-term needs of the school system. The subject property does not meet the definition of the Zone 3 designation, so the removal of this parcel from Zone 3 does not create an inconsistency in the Lee Plan. Because it does not meet the definition of Zone 3 property, re-designation would be consistent with generally accepted planning principles and practices.



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Exhibit 1

Airport Commerce

134525

AG-2

Wetlands

New Community

PUD

Wetlands

PUD

1070
00001

184526

PUD
PUD

GATEWAY RD

Subject Property

PUD

DANIELS PKWY

Wetlands

Wetlands

CPD

244525

AIRSIDE LOOP RD





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Exhibit 2





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Exhibit 3



THIS INSTRUMENT PREPARED
WITHOUT OPINION OF TITLE BY:

Jeffrey S. Kannensohn, Esquire
Porter Wright Morris & Arthur LLP
5801 Pelican Bay Boulevard, Suite 300
Naples, Florida 34108-2709

INSTR # 5725210
Official Records BK 03855 PG 4043
RECORDED 02/27/2003 03:56:58 PM
CHARLIE GREEN, CLERK OF COURT
LEE COUNTY
RECORDING FEE 10.50
DEED DOC 0.70
DEPUTY CLERK S Jensen

Parcel I.D. No.: Parcel II: 19-45-26-05-0000C.0010
Parcel III 19-45-26-000C.0020

WARRANTY DEED

THIS INDENTURE, Made effective the 27th day of February 2003, by GATEWAY FLEX ASSOCIATES, LLC, a Florida limited liability company, Grantor, to COMMONWEALTH FLEX ASSOCIATES, LLC, a Florida limited liability company, whose address is 27300 Riverview Center Boulevard, Suite 201, Bonita Springs, Florida 34134, Grantee.

(Wherever used herein the terms "Grantor" and "Grantee" shall include singular and plural, heirs, legal representatives, and assigns of individuals, and the successors and assigns of corporations, wherever the context so admits or requires.)

WITNESSETH, that the Grantor, for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable considerations, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys and confirms unto the Grantee all that certain land situate and being in Lee County, Florida, to wit:

See Attached Exhibit "A" and made a part hereof.

SUBJECT TO restrictions, reservations, and easements of record, if any, and taxes for 2002 and subsequent years.

Said Grantor does hereby fully warrant the title to said land, and will defend the same against the lawful claims of all persons whomsoever.

IN WITNESS WHEREOF, Grantor has hereunto set Grantor's hand the day and year first written above.

Witnesses:

GATEWAY FLEX ASSOCIATES, LLC,
a Florida limited liability company

Marye Berne
Print Name: Marye Berne
Robert W. Angelo Jr.
Print Name: Robert W. Angelo Jr.

By: John S. McGarvey
JOHN S. MCGARVEY, As Its Managing
Member

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 26 day of February 2003, by JOHN S. MCGARVEY, as the Managing Member of GATEWAY FLEX ASSOCIATES, LLC, a Florida limited liability company, who executed the foregoing instrument on behalf of the partnership, and [☒] who is personally known to me or [☐] who produced a driver's license as identification.

(SEAL)



Kristin Skobodzian
My Commission DD092815
Expires February 17 2006

Kristin Skobodzian
Notary Public - State of Florida
My Commission expires: 2/17/06

Exhibit 3

Official Records BK 03855 PG 4044

Exhibit "A"
Legal Description

PARCEL II:

LOT 1, BLOCK C, GATEWAY PHASE 15 ACCORDING TO THE PLAT
THEREOF RECORDED IN PLAT BOOK 53 AT PAGES 15 THROUGH 21 OF
THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

AND

PARCEL III:

SOUTH ONE HALF (S ½) OF LOT 2, BLOCK C, GATEWAY PHASE 15, AS
RECORDED IN PLAT BOOK 53, PAGES 15 THROUGH 21, OF THE PUBLIC
RECORDS OF LEE COUNTY, FLORIDA.



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Exhibit 4



SITE

300 150 0 300



1"=300'



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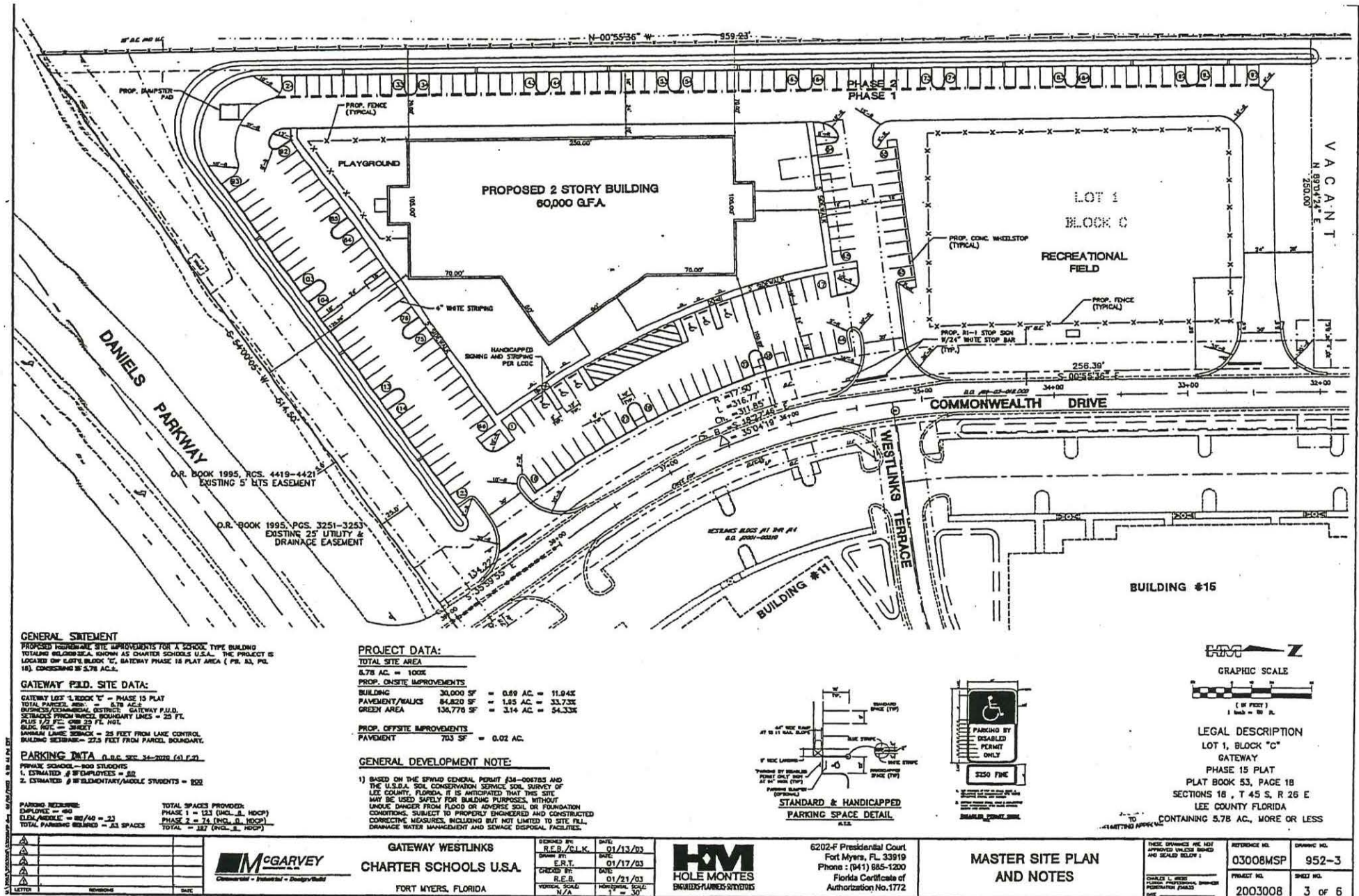


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Exhibit 5





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Exhibit 6

PROPOSED WESTLINKS CHARTER SCHOOL USA

- Lot 1 Block C, GATEWAY PHASE 15 PLAT-

GENERAL STATEMENT: included herein are traffic generation calculations for a 900 student charter school. The Charter School is a privately run part of the public school system in which students enroll as part of the school choice program. Students selected to attend the school will be picked up by buses run by the school just as any other public school. The total project for Lot 1, Block 'c' consists of the following:

$$\begin{array}{rcl} \text{CHARTER SCHOOL} & - & 60,000 \text{ S.F.} \\ \text{TOTAL} & & = 60,000 \text{ S.F.} \end{array}$$

TRAFFIC CALCULATIONS: Traffic generation calculations are based upon I.T.E. Trip Generation Manual, 6th edition using Land Use #520 "Elementary School" & 522 "Middle School/Junior High School", based upon estimated student population of 900 students (540 elementary, 360 middle school). The ITE manual estimates that 60 percent of the student population will arrive to the school by bus with the remaining 40% to be delivered by their parents or by walking. It is assumed that no students will be walking to the school even though there are residential developments within walking distance of the school.

The weekday a.m. peak hour of the generator typically coincides with the peak hour of the adjacent street traffic. The weekday p.m. peak hour is between 3:00 p.m. & 4:00 p.m.

ELEMENTARY SCHOOL, LAND USE CODE #520

AVTE WEEKDAY: $\text{Ln}(T) = 1.007 \text{ Ln}(X) - 0.086$ (50% ENTER, 50% EXIT)

$X = 540$ Students

$\text{Ln}(T) = 1.007 (6.29) - 0.086 = 518$

T = 518 (259 ENTER, 259 EXIT)

AVTE PEAK A.M.: Average Rate = 0.30 (58% ENTER, 42% EXIT)

$T = 0.30 * 540 \text{ Students} = 162$

T = 162 (94 ENTER, 68 EXIT)

AVTE PEAK P.M.: Average Rate = 0.26 (46% ENTER, 54% EXIT)

$T = 0.26 * 540 \text{ Students} = 140$

T = 140 (64 ENTER, 76 EXIT)

MIDDLE SCHOOL, LAND USE CODE #522

AVTE WEEKDAY: $\text{Ln}(T) = 1.559 \text{ Ln}(X) - 3.507$ (50% ENTER, 50% EXIT)

$X = 360$ Students

$\text{Ln}(T) = 1.559 (5.886) - 3.507 = 292$

T = 292 (146 ENTER, 146 EXIT)

AVTE PEAK A.M.: Average Rate = 0.45 (57% ENTER, 43% EXIT)

$$T = 0.45 * 360 \text{ Students} = 162$$

T = 162 (92 ENTER, 70 EXIT)

AVTE PEAK P.M.: Average Rate = 0.29 (51% ENTER, 49% EXIT)

$$T = 0.29 * 360 \text{ Students} = 104$$

T = 104 (53 ENTER, 51 EXIT)

TOTAL TRAFFIC MOVEMENTS

AVTE WEEKDAY:

Elementary School	= 518 (259 Enter, 259 Exit)
Middle School	= 292 (146 Enter, 146 Exit)
Total	= 810 (405 Enter, 405 Exit)

AVTE PEAK A.M.:

Elementary School	= 162 (94 Enter, 68 Exit)
Middle School	= 162 (92 Enter, 70 Exit)
Total	= 324 (186 Enter, 138 Exit)

AVTE PEAK P.M.: (between 3:00 p.m. & 4:00 p.m.)

Elementary School	= 140 (64 Enter, 76 Exit)
Middle School	= 104 (53 Enter, 51 Exit)
Total	= 244 (117 Enter, 127 Exit)

QUICK CHECK OF ITE MANUAL ASSUMPTIONS:

School Population: 900 students (60% Bussed, 40% Dropped Off)
(540 Students Bussed, 360 Dropped Off)
60 Employees (100% Cars)

Assumptions Based on School Information from Internet:

Average Bus Length – 40 feet
Average Number of Students per Bus – 30

Information from Mike Carroll:

Bus Trips equal 1.7 Car Trips

Assumptions for Student Loading of Cars:

1.7 Students per Car

Trip Movements

540 students / 30 students per bus = 18 buses
18 buses * 1.7 car trips per bus = 31 car trips
360 students / 1.7 students per car = 212 Cars
60 employees * 1 car trip per employee = 60 car trips
Total Number of Estimated Trips 303 Trips (ITE Peak Trips 324 AM, 244 PM)

The project will have three (3) points of ingress/egress onto Commonwealth Drive. Commonwealth Drive is a private local access street with a posted speed limit of less than 35 mph.

The site distribution utilized a weighted share for each driveway of 80% for the closest access and 20% for the other available access of peak hour trips for both the A.M. and P.M. peak hours. Please refer to the attached exhibit which depicts peak trips for each access. A regional project distribution of 88% to Daniels Road and 12% to S.R. 82 was also utilized. Each access yields less than the allowable turn lane warrant of 60 vph for a private local street.

Therefore, due to site generation analysis and distributions - no on-site turn lanes are warranted for the project.

Project: Gateway Westlinks Charter School USA
Client: Westlinks Flex Space Association
Date: January 28, 2003 (revised November 19, 2002)
Project #: 2003.008

The purpose of the following analysis is to determine that the existing eastbound Daniels Parkway left-turn lanes at Commonwealth Drive is adequate for the AM peak hour traffic derived from Gateway Westlinks Business Park in a built-out condition based upon the existing developments and those development approved for construction as of this date. The built-out condition includes the Charter School.

The proposed Westlinks Charter School is located in Gateway Westlinks Business Park. The business park was platted as Gateway Phase 15 plat of subdivision (P.B. 53, pages 15 through 21). The plat is comprised of lots A1 thru A4, lots B1 thru B3 and Lots C1 thru C5. The total land area excluding rights-of-way tracts and conservation area is 60.185 acres. The platted subdivision is located in Gateway DRI. According to the Gateway PUD, a wide variety of commercial, office, industrial and institutional uses can be developed on each of the lots. Some of the existing landuses occupying the business park include: DSI Laboratories; South Trail Fire Station #4; Baader Foods; and various office and flexible lease industrial uses. Approximately 716,000 sq. ft. of gross floor area has been either constructed, or permitted for construction within the business park; including the subject Charter School. Currently, there are no businesses such as restaurant, banking, medical or dental office uses.

TRAFFIC GENERATION CALCULATIONS:

ITE Trip Generation Manual, 6th Edition
Land Use Code #710: GENERAL OFFICE

AM Peak Hour Trip Ends per 1000 sq. ft. Gross Floor Area

Where X = 716

$\ln(T) = 0.797 \ln(X) + 1.558$ (88% enter, 12% exit)

$\ln(T) = 0.797 \ln(716) + 1.558$

T = 895 (788 enter, 107 exit)

TRAFFIC DISTRIBUTION CALCULATIONS:

Gateway DRI utilizes a distribution of 80% to Daniels Parkway, and 20% to SR 82

Trip Ends to Daniels Parkway = T (enter) x 0.88 = 788 x 0.88 = 693

Traffic distribution from the business park has been estimated based upon the 2002 DRI monitoring report for Gateway as follows:

Westlinks/Daniels Access – 80%
Commonwealth/Daniels – 20%
From Eastbound Daniels – 83%
From Westbound Daniels – 17%

$$\text{Westbound Traffic} = (0.17) (693) = 118$$

$$\text{Commonwealth/Daniels} = (0.20) (693) = 139$$

ANALYSIS OF DANIELS ROAD LEFT-TURN LANE:

Daniels Parkway posted speed limit is 50 MPH. Utilizing FDOT Index 301, the allowable deceleration length for a left-turn lane is 240 feet for Urban Conditions.

According to the Lee County Traffic Counts report for Daniels Parkway between Gateway Blvd. and Chamberlain Parkway: the projected 2002 peak direction traffic volume is 1,236 vehicles. This value is for the peak directional flow, and includes traffic generated from the Westlinks Business Park. Therefore, the net peak directional flow for opposing traffic used in Figure N-1 for each location has been reduced by 105 (refer to Traffic Generation Calculations – Exiting AM peak Hour Trip Ends). The net opposing traffic volume is 1,131.

COMMONWEALTH DIRECTIONAL LEFT-TURN LANE:

The existing eastbound directional left-turn lane geometry at Daniels Parkway and Commonwealth Parkway is approximately 450 feet in length. The resulting storage, less 240 feet deceleration length, is 210 feet. Refer to Figure N-1; the required turn-lane storage is approximately 350 feet. The existing left-turn lane storage is not acceptable.

COMMONWEALTH LEFT-TURN LANE MITIGATION:

The existing turn lane no longer has acceptable storage for automobiles, trucks and the estimated school bus traffic that will use the turn lane. It will need to be extended from its existing length of 450 feet (240 feet deceleration/210 feet storage) to a minimum length 680 feet (240 feet deceleration/440 feet storage) based on table N-1. It is assumed that no more than 6 to 7 busses will be staged in the Left Turn Lane at any one time. The average bus length is 40 ft, assuming 6 feet from the vehicle in front of them, this will leave 118 feet for other vehicular traffic.

100TH Highest Hour Analysis

Analysis assumes build-out during year 2003

The Charter School is required to be open in July for the 2003-2004 school year.

Analysis for Daniels Road

$$\text{Growth Rate Over Last Five Years} = (18000/9700)^{0.25} = 1.1671$$

$$\text{Estimated 2004 Peak Direction Traffic} = (1.1671)^2 \times 1236 = 1,684$$

$$\text{Additional Trips derived from Charter School} = 0.88 \times 186 = 164$$

Assume School Distribution at 70% coming from the West and 30% from the East

$$\text{Peak Direction at 70\%} = 164 \times 0.7 = 115$$

$$\text{2004 Estimated Peak Direction Volume at Daniels Road} = 1684 + 115 = 1799$$

Peak Hour Direction LOS C = 1,970 (OK)

Analysis for S.R 82

Growth Rate Over Last Five Years = $(9700/7200)^{0.25} = 1.0774$

Estimated 2004 Peak Direction Traffic = $(1.0774)^2 \times 753 = 874$

Additional Trips derived from Charter School = $0.12 \times 186 = 22$

Assume School Distribution at 70% coming from the North and 30% from the South

Peak Direction at 70% = $22 \times 0.7 = 15$

2004 Estimated Peak Direction Volume at Daniels Road = $874 + 22 = 896$

Peak Hour Direction LOS E = 1350 (OK)

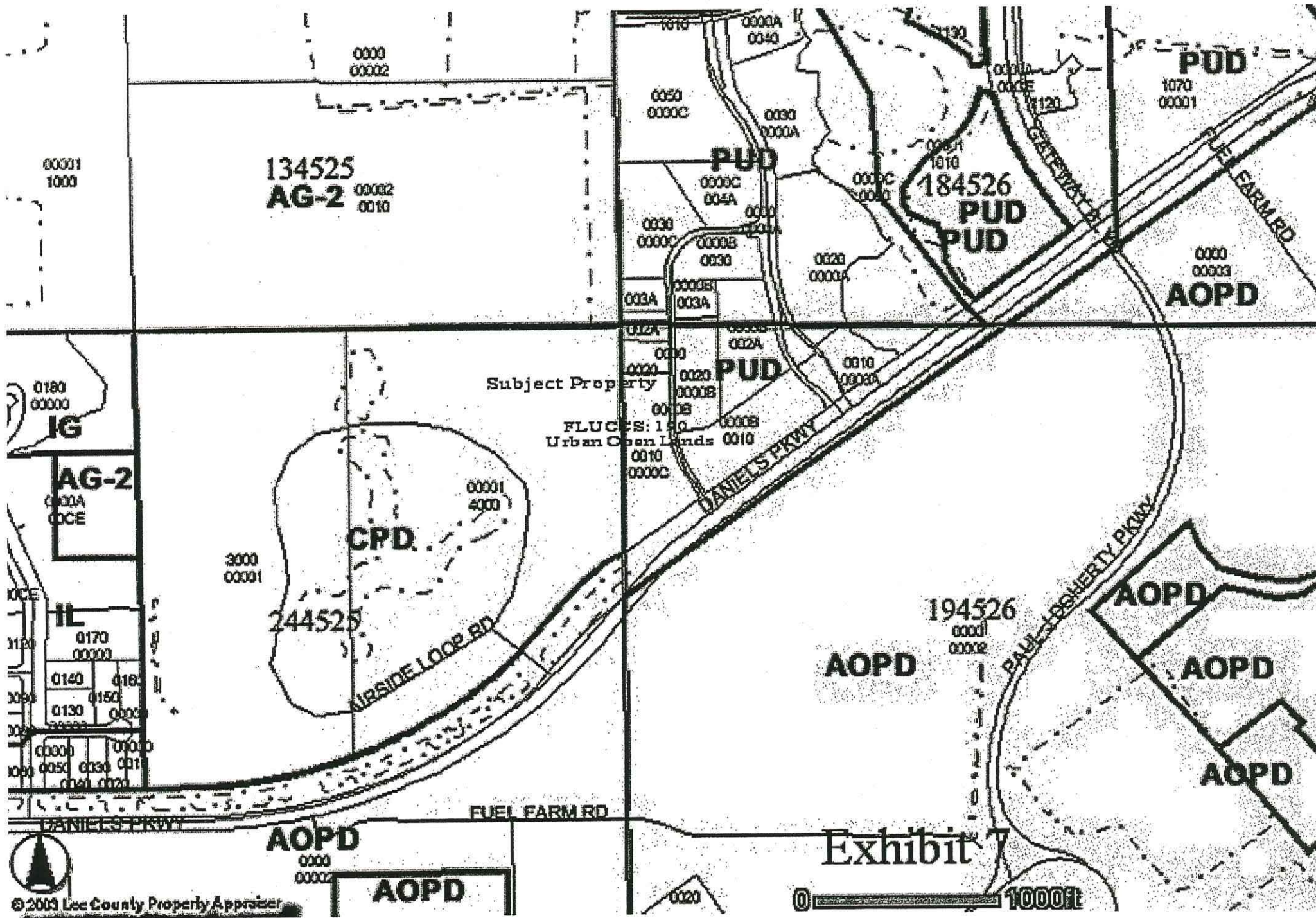
Performed By;
Hole Montes, Inc.

Charles L. Krebs
FL #56835



MORRIS-DEPEW ASSOCIATES, INC.
ENGINEERS • PLANNERS • SURVEYORS & MAPPERS
2216 Altamont Avenue • Fort Myers, Florida 33901 • (941) 337-3993 • FAX (941) 337-3994

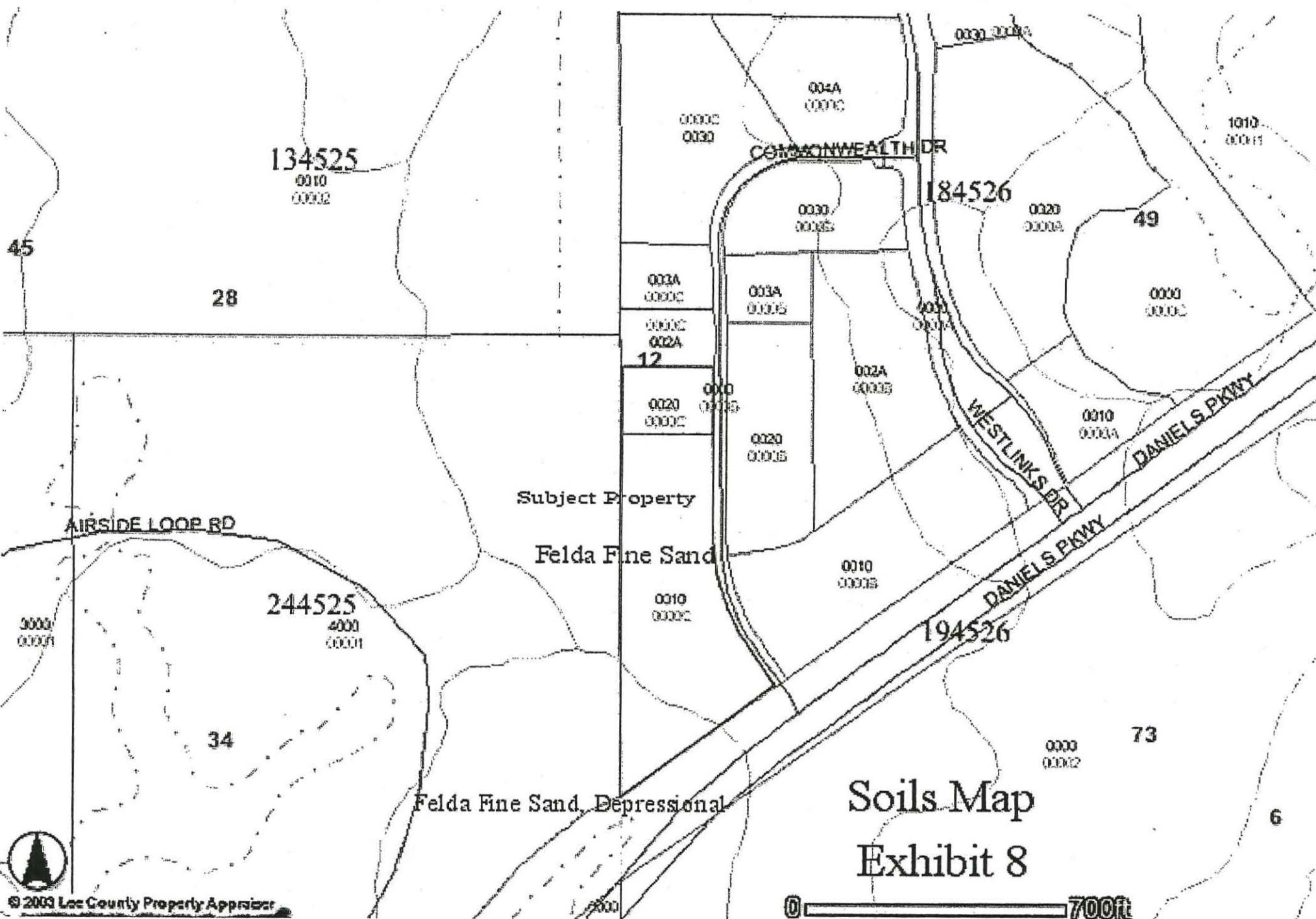
Exhibit 7





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2216 Altamont Avenue • Fort Myers, Florida 33901 • (941) 337-3993 • FAX (941) 337-3994

Exhibit 8





MORRIS-DEPEW ASSOCIATES, INC.
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2216 Altamont Avenue • Fort Myers, Florida 33901 • (941) 337-3993 • FAX (941) 337-3994

Exhibit 9

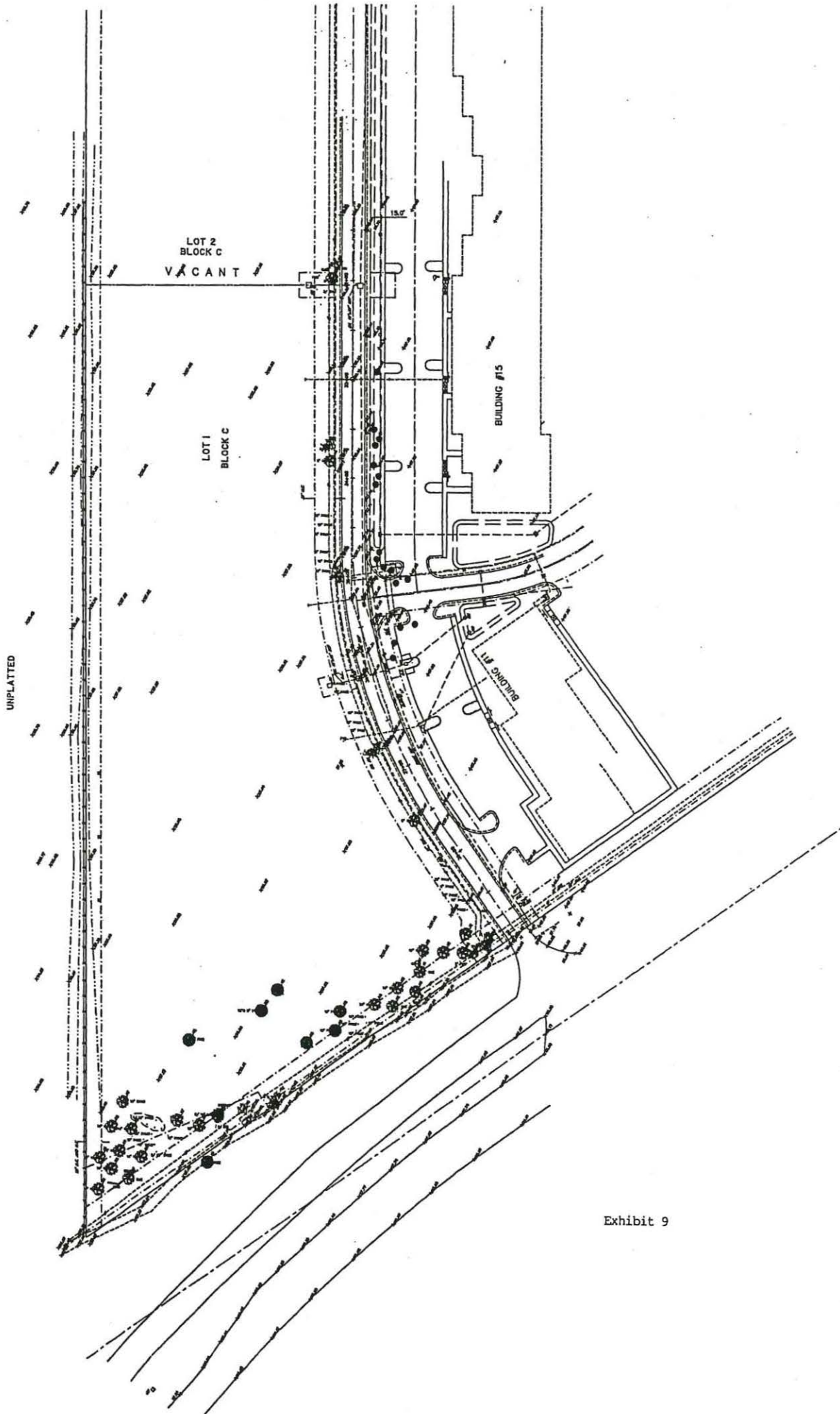
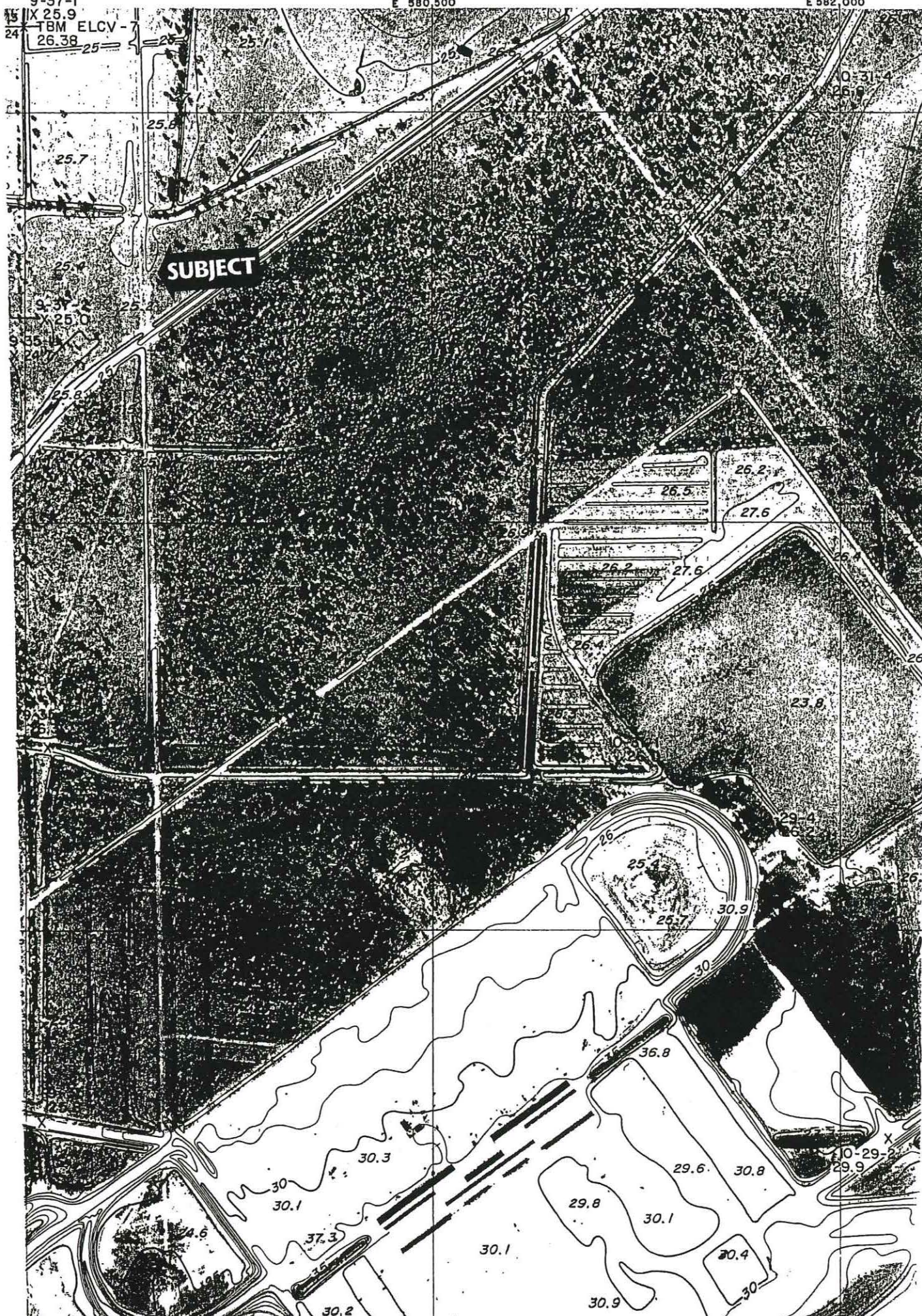
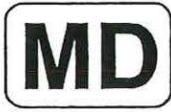


Exhibit 9

9-37-1
X 25.9
TBM ELCV - 7
26.38

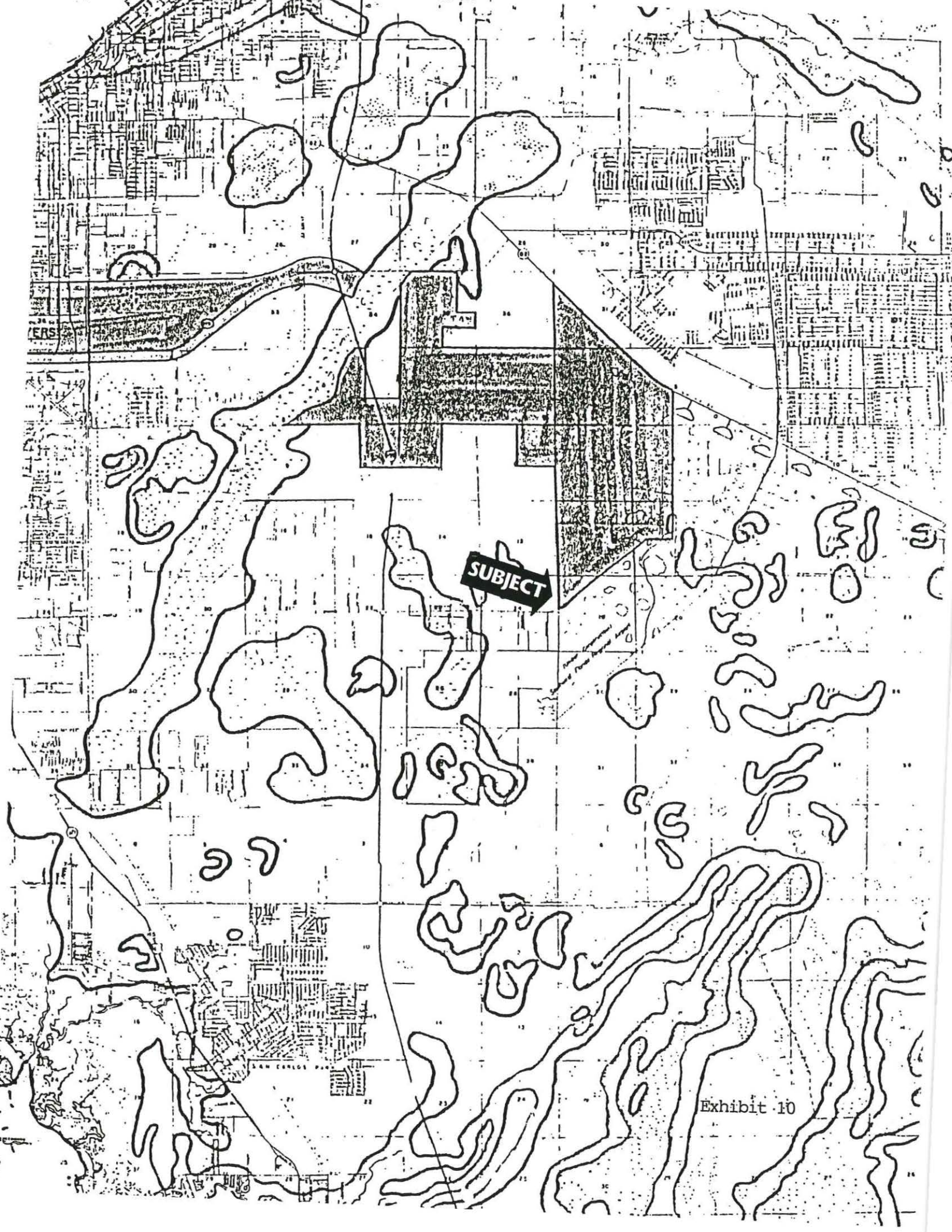
SUBJECT





MORRIS-DEPEW ASSOCIATES, INC.
ENGINEERS • PLANNERS • SURVEYORS & MAPPERS
2216 Altamont Avenue • Fort Myers, Florida 33901 • (941) 337-3993 • FAX (941) 337-3994

Exhibit 10



SUBJECT

Exhibit 10



MORRIS-DEPEW ASSOCIATES, INC.
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2216 Altamont Avenue • Fort Myers, Florida 33901 • (941) 337-3993 • FAX (941) 337-3994

Exhibit 11

Michael Chafee Enterprises

Phone (941) 921-4204

Fax (941) 923-7944

Email: mchafeeent@cs.com5690 Derek Avenue
Sarasota, FL 34233

April 7, 2003


To Whom It May Concern:

I performed a site survey at 12850 Commonwealth Drive, Ft. Myers, FL on April 7, 2003 from 10:55 – 11:15am. During that time the average sound pressure level during take off/landing of eight airplanes was 60.1db. Only two aircraft exceeded 60db. The average level due to traffic on the adjacent highway was 54.82db. During that time five trucks exceeded 60db.

In reviewing the construction of the building it appears that the minimum barrier to sound is presented by the windows which have a STC of approximately 30, bringing average sound pressure levels inside the building to below 30db. The recommended NC (noise criteria curve) for school rooms is 25, which equals to a sound level meter reading of 35.

It appears from this study that this space will meet the noise requirements for a school room.

Sincerely,


Michael Chafee
Michael Chafee Enterprises

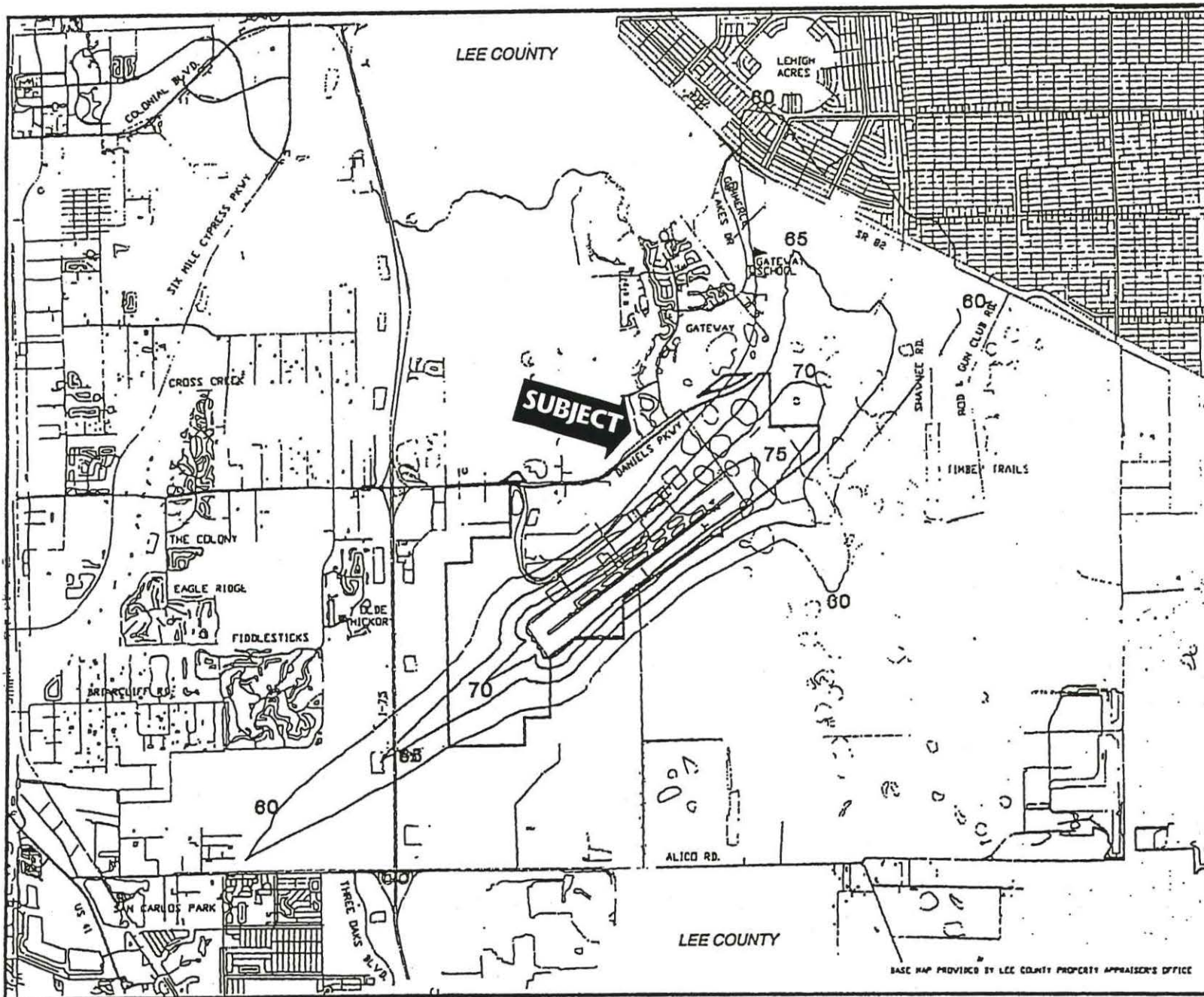
MC/pc

Exhibit 11



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Exhibit 12



LEGEND

- CURRENT AIRPORT PROPERTY LINE
- PROPOSED AIRPORT PROPERTY LINE
- RESIDENTIAL
- INCOMPATIBLE (FAA GUIDANCE)



N

0 5000 10000

SCALE IN FEET

SOUTHWEST FLORIDA
INTERNATIONAL AIRPORT



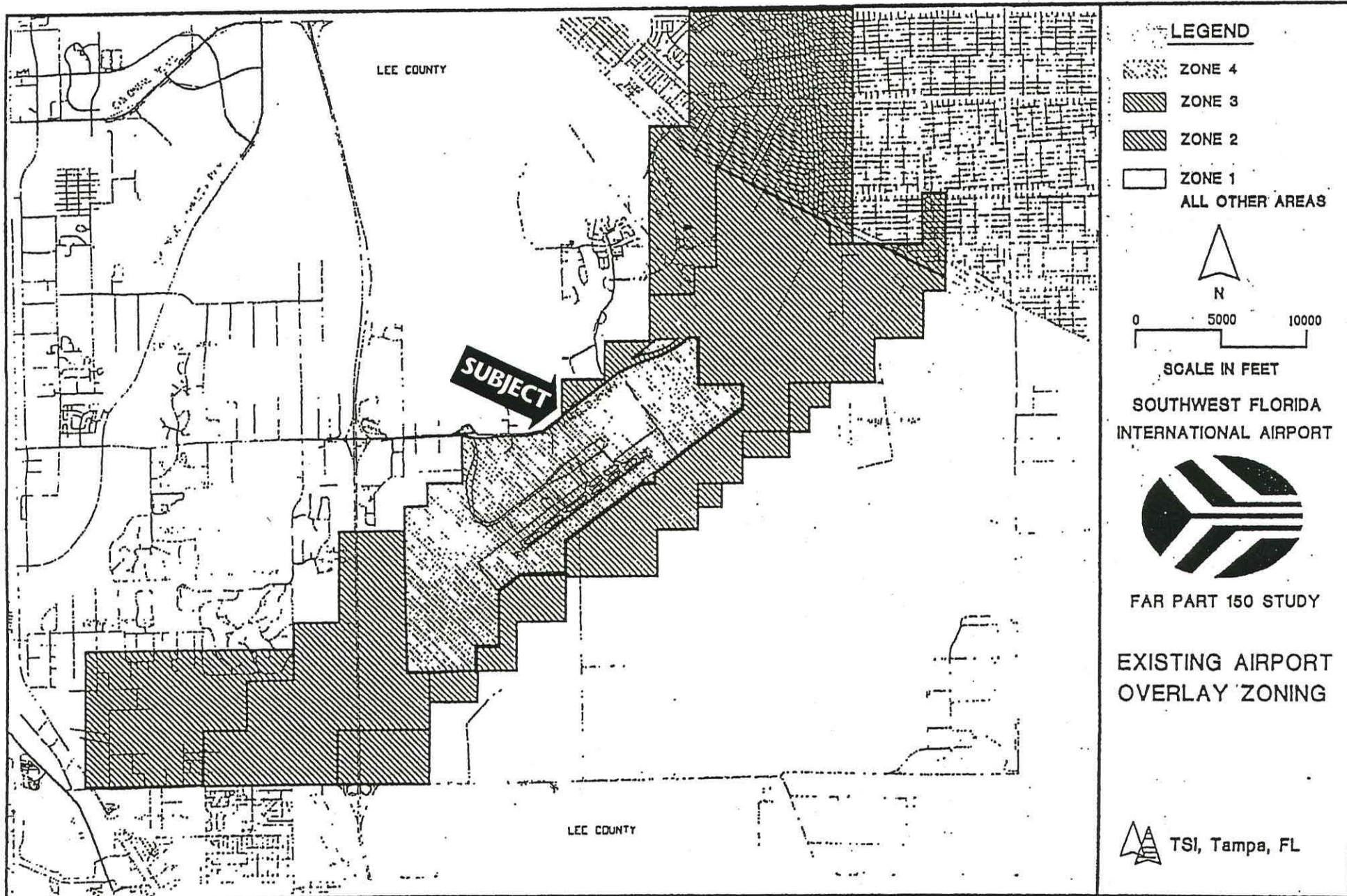
FAR PART 150 STUDY

CURRENT (1994)
NOISE CONTOURS
WITH RUNWAY
EXTENSIONS



TSI, Tampa, FL

BASE MAP PROVIDED BY LEE COUNTY PROPERTY APPRAISER'S OFFICE





MORRIS-DEPEW ASSOCIATES, INC.
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Exhibit 13

GATEWAY PHASE 15

A SUBDIVISION LOCATED IN SECTIONS 18 AND 19,
TOWNSHIP 45 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA

SEPTEMBER 1993
JOB NO. 08-119.10

PLAT BOOK 53 PAGE 16

DEDICATION:

KNOW ALL MEN BY THESE PRESENTS THAT WESTINGHOUSE GATEWAY COMMUNITIES, INC., A FLORIDA CORPORATION BEING THE OWNER OF THE HEREIN DESCRIBED LANDS HAVE CAUSED THIS PLAT OF "GATEWAY PHASE 15", A SUBDIVISION LOCATED IN SECTIONS 18 AND 19, TOWNSHIP 45 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA TO BE MADE AND DO HEREBY MAKE THE FOLLOWING DEDICATIONS:

THE ROAD RIGHTS-OF-WAY OF WESTLINKS DRIVE AND COMMONWEALTH DRIVE, REFERRED TO AS TRACTS "A" AND "B" RESPECTIVELY, THE SIGNAGE AND LANDSCAPE EASEMENTS, AND THE 35-FOOT WIDE INGRESS/EGRESS, UTILITY AND DRAINAGE EASEMENT LYING 17.5 FEET EITHER SIDE OF THE LINE DIVIDING LOT 1 AND LOT 2 OF BLOCK "B" TO THE WESTLINKS BUSINESS PARK PROPERTY OWNERS ASSOCIATION, INC., A FLORIDA NOT FOR PROFIT CORPORATION, FOR THE BENEFIT OF ITS PRESENT AND FUTURE MEMBERS, ITS SUCCESSORS AND ASSIGNS, AND THEIR TENANTS' INVITEES, LICENSEES, MORTGAGEES AND EMPLOYEES, RESERVING UNTO WESTINGHOUSE GATEWAY COMMUNITIES, INC., ITS SUCCESSORS, ASSIGNS, EMPLOYEES AND INVITEES, A PERPETUAL RIGHT OF INGRESS AND EGRESS ON AND OVER SAID TRACTS "A" AND "B".

TRACT "C", LAKE MAINTENANCE EASEMENTS AND DRAINAGE EASEMENTS SHOWN HEREON, AND AN EASEMENT FOR UTILITIES AND DRAINAGE-WATER MANAGEMENT PURPOSES, OVER, IN AND ACROSS TRACTS "A" AND "B" ARE HEREBY GRANTED TO THE GATEWAY SERVICES DISTRICT.

AN EASEMENT FOR DRAINAGE AND UTILITY PURPOSES INCLUDING INGRESS AND EGRESS ON, OVER, ACROSS AND UNDER TRACTS "A" AND "B" IS HEREBY GRANTED TO THE GATEWAY SERVICES DISTRICT AND PUBLIC UTILITIES.

ALL UTILITY EASEMENTS SHOWN HEREON ARE FOR THE PURPOSES OF INSTALLATION, REPAIR AND MAINTENANCE OF WATER, SEWER, ELECTRIC, CABLE TELEVISION AND TELEPHONE. THE DECLARANT HEREBY RESERVES UNTO GATEWAY/JONES COMMUNICATIONS, LTD., ITS SUCCESSORS AND ASSIGNS, THE ADDITIONAL AND NON-EXCLUSIVE USE OF SAID UTILITY EASEMENTS FOR CABLE TELEVISION PURPOSES. THE UTILITY EASEMENTS ARE GRANTED TO GOVERNMENT AGENCIES AND PUBLIC UTILITY COMPANIES.

IN WITNESS WHEREOF WESTINGHOUSE GATEWAY COMMUNITIES, INC., HAS CAUSED THESE PRESENTS TO BE MADE AND SIGNED BY ITS RESPECTIVE OFFICERS THIS 23RD DAY OF SEPTEMBER, 1993 A.D.

David Caldwell
WITNESS AS TO BOTH

David Caldwell
PRINTED NAME

Deanne McAllister
WITNESS AS TO BOTH

Deanne McAllister
PRINTED NAME

ACKNOWLEDGEMENT:

STATE OF FLORIDA)
COUNTY OF LEE)

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS 23RD DAY OF SEPTEMBER, 1993 A.D. BY SAMUEL L. CROUCH, EXECUTIVE VICE PRESIDENT AND PETER D. DORAGH, ASSISTANT SECRETARY OF WESTINGHOUSE GATEWAY COMMUNITIES, INC., A FLORIDA CORPORATION, ON BEHALF OF THE CORPORATION. THEY ARE PERSONALLY KNOWN TO ME.

October 9, 1995
MY COMMISSION EXPIRES:

WESTINGHOUSE GATEWAY COMMUNITIES, INC.
Samuel L. Crouch
SAMUEL L. CROUCH, EXEC. VICE PRESIDENT

Peter D. Doragh
PETER D. DORAGH, ASSISTANT SECRETARY

Janice L. Britt
NOTARY PUBLIC, STATE OF FLORIDA
Janice L. Britt
PRINTED NAME
Notary Public
TITLE OR RANK (IF ANY)
CC 130443
SERIAL NUMBER (IF ANY)

LEGAL DESCRIPTION:

A TRACT OR PARCEL OF LAND LYING IN SECTIONS 18 AND 19, TOWNSHIP 45 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE SOUTHWEST CORNER OF SAID SECTION 18; THENCE N00°53'07"W ALONG THE WESTERLY BOUNDARY OF THE SOUTHWEST ONE-QUARTER OF SAID SECTION 18 A DISTANCE OF 1610.00 FEET TO A POINT OF INTERSECTION WITH THE SOUTHERLY RIGHT-OF-WAY LINE OF COMMERCE LAKES DRIVE; THENCE N89°06'53"E A DISTANCE OF 375.27 FEET TO A POINT OF CURVATURE OF A CIRCULAR CURVE CONCAVE TO THE NORTHWEST; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE HAVING FOR ITS ELEMENTS A RADIUS OF 1305.00 FEET, A CENTRAL ANGLE OF 30°13'11", AN ARC DISTANCE OF 688.30 FEET, A CHORD DISTANCE OF 680.35 FEET AND A CHORD BEARING OF N74°00'18"E; THE PRECEDING TWO COURSES BEING COINCIDENTAL WITH THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID COMMERCE LAKES DRIVE; THENCE S31°06'18"E ALONG A RADIAL LINE TO SAID CURVE A DISTANCE OF 671.01 FEET; THENCE S05°18'51"E A DISTANCE OF 528.28 FEET; THENCE S37°08'04"E A DISTANCE OF 754.87 FEET TO A POINT OF INTERSECTION WITH THE NORTHERLY RIGHT-OF-WAY LINE OF DANIELS PARKWAY AS RECORDED IN OFFICIAL RECORDS BOOK 1644 AT PAGE 1741 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE S54°00'05"W ALONG SAID NORTHERLY RIGHT-OF-WAY LINE A DISTANCE OF 2269.01 FEET TO A POINT OF INTERSECTION WITH THE WESTERLY BOUNDARY OF THE NORTHWEST ONE-QUARTER OF SAID SECTION 19; THENCE N00°55'36"W ALONG SAID WESTERLY BOUNDARY A DISTANCE OF 1233.07 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINING 80.112 ACRES, MORE OR LESS.

GATEWAY SERVICES DISTRICT:

THE DISTRICT HEREBY ACKNOWLEDGES ACCEPTANCE OF EASEMENTS DEDICATED ON THIS PLAT AND DRAINAGE OF ALL LANDS CONTAINED WITHIN THIS PLAT.

John H. Goff
WITNESS AS TO BOTH

John H. Goff
PRINTED NAME

Willard E. Decker
WITNESS AS TO BOTH

Willard E. Decker
PRINTED NAME

ACKNOWLEDGEMENT:

STATE OF FLORIDA)
COUNTY OF LEE)

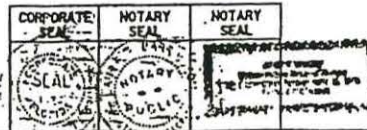
THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS 23RD DAY OF SEPTEMBER, 1993 A.D. BY DOUGLAS G. BROWN, PRESIDENT AND STEVE SHIMP, ASST. SECRETARY OF THE GATEWAY SERVICES DISTRICT, ON BEHALF OF SAID DISTRICT. THEY ARE PERSONALLY KNOWN TO ME.

August 15, 1995
MY COMMISSION EXPIRES:

GATEWAY SERVICES DISTRICT
Douglas G. Brown
DOUGLAS G. BROWN, PRESIDENT

Steve Shimp
STEVE SHIMP, ASSISTANT SECRETARY

Janet Y. Valery
NOTARY PUBLIC, STATE OF FLORIDA
Janet Y. Valery
PRINTED NAME
Notary Public
TITLE OR RANK (IF ANY)
CC 136832
SERIAL NUMBER (IF ANY)

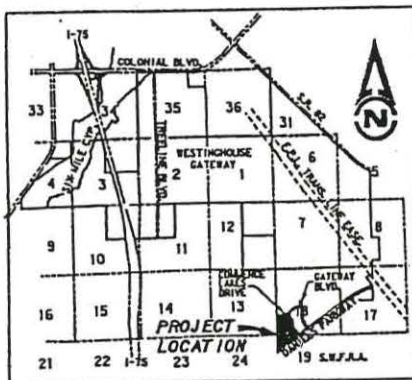


PREPARED BY:
POST, BULLEY, SCHUB & JENKINS, INC.
6325 PRESIDENTIAL COURT
FORT MYERS, FL 33919
SHEET 2 OF 7

GATEWAY PHASE 15

A SUBDIVISION LOCATED IN SECTIONS 18 AND 19,
TOWNSHIP 45 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA

SEPTEMBER 1993
JOB NO. 08-119.10



NOTICE:
LANDS DESCRIBED IN THIS PLAT ARE SUBDIVIDED BY THE DEVELOPER WITHOUT THE ROADS, DRAINAGE AND SEWER FACILITIES BEING ACCEPTED FOR MAINTENANCE BY LEE COUNTY. ANY PURCHASER OF A LOT IN THIS SUBDIVISION IS ADVISED THAT HE MAY BE SUBJECT TO ASSESSMENT OR CALLED UPON TO BEAR A PORTION OR ALL OF THE EXPENSE OF CONSTRUCTION, MAINTENANCE OR IMPROVEMENT OF ROADS, DRAINAGE AND SEWER FACILITIES.

APPROVAL:

THIS PLAT ACCEPTED THIS 10th DAY OF NOVEMBER, 1993 A.D. IN OPEN MEETING OF THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA.

Ray Trian
VICE-CHAIRMAN OF THE BOARD

Ray Trian
PRINTED NAME

Patricia White
COUNTY ATTORNEY

Patricia White
PRINTED NAME

Mary Gibbs
DIRECTOR, DEPARTMENT OF COMMUNITY DEVELOPMENT

Mary Gibbs
PRINTED NAME

Charlie Green
CLERK OF COURT

Charlie Green
PRINTED NAME

Mary Gibbs
DIRECTOR, DIVISION OF ZONING AND DEVELOPMENT REVIEW

Mary Gibbs
PRINTED NAME



NOTICE:

THERE MAY BE ADDITIONAL RESTRICTIONS THAT ARE NOT RECORDED ON THIS PLAT THAT MAY BE FOUND IN THE PUBLIC RECORDS OF THIS COUNTY.

SURVEYOR'S CERTIFICATION:

I HEREBY CERTIFY THAT THE ATTACHED PLAT OF 'GATEWAY PHASE 15', A SUBDIVISION LOCATED IN SECTIONS 18 AND 19, TOWNSHIP 45 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA, IS A TRUE AND CORRECT REPRESENTATION OF THE HEREIN DESCRIBED LAND ACCORDING TO A RECENT SURVEY MADE AND PLATTED UNDER MY DIRECTION AND SUPERVISION AND THAT THE SURVEY DATA COMPLIES WITH ALL OF THE REQUIREMENTS OF CHAPTER 177, FLORIDA STATUTES. I FURTHER CERTIFY THAT THE PERMANENT REFERENCE MONUMENTS (PRM'S) HAVE BEEN PLACED AT THE LOCATIONS SHOWN ON THIS PLAT.

DATE 9-23-93

POST. BUCKLEY, SMITH & JERNIGAN, INC.

Richard L. McCarrier
RICHARD L. MCCARRIER
PROFESSIONAL LAND SURVEYOR NO. 3875
STATE OF FLORIDA



CERTIFICATION:

I HEREBY CERTIFY THAT THE ATTACHED PLAT OF 'GATEWAY PHASE 15', A SUBDIVISION LOCATED IN SECTIONS 18 AND 19, TOWNSHIP 45 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA, HAS BEEN EXAMINED BY ME AND FROM MY EXAMINATION I FIND THAT THE SAID PLAT COMPLIES WITH THE REQUIREMENTS OF CHAPTER 177, FLORIDA STATUTES. I FURTHER CERTIFY THAT THIS PLAT WAS FILED FOR RECORD AT LEE COUNTY, THIS 17th DAY OF NOVEMBER, 1993 A.D., AND DULY RECORDED IN PLAT BOOK 53 AT PAGES 15 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

Charlie Green
CLERK OF COURT

Charlie Green
PRINTED NAME

PREPARED BY:
POST, BUCKLEY, SMITH & JERNIGAN, INC.
6320 PRESIDENTIAL COURT
FORT MYERS, FL 33919

PB 53 PG 17

GATEWAY PHASE 15

A SUBDIVISION LOCATED IN SECTIONS 18 AND 19,
TOWNSHIP 45 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA

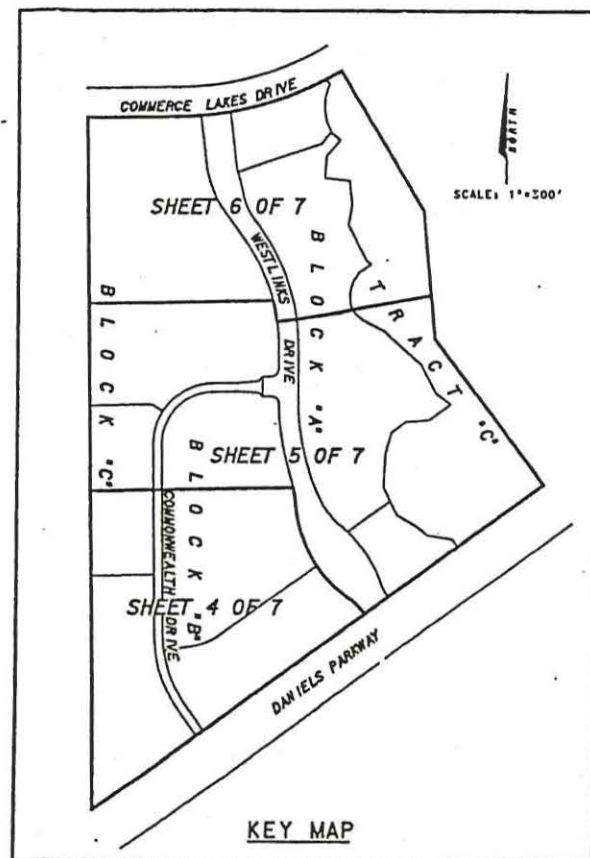
SEPTEMBER 1993
JOB NO. 08-119.10

PLAT BOOK 51 PAGE 17

NOTES:

1. BEARINGS SHOWN HEREON ARE BASED UPON FIXING THE WESTERLY BOUNDARY OF THE SOUTHWEST ONE-QUARTER OF SECTION 18, TOWNSHIP 45 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA AS N00°53'07"E.
2. P.O.B. INDICATES POINT OF BEGINNING
3. ■ INDICATES SET 4" X 4" PERMANENT REFERENCE MONUMENT (PRM) STAMPED "PBJ 3875"
4. * INDICATES SET PERMANENT CONTROL POINT (PCP) - 5/8" P.K. NAIL WITH DISC STAMPED "LB024"
5. O.R. INDICATES OFFICIAL RECORDS
6. E INDICATES CENTERLINE
7. A 6-FOOT WIDE UTILITY EASEMENT IS RESERVED ALONG EACH SIDE AND REAR LOT LINE AND A 10-FOOT WIDE UTILITY EASEMENT IS RESERVED ALONG THE FRONT LINE OF EACH LOT UNLESS OTHERWISE INDICATED. SEE PLAT FOR ADDITIONAL EASEMENTS.

AREA TABLE	
AREA (ACRES)	
LOT A1	1.872
LOT A2	7.797
LOT A3	5.273
LOT A4	2.184
LOT B1	5.226
LOT B2	7.230
LOT B3	4.287
LOT C1	5.777
LOT C2	2.008
LOT C3	2.058
LOT C4	6.526
LOT C5	9.947
TRACT A	5.436
TRACT B	1.464
TRACT C	13.027
TOTAL	80.112



NOTICE:

PROPERTY DESCRIBED HEREIN LYING IN SECTION 18 TOWNSHIP 45S RANGE 26E, IS SUBJECT TO AN AVIGATION EASEMENT RECORDED IN O.R. BOOK 3993 PAGE 17 AND OFFICIAL RECORDS OF LEE COUNTY, FLORIDA.

PREPARED BY:
POST, BUCKLEY, SCHUB & JENNIFER, INC.
6326 PRESIDENTIAL COURT
FORT MYERS, FL 33919

SHEET 3 OF 7

GATEWAY PHASE 15

A SUBDIVISION LOCATED IN SECTIONS 18 AND 19,
TOWNSHIP 45 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA

SEPTEMBER 1993
JOB NO. 08-119.10

MATCH TO SHEET 5

PLAT BOOK 53 PAGE 15

CURVE TABLE					
NO.	RADIUS	Δ	ARC	CHORD	CHORD BEARING
C4	500.00'	35°04'18"	306.08'	301.30'	118°27'46"W
C8	482.50'	06°56'59"	58.52'	58.49'	90°42'03"W
C9	500.00'	07°22'44"	64.39'	64.35'	508°23'52"E
C30	505.00'	29°55'18"	276.26'	273.13'	518°40'09"E
C31	550.00'	28°07'20"	122.71'	121.48'	568°03'45"W
C32	482.50'	28°07'20"	236.82'	234.45'	181°56'15"W
C33	525.00'	20°53'34"	192.90'	191.83'	545°04'35"E
C34	271.00'	19°31'28"	92.35'	91.90'	545°45'30"E
C35	517.50'	35°04'18"	316.77'	311.85'	518°27'45"E
C40	525.00'	10°25'33"	96.26'	96.13'	509°55'17"E
C41	554.00'	17°44'46"	171.59'	170.91'	524°00'27"E
C42	525.00'	13°52'15"	128.07'	127.76'	546°35'14"E
C43	517.50'	14°47'28"	133.60'	133.23'	506°18'02"E

WESTERLY BOUNDARY OF
THE NORTHWEST 1/4 OF
SECTION 19, TOWNSHIP 45 S,
RANGE 26 E

UNPLATTED

SIGNAGE AND LANDSCAPE
EASEMENT-SEE DETAIL "C"
SHEET 7 OF 7

SIGNAGE AND
LANDSCAPE
EASEMENT-SEE
DETAIL "D"
SHEET 7 OF 7

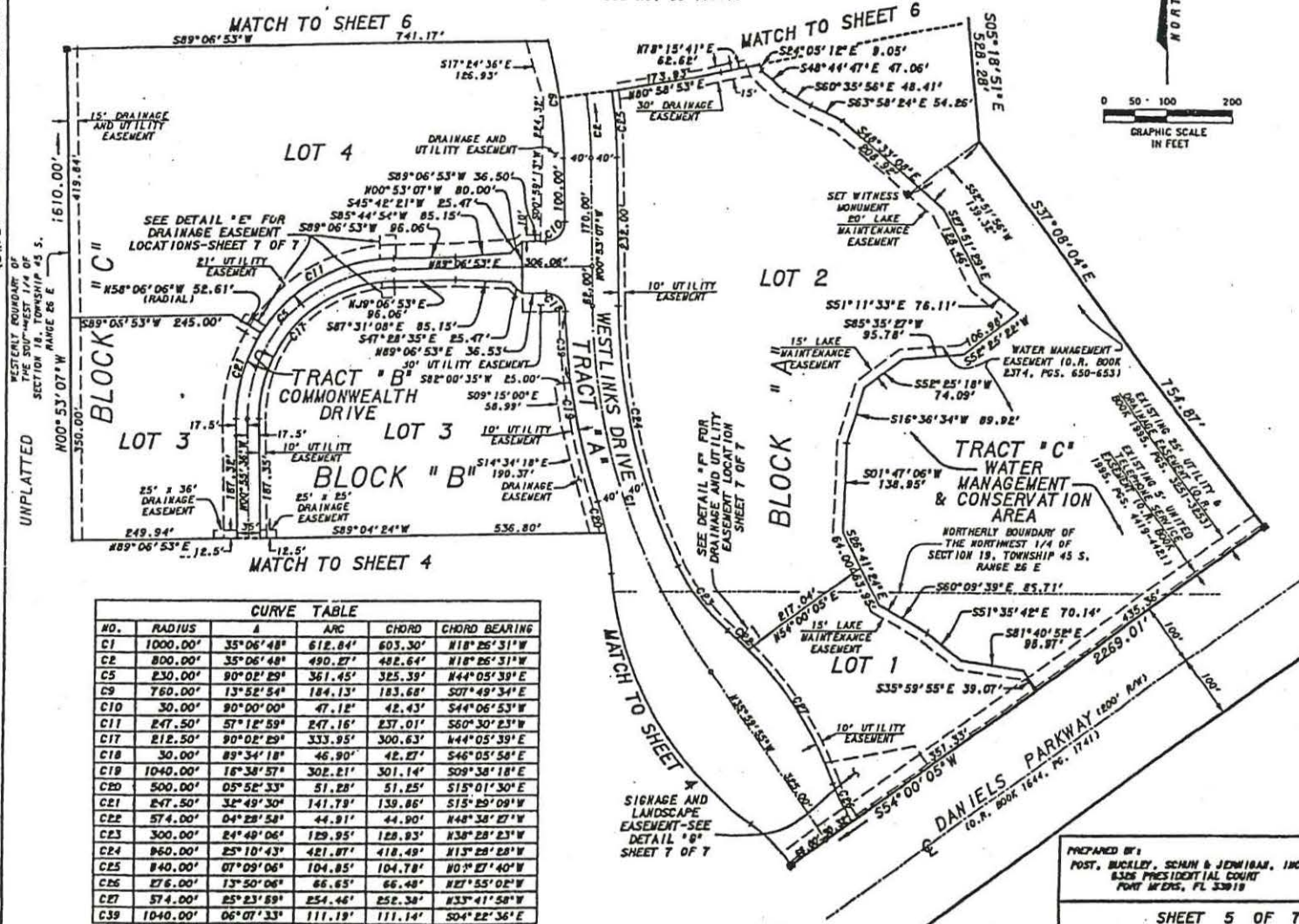
PREPARED BY:
POST, BUCKLEY, SCHUM & JERNIGAN, INC.
6308 PRESIDENTIAL COURT
PORT MYERS, FL 33910

GATEWAY PHASE 15

A SUBDIVISION LOCATED IN SECTIONS 18 AND 19,
TOWNSHIP 45 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA

SEPTEMBER 1993
JOB NO. 08-119.10

PLAT BOOK 53 PAGE 19



D.O. #89-02-016.000

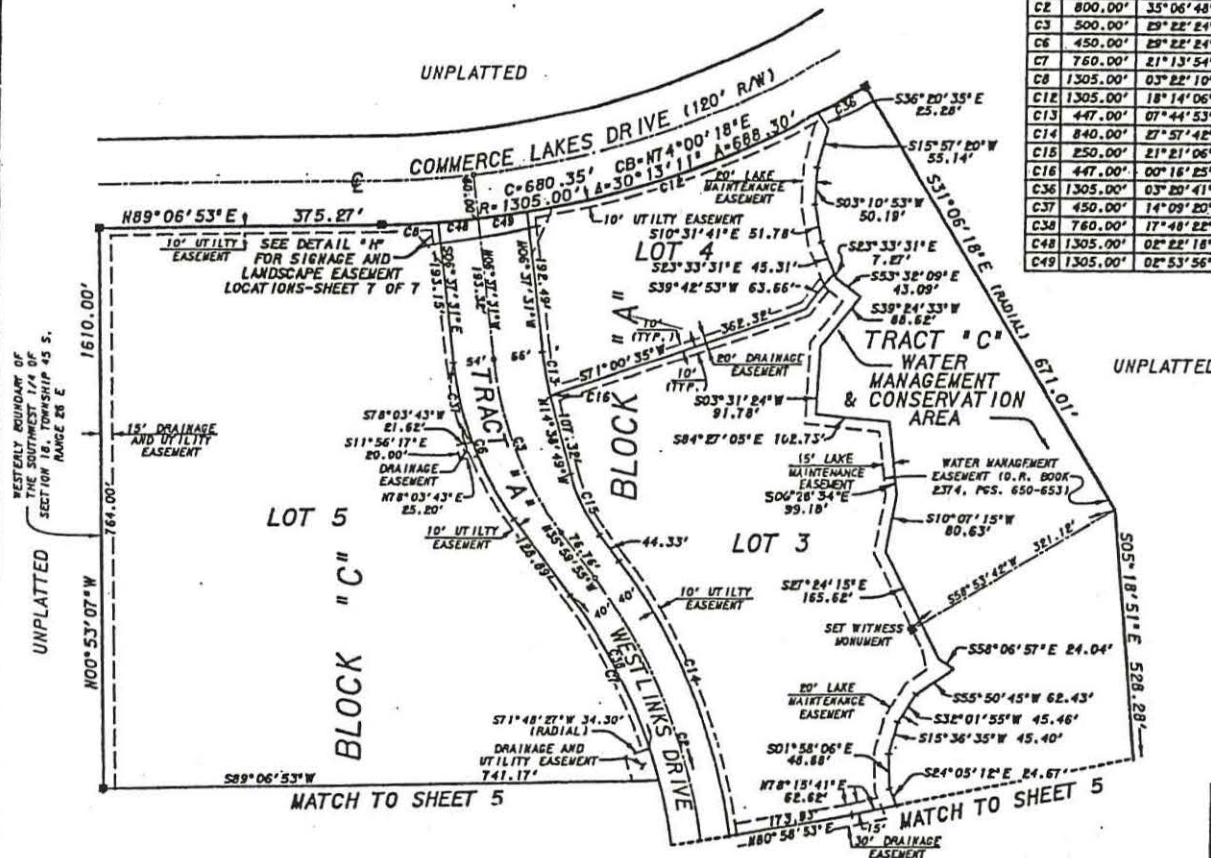
GATEWAY PHASE 15

A SUBDIVISION LOCATED IN SECTIONS 18 AND 19,
TOWNSHIP 45 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA

SEPTEMBER 1993
JOB NO. 08-119.10

PLAT BOOK 53 PAGE 20

NORTH



NO.	RADIUS	Δ	ARC	CHORD	CHORD BEARING
C2	800.00'	35°06'48"	490.27'	482.64'	N18°26'31"W
C3	500.00'	29°22'24"	256.33'	253.53'	N21°18'43"W
C6	450.00'	29°22'24"	230.70'	228.18'	S21°18'43"E
C7	760.00'	21°13'54"	281.63'	280.02'	S25°28'58"E
C8	1305.00'	03°22'10"	76.74'	76.73'	N87°25'43"E
C12	1305.00'	18°14'06"	415.33'	413.58'	N71°21'27"E
C13	447.00'	07°44'53"	60.45'	60.40'	N10°29'57"W
C14	840.00'	27°57'42"	409.94'	405.88'	N22°01'04"W
C15	250.00'	21°21'06"	83.16'	82.63'	N25°18'22"W
C16	447.00'	00°16'25"	2.13'	2.13'	N14°30'40"W
C36	1305.00'	03°20'41"	76.18'	76.17'	N60°34'03"E
C37	450.00'	14°09'20"	111.18'	110.90'	S13°42'11"E
C38	760.00'	17°48'22"	236.19'	235.24'	S27°05'44"E
C48	1305.00'	02°22'18"	54.02'	54.01'	N84°33'35"E
C49	1305.00'	02°53'56"	66.03'	66.02'	N81°55'28"E

PREPARED BY:
POST, BUCKLEY, SCHUM & JERNIGAN, INC.
6328 PRESIDENTIAL COURT
PORT MYERS, FL 33919

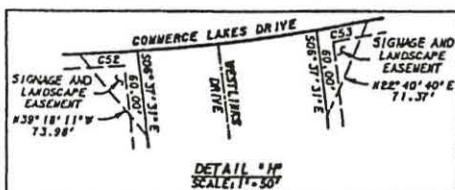
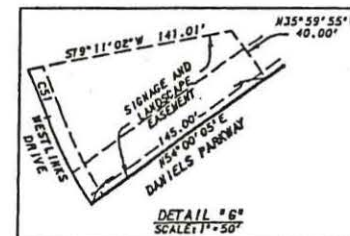
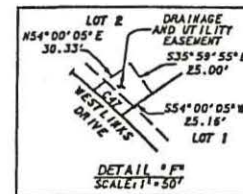
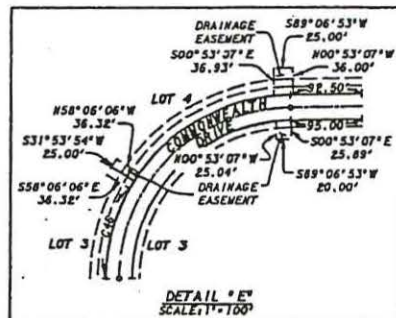
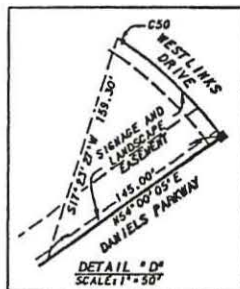
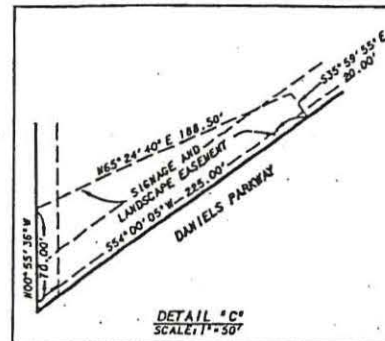
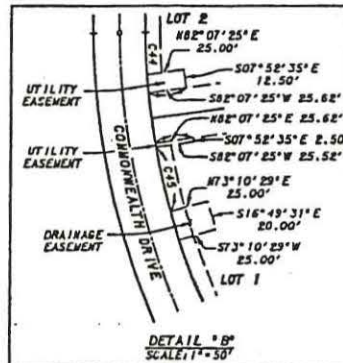
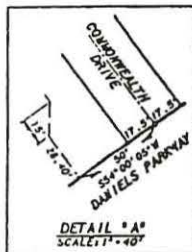
GATEWAY PHASE 15

A SUBDIVISION LOCATED IN SECTIONS 18 AND 19,
TOWNSHIP 45 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA

SEPTEMBER 1993
JOB NO. 08-119.10

PLAT BOOK 53 PAGE 21

NORTH



CURVE TABLE					
NO.	RADIUS	Δ	APC	CHORD	CHORD BEARING
C-44	482.50'	03° 25' 06"	28.51'	28.50'	S02° 37' 09" E
C-45	482.50'	05° 23' 09"	45.35'	45.34'	S12° 56' 41" E
C-46	247.50'	29° 55' 48"	129.29'	127.82'	S14° 02' 18" W
C-47	574.00'	02° 30' 54"	25.53'	25.53'	N47° 40' 25" W
C-50	529.00'	00° 30' 30"	4.89'	4.88'	N55° 18' 07" W
C-51	574.00'	03° 30' 18"	35.11'	35.11'	S22° 45' 09" E
C-52	1305.00'	01° 45' 23"	40.01'	40.00'	N66° 37' 25" E
C-53	1305.00'	01° 31' 13"	35.00'	35.00'	S7° 42' 24" W

PREPARED BY:
POST, BUCKLEY, SCHMID & JENKINS, INC.
6326 PRESIDENTIAL COURT
FORT MYERS, FL 33918



MORRIS-DEPEW ASSOCIATES, INC.
ENGINEERS • PLANNERS • SURVEYORS & MAPPERS
2216 Altamont Avenue • Fort Myers, Florida 33901 • (941) 337-3993 • FAX (941) 337-3994

Exhibit 14
Additional Supporting Documentation



April 3, 2003

Mr. Daniel Gerner
Gateway Flex Space Assoc., LLC
27300 Riverview Center Boulevard
Bonita Springs, Florida 34134

Reference: Lee County – PW
Notification of Use of
General Permit
Notice Number: 0190848-005DSGP
Charter Schools USA
Lee County Utilities/Corkscrew/Gateway

Dear Mr. Gerner:

In response to your request, this letter is to advise you that the department has received your notice of intent to use a general permit as provided in Rule 62-555.540, Florida Administrative Code to construct an extension to a public water supply distribution system and does not object to your use of such general permit. Please be advised that you are required to abide by all conditions in Rules 62-4.510 through 62-4.540, Florida Administrative Code, the general requirements for general permits; and Rule 62-555.540, Florida Administrative Code.

Sincerely,

A handwritten signature in cursive script that reads "Gary A. Maier".

Gary A. Maier, P.E.
Director
Environmental Engineering

GAM/ksm

cc: Charles Krebs P.E., Hole Montes, Inc.
Thom Osterhout, Lee County Utilities



April 3, 2003

Mr. Charles Krebs, P.E.
Hole Montes, Inc.
6202-F Presidential Court
Fort Myers, Florida 33919

Reference: Charter Schools USA
Permit No: 0190848-005DSGP
Lee County Utilities/Corkscrew/Gateway

Dear Mr. Krebs:

This will acknowledge receipt of applications and related materials for the referenced water project. We have reviewed the submitted materials and approval has been processed in accordance with department policy.

Please be advised that bacteriological sampling points for compliance purposes have been established and are shown on the copy of the plans returned to you. Sampling for compliance purposes must be conducted by this office. It will be your responsibility to see that the contractor is advised of the clearance procedures and the location of sampling points in order to avoid delays in clearing the project for service.

Bacteriological test results for all new and altered public drinking water facilities other than wells will be considered invalid if the results are for samples collected more than 30 days before the results are received by the Department.

Sincerely,

A handwritten signature in cursive script that reads "Gary A. Maier".

Gary A. Maier, P.E.
Director
Environmental Engineering

GAM/ksm

cc: Daniel Gerner, Gateway Flex Space Assoc., LLC

FROM : GRANTS

FAX NO. : 19413378594

Apr. 07 2003 03:40PM P1



THE SCHOOL DISTRICT OF LEE COUNTY

2055 CENTRAL AVENUE • FORT MYERS, FLORIDA 33901-3916 • (239) 334-1102 • TTD/TTY (239) 335-1512

JEANNI S. DUSEN
Chairman - District 2

ELINOR C. BURGESS, Ph.D.
Vice Chairman - District 6

ROBERT D. CHILMOND
District 4

JANE E. KUCKEL, Ph.D.
District 3

STEVEN K. TRUBER
District 7

JAMES W. BROWDER, Ed.D.
Superintendent

KEITH B. MARTIN
Board Attorney

April 7, 2003

Mr. John McGarvey, President
McGarvey Development Company
27300 Riverview Center Boulevard
Bonita Springs, Florida 34134

Dear Mr. McGarvey,

The School District of Lee County and the Lee Charter Foundation entered into Charter Agreement August 20, 2002. The contract permits the Foundation to open a kindergarten through eighth grade school for the 2003-2004 school year in the District's east attendance zone. There has been a great deal of interest in this school and nearly 800 students are enrolled. The area is rapidly growing and our East Zone schools need additional seats. The Charter was granted because the proposal met all of the educational and fiscal expectations set forth in our district regulation. This school also will provide very much needed additional student stations.

At this time we have begun planning for student needs in the 2003-2004 school year. Our student projections, personnel allocations and facilities planning processes have all taken into consideration 900 student seats in the Lehigh Charter School. We are planning, in good faith, that the school will in fact have a certificate of occupancy no later than July 14, 2003 in order to meet its contractual obligation and open August 11, 2003. Families, other public schools, and the District staff are all looking forward to a successful opening of the Lehigh Charter School to meet the needs of rapidly growing Lehigh and Gateway Communities. Your support in overcoming any obstacles and achieving the on time completion of the Daniels/Commonwealth location is greatly appreciated.

Sincerely,

Lynn Pottorf, Coordinator
Charter Schools, The School District of Lee County

LP/dlm

DISTRICT VISION

TO PREPARE EVERY STUDENT FOR SUCCESS

DISTRICT MISSION

TO PROVIDE A QUALITY EDUCATION IN A SAFE AND WELL-MANAGED ENVIRONMENT



SOUTH FLORIDA WATER MANAGEMENT DISTRICT
SURFACE WATER MANAGEMENT
GENERAL PERMIT NO. 36-00678-S
DATE ISSUED: March 28, 2003

Form #0942
08/95

PERMITTEE: GATEWAY FLEX ASSOCIATES LLC
27300 RIVERVIEW CENTER BLVD
BONITA SPRINGS, FL 34134

PROJECT DESCRIPTION: Modification of a surface water management system serving 5.78 acres of an institutional development known as the Charter School USA, part of the 5319 acre Gateway Community. The system discharges to the Six Mile Cypress Strand via the Gateway Community master surface water management system.

PROJECT LOCATION: LEE COUNTY, SEC 18,19 TWP 45S RGE 26E

PERMIT DURATION: See Special Condition No:1. See attached Rule 40E-4.321, Florida Administrative Code.

This is to notify you of the District's agency action concerning Permit Application No. 030128-4, dated January 28, 2003. This action is taken pursuant to Rule 40E-1.606 and Chapter 40E-40, Florida Administrative Code (F.A.C.).

Based on the information provided, District rules have been adhered to and a Surface Water Management General Permit is in effect for this project subject to:

1. Not receiving a filed request for a Chapter 120, Florida Statutes, administrative hearing.
2. the attached 19 Standard Limiting Conditions (See Pages : 2 - 3 of 4),
3. the attached 11 Special Conditions (See Pages : 4 - 4 of 4) and
4. the attached 6 Exhibit(s).

Should you object to these conditions, please refer to the attached "Notice of Rights" which addresses the procedures to be followed if you desire a public hearing or other review of the proposed agency action. Please contact this office if you have any questions concerning this matter. If we do not hear from you in accordance with the "Notice of Rights," we will assume that you concur with the District's action.

CERTIFICATE OF SERVICE

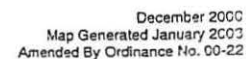
I HEREBY CERTIFY that a "Notice of Rights" has been mailed to the Permittee (and the persons listed in the attached distribution list) no later than 5:00 p.m. on this 28th day of March, 2003, in accordance with Section 120.60(3), Florida Statutes.

BY: Carla N. Palmer
Carla N. Palmer, P.E.
Director

Lower West Coast Service Center

Certified mail number 7002 2410 0000 5729 5729

(Lee Plan Map 1 Page 5 of 5)





Reply to
Charles J. Basinait
Direct Dial Number 239.337.8433
E-Mail: charles.basinaid@henlaw.com

May 14, 2003

VIA HAND DELIVERY

Mr. Matthew Noble
Lee County Community Development
1500 Monroe Street
Fort Myers, FL 33901

Re: West Links Charter School Amendment
File No. 15469/2

Dear Matt:

Enclosed please find a copy of the Noise Study that was done in connection with the above-referenced Lee Plan Small Scale Amendment. You will note that the Noise Study clearly indicates that we are well outside the range of any negative impacts to the School by virtue of the Airport.

I am continuing to work with the Airport in an attempt to facilitate and expedite comments with respect to this request. Please feel free to contact me if you have any questions.

Very truly yours,

Charles J. Basinait

CJB/jma

Enclosure Noise Study

cc: Dave Depew (w/encls.)
Timothy Jones, Esq. (w/encls.)

**CPA 2003-03
J. McGARVEY SMALL SCALE
AMENDMENT
TO THE**

LEE COUNTY COMPREHENSIVE PLAN

THE LEE PLAN

**Privately Sponsored Application
and Staff Analysis**

**LPA Public Hearing Document
for the
May 28th Public Hearing**

*Lee County Planning Division
1500 Monroe Street
P.O. Box 398
Fort Myers, FL 33902-0398
(941) 479-8585*

May 22, 2003

**LEE COUNTY
DIVISION OF PLANNING
STAFF REPORT FOR
SMALL SCALE
COMPREHENSIVE PLAN AMENDMENT
CPA 2003-03**

	This Document Contains the Following Reviews:
✓	Staff Review
	Local Planning Agency Review and Recommendation
	Board of County Commissioners Hearing for Adoption

STAFF REPORT PREPARATION DATE: May 22, 2003

PART I - BACKGROUND AND STAFF RECOMMENDATION

A. SUMMARY OF APPLICATION

1. **APPLICANT:** John McGarvey, Mgr. Partner, Commonwealth Flex Associates, LLC., represented by Mr. Charles J. Basinait, Henderson, Franklin, Starnes & Holt, P.A.
2. **REQUEST:** Amend the Future Land Use Map series, Map 1, page 5 of 5 for a specified 6.8± acre parcel of land located in Section 19 Township 45 South, Range 26 East to change the boundary of Airport Noise Zone 3 to remove the subject property from that designation.

3. SUMMARY DISCUSSION

The applicant is proposing to develop a charter school on the subject site. The subject site is depicted by the Lee Plan as being within Airport Noise Zone 3. Policy 1.7.1 does not permit schools, as well as other specified uses, within Airport Noise Zone 3. Policy 46.3.11 prohibits the location of schools "in the areas designated on the Future Land Use Map as Airport Noise Zone 3 or within other high noise impact areas. The applicant proposes through this amendment to remove this designation from the property so as to allow the development of a charter school on the subject site.

B. BACKGROUND INFORMATION

1. EXISTING CONDITIONS

SIZE OF PROPERTY: ±6.8 acres

PROPERTY LOCATION: 12850 Commonwealth Drive, at the northwest quadrant of the intersection of Commonwealth Drive and Daniels Parkway, in the Gateway/Airport Planning Community.

EXISTING USE OF LAND: Vacant, structure currently being developed on the site.

CURRENT ZONING: PUD

CURRENT FUTURE LAND USE CLASSIFICATIONS: "New Community."

2. INFRASTRUCTURE AND SERVICES

WATER & SEWER: The property is located within the Lee County Utilities potable water franchise area and within the Gateway Utilities sewer franchise area.

FIRE: The property is located within the South Trail Fire District.

TRANSPORTATION: Access to the property is via Daniels Parkway and Commonwealth Drive.

SOLID WASTE FRANCHISE: The property is located within the Florida Recycling Services solid waste collection service area.

C. STAFF RECOMMENDATION AND FINDINGS OF FACT SUMMARY

- 1. RECOMMENDATION:** Staff recommends that the Future Land Use Map series, Map 1, page 5 of 5 for the specified 6.8± acre parcel of land located in Section 19, Township 45 South, Range 26 East be amended to changed the subject property from Airport Noise Zone 3 to Airport Noise Zone 2.

Additionally, staff recommends that the property owner be required to execute an Avigation Easement that is to be recorded in the county records. This easement acknowledges that there will be noise generated by airport activities including overflight of aircraft and holds the Port Authority harmless as a result of these activities. This easement should be acceptable to the Port Authority and should be executed and recorded prior to the Board of County Commissioners adopting this amendment.

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

- Utilization of this parcel for a charter school will eliminate the need for Lee County District Schools to construct these classrooms on district campuses.
- It alleviates the pressing need to meet increasing enrolments at this time in the Ears Choice Zone which is one of the districts fastest growing areas.
- There are currently three new schools under construction in the East Zone, but these facilities will not be open for two more years. The charter school is proposed to be opened this fall.
- The Port Authority staff and consultant believe that since the school site is on the extreme edge of Noise Zone 3, it is probable that the site would be removed from Noise Zone 3 following the completion of the FAR Part 150 Study Update which is expected in 2006.
- The desired use of the property, a school, is an envisioned land use within the New Community land use category.
- Existing utilities and infrastructure are in place or available to support the proposed charter school development. The proposed action will not require changes to future road network plans. The approved Development Order for an office building on the site and the approved Concurrency Certificate No. CNC2003-00936 are evidence of the adequacy of services to the parcel.
- The proposed action will result in no population capacity increase of the FLUM.
- The proposal is for a charter school, which could draw students from all over Lee County, thus the neighborhood school concept is not applicable.

PART II - STAFF ANALYSIS

A. STAFF DISCUSSION

INTRODUCTION

The applicant has requested a change in the boundary of Airport Noise Zone 3 to remove a ± 6.8 acre parcel from that designation. The request has been submitted to accommodate the development of a charter school. The application provides that "Due to the inclusion of the subject property in Zone 3, the site is currently being permitted as an office use, but the eventual intent, if the small-scale amendment is approved, is to then amend the development order to permit the school function."

The original Comprehensive Plan Amendment Application and Applicant Supplementary Information are attached hereto as "Attachment 1 - Applicant Supplementary Info"

PROJECT SUMMARY

The applicant proposes to develop the subject property with a 900 student charter school in an approximate 60,000 square foot building commercial uses that are consistent with a high traffic tourist area and workforce commute corridor. The requested future land use amendment would allow such development on this site to be consistent with the overall policies and considerations of the Lee Plan.

COMPREHENSIVE PLAN BACKGROUND

The subject property was designated "New Community" by the original Lee County Future Land Use Map, adopted in 1984. The New Community Future Land Use designation was meant to be applied to lands that are capable of being planned and developed as a cohesive free-standing community offering a complete range of land uses. The New Community land use category permits a full mix of housing types up to six dwelling units per gross acre, community commercial, industrial, office, and community facilities.

ADJACENT ZONING AND USES

The subject site is located within the Westlinks Business Park portion (Gateway Phase 15) of Gateway. Properties to the north and east of the subject site are within the New Community land use area and are zoned PUD. To the north of the subject parcel is a South Trail Fire Station and then several light industrial and commercial businesses. In general, the Westlinks area is characterized with light industrial and commercial businesses. To the South is Daniels Parkway and then the Southwest Florida International Airport property.

The lands to the west and northwest are designated Airport Commerce. Immediately to the west is the approved Airside Plaza DRI which is zoned CPD. The approved phasing schedule provides for up to 125,000 square feet of commercial uses, 140,000 square feet of office uses, 150 hotel/motel rooms, and 290,000 square feet of light industrial uses. The Airside Plaza site is currently vacant and utilized for passive agricultural uses.

POPULATION ACCOMMODATION CAPACITY DISCUSSION

The application notes that "the proposed change will have no effect upon the population projections." Staff concurs in that the request is not changing the underlying New Community Future Land Use Map category. Staff does note that the current restrictions in Airport Noise Zone 3 prohibit residential development on the subject site and the affect of removing this designation would allow the development of residential units on the subject site. Staff believes, however, that it is unlikely that residential uses will be developed on the site given the location of the parcel in a industrial/commercial area and that the parcel fronts on Daniels Parkway. Thus, given the location of the property and existing surrounding uses, it seems unlikely that the property owner will in the future develop the parcel with residential uses.

CONSISTENCY WITH THE "NEW COMMUNITY" LAND USE CATEGORY

The subject property is located within the "New Community" Future Land Use Category. The Lee Plan's Objective and Policy that describes this category is reproduced below:

OBJECTIVE 1.6: NEW COMMUNITY. *Designate on the Future Land Use Map areas which are suitable for the development of large-scale multi-use communities developed pursuant to an overall master plan. This category is also considered a Future Urban Area.*

POLICY 1.6.1: *New Community areas are lands that are capable of being planned and developed as a cohesive unit in order to better achieve conservation of important environmental resources and to initiate areawide surface water management. New Community 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. New Community areas will be developed as freestanding economic units and will not impose negative fiscal impacts on the county (other than those associated with the delay in placing property improvements on the tax rolls).*

New Communities will not exceed a residential density of six dwelling units per gross acre and must have at least the following characteristics:

1. *The land will be developed under a well-conceived overall master plan;*
2. *The land can be served with all necessary facilities and services at no expense to the county. Uniform Community Development Districts and special taxing districts may be utilized toward achieving this objective;*
3. *Population, recreation, open space, educational, office, and research facilities are distributed in an orderly and attractive manner;*
4. *The land must be developed in such a manner as to protect environmentally sensitive areas;*
5. *The land must be developed as a free-standing community offering a complete range of land uses (e.g. a full mix of housing types for a range of household incomes, industrial and office employment centers, and community facilities such as fire departments, schools, law enforcement offices, public recreational areas, health care facilities, and community commercial areas);*
6. *Off-site impacts must be mitigated; and,*
7. *On-site levels of service must meet the county-wide standards contained in this plan.*

The desired use of the property, a school, is an envisioned land use within the New Community land use category.

MAP 16 - PLANNING COMMUNITIES AND TABLE 1(b)

Map 16 and Table 1(b) do not regulate public facilities such as schools.

TRANSPORTATION ISSUES

Lee County Department of Transportation has reviewed the proposed action and provided a letter which states, "We have no objection to the above application since TAZ 626, in which the proposed project is located, includes a projected 1,800 students in the Lee County MPO's 2020 Financially Feasible Plan Model, and the proposed project has only 900 students...We have determined the proposed project will not alter the future road network plans."

SCHOOL IMPACTS

Lee County School District staff has reviewed the proposed amendment and provided an email to planning staff. This email provides that "This application would have a very positive impact on the Lee County School District, as it would eliminate the need to construct these classrooms on Lee County School District school campuses. It alleviates the pressing need to meet increasing enrollments at this time in the East Choice Zone which is one of the District's fastest growing areas. Currently, three new schools are under construction in the East zone which will not open for two more years, thus this proposal will help offset the growth experienced in this choice zone while these new schools are under construction." This email further provides that "In the future, improved coordination with Lee County planning, the charter school applicants, and the District's Department of Construction and Planning should occur to assist in the location of these facilities and possibly avoid their future location in industrial parks or other commercial locations."

The Lee Plan seeks to direct the location of schools (as well as other “noise sensitive” uses) away from areas impacted by noise, such as adjacent to the international airport. For example, Policy 1.7.1 provides that Airport Noise Zone 3 does not permit schools. Policy 46.3.11 also provides that it is the County’s policy to “Prohibit the location of schools in the areas designated on the Future Land Use Map as Airport Noise Zone 3 or within other high noise impact areas.”

The Lee Plan seeks to protect schools from incompatible uses:

***Policy 46.3.1:** Protect the integrity of schools so that educational functions are not disrupted by the intrusion of incompatible land uses.*

***Policy 46.3.5:** Land uses and development will not be permitted to the extent that it could necessitate the relocation of schools due to pressures from incompatible uses.*

***Policy 46.3.10:** Prohibit school sites that are or will be exposed to physical constraints, hazards, or nuisances which are detrimental to the health and safety of students and to the general operation of the school.*

The Lee Plan, as provided in 46.3.6, encourages “the location of neighborhood elementary schools within walking distance of the residential areas they serve.” Staff notes that the nearest residential unit in Gateway is approximately 3,500 feet north of the subject site following existing roads through the Westlinks business park. As the proposal is a charter school, which could draw students from all over Lee County, the neighborhood school concept is not applicable.

NOISE AND THE INTERNATIONAL AIRPORT

The subject site is located just north of the Southwest Florida International Airport across Daniels Parkway. The site is located, as previously stated, within Airport Noise Zone 3. The specific location of the subject property in this Zone is on the western edge of the Zone. The portion of this Zone that the subject property is located within is a relatively small triangular shape that contains approximately 70 acres from the western edge of the Gateway development to Gateway Boulevard. The site has been identified in the high noise exposure area since the Airport opened.

The applicant has provided a brief noise study entitled “Acoustical Evaluation of Potential Noise Impact at planned Lehigh Charter School at Daniels Parkway & Commonwealth Dr.” The Lee County Port Authority noise consultants, Environmental Science Associates (ESA), have reviewed the proposed plan amendment and have provided comments (attached) dated May 19, 2003. This memorandum provides the following concerning the applicant’s noise study:

“The report is based primarily on short term monitoring conducted by the Consultant and did not indicate the number of aircraft departures that occurred during the noise monitoring period. However, with the lower noise levels from departing aircraft now using RSW, the LEQ values seem appropriate for aircraft generated noise or a combination of aircraft and Daniels Parkway traffic generated noise.

Of importance in the report is that it indicates the construction materials for the proposed school will provide for a significant noise level reduction of 38 dBA. With the location of the proposed school being at the extreme fringe of the overlay zone, considering the noise levels that were monitored and with the type of construction being provided, the interior noise levels should be acceptable for school use.”

The ESA memorandum contains the following “Recommendations:”

“It should be recognized that, while the school building is currently under construction and the site will probably be removed from Zone 3, it is still influenced by aircraft departure noise. Furthermore, additional aviation

facilities will continue to be constructed on airport and future aviation activities will occur in reasonable proximity to the proposed school site. With these factors in mind the following are our recommendations. If it is determined that the school should be approved, the Port Authority should request that sufficient sound insulation be incorporated in the building construction to allow for a maximum 45 dB interior sound level. It appears from the Fegan report that the construction methods and materials will comply with this recommendation. Additionally due to the proximity of future aviation activities, the proposed school developer/property owner should sign an avigation easement, waiver of claim, or similar hold harmless indemnification document that certifies their knowledge of the proximity of the Airport. In addition, it should acknowledge the airport's future anticipated growth and recognize the fact that there is potential for airport-related noise exposure at the school site. In order to assist in the regulation of compatible land uses in the airport area, avigation easements, waivers of claim, or similar hold harmless indemnification documents should also be signed by all future developers/owners within Noise Overlay Zones 2 and 3 as was recommended and approved in the 1995 Federal Aviation Regulations Part 150 Noise Compatibility Study.

The uniqueness of the school site that is the subject of this letter compared to other areas of noise Zone 3 is that it is on the fringe of Noise Overlay Zone 3 and within a currently developed community. We would hope in the future that the integrity of the Noise Overlay Zones will be maintained until the FAR Part 150 Study Update is completed."

The ESA memorandum also provides that new noise contours were developed as part of the Master Plan Update for the airport. The memorandum notes that the departure flight tracks in the vicinity of the school site have remained the same. The memorandum also notes that the noise contours have reduced in size "from those previously published." The memorandum provides the following explanation:

This reduction in contour size is primarily the result of the elimination of Stage 2 aircraft from the national air carrier fleet (effective January 1, 2000). The proposed school area in question was likely included within Noise Zone 3 due to the influence from departure noise by Boeing 727 aircraft and by other Stage 2 aircraft. Now that all Boeing 727 aircraft have been either retrofitted to meet noise standards or retired altogether, the departure noise in the area in question has reduced. Since the school site is on the extreme edge of (sic) Noise Zone 3, it is probable that the site would be removed from Noise Zone 3 following the completion of the FAR Part 150 Study Update in 2006. However, since the location of flight corridors is a decision making element of Noise Zone status, a final determination of the status of the site could not be made until the Part 150 Study Update is completed.

PRECEDENTIAL NATURE OF THE REQUEST

The proposed amendment is the first private amendment to ever propose amending the Airport Noise Zone Overlay. Staff is aware of only one other request to place "noise sensitive" uses within Airport Noise Zone 3. Miromar Lakes DRI initially requested time share units in the vicinity of Ben Hill Griffin Parkway in Airport Noise Zone 3. Ultimately these units were not approved.

SOILS

The applicant has provided information indicating that soils present on the site are Felda fine sand and Felda fine sand, depressional. A "Soils Map" and a description of the soils are included in the original application material. The application notes that "the entire site, however, has been cleared and filled, so that the natural conditions no longer apply."

HISTORICAL AND ARCHAEOLOGICAL IMPACTS

The application provides that "There are no historic districts or sites located on the subject property or on adjacent properties." The subject parcel is not located on either Level 1 or Level 2 zones of archaeological sensitivity.

ENDANGERED SPECIES

The application provides that "the subject property is currently under construction, has been cleared and filled, and contains no species that are threatened, endangered, or are of special concern."

County Environmental Sciences (ES) staff are familiar with the property and have verified that the property was previously cleared and that no listed species are present. ES staff further verified that the wetland area in the southeast corner of the property shown on application Exhibit 1 was permitted to be impacted through the South Florida Water Management District permit.

PARKS, RECREATION AND OPEN SPACE

The Department of Public Works has reviewed the proposal and determined "that existing and proposed support facilities provided by Lee County Parks and Recreation will not be impacted by the proposed amendment." Public Works staff notes that this is so because the request will not have any impact on population projections for the County.

DRAINAGE/SURFACE WATER MANAGEMENT

The application does not provide an existing and future conditions analysis for surface water/drainage basins. Staff notes that this issue has been dealt with through various permitting activities that have taken place concerning the subject site.

MASS TRANSIT

Lee County Transit Division has reviewed the proposed action and provided a letter of response which states that Lee Tran staff has reviewed the proposed amendment and "has determined that the proposed amendment to the future land use map would have no impacts on existing or planned services Lee Tran provides, nor would it have any impact to the budget of Lee County's transit division."

UTILITIES

Concerning utilities, the applicant has provided supplemental information that provides the following:

"Upon inquiry with the engineers (Hole Montes, Inc.), I was informed that the subject property is in the Gateway Utilities service district...I am informed that when the original subdivision was platted, provisions for utilities were made and approved by the County for all parcels in the subdivision, including the subject property. I can provide copies of the approved development order for the subdivision if that is deemed necessary, but I believe that the existence of the plat, a copy of which was provided as part of the application materials, should suffice as evidence that all improvements, including utilities, were either constructed or bonded in accordance with the County's requirements. Thus, the County has already approved the design and capacity issues associated with the utilities for the subject property, and there should be no question regarding whether this infrastructure is available to the site."

Staff agrees that availability of utilities to the site has previously been addressed. In fact, the provision of most infrastructure issues have been adequately addressed. The approved Development Order for an office building on the site and the approved Concurrency Certificate No. CNC2003-00936 are evidence of the adequacy of services to the parcel.

B. CONCLUSIONS

Staff finds that the necessary infrastructure is in place to accommodate the desired use. Staff also finds that there is a need for additional classroom space to accommodate the ever growing student population. Both the applicants noise consultant and the Port Authority noise consultant agree that

the noise contours associated with airport activities have been reduced as Stage 2 aircraft have been replaced by quieter Stage 3 aircraft. The Port Authority staff and consultant believe that since the school site is on the extreme edge of Noise Zone 3, it is probable that the site would be removed from Noise Zone 3 following the completion of the FAR Part 150 Study Update which is expected in 2006. The subject property while currently in Airport Noise Zone 3 is outside of the actual 65 dBA noise contour. Noise contours generally do not follow recognizable boundaries but were essentially "squared off" to allow easy identification on the ground. Considering the above conclusions, the removal of the Airport Noise Zone 3 and inclusion of the subject site within Airport Noise Zone 2 would not violate the purpose and intent in establishing the noise zones, but would allow for the construction of needed classrooms.

C. STAFF RECOMMENDATION

Staff recommends that the Future Land Use Map series, Map 1, page 5 of 5 for the specified 6.8± acre parcel of land located in Section 19, Township 45 South, Range 26 East be amended to changed the subject property from Airport Noise Zone 3 to Airport Noise Zone 2.

Additionally, staff recommends that the property owner be required to execute an Avigation Easement that is to be recorded in the county records. This easement acknowledges that there will be noise generated by airport activities including overflight of aircraft and holds the Port Authority harmless as a result of these activities. This easement should be acceptable to the Port Authority and should be executed and recorded prior to the Board of County Commissioners adopting this amendment.

**PART III - LOCAL PLANNING AGENCY
REVIEW AND RECOMMENDATION**

DATE OF PUBLIC HEARING: May 28, 2003

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

SUSAN BROOKMAN

MATT BIXLER

RONALD INGE

GORDON REIGELMAN

DAN DELISI

ROBERT PRITT

PART IV - BOARD OF COUNTY COMMISSIONERS
HEARING FOR ADOPTION OF PROPOSED AMENDMENT

DATE OF ADOPTION HEARING: 2003

A. BOARD REVIEW:

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

1. BOARD ACTION:

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

C. VOTE:

JOHN ALBION

ANDREW COY

RAY JUDAH

JOHN MANNING

DOUG ST. CERNY

STAFF REPORT
ATTACHMENTS

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0010

Airport Noise Zone 3 Line

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Subject Site

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0000C
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1120

PUD

PUD

COMMONWEALTH DR

WESTBANKS DR

CATERAY BLVD

DANIELS PKWY

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DANIELS PKWY

PAUL J DOHERTY PKWY

MEMO TO: Matthew Noble
Lee County Planning

LEE COUNTY
RECEIVED

03 MAY 21 AM 11:31

FROM: William Horner *W Horner*
Planning/Environmental Compliance

COMM. DEV/
PUB. WRKS. CNTR.
SECOND FLOOR

DATE: May 20, 2003

SUBJECT: CPA 2003-00003
Lehigh Charter School
Noise Zone 3 Lee Plan Amendment



Environmental Science Associates (ESA), noise consultants for the Port Authority, have reviewed the Lee Plan Amendment proposing to remove the Lehigh Charter School site from Noise Overlay Zone 3. The site is located across the street from the Southwest Florida International Airport on Commonwealth Drive in Gateway and currently does not allow noise sensitive land uses. Our consultant's recommendation is supported by the Port Authority and is included in the attached letter.

If you have any questions, please contact me.

WBH/nt

Attachment

cc: Charles J. Basinait, Esq.,
Robert M. Ball, Executive Director
Edmunde J. Henke, Asst. Executive Director
Mark Fisher, Development
Emily Underhill, Development
Gregory S. Hagen, Legal Services

May 19, 2003

Mr. William Horner
Lee County Port Authority
16000 Chamberlin Parkway, Suite 8671
Fort Myers, Florida 33913

Reference: Proposed Lee Plan and LDC Amendments to Noise Overlay Zone 3
Lehigh Charter School Site Noise Considerations

Dear Mr. Horner:

Per your request we have reviewed the information that you provided regarding the construction of the Charter School proposed to be developed off Daniels Parkway.

Project Site and Development Plan

The proposed school site is located in the Gateway area lying north of Daniels Road and within Noise Zone 3. We understand the school site has been cleared and the walls of the building are being erected under an early work permit from the County. We also understand the developer has submitted applications to repeal the site from Noise Zone 3 from the Comp Plan and the Land Development Code.

Overlay Zone Status

The proposed school site is currently included in Noise Zone 3 and our firm is aware that the site was included in Noise Zone 3 following approval of the original FAR Part 150 Study completed around 1990. In fact, we understand from Authority staff that the site has been identified in the high noise exposure area since the Airport opened.

In the update to the FAR Part 150 study in 1995, Noise Zone 3 was expanded to incorporate the flight corridors and noise contours projected to occur from a parallel runway. During that study, the areas included in the Noise Zones established in 1990 (related to the existing runway) were maintained. Following the approval of the 1995 updated Noise Zones, the County Commission directed that a review of the noise zones be made through an Update to the FAR Part 150 Study to be completed by 2006. This Update would be conducted to determine if a change (reduction or expansion) of the noise zone areas should occur.

Recent Noise Studies

Recently new noise contours were developed as part of the Master Plan Update for Southwest Florida International Airport (RSW). Although the departure flight tracks in

the vicinity of the school site have remained the same, the noise contours have reduced in size from those previously published. This reduction in contour size is primarily the result of the elimination of Stage 2 aircraft from the national air carrier fleet (effective January 1, 2000). The proposed school area in question was likely included within Noise Zone 3 due to the influence from departure noise by Boeing 727 aircraft and by other Stage 2 aircraft. Now that all Boeing 727 aircraft have been either retrofitted to meet noise standards or retired altogether, the departure noise in the area in question has reduced. Since the school site is on the extreme edge of Noise Zone 3, it is probable that the site would be removed from Noise Zone 3 following the completion of the FAR Part 150 Study Update in 2006. However, since the location of flight corridors is a decision making element of Noise Zone status, a final determination of the status of the site could not be made until the Part 150 Study Update is completed.

Per your request we have also reviewed the report by Fegan Acoustical Consultants related to the Charter School.

The report is based primarily on short term monitoring conducted by the Consultant and did not indicate the number of aircraft departures that occurred during the noise monitoring period. However, with the lower noise levels from departing aircraft now using RSW, the LEQ values seem appropriate for aircraft generated noise or a combination of aircraft and Daniels Parkway traffic generated noise.

Of importance in the report is that it indicates the construction materials for the proposed school will provide for a significant noise level reduction of 38 dBA. With the location of the proposed school being at the extreme fringe of the overlay zone, considering the noise levels that were monitored and with the type of construction being provided, the interior noise levels should be acceptable for school use.

Recommendations

It should be recognized that, while the school building is currently under construction and the site will probably be removed from Zone 3, it is still influenced by aircraft departure noise. Furthermore, additional aviation facilities will continue to be constructed on airport and future aviation activities will occur in reasonable proximity to the proposed school site. With these factors in mind the following are our recommendations. If it is determined that the school should be approved, the Port Authority should request that sufficient sound insulation be incorporated in the building construction to allow for a maximum 45 dB interior sound level. It appears from the Fegan report that the construction methods and materials will comply with this recommendation. Additionally due to the proximity of future aviation activities, the proposed school developer/property owner should sign an aviation easement, waiver of claim, or similar hold harmless indemnification document that certifies their knowledge of the proximity of the Airport. In addition, it should acknowledge the airport's future anticipated growth and recognize the fact that there is potential for airport-related noise exposure at the school site. In order

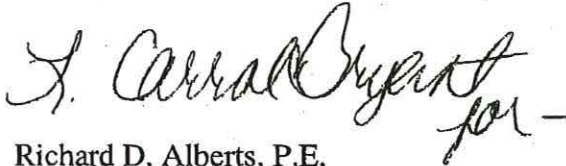
to assist in the regulation of compatible land uses in the airport area, avigation easements, waivers of claim, or similar hold harmless indemnification documents should also be signed by all future developers/owners within Noise Overlay Zones 2 and 3 as was recommended and approved in the 1995 Federal Aviation Regulations Part 150 Noise Compatibility Study.

The uniqueness of the school site that is the subject of this letter compared to other areas of Noise Zone 3 is that it is on the fringe of Noise Overlay Zone 3 and within a currently developed community. We would hope in the future that the integrity of the Noise Overlay Zones will be maintained until the FAR Part 150 Study Update is completed.

Should you need anything else from us at this time, please give me a call.

Sincerely,

ENVIRONMENTAL SCIENCE ASSOCIATES

A handwritten signature in cursive script, appearing to read "R. D. Alberts", followed by a horizontal line and a dash.

Richard D. Alberts, P.E.
Vice President

MEMORANDUM

from the
TRANSIT DIVISION

LEE COUNTY
RECEIVED

lee tran

03 MAY -5 AM 11:46

COMM. DEV/
PUB. WRKS. CNTR.
SECOND FLOOR

Your Ride Is Here.

DATE: May 1, 2003

TO: Matthew Noble

FROM: Steve Myers



RE: CPA 03-03 – Gateway Charter School Zone 3 Small Scale-Lee Plan Map Amendment

Lee Tran staff has reviewed the above referenced Lee Plan amendment and has determined that the proposed amendment to the future land use map would have no impacts on existing or planned services Lee Tran provides, nor would it have any impact to the budget of Lee County's transit division.

If you have any further questions regarding this amendment, please call me at 277-5012.



DEPARTMENT OF
TRANSPORTATION

Memorandum

To: Paul O'Connor, Division of Planning
From: ^{Wu} Lili Wu, Senior Planner
Date: April 25, 2003
Subject: **Lee Plan Small Scale Amendment –
Gateway Charter School**

COMM. DEV/
PUB. WRKS. CNTR.
SECOND FLOOR

03 APR 28 AM 11:38

LEE COUNTY
RECEIVED

We have no objection to the above application since TAZ 626, in which the proposed project is located, includes a projected 1,800 students in the Lee County MPO's 2020 Financially Feasible Plan Model, and the proposed project has only 900 students. According to the School Board plans, there are no other schools being planned in TAZ 626. We have determined the proposed project will not alter the future road network plans.

LW/mlb

Cc: David Loveland
Andy Getch
Central File – Administrative

From: Howard Wegis
To: Noble, Matthew
Date: 4/23/03 5:00PM
Subject: Re: Lee Plan Small Scale Amendment - Gateway Charter School

I did not see the applicant address B: Public Facilities Impacts, 2: Existing and Future condition analysis. That is they did not address water and sanitary sewer. Are they required to?

MEMORANDUM
FROM THE
DEPARTMENT OF
PUBLIC WORKS

LEE COUNTY
RECEIVED

03 MAY -6 AM 11:43

COMM. DEV/
PUB. WRKS. CNTR.
SECOND FLOOR

DATE: May 5, 2003

To: Matt Noble
Principal Planner

FROM: Michael P. Pavese
Principal Planner



RE: Lee County Comprehensive Plan Amendment
Gateway Charter School
Strap #'s 19-45-26-05-0000C .0020 and 19-45-26-05-0000C .0050

Staff has reviewed your request for comments regarding the adequacy of existing and proposed support facilities relative to the proposed plan amendment referenced above.

Based on the information provided in the application for this request, the subject parcel (approximately 6.8 ± acres) is currently zoned Planned Unit Development (PUD) and located in the New Community and Wetlands future land use categories. The applicant has indicated that they are requesting an amendment to remove the subject property from the Airport Noise Zone 3 Overlay classification. The amendment is being requested to permit the construction of a school which is otherwise prohibited within the Noise Zone 3 classification. The underlying future land use designation of the subject property will not change as a result of this amendment. Since the proposed amendment will not have any impact on population projections, it is our determination that existing and proposed support facilities provided by Lee County Parks and Recreation will not be impacted by the proposed amendment.

Should you have any questions or require any additional information, please do not hesitate to contact me directly at 479-8762.

cc: John Yarbrough, Director, Lee County Parks and Recreation
Jim Lavender, Director, Department of Public Works

From: Kim Trebatoski
To: Campbell, John; Carroll, Mike; Collins, Donna Marie; Diaz, Rick; Eckenrode, Pete; Hansen, Chris; Horner, Bill; Houck, Pam; Jones, Timothy; Joyce, Rick; Keyes, Stephanie; Lavender, James; Loveland, David; Myers, Steve; Noble, Matthew; Ottolini, Roland; Pavese, Michael; Sampson, Lindsey; Vance, Brad; Watermeier, Janet; Wegis, Howard; Wilson, John; Wu, Lili; Yarbrough, John
Date: 4/24/03 1:46PM
Subject: Re: Lee Plan Small Scale Amendment - Gateway Charter School

ES staff has reviewed the submittal. There are no environmental issues in regard to the proposal. I verified that the wetland area in southeast corner of the property shown on Exhibit 1 was permitted to be impacted through the SFWMD permit (DOS2003-00017 file).

Kim Trebatoski
Principal Environmental Planner
DCD - Planning/Environmental Sciences
trebatkm@leegov.com
239-479-8183
FAX 239-479-8319

>>> Matthew Noble 04/23/03 03:20PM >>>

Planning staff has received the attached proposed Lee Plan Amendment. Staff is asking your help in the review of this application. Planning staff requests comments by May 5th if possible...

CC: O'Connor, Paul

From: Roland Ottolini
To: Noble, Matthew
Date: 4/23/03 3:37PM
Subject: Re: Lee Plan Small Scale Amendment - Gateway Charter School

I dont see any problems from our perspective

>>> Matthew Noble 04/23/03 03:20PM >>>

Planning staff has received the attached proposed Lee Plan Amendment. Staff is asking your help in the review of this application. Planning staff requests comments by May 5th if possible...

From: "Keyes, Stephanie" <StephanieK@lee.k12.fl.us>
To: 'Kim Trebatoski' <TREBATKM@leegov.com>, "Keyes, Stephanie" <StephanieK@lee.k12.fl.us>, John Campbell <CAMPBEJM@leegov.com>, Mike Carroll <CARROLCM@leegov.com>, Chris Hansen <CHRISH@leegov.com>, Donna Marie Collins <COLLINS@leegov.com>, Pete Eckenrode <ECKENRPJ@leegov.com>, Timothy Jones <JONEST@leegov.com>, Rick Joyce <JOYCERK@leegov.com>, Janet Watermeier <jwatermeier@leegov.com>, John Yarbrough <JY@leegov.com>, James Lavender <LAVENDJH@leegov.com>, David Loveland <LOVELADM@leegov.com>, Matthew Noble <NOBLEMA@leegov.com>, Roland Ottolini <OTTOLIRE@leegov.com>, Michael Pavese <PAVESEMP@leegov.com>, Pam Houck <PHOUCK@leegov.com>, Rick Diaz <RDIAZ@leegov.com>, Lindsey Sampson <SAMPSONLJ@leegov.com>, Steve Myers <SLMYERS@leegov.com>, Brad Vance <VANCEBS@leegov.com>, Howard Wegis <WEGISHS@leegov.com>, John Wilson <WILSONJD@leegov.com>, Lili Wu <WULX@leegov.com>, <wbhorner@swfia.com>
Date: 4/29/03 8:57AM
Subject: RE: Lee Plan Small Scale Amendment - Gateway Charter School

This application would have a very positive impact on the Lee County School District, as it would eliminate the need to construct these classrooms on Lee County School District school campuses. It alleviates the pressing need to meet increasing enrollments at this time in the East Choice Zone which is one of the District's fastest growing areas. Currently, three new schools are under construction in the East zone which will not open for two more years, thus this proposal will help offset the growth experienced in this choice zone while these new schools are under construction.

In the future, improved coordination with Lee County planning, the charter school applicants, and the District's Department of Construction and Planning should occur to assist in the location of these facilities and possibly avoid their future location in industrial parks or other commercial locations. In addition, such coordination would assist in reviewing comprehensive plan issues and other related matters. If I may be of further assistance, please give me a call.

>Stephanie Keyes, AICP
 >Lee County School District
 >Facilities Planner, Department of Construction and Planning
 >3308 Canal Street
 >Fort Myers, FL 33916
 >239-479-4205
 >Fax 239-334-8637
 >

>>> Matthew Noble 04/23/03 03:20PM >>>

Planning staff has received the attached proposed Lee Plan Amendment. Staff is asking your help in the review of this application. Planning staff requests comments by May 5th if possible...

CC: Paul O'Connor <OCONNOPS@leegov.com>, "Martin, Keith" <KeithM2@lee.k12.fl.us>, "Patak, Tyler" <TylerP@lee.k12.fl.us>, "Humbaugh, William" <WilliamH2@lee.k12.fl.us>, "Pottorf, Lynn" <LynnP@lee.k12.fl.us>

**MORRIS-DEPEW ASSOCIATES, INC.****ENGINEERS • PLANNERS • SURVEYORS & MAPPERS**

2216 Altamont Avenue • Fort Myers, Florida 33901 • (941) 337-3993 • FAX (941) 337-3994

April 24, 2003

Mr. Matt Noble
Lee County Division of Planning
P. O. Box 398
Ft. Myers, FL 33902

03 APR 28 AM 9:02
LEE COUNTY
RECEIVED
COMM. DEV/
PUB. WRKS. CNTR.
SECOND FLOOR

Subject: McGarvey Charter School Small-Scale Map Amendment

Dear Mr. Noble:

After a discussion with Howard Wegis at Lee County Utilities, I am prompted to write a short explanation regarding water and sewer service for the subject property. Upon inquiry with the engineers (Hole Montes, Inc.), I was informed that the subject property is in the Gateway Utilities service district. The property itself is in the Westlinks development, formally described as Lot 1, Block C, Gateway Phase 15 according to the plat thereof recorded in Plat Book 53 at pages 15 through 21 of the public records of Lee County, Florida, and the south one-half (S ½) of Lot 2, Block C, Gateway Phase 15, as recorded in Plat Book 53, Pages 15 through 21, of the public records of Lee County, Florida. I am informed that when the original subdivision was platted, provisions for utilities were made and approved by the County for all parcels in the subdivision, including the subject property. I can provide copies of the approved development order for the subdivision if that is deemed necessary, but I believe that the existence of the plat, a copy of which was provided as part of the application materials, should suffice as evidence that all improvements, including utilities, were either constructed or bonded in accordance with the County's requirements. Thus, the County has already approved the design and capacity issues associated with the utilities for the subject property, and there should be no question regarding whether this infrastructure is available to the site.

If there are additional questions or concerns, please let me know. If you would like copies of any of the original development order approvals, I

Mr. Matt Noble

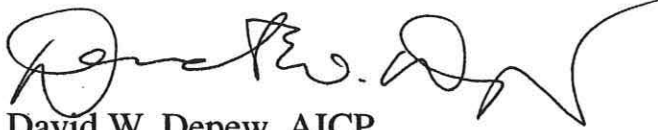
April 24, 2003

2

would be happy to provide them for you. Thank you in advance for your kind consideration.

Regards,

Morris-Depew Associates, Inc.

A handwritten signature in black ink, appearing to read "David W. Depew", with a stylized flourish extending to the right.

David W. Depew, AICP

President

cc: Charles J. Basinait, Esq.
John McGarvey

Reply to
Charles J. Basinait
Direct Dial Number 239.337.8433
E-Mail: charles.basinait@henlaw.com

May 7, 2003

VIA HAND DELIVERY

Mr. Matthew Noble
Lee County Community Development
1500 Monroe Street
Fort Myers, FL 33901

CPA 2003-00003
RECEIVED
MAY 07 2003

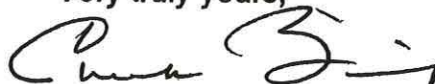
ZONING COUNTER

Re: CPA 03-03-Gateway Charter School Zone 3 Small Scale - Lee Plan Map
Amendment
Our File No. 15469/2

Dear Matt:

Enclosed please find a copy of the Articles of Organization of Commonwealth Flex Associates, LLC indicating that John McGarvey is the Manager. Please let me know if you have any further questions regarding this matter.

Very truly yours,



Charles J. Basinait

CJB/jma

Enclosure Articles of Organization

State of Florida



Department of State

I certify the attached is a true and correct copy of the Articles of Organization of COMMONWEALTH FLEX ASSOCIATES, LLC, a limited liability company organized under the laws of the state of Florida, filed on February 25, 2003, as shown by the records of this office.

The document number of this limited liability company is L03000006839.

CPA 2003-00003

RECEIVED
MAY 07 2003

ZONING COUNTER

Given under my hand and the
Great Seal of the State of Florida
at Tallahassee, the Capitol, this the
Twenty-fifth day of February, 2003



CR2EQ22 (1-03)

Ken Detzner
Ken Detzner
Secretary of State

ARTICLES OF ORGANIZATION
OF
COMMONWEALTH FLEX ASSOCIATES, LLC

The undersigned, for the purpose of forming a limited liability company under the Florida Limited Liability Company Act, Chapter 608, Florida Statutes, hereby makes, acknowledges, and files the following Articles of Organization

ARTICLE I -- NAME

The name of the limited liability company shall be COMMONWEALTH FLEX ASSOCIATES, LLC (the "Company").

ARTICLE II -- ADDRESS

The mailing address and street address of the initial principal office of the Company shall be 27300 Riverview Center Boulevard, Suite 201, Bonita Springs, Florida 34134.

ARTICLE III -- DURATION

The Company shall commence its existence as a Florida limited liability company on the date these Articles of Organization are filed by the Florida Department of State. The Company's existence shall be perpetual unless the Company is earlier dissolved as provided in these Articles of Organization or in the Company's operating agreement (the "Operating Agreement").

ARTICLE IV -- REGISTERED OFFICE AND AGENT

The name and street address of the initial registered agent of the Company in the State of Florida are Jeffrey S. Kannensohn, Esq., c/o Porter, Wright, Morris & Arthur LLP, 5801 Pelican Bay Blvd., Suite 300, Naples, Florida 34108-2709.

ARTICLE V -- ADMISSION OF NEW MEMBERS

No additional members shall be admitted to the Company except with the unanimous prior written consent of all members and on such terms and conditions as shall be approved by unanimous consent of all members. A member may transfer its interest in the Company only as set forth in the Operating Agreement of the Company.

ARTICLE VI -- WITHDRAWAL OF MEMBERS

A member of the Company may withdraw from the Company only upon the unanimous prior consent of all the nonwithdrawing members of the Company.

NAPLES/257770 - 01

CPA 2003-00007
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ARTICLE VII -- TERMINATION OF EXISTENCE

The Company shall be dissolved upon the occurrence of events specified in the Company's Operating Agreement.

ARTICLE VIII -- MANAGEMENT

The Company shall be managed by a Manager, John S. McGarvey, in accordance with the Operating Agreement adopted by the members for the management of the business and affairs of the Company. The Operating Agreement may contain any provisions for the regulation and management of the affairs of the Company not inconsistent with law or these articles of organization.

IN WITNESS WHEREOF, the undersigned organizer and member has made and subscribed these Articles of Organization on this 24th day of February, 2003.

By: 
John S. McGarvey, as Its Manager

FILED
03 FEB 25 PM 1:40
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

CPA 2003-00003


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ACCEPTANCE OF REGISTERED AGENT

The undersigned, being the person named in the Articles of Organization of COMMONWEALTH FLEX ASSOCIATES, L.L.C., as the registered agent of this limited liability company, hereby consents to accept service of process for the above stated company at the place designated in the Articles of Organization, and accepts the appointment as registered agent and agrees to act in this capacity. The undersigned further agrees to comply with the provisions of all statutes relating to the proper and complete performance of his duties, and is familiar with and accept the obligations of the position of registered agent.

Date: February 24, 2003.


Jeffrey S. Kannensohn, Esq.

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FLORIDA DEPARTMENT OF STATE

Ken Detzner
Secretary of State

February 25, 2003

NORMA HULL
CSC
TALLAHASSEE, FL

The Articles of Organization for COMMONWEALTH FLEX ASSOCIATES, LLC were filed on February 25, 2003, and assigned document number L03000006839. Please refer to this number whenever corresponding with this office.

In accordance with section 608.406(2), F.S., the name of this limited liability company is filed with the Department of State for public notice only and is granted without regard to any other name recorded with the Division of Corporations.

The certification you requested is enclosed.

A limited liability annual report/uniform business report will be due this office between January 1 and May 1 of the year following the calendar year of the file date. A Federal Employer Identification (FEI) number will be required before this report can be filed. Please apply NOW with the Internal Revenue Service by calling 1-800-829-3676 and requesting form SS-4.

Please be aware if the limited liability company address changes, it is the responsibility of the limited liability to notify this office.

Should you have any questions regarding this matter, please telephone (850) 245-6051, the Registration Section.

Diane Cushing
Corporate Specialist
Division of Corporations

Letter Number: 803A00012149

Account number: 072100000032

Amount charged: 155.00

CPA 2003-000003

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Impact
at planned**

LEHIGH CHARTER SCHOOL

**at
Daniels Parkway &
Commonwealth Dr.**

Prepared for:
McGARVEY DEVELOPMENT CO.

File No. 114.0404

12 May 2003

INTRODUCTION

The Gateway Westlinks Charter School currently under construction, is within the Airport Overlay Zone 3, as described in the Southwest Florida International Airport FAR Part 150 Noise Study prepared in 1995. The 1995 Noise Contours and the Future 1999 Contours show the subject property to be well outside the DNL 65 Contour. (DNL also called L_{DN} , is the day-night sound level, which is a 24-hour average that penalizes the hours between 10 PM and 7 AM. By adding 10 decibels, dB). The most recent projections prepared by Environmental Science Associates, in 2002 are for the year 2020 and show the property to be outside the DNL 55 contour.

Sound Measurements conducted at the property, indicate that Daniels Parkway traffic dominates the ambient noise and controls the Leq (equivalent level) at the property. Since the school is a daytime operation, the nighttime penalties applied to DNL computations would not be applicable.

The Code of Federal Regulations [24CFR51] TITLE 24--HOUSING AND URBAN DEVELOPMENT, PART 51--ENVIRONMENTAL CRITERIA AND STANDARDS, Sections 103 and 104 address properties not exceeding DNL 65 as acceptable. Properties located within DNL 65 or higher require special attention to sound isolating construction to reduce the interior sound levels to a level of not more than 45 dBA (decibels A-weighted).

This property, located well outside the DNL 65 contour, would qualify for a residential mortgage under FHA and HUD guidelines.

SOUND MONITORING MEASUREMENTS

Measurements were conducted on the Charter School Property on Sunday 4 May 2003. A Sunday was selected because of our office schedule and the construction activity schedule. Reviewing the aircraft arrival and departure schedule, the Sunday activity is not significantly less than other days of the week. The active runway was Runway 6, which we understand handles about 85 percent of departures. The measurement time-period began at 0915 and ended at 1220 when the afternoon westerly wind started to set in which would dictate departures on runway 24.

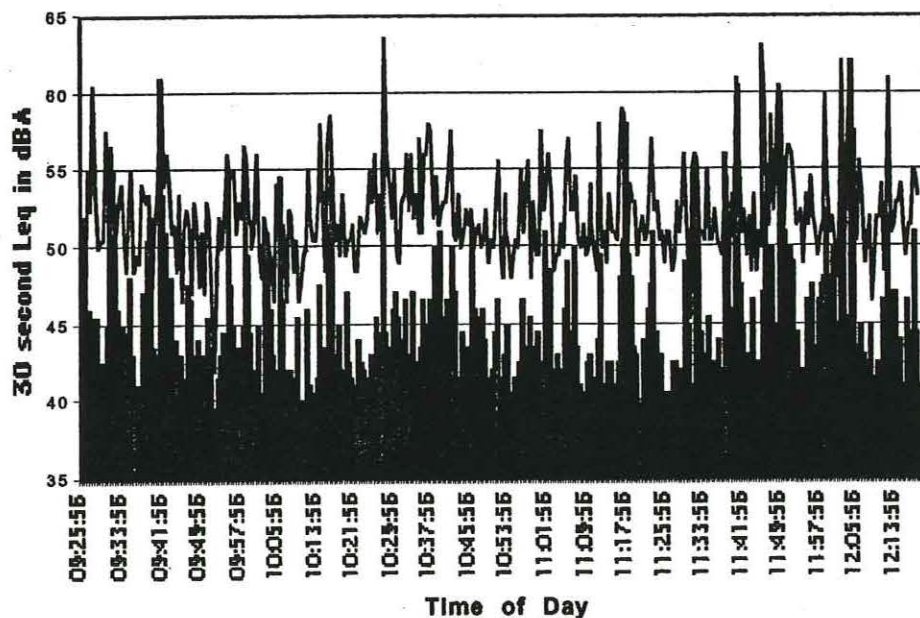
A pair of Larson Davis Analyzers (Model 700) was used for measurements. The analyzers located at Positions A and B as shown on the enclosed copy of the Master Site Plan.

Statistical sampling intervals were 15-minute periods, and are copied below. Percentile levels, L10, L50, L90 indicate the percentage of the 15 minute time the level was exceeded. For example, L10 is the level ten percent of the time.

INTERVAL	REPORT		LARSON	DAVIS	LABORATORIES	ATORIES	
DATA FROM: School_9			MODEL	700 SN	B0889		
Date 4 May 2003							
	Period 15 minutes				LOCATION A		
Time	LEQ	Lmin	Lmax	L10	L33	L50	L90
09:15:26	53.5	40.5	72.5	56.5	52	50	43.5
09:30:26	54	41	68.5	57	53.5	51	44.5
09:45:26	52	39.5	64.5	55.5	52.5	50.5	43
10:00:26	51.5	40	64.5	54.5	51.5	50	44
10:15:26	54	41	73	56.5	53	51.5	46
10:30:26	54	41.5	66.5	57.5	54	52.5	46.5
10:45:26	51.5	39.5	65.5	54.5	51.5	50	43.5
11:00:26	53	39.5	66.5	56	52	50.5	45
11:15:26	53	40.5	68	56	52.5	50.5	45
11:30:26	53.5	40.5	68	56.5	52	50	45
11:45:26	56	43	74	57	54	52	47
12:00:26	54.5	41	71	57	53	51	45.5
12:15:26	53	43	62	56	53	51.5	47
				OVERALL LEQ:		54	
INTERVAL	REPORT		LARSON	DAVIS	LABORATORIES	ATORIES	
DATA FROM: School_5			MODEL	700 SN	B0655		
Date 4 May 2003							
	Period 15 minutes				LOCATION B		
Time	LEQ	Lmin	Lmax	L10	L33	L50	L90
09:25:41	47.5	37	63.5	51	45.5	43.5	39
09:40:41	48.5	36	67	48.5	43.5	42	38.5
09:55:41	47.5	36	68	51	44	42	38.5
10:10:41	45	36	61.5	46.5	42.5	41	38
10:25:41	46.5	36.5	65	48.5	45	43	39.5
10:40:42	45	35.5	61.5	48	43.5	42	38.5
10:55:42	45	36	63	48	43.5	42	38.5
11:10:42	47	36	64	50	43.5	41.5	38.5
11:25:42	47	36	64.5	49	43.5	41.5	38
11:40:42	51	36.5	70	53.5	45	43	39
11:55:42	51	37	67.5	53.5	45	43	39.5
12:10:42	48	36.5	71.5	50	44.5	42.5	39.5
				OVERALL LEQ:		48	

The significance of comparing Locations A and B is their relative distance from Daniels Parkway and from the aircraft flight path. Location B is approximately two times as far from Daniels Parkway as is Location A. doubling of Distance from the source yields a reduction of 6 dB. This is reflected in the different Leq values; $54 - 48 = 6$. Now consider distance from the flight path to each of these locations and the difference is within a few feet out of thousands; the effect of which is insignificant. If aircraft noise were dominant both locations would read the same. There are a couple of instances in the below chart where this seems to occur.

In addition to the intervals, samples were taken for 30-second intervals, and are shown below for both instrument locations.



The upper curve is Location A (nearest to Daniels Parkway)
The lower is at Location B..

The above shows how traffic on Daniels dominates the property. Spikes where the level is the same for each location are attributable to aircraft departures. However, the aircraft sound incidents do not significantly affect the overall average sound level.

DAY-NIGHT SOUND LEVEL (DNL) and EQUIVALENT LEVEL (LEQ)



Day-night levels (DNL) require long term measurement periods. Data is normally acquired over a number of 24 hour periods. In this instance, the influence of nearby traffic would skew the data with respect to airport influence. Utilizing the measured data, and assuming that the equivalent levels (Leq) for each location are a reasonable representation of each if the 24 hours, an approximation of 24 hour Leq and DNL has been computed for each location.

Location A Leq = 53.5 and DNL = 59.9

Location B Leq = 47.8 and DNL = 54.7

The school is a daytime operation; thus, Leq would be applicable, as activities would not be during the 10 dB penalty time assessed for DNL computation.

CFR24 Part 51

A copy of sections part 103 and 104 is attached. This describes the criteria and procedure for obtaining approvals, for properties in areas that are considered "noise impacted". This is provided to show that the school property is within acceptable guidelines.

ANSI S12,60-2002

This is a relatively new standard titled, "American National Standard ACOUSTICAL PERFORMANCE CRITERIA, DESIGN REQUIREMENTS, AND GUIDELINES FOR SCHOOLS.

The Charter School Site is outside the DNL 60 contour (DNL 55 for year 2020 projections). As such it is considered acceptable.

The exterior shell of the building's performance has been considered in terms of Outdoor-Indoor Transmission Class (OITC) which computes to be OITC 38. The worst case measured sound levels, Location A, was Leq 53.5. Subtracting $53.5 - 38 = 15.5$ dBA. This is well below the standard's criteria of 35 dBA.

SUMMARY

The results of this study, although brief, indicate the property will meet acceptable HUD criteria for residential construction and ANSI S12.60 criteria for schools; both interior and exterior sound levels.

The airport Overlay Zones are soon due for a re-evaluation. It is anticipated that the subject property would be removed from Zone 3 based on revised DNL contours, which are primarily the result of quieter "Stage 3" aircraft.

The school is well outside the DNL 65 contour; even outside the year 2020 DNL 55 contour.

Vehicular traffic on Daniels Road dominates the site as evidenced by the 6 dB difference between Locations A and B.

ATTACHMENTS



Report 114.0404
5 May 2003

Sec. 51.103 Criteria and standards.

These standards apply to all programs as indicated in Sec. 51.101.

(a) Measure of external noise environments. The magnitude of the external noise environment at a site is determined by the value of the day-night average sound level produced as the result of the accumulation of noise from all sources contributing to the external noise environment at the site. Day-night average sound level, abbreviated as DNL and symbolized as L_{dn} , is the 24-hour average sound level, in decibels, obtained after addition of 10 decibels to sound levels in the night from 10 p.m. to 7 a.m. Mathematical expressions for average sound level and day-night average sound level are stated in the Appendix I to this subpart.

(b) Loud impulsive sounds. On an interim basis, when loud impulsive sounds, such as explosions or sonic booms, are experienced at a site, the day-night average sound level produced by the loud impulsive sounds alone shall have 8 decibels added to it in assessing the acceptability of the site (see Appendix I to this subpart). Alternatively, the C-weighted day-night average sound level (L_{Cdn}) may be used without the 8 decibel addition, as indicated in Sec. 51.106(a)(3). Methods for assessing the contribution of loud impulsive sounds to day-night average sound level at a site and mathematical expressions for determining whether a sound is classed as "loud impulsive"

[[Page 289]]

are provided in the Appendix I to this subpart.

(c) Exterior standards. (1) The degree of acceptability of the noise environment at a site is determined by the sound levels external to buildings or other facilities containing noise sensitive uses. The standards shall usually apply at a location 2 meters (6.5 feet) from the building housing noise sensitive activities in the direction of the predominant noise source. Where the building location is undetermined, the standards shall apply 2 meters (6.5 feet) from the building setback line nearest to the predominant noise source. The standards shall also apply at other locations where it is determined that quiet outdoor space

is required in an area ancillary to the principal use on the site.

(2) The noise environment inside a building is considered acceptable if: (i) The noise environment external to the building complies with these standards, and (ii) the building is constructed in a manner common to the area or, if of uncommon construction, has at least the equivalent noise attenuation characteristics.

Site Acceptability Standards

	Day-night average sound level (in decibels)	Special approvals and requirements
Acceptable.....	Not exceeding 65 dB(1)	None.
Normally Unacceptable.....	Above 65 dB but not exceeding 75 dB.	Special Approvals (2) Environmental Review (3). Attenuation (4).
Unacceptable.....	Above 75 dB.....	Special Approvals (2). Environmental Review (3). Attenuation (5).

Notes: (1) Acceptable threshold may be shifted to 70 dB in special circumstances pursuant to Sec. 51.105(a).

(2) See Sec. 51.104(b) for requirements.

(3) See Sec. 51.104(b) for requirements.

(4) 5 dB additional attenuation required for sites above 65 dB but not exceeding 70 dB and 10 dB additional attenuation required for sites above 70 dB but not exceeding 75 dB. (See Sec. 51.104(a).)

(5) Attenuation measures to be submitted to the Assistant Secretary for CPD for approval on a case-by-case basis.

[44 FR 40861, July 12, 1979, as amended at 49 FR 12214, Mar. 29, 1984]

Sec. 51.104 Special requirements.

(a)(1) Noise attenuation. Noise attenuation measures are those required in addition to attenuation provided by buildings as commonly constructed in the area, and requiring open windows for ventilation. Measures that reduce external noise at a site shall be used wherever practicable in preference to the incorporation of additional noise attenuation in buildings. Building designs and construction techniques that provide more noise attenuation than typical construction may be employed also to meet the noise attenuation requirements.

(2) Normally unacceptable noise zones and unacceptable noise zones. Approvals in Normally Unacceptable Noise Zones require a minimum of 5 decibels additional sound attenuation for buildings having noise-sensitive uses if the day-night average sound level is greater than 65 decibels but does not exceed 70 decibels, or a minimum of 10 decibels of additional sound attenuation if the day-night average sound level is greater than 70 decibels but does not exceed 75 decibels. Noise attenuation measures in Unacceptable Noise Zones require the approval of the Assistant Secretary for Community Planning and Development, or the Certifying Officer for activities subject to 24 CFR part 58. (See Sec. 51.104(b)(2).)

(b) Environmental review requirements. Environmental reviews shall be conducted pursuant to the requirements of 24 CFR parts 50 and 58, as applicable, or other environmental regulations issued by the Department. These requirements are hereby modified for all projects proposed in the Normally Unacceptable and Unacceptable noise exposure zones as follows:

(1) Normally unacceptable noise zone. (i) All projects located in the Normally Unacceptable Noise Zone require a Special Environmental Clearance except an EIS is required for a proposed project located in a largely undeveloped area, or where the HUD action is

[[Page 290]]

likely to encourage the establishment of incompatible land use in this noise zone.

(ii) When an EIS is required, the concurrence of the Program

24 CFR Part 51

Parts 51.103 and 51.104

Copy - Page 3 of 4

Assistant Secretary is also required before a project can be approved. For the purposes of this paragraph, an area will be considered as largely undeveloped unless the area within a 2-mile radius of the project boundary is more than 50 percent developed for urban uses and infrastructure (particularly water and sewers) is available and has capacity to serve the project.

(iii) All other projects in the Normally Unacceptable zone require a Special Environmental Clearance, except where an EIS is required for other reasons pursuant to HUD environmental policies.

(2) Unacceptable noise zone. An EIS is required prior to the approval of projects with unacceptable noise exposure. Projects in or partially in an Unacceptable Noise Zone shall be submitted to the Assistant Secretary for Community Planning and Development, or the Certifying Officer for activities subject to 24 CFR part 58, for approval. The Assistant Secretary or the Certifying Officer may waive the EIS requirement in cases where noise is the only environmental issue and no outdoor noise sensitive activity will take place on the site. In such cases, an environmental review shall be made pursuant to the requirements of 24 CFR parts 50 or 58, as appropriate.

[44 FR 40861, July 12, 1979, as amended at 61 FR 13333, Mar. 26, 1996]



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03053

April 17, 2003

Ms. Mary Gibbs, AICP
Director, Lee County Dept. of Community Development
P. O. Box 398
Fort Myers, FL 33902-0398

Subject: LDC Amendment Modifying Airport Noise Zone 3 Legal Description
(Lehigh Charter School)

Dear Ms. Gibbs:

Pursuant to discussions with Staff, the small-scale FLUM amendment has been submitted for the proposed Lehigh Charter School under the name of J. McGarvey Development Co., Inc. and the property owner, Commonwealth Flex Associates, LLC. As you know, if the BOCC approves the proposed small-scale plan amendment, a modification to the LDC will be required to re-describe the limits of Airport Noise Zone 3. Attached please find a copy of an amended legal description for Airport Noise Zone 3. I believe that Section 34-1006(b)(2)b of the LDC is the applicable section, and I have included the amended language in the usual underline/crosstrike fashion. At this point, I am uncertain as to whether the County would prefer the language as supplied, or in the form of a draft ordinance. If the ordinance format is the preferred, please let me know and I will prepare the description in that fashion.

I am forwarding this letter and the draft legal description to you in electronic format (as well as paper) in order to assist in Staff's preparation of the necessary documents. I am also available to help put together any additional background material that you deem necessary. Thank you for your kind assistance in this matter.

Regards,
Morris-Depew Associates, Inc.

David W. Depew, AICP
President

cc: John McGarvey
Charles J. Basinait, Esq.
Tim Jones, Esq.
Paul O'Connor, AICP
Pam Houck



**Amended Legal Description: Airport Noise Zone 3
Excludes Commonwealth Flex Associates, LLC Property
(Lehigh Charter School Site)**

(Additions underlined, deletions ~~crossed out~~.)

34-1006 (b) (2)

b. Zone 3 is legally defined as the following area:

A tract or parcel of land lying in Lee County, Florida, more particularly described as follows:

Within Township 46 South, Range 25 East:

All of Section 1;

All of Section 2;

All of Section 3;

All of Section 4;

All of Section 5: less and except:

the North Two-Thirds (N-2/3) of the Northwest Quarter (NW-1/4) lying North of the North line of the easement for the Briarcliff Canal;

All of Section 6: less and except:

the North Half (N-1/2) of the North Half (N-1/2) lying North of the North line of the easement for the Briarcliff Canal;

the North Half (N-1/2) of Section 10; and

the Northwest Quarter (NW-1/4) and the West Half (W-1/2) of the Northeast Quarter (NE-1/4) of Section 11.

TOGETHER WITH:

Within Township 45 South, Range 25 East:

The West Half (W-1/2) of the Southwest Quarter (SW-1/4) of Section 26; the Southeast Quarter (SE-1/4) of Section 27; all of Section 34; less and except:

the Northwest Quarter (NW-1/4); the West Half (W-1/2) of the West Half (W-1/2) of Section 35;

TOGETHER WITH:

Within Township 46 South, Range 26 East: the Northwest Quarter (NW-1/4) of Section 5; the North Half (N-1/2) and the west 915 feet of the South Half (S-1/2) of Section 6;

TOGETHER WITH:

Within Township 45 South, Range 26 East:

That portion of the Southwest Quarter (SW-1/4) of Section 4 lying south of State Road No. 82;

That portion of the Southeast Quarter (SE-1/4) of Section 5 lying south of State Road No. 82;

That portion of the Southwest Quarter (SW-1/4) of Section 11 lying south of State Road No. 82;

That portion of Section 10 lying south of State Road No. 82;

All of Section 9: less and except:

that portion of the Northeast Quarter (NE-1/4) of Section 9 lying north of State Road No. 82;



The East Half (E-1/2) of the East Half (E-1/2) together with the Southwest Quarter (SW-1/4) of the Southeast Quarter (SE-1/4) of Section 8;
All of Section 14: less and except:
that portion of the Northeast Quarter (NE-1/4) of Section 14 lying north of State Road No. 82;
All of Section 15;
All of Section 16;
All of Section 17: less and except:
that portion of the Southwest Quarter (SW-1/4) described as follows:
Beginning at the southwest corner of the Southwest Quarter (SW-1/4) of said Section 17 run N 89° 27' 32" E along the south line of the Southwest Quarter (SW-1/4) a distance of 2,643.37 feet to the southeast corner of the Southwest Quarter (SW-1/4) of Section 17; thence run N 01° 00' 03" W along the east line of the Southwest Quarter (SW-1/4) a distance of 2,663.49 feet to the northeast corner of the Southwest Quarter (SW-1/4) of Section 17; thence run S 89° 30' 50" W along the north line of the Southwest Quarter (SW-1/4) of Section 17 a distance of 2,110.98 feet; thence run S 54° 00' 00" W a distance of 649.21 feet to a point lying along the west line of the Southwest Quarter (SW-1/4) of Section 17; thence run S 00° 58' 41" E along the west line of the Southwest Quarter (SW-1/4) of Section 17 a distance of 2,288.89 feet to the point of beginning;
All that part of the Southeast Quarter (SE-1/4) of Section 18 lying north of Daniels Parkway: less and except:
those portions as described in the Parcel C and Parcel D descriptions included in the Zone 4 Noise Overlay Description;
Together with the South Half (S-1/2) of the South Half (S-1/2) of the Southwest Quarter (SW-1/4) of Section 18;
All that part of the Northwest Quarter (NW-1/4) of Section 19 lying north of Daniels Parkway less and except Lot 1, Block C, Gateway Phase 15, according to the plan thereof recorded on Plat Book 53 at Pages 15 through 21 of the Public Records of Lee County, Florida and less and except the south one-half (S 1/2) of Lot 2, Block C, Gateway Phase 15 as recorded in Plat Book 53, pages 15 through 21 of the Public Records of Lee County, Florida;
That portion of Section 20 as described and recorded in Official Record Book 1535 at page 1480 in the Lee County Public Records;
All of Section 21;
All of Section 22;
All of Section 23;
All of Section 26;
All of Section 27;
All of Section 28;
All of Section 33;
All of Section 34.



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April 24, 2003

Mr. Matt Noble
Lee County Division of Planning
P. O. Box 398
Ft. Myers, FL 33902

Subject: McGarvey Charter School Small-Scale Map Amendment

Dear Mr. Noble:

After a discussion with Howard Wegis at Lee County Utilities, I am prompted to write a short explanation regarding water and sewer service for the subject property. Upon inquiry with the engineers (Hole Montes, Inc.), I was informed that the subject property is in the Gateway Utilities service district. The property itself is in the Westlinks development, formally described as Lot 1, Block C, Gateway Phase 15 according to the plat thereof recorded in Plat Book 53 at pages 15 through 21 of the public records of Lee County, Florida, and the south one-half (S ½) of Lot 2, Block C, Gateway Phase 15, as recorded in Plat Book 53, Pages 15 through 21, of the public records of Lee County, Florida. I am informed that when the original subdivision was platted, provisions for utilities were made and approved by the County for all parcels in the subdivision, including the subject property. I can provide copies of the approved development order for the subdivision if that is deemed necessary, but I believe that the existence of the plat, a copy of which was provided as part of the application materials, should suffice as evidence that all improvements, including utilities, were either constructed or bonded in accordance with the County's requirements. Thus, the County has already approved the design and capacity issues associated with the utilities for the subject property, and there should be no question regarding whether this infrastructure is available to the site.

If there are additional questions or concerns, please let me know. If you would like copies of any of the original development order approvals, I

Mr. Matt Noble

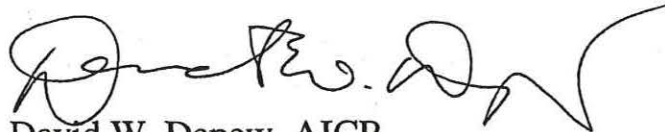
April 24, 2003

2

would be happy to provide them for you. Thank you in advance for your kind consideration.

Regards,

Morris-Depew Associates, Inc.

A handwritten signature in black ink, appearing to read 'David W. Depew', with a stylized flourish extending to the right.

David W. Depew, AICP

President

cc: Charles J. Basinait, Esq.
John McGarvey



MORRIS-DEPEW ASSOCIATES, INC.
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The subject property lies within the Gateway System 5 drainage basin. The surface water system for Gateway was permitted and constructed pursuant to South Florida Water Management District Permit no. 36-03803-P. A modification to this permit has been obtained for the subject site and construction is close to being completed in accordance with this approved modification. The plan amendment will have no effect surface water.

The plan amendment will have no effect on existing or future parks and recreation or open space.

Office of the Sheriff
Rodney Shoap



County of Lee
State of Florida

May 22, 2003

Morris-Depew Associates, Inc.
Stacy Ellis Hewitt
2216 Altamont Avenue
Fort Myers, Florida 33901

RE: Gateway Westlinks Charter Schools USA
Application for a Small Scale Comprehensive Plan Amendment

Dear Stacy Ellis Hewitt:

The proposed development for Gateway Westlinks Charter Schools USA in Lee County, Florida, is within the service area for the Lee County Sheriff's Office. It is policy of the Lee County Sheriff's Office to support community growth and we will do everything possible to accommodate the law enforcement needs.

We anticipate that we will receive the reasonable and necessary funding to support growth in demand. We therefore believe that the Lee County Sheriff's Office will be able to serve your project as it builds out.

Sincerely,

Major Dan Johnson
Planning and Research

Copy: File
DJ/jr



14750 Six Mile Cypress Parkway • Fort Myers, Florida 33912-4406 • (941) 477-1000



LEE COUNTY
SOUTHWEST FLORIDA

BOARD OF COUNTY COMMISSIONERS

COPY

Writer's Direct Dial Number: _____

Bob Janes
District One

May 19, 2003

Douglas R. St. Cerny
District Two

Ray Judah
District Three

Andrew W. Coy
District Four

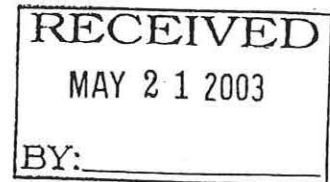
John E. Albion
District Five

Donald D. Stilwell
County Manager

James G. Yaeger
County Attorney

Diana M. Parker
County Hearing
Examiner

Stacy Ellis Hewitt
Planning Technician
Morris-Depew Associates, Inc.
2216 Altamont Avenue
Fort Myers, FL 33901



**RE: Written Determination of Adequacy for EMS Services for
Gateway Westlinks Charter Schools USA-Application for a Small
Scale Comprehensive Plan Amendment**

Dear Ms. Hewitt:

I have reviewed your letter dated May 19, 2003, reference to property located at 12850 Commonwealth Drive for Gateway Westlinks Charter Schools USA.

The current and planned budgetary projections for additional EMS resources should adequately address any increased demand for service from persons occupying this parcel or any support facilities.

If you would like to discuss this further, please call me at (239) 335-1649.

Sincerely,

DIVISION OF PUBLIC SAFETY

Chief Chris Hansen
EMS Manager

CH/DDL

INITIAL SUBMITTAL

RECEIVED ON

APRIL 14, 2003

MORRIS-DEPEW ASSOCIATES, INC.
ENGINEERS • PLANNERS • SURVEYORS & MAPPERS

April 14, 2003

Ms. Mary Gibbs, AICP
Director, Lee County Dept. of Community Development
P. O. Box 398
Ft. Myers, FL 33902-0398



CPA 2003 - 00003

Subject: Charter School Zone 3 Lee Plan Amendment

Dear Ms. Gibbs:

Attached please find six (6) copies of an application for a small-scale Lee Plan Future Land Use Map amendment. Requested is an amendment to change the boundaries of Zone 3, Map 1, Page 5 of the FLUM, eliminating the +/- 6.8 acre proposed Lehigh Charter School site from the Zone 3 Overlay. The subject property is located approximately ½ mile from the 60 noise contour according to the Port Authority maps, and as such need not be considered as in need of noise restricted uses. The owner has agreed to provide avigation easements to the Port Authority as needed, and it is my understanding that the County Attorney is working with Mr. Charles Basinait, the owners attorney, to craft the required language for such an easement.

As you may know, the parcel is currently under review by the Division of Development Services for the necessary development order, and the site is part of the existing Westlinks commercial subdivision. All of the requisite infrastructure is in place to service the proposed school, and the owner is making the associated site improvements for the school as part of his design and permitting efforts. Due to the inclusion of the subject property in Zone 3, the site is currently being permitted as an office use, but the eventual intent, if the small-scale amendment is approved, is to then amend the development order to permit the school function.

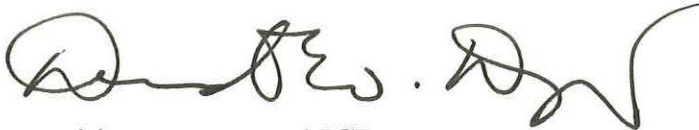
The real difficulties involved in the request are twofold: first, the Airport is concerned that amending Zone 3 may create a precedent for future changes;

and second, the timing of the request is critical in that the school must receive a certificate of occupancy not later than July 14, 2003, in order for the School Board to take possession for the coming school year. The owner has been assured that the physical improvements can be completed in accordance with code requirements in time to receive the CO. The only timing problem then becomes the speed at which the small-scale plan amendment can be processed. It is my understanding that Paul O'Connor believes that the request can be placed on the May agenda of the LPA, and come before the Commission in June. This would allow enough time for any appeal period to expire prior to the July 14 date, if approved. The question of the Airport and the precedential nature of the request is one that will be addressed in meetings with the Port Authority Staff and at the various public hearings. I would like to state that all concerns have been addressed in that area, but I cannot at this time. I am hopeful, however, that the Airport's difficulties will be addressed prior to the LPA hearing, and I can assure you that meetings with Port Authority Staff are on tap in the very near future. I will coordinate with Mr. O'Connor and his staff in the event that they wish to attend any of those meetings.

Thank you for your assistance in this matter, and if there are any questions, comments, or additional concerns, please do not hesitate to call either myself, or Mr. Basinait.

Regards,

Morris-Depew Associates, Inc.

A handwritten signature in black ink, appearing to read 'David W. Depew', followed by a period and a second, more stylized signature.

David W. Depew, AICP
President

cc: Charles J. Basinait, Esq.
John McGarvey



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ENGINEERS • PLANNERS • SURVEYORS & MAPPERS
2216 Altamont Avenue • Fort Myers, Florida 33901 • (941) 337-3993 • FAX (941) 337-3994

Small Scale Lee Plan Amendment
J. McGarvey Development Co., Inc.
Gateway Westlinks Charter School



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2216 Altamont Avenue • Fort Myers, Florida 33901 • (941) 337-3993 • FAX (941) 337-3994

Application Form



LEE COUNTY
SOUTHWEST FLORIDA

RECEIVED
APR 14 2003
amkw
ZONING COUNTER

Lee County Board of County Commissioners
Department of Community Development
Division of Planning
Post Office Box 398
Fort Myers, FL 33902-0398
Telephone: (941) 479-8585
FAX: (941) 479-8519

APPLICATION FOR A COMPREHENSIVE PLAN AMENDMENT

(To be completed at time of intake)

DATE REC'D 4-14-03

REC'D BY: amkw

APPLICATION FEE _____

TIDEMARK NO: CPA 2003-00003

THE FOLLOWING VERIFIED:

Zoning PUD ☐

Commissioner District ☐ 05

Designation on FLUM ☐ new community wetlands

(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.

4.11.03 [Signature]

DATE

SIGNATURE OF OWNER OR AUTHORIZED REPRESENTATIVE

I. APPLICANT/AGENT/OWNER INFORMATION

John McGarvey, Mgr. Partner, Commonwealth Flex Associates, LLC

APPLICANT		
27300 Riverview Center Boulevard		
ADDRESS	FL	34134
Bonita Springs		
CITY	STATE	ZIP
(239) 992-8940		(239) 992-6434
TELEPHONE NUMBER		FAX NUMBER

Mr. Charles J. Basinait, Henderson, Franklin, Starnes & Holt, P.A.

AGENT*		
P.O. Box 280		
ADDRESS	FL	33902-0280
Fort Myers		
CITY	STATE	ZIP
(239) 334-4121		(239) 334-4100
TELEPHONE NUMBER		FAX NUMBER

Commonwealth Flex Associates, LLC

OWNER(s) OF RECORD		
27300 Riverview Center Boulevard		
ADDRESS	FL	34134
Bonita Springs		
CITY	STATE	ZIP
(239) 992-8940		(239) 992-6434
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.

Morris-Depew Associates, Inc.
2216 Altamont Avenue
Fort Myers, Florida 33901
Tel: (239) 337-3993
Fax: (239) 337-3994

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

A. TYPE: (Check appropriate type)

☐ Text Amendment

☒ Future Land Use Map Series Amendment
(Maps 1 thru 20)

List Number(s) of Map(s) to be amended

Map #1, Page 5 of 5

B. SUMMARY OF REQUEST (Brief explanation):

A change in the boundary of Airport Hazard Zone 3 is requested to remove
the subject property from that designation.

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

A. Property Location:

1. Site Address: _____

2. STRAP(s): 19-45-26-05-0000C.0010; 19-45-26-05-0000C.0020

B. Property Information

Total Acreage of Property: +/- 6.8 acres

Total Acreage included in Request: +/- 6.8 acres

Area of each Existing Future Land Use Category: +/- 6.8 acres

Total Uplands: +/- 6.8 acres

Total Wetlands: 0

Current Zoning: PUD

Current Future Land Use Designation: New Community

Existing Land Use: Vacant

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: No

Airport Noise Zone 2 or 3: Yes, Zone 3

Acquisition Area: No

Joint Planning Agreement Area (adjoining other jurisdictional lands): No

Community Redevelopment Area: No

D. Proposed change for the Subject Property:

Removal from Airport Noise Zone 3

E. Potential development of the subject property:

1. Calculation of maximum allowable development under existing FLUM:

Residential Units/Density N/A

Commercial intensity 60,000 S.F.

Industrial intensity N/A

2. Calculation of maximum allowable development under proposed FLUM:

Residential Units/Density N/A

Commercial intensity 60,000 S.F.

Industrial intensity N/A

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.
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.
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.
4. Map and describe existing zoning of the subject property and surrounding properties.
5. The legal description(s) for the property subject to the requested change.
6. A copy of the deed(s) for the property subject to the requested change.
7. An aerial map showing the subject property and surrounding properties.
8. If applicant is not the owner, a letter from the owner of the property authorizing the applicant to represent the owner.

B. Public Facilities Impacts

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:
 - 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:
 - 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

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

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

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)
 - 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
 - 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.

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 up to a maximum of \$2,255.00
Small Scale Amendment (10 acres or less)	\$1,500.00 each
Text Amendment Flat Fee	\$2,500.00 each

AFFIDAVIT

I, John McGarvey, 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

4.11.03

Date

Typed or printed name

STATE OF FLORIDA)
COUNTY OF LEE)

The foregoing instrument was certified and subscribed before me this _____ day of _____ 19____, by _____, who is personally known to me or who has produced _____ as identification.

(SEAL)

Signature of notary public

Printed name of notary public



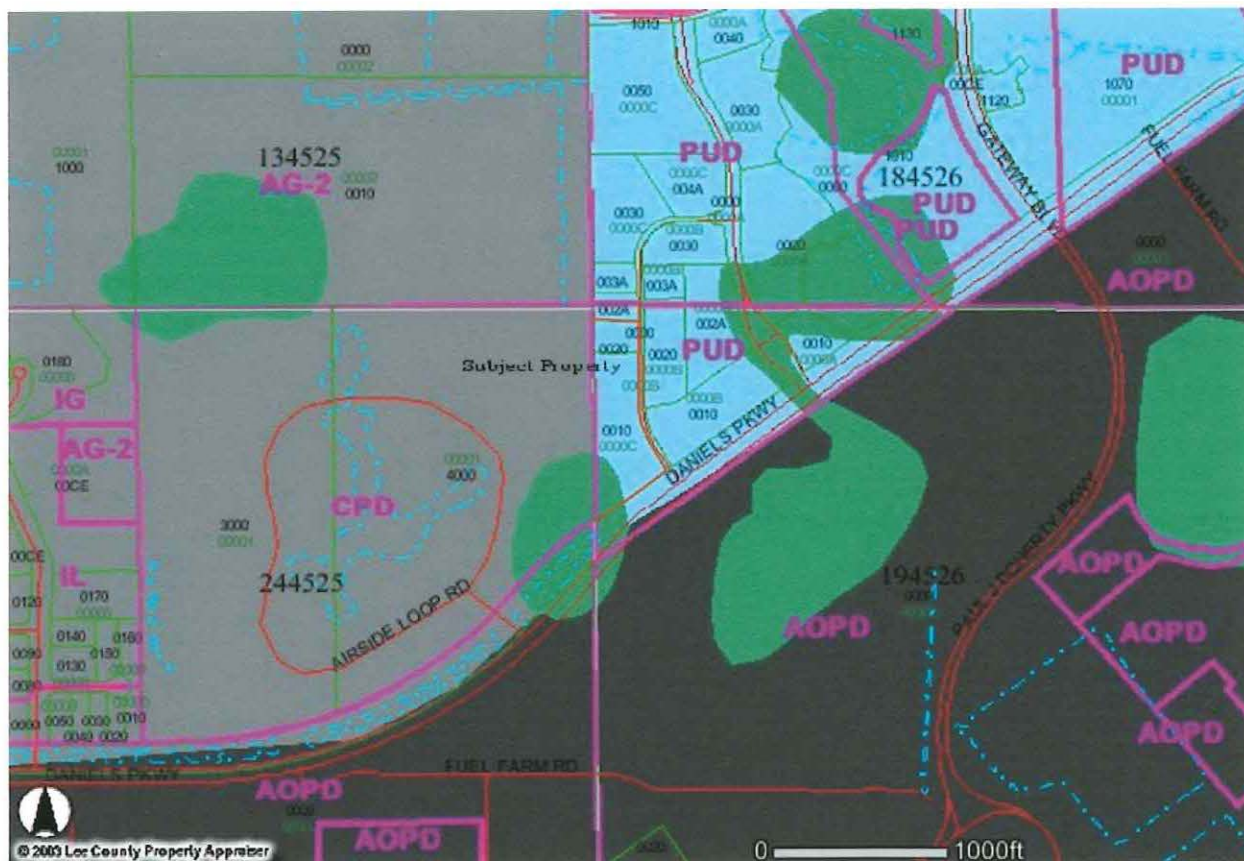
MORRIS-DEPEW ASSOCIATES, INC.
ENGINEERS • PLANNERS • SURVEYORS & MAPPERS
2216 Altamont Avenue • Fort Myers, Florida 33901 • (941) 337-3993 • FAX (941) 337-3994

Supporting Documentation

Applicant's Amendment Support Documentation:
J. McGarvey Development Company, Inc.
Small-Scale Lee Plan Map Amendment

A. General Information and Maps.

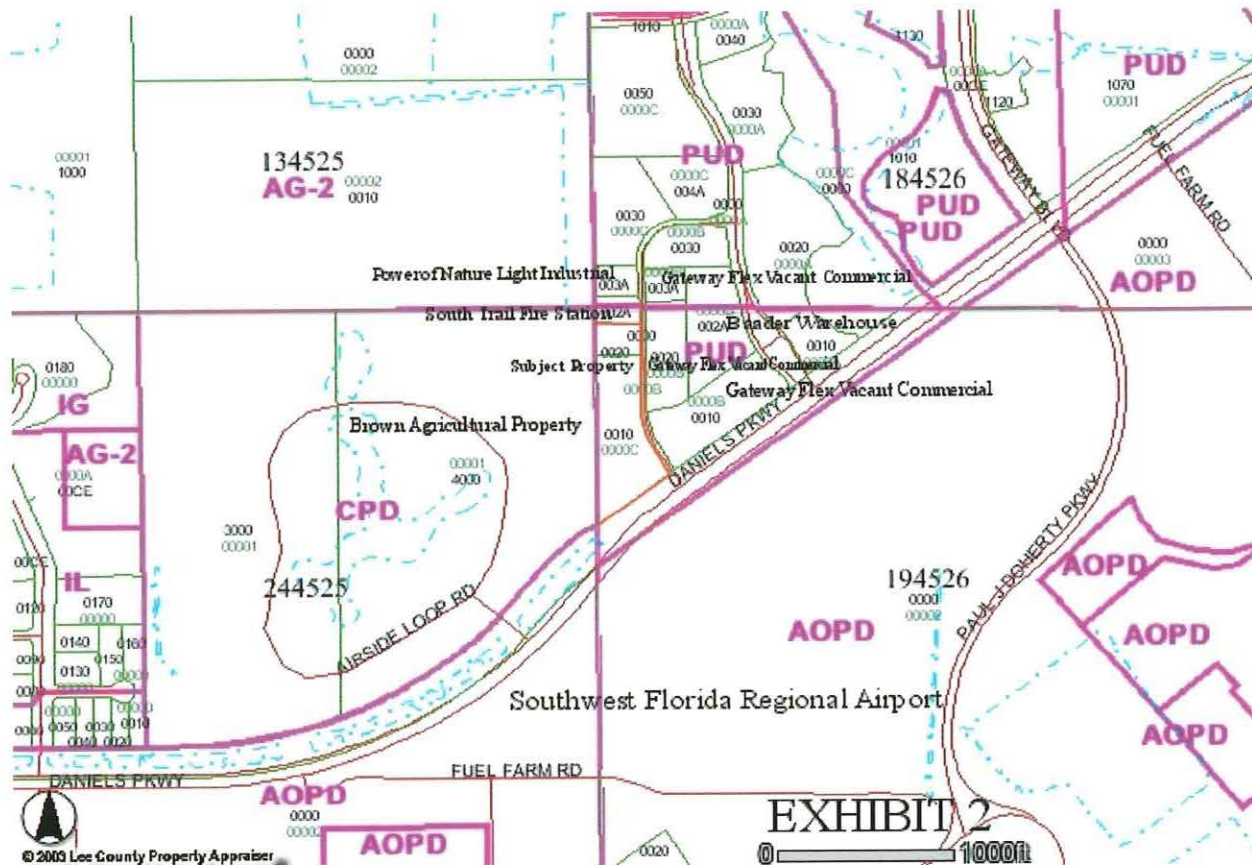
1. Provide any proposed text changes: **None proposed.**
2. Provide a Future Land Use Map showing the boundaries of the subject property, surrounding street network, surrounding designated future land uses, and natural resources. **Please see attached Exhibit 1 for an 8.5" X 11" map.**



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. **Please see attached Exhibit 2 for 8.5" X 11" map.** **Directly to the south and southwest of the subject property is Daniels**



Parkway and the Southwest Florida Regional Airport property. To the southeast of the subject property, across Gateway Commonwealth Drive, is vacant commercial property owned by Gateway Flex Associates, L. L. C. To the north of that parcel, and directly east of the subject property, is Gateway Commonwealth Drive and a second vacant commercial parcel owned by Gateway Flex Associates. Just east of that property is an industrial use, warehousing, owned by Baader North America Corporation. Directly north of the subject property is a fire station owned by the South Trail Fire Protection and Rescue Services District. To the northeast of the South Trail station is a third vacant commercial parcel owned by Gateway Flex, while directly north of the station is a light manufacturing (industrial) facility owned by Power of Nature, L. L. C. To the northwest and west of the subject property is a vacant commercial planned development owned by David C. Brown and currently being used for pasture land (agriculture).



4. Map and describe existing zoning of the subject property and the surrounding properties. Please see attached Exhibit 2 for an 8.5" X 11" map of surrounding zoning. The subject property is part of the Gateway PUD/DRI To the north and east are other parcels that are part of the Gateway

PUD/DRI. Exhibit 2 denotes the zoning boundaries for these parcels. To the west is the Brown CPD, currently vacant and used for pasture. To the south is the Airport, zoned AOPD.

5. The legal description of the property subject to the requested change. **The legal description for the parcel is as follows: Lot 1, Block C, Gateway Phase 15 according to the plat thereof recorded in Plat Book 53 at pages 15 through 21 of the public records of Lee County, Florida, AND the south one-half (S ½) of Lot 2, Block C, Gateway Phase 15, as recorded in Plat Book 53, Pages 15 through 21, of the public records of Lee County, Florida.**
6. A copy of the deed for the property subject to the requested change. **Attached please find Exhibit 3, the deed for the subject property.**
7. An aerial map showing the subject properties and the surrounding properties. **Attached please find Exhibit 4, an aerial photograph of the subject property and surrounding properties.**
8. If applicant is not the owner, a letter from the owner of the property authorizing the applicant to represent the owner. **Applicant is the owner of the subject property.**

B. Public Facilities Impacts.

1. Traffic Circulation Analysis, Long-Range Horizon.
 - i. Identify the traffic analysis zone (TAZ) in which the property is located and the socio-economic data forecasts for that zone. **The subject property is in Zone 626.**
 - ii. 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.). **No modification of the data forecasts are required. The use proposed for the site (charter school) is consistent with the data forecasts for the TAZ.**
 - iii. If the proposal is based on a specific development plan, then the site plan should indicate how the facilities from the current adopted Financially Feasible Plan and/or the Official Trafficways Map will be accommodated. **The proposal is indeed predicated upon a specific development plan. The Lehigh Charter School is being proposed for the subject property, and the Master Site Plan prepared by Hole Montes is attached as Exhibit 5. Pursuant to LDC requirements, the proposed site plan has accommodated all site related impacts associated with the proposed development plan. There are no facilities on the Financially Feasible Plan or the Official Trafficways Map that have**



not been accommodated in the proposed site development plan attached as Exhibit 5.

2. Traffic Circulation Analysis, Short-Range, 5-year CIP Horizon:

- i. Identify existing roadways serving the site and within a 3-mile radius. **Primary access is provided by Gateway Commonwealth Drive. That street intersects with Daniels Parkway which proceeds northeast to an intersection with Gateway Boulevard, the main entrance to the Gateway development. Further east and north Daniels Parkway extends to intersect with S. R. 82. To the west on Daniels Parkway is Chamberlain Parkway and the entrance to the Southwest Florida Regional Airport. Further west is the intersection with Treeline Boulevard and I-75.**
- ii. 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. **Currently funded for construction is Treeline/Ben Hill Griffin Parkway between Daniels Parkway and Alico Road. Additionally, the northerly extension of Treeline to S. R. 82 is projected to begin construction in F. Y. 2006. Also projected to begin construction in F. Y. 2006 are improvements to I-75, south of the Daniels Parkway interchange. No other improvements to the road network have been identified within the 3-mile radius from the subject property.**
- iii. For the five-year horizon, identify the projected roadway conditions with the programmed improvements in place, with and without the proposed development project. **Please see attached Exhibit 6, a Traffic Impact Statement prepared by Hole Montes.**
- iv. Identify the additional improvements needed on the network beyond those programmed in the five-year horizon due to the development proposal. **No additional improvements are needed on the network beyond those programmed due to the development of the proposed charter school.**

C. Environmental Impacts.

1. A map of the plant communities as defined by the Florida Land Use Cover and Classification system (FLUCCS). **See attached Exhibit 7. Please note that the entirety of the site has been cleared, and there are no environmentally sensitive areas left on the property.**
2. A map and description of the soils found on the property. **According to the USGS Soils Atlas of Lee County, the subject property is composed of soil type 12, Felda fine sand, and soil type 49, Felda fine sand, depressional. The soils of the Felda series are loamy, siliceous, hyperthermic Arenic Ochraqualfs. They are deep, poorly drained, moderately permeable soils**

This is a detailed soils map of a portion of Lee County, Florida. The map shows several large land parcels, each identified by a unique number (e.g., 134525, 244525, 184526, 194526) and associated soil codes (e.g., 0010 00002, 4000 00001). The 'Subject Property' is highlighted in red and labeled 'Felda Fine Sand'. Other areas are labeled 'Felda Fine Sand, Depressional'. The map includes major roads such as 'AIRSIDE LOOP RD', 'COMMONWEALTH DR', 'WESTLINKS DR', and 'DANIELS PKWY'. A north arrow is located in the bottom left corner, and a scale bar indicating 0 to 700 feet is in the bottom right corner. The map is titled 'Soils Map Exhibit 8' and includes a copyright notice for the Lee County Property Appraiser.

- 5



4. A map delineating wetlands, aquifer recharge areas, and rare and unique uplands. **The entirety of the site has been cleared and filled. There are no wetlands, no aquifer recharge areas, and no rare and unique uplands. There is some native vegetation in the southwest corner of the site, as can be seen on the aerial photograph (Exhibit 4) that is proposed for preservation according to the site plan prepared by Hole Montes (Exhibit 5).**
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). **The subject property is currently under construction, has been cleared and filled, and contains no species that are threatened, endangered, or are of special concern. The attached Exhibit 5 shows the extent of development on the subject property and demonstrates that there are no areas where such habitat still exists.**

D. Impacts on Historic Resources

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. **There are no historic districts or sites located on the subject property or on adjacent properties.**
2. A map showing the subject property location on the archeological sensitivity map for Lee County. **See attached Exhibit 10.**

E. Internal Consistency with the Lee Plan.

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. **The proposed change will have no effect upon the population projections. The removal of the subject property from the Zone 3 designation will not change any acreage in the Year 2020 Allocation Table. There will be no impact upon the total population capacity of the Future Land Use Map in that the site is already under development as a Charter School.**
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. **Policy 1.7.1 defines the various Airport Noise Zones and describes the uses permitted in each. The removal of the subject property from Zone 3 will have no effect upon this policy. Policy 46.3.11 states, "Prohibit the location of schools in the areas designated on the Future Land Use Map as Airport Noise Zone 3 or within other high noise impact areas." The removal of the subject property will serve to implement Policy**



46.3.11 in that the proposed Lehigh Charter School will be removed from Zone 3. Additionally, attached as Exhibit 11, is a noise study that demonstrates the subject property is not subject to high noise impacts. Also attached, as Exhibit 12-1, is the 1994 Noise Contour Map prepared for the Lee County Port Authority demonstrating that the subject property is outside of the 60 noise contour line. Additionally, Exhibit 12-2 shows the future noise contours, and again the subject property is outside the 60 contour. Finally, Exhibit 12-3 shows the Zone 3 boundary and the location of the subject property. It is noted that the subject property is on the westerly edge of the Zone 3 designation north of Daniels Parkway, and is approximately one-half mile from the 60 contour line that delineates restrictions based upon noise sensitive uses. Thus, there is no scientific basis for placing the noise restriction upon the subject property, and the removal of this parcel from Zone 3 will serve to implement Policy 46.3.11.

3. Describe how the proposal affects adjacent local governments and their comprehensive plans. **The proposal will have no impact upon local governments. The proposal will, however, aid in the establishment of a Charter School, promoting the educational resources of the County at large.**
4. List State Policy Plan and Regional Policy Plan goals and policies which are relevant to this plan amendment. **Goal 1 of the Regional Policy Plan's Economic Development element states that the RPC will seek, "A well-maintained social, health, and educational infrastructure to support business and industry." As a strategy, the Council will, "Continually improve the educational system to produce an educated and trained work force." The transfer of the subject property from Zone 3 into Zone 1 supports this Goal and strategy as articulated in the Regional Policy Plan. In the State Comprehensive Plan, Health Policy 2.d. states, "All Florida students should be provided with comprehensive, continuous health education in prekindergarten through grade 12 settings." The proposed amendment will assist in the implementation of this Policy in that it will allow for the provision of educational opportunities for children grades K through 12. Land Use Policy 7 states, "Provide educational programs and research to meet state, regional, and local planning and growth management needs." The proposed amendment will serve to promote this policy through the ability to establish the Charter School on the subject property.**

F. Additional Requirements for Specific Future Land Use Amendments.

1. Requests involving industrial and/or commercial categories targeted by the Lee Plan as employment centers. **Not applicable.**
2. Requests moving lands from a Non-Urban Area to a Future Urban Area. **Not applicable.**



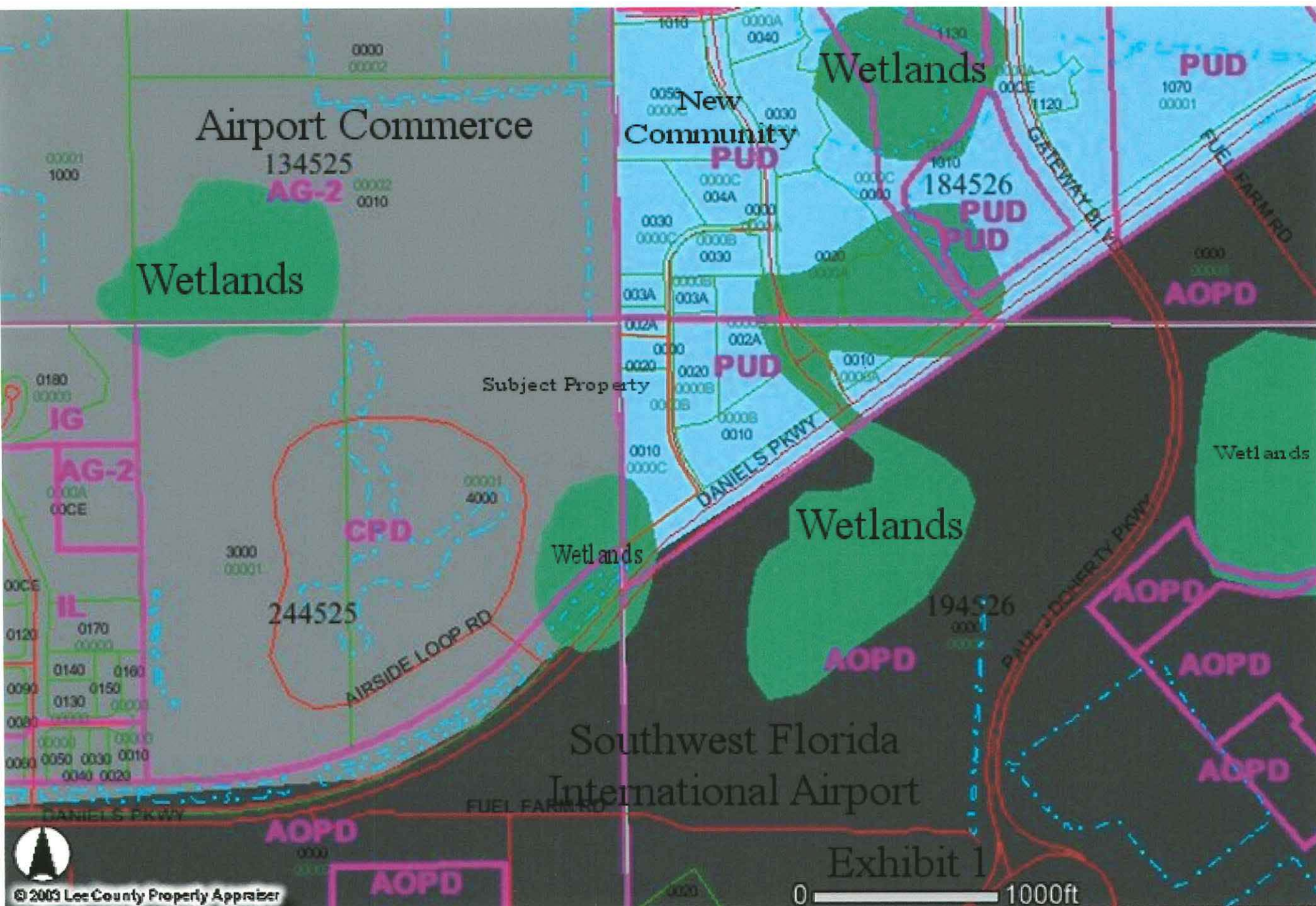
3. Requests involving lands in critical areas for future water supply must be evaluated based on Policy 2.4.2. **Not applicable.**
 4. Requests moving lands from Density Reduction/Groundwater must fully address Policy 2.4.3 of the Lee Plan Future Land Use Element. **Not applicable.**
- G. Justify the proposed amendment based upon sound planning principles. Be sure to support all conclusions made in this justification with adequate data and analysis.

The subject property is a +/- 6.8 acre parcel located at the extreme westerly edge of the Zone 3 designated land north of Daniels Parkway. It is part of a platted commercial subdivision, a copy of which is attached as Exhibit 13. A review of the noise contour maps (composite Exhibit 12) demonstrates that the subject property is located well outside the lowest noise sensitivity designation by a distance of approximately one-half mile. The underlying land use is 'New Community' and the growth anticipated for this planning district between now and 2020 is significant. The proposed Charter School will support the growth in the proximate area, as well as throughout the County, through the provision of unique educational opportunities for the Counties children. The site is well located in regard to infrastructure, and there are no environmental issues associated with the location of the facility. The attached noise study undertaken by the owner demonstrates that the site is not negatively affected by airport operations, and the existing contract between the owner and the Lee County School Board demonstrates that the location of the facility meets the long-term needs of the school system. The subject property does not meet the definition of the Zone 3 designation, so the removal of this parcel from Zone 3 does not create an inconsistency in the Lee Plan. Because it does not meet the definition of Zone 3 property, re-designation would be consistent with generally accepted planning principles and practices.



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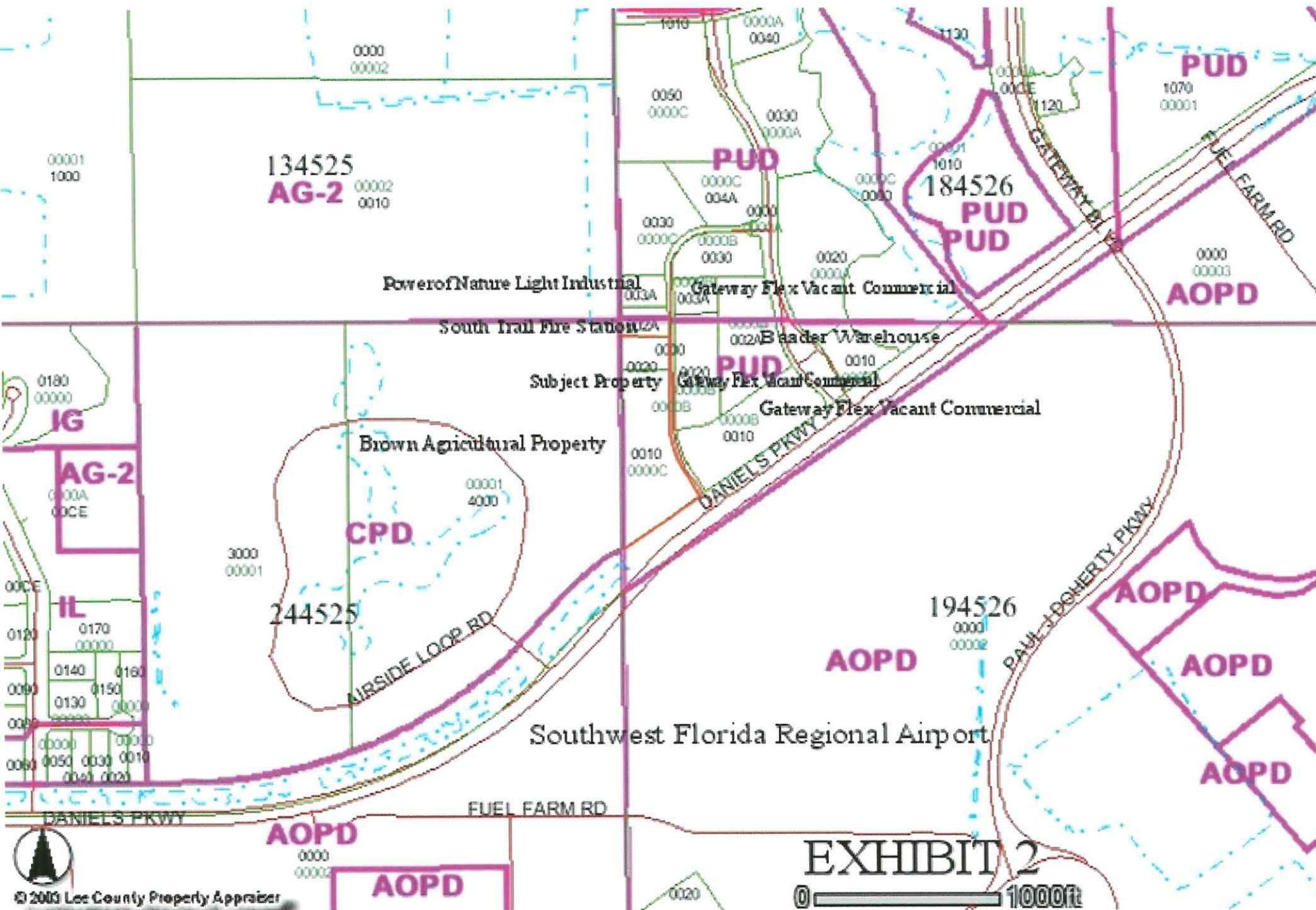
Exhibit 1





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Exhibit 2





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Exhibit 3



THIS INSTRUMENT PREPARED
WITHOUT OPINION OF TITLE BY:

Jeffrey S. Kannensohn, Esquire
Porter Wright Morris & Arthur LLP
5801 Pelican Bay Boulevard, Suite 300
Naples, Florida 34108-2709

INSTR # 5725210
Official Records Bk 03855 PG 4043
RECORDED 02/27/2003 03:56:58 PM
CHARLIE GREEN, CLERK OF COURT
LEE COUNTY
RECORDING FEE 10.50
DEED DOC 0.70
DEPUTY CLERK S Jensen

Parcel I.D. No.: Parcel II: 19-45-26-05-0000C.0010
Parcel III 19-45-26-000C.0020

WARRANTY DEED

THIS INDENTURE, Made effective the 27th day of February 2003, by GATEWAY FLEX ASSOCIATES, LLC, a Florida limited liability company, Grantor, to COMMONWEALTH FLEX ASSOCIATES, LLC, a Florida limited liability company, whose address is 27300 Riverview Center Boulevard, Suite 201, Bonita Springs, Florida 34134, Grantee.

(Wherever used herein the terms "Grantor" and "Grantee" shall include singular and plural, heirs, legal representatives, and assigns of individuals, and the successors and assigns of corporations, wherever the context so admits or requires.)

WITNESSETH, that the Grantor, for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable considerations, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys and confirms unto the Grantee all that certain land situate and being in Lee County, Florida, to wit:

See Attached Exhibit "A" and made a part hereof.

SUBJECT TO restrictions, reservations, and easements of record, if any, and taxes for 2002 and subsequent years.

Said Grantor does hereby fully warrant the title to said land, and will defend the same against the lawful claims of all persons whomsoever.

IN WITNESS WHEREOF, Grantor has hereunto set Grantor's hand the day and year first written above.

Witnesses:

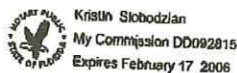
GATEWAY FLEX ASSOCIATES, LLC,
a Florida limited liability company

By: JOHN S. McGARVEY
JOHN S. McGARVEY, As Its Managing
Member

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 26 day of February 2003, by JOHN S. McGARVEY, as the Managing Member of GATEWAY FLEX ASSOCIATES, LLC, a Florida limited liability company, who executed the foregoing instrument on behalf of the partnership, and [☒] who is personally known to me or [☐] who produced a driver's license as identification.

(SEAL)



Kristin Slobodzin
Notary Public - State of Florida
My Commission expires: 2/17/06

Exhibit 3

Official Records BK 03855 PG 40-41

Exhibit "A"
Legal Description

PARCEL II:

LOT 1, BLOCK C, GATEWAY PHASE 15 ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 53 AT PAGES 15 THROUGH 21 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

AND

PARCEL III:

SOUTH ONE HALF (S ½) OF LOT 2, BLOCK C, GATEWAY PHASE 15, AS RECORDED IN PLAT BOOK 53, PAGES 15 THROUGH 21, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.



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Exhibit 4

SITE

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1"=300'

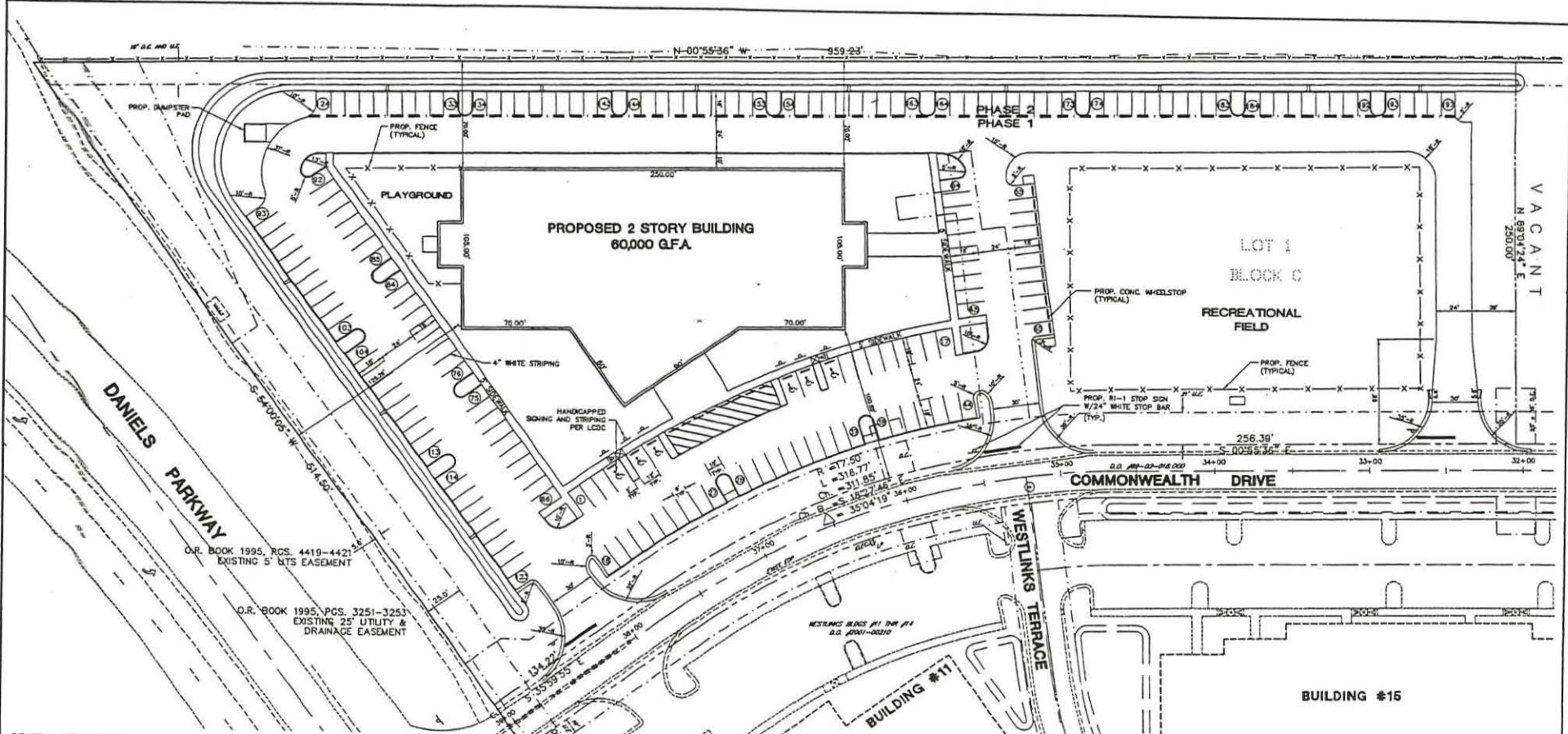


MORRIS - DEPEW ASSOCIATES, INC.
ENGINEERS * PLANNERS * SURVEYORS & MAPPERS
2216 Alton Avenue • Fort Myers, Florida 33901 • (239) 337-9993 • (TAD) 337-3994



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Exhibit 5



GENERAL STATEMENT
 PROPOSED IMPROVEMENTS FOR A SCHOOL TYPE BUILDING
 TOTALING BUILDING AREA, KNOWN AS CHARTER SCHOOLS U.S.A., THE PROJECT IS
 LOCATED ON LOTS BLOCK "C" GATEWAY PHASE 15 PLAT AREA (PG. 53, PG.
 18), CONSIDERING 5.78 AC.

GATEWAY P.L.D. SITE DATA:
 GATEWAY LOT 1, BLOCK "C" - PHASE 15 PLAT
 TOTAL PARCEL AREA = 5.78 AC.
 BUSINESS/COMMERCIAL DISTRICT, GATEWAY P.L.D.
 SETBACKS FROM UNIMPROVED BOUNDARY LINES = 25 FT.
 PLUS 1/2 FT. ONE 25 FT. HGT.
 BLDG. HGT. = 35 FT.
 MINIMUM LAKE SETBACK = 25 FEET FROM LAKE CONTROL
 BUILDING SETBACK = 22.5 FEET FROM PARCEL BOUNDARY

PARKING DATA (F.D.C. SEC. 34-3020 (4) F.2)
 PRIVATE SCHOOL - 800 STUDENTS
 1. ESTIMATED # OF EMPLOYEES = 80
 2. ESTIMATED # OF ELEMENTARY/SCHOOL STUDENTS = 800

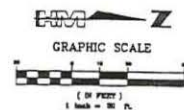
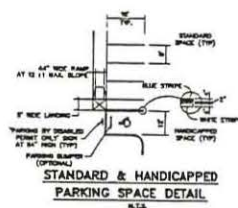
PARKING REQUIREMENTS:
 EMPLOYEE = 80
 ELDA, ADOL. = 80/40 = 20
 TOTAL PARKING REQUIRED = 23 SPACES

TOTAL SPACES PROVIDED:
 PHASE 1 = 123 (INCL. 5 HOCP)
 PHASE 2 = 75 (INCL. 5 HOCP)
 TOTAL = 198 (INCL. 10 HOCP)

PROJECT DATA:
 TOTAL SITE AREA
 5.78 AC. = 100K
 PROP. ON-SITE IMPROVEMENTS
 BUILDING 30,000 SF = 0.69 AC. = 11.94K
 PAVEMENT/WALKS 64,820 SF = 1.85 AC. = 33.73K
 GREEN AREA 136,778 SF = 3.14 AC. = 54.33K

PROP. OFF-SITE IMPROVEMENTS
 PAVEMENT 703 SF = 0.02 AC.

GENERAL DEVELOPMENT NOTE:
 1) BASED ON THE SPWMD GENERAL PERMIT #24-008785 AND
 THE U.S.E.A. SOIL CONSERVATION SERVICE SOIL SURVEY OF
 LEE COUNTY, FLORIDA, IT IS ANTICIPATED THAT THE SITE
 MAY BE USED SAFELY FOR BUILDING PURPOSES, WITHOUT
 UNIFORM DANGER FROM FLOOD OR ADVERSE SOIL OR FOUNDATION
 CONDITIONS. SUBJECT TO PROPERLY ENGINEERED AND CONSTRUCTED
 CORRECTIVE MEASURES, INCLUDING BUT NOT LIMITED TO SITE FILL,
 DRAINAGE WATER MANAGEMENT AND SOLID WASTE DISPOSAL FACILITIES.



LEGAL DESCRIPTION
 LOT 1, BLOCK "C"
 GATEWAY
 PHASE 15 PLAT
 PLAT BOOK 53, PAGE 18
 SECTIONS 18, T 45 S, R 26 E
 LEE COUNTY FLORIDA
 CONTAINING 5.78 AC., MORE OR LESS



**GATEWAY WESTLINKS
 CHARTER SCHOOLS U.S.A.**
 FORT MYERS, FLORIDA

DESIGNED BY: R.E.B./C.L.K. DATE: 01/13/03
 DRAWN BY: E.R.T. DATE: 01/17/03
 CHECKED BY: E.R.T. DATE: 01/21/03
 VERIFIED BY: M/A DATE: 1-30



6202-F Presidential Court
 Fort Myers, FL 33919
 Phone: (941) 885-1200
 Florida Certificate of
 Authorization No. 1772

**MASTER SITE PLAN
 AND NOTES**

THESE DRAWINGS ARE NOT APPROVED UNLESS SIGNED AND SEALED BELOW:	REFERENCE NO. 03008MSP	DRAWING NO. 952-3
DRAWN BY: T.H.B. FLORIDA PROFESSIONAL ENGINEER EXPIRATION DATE:	PROJECT NO. 2003008	SHEET NO. 3 OF 6



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Exhibit 6

PROPOSED WESTLINKS CHARTER SCHOOL USA

- Lot 1 Block C, GATEWAY PHASE 15 PLAT-

GENERAL STATEMENT: included herein are traffic generation calculations for a 900 student charter school. The Charter School is a privately run part of the public school system in which students enroll as part of the school choice program. Students selected to attend the school will be picked up by buses run by the school just as any other public school. The total project for Lot 1, Block 'c' consists of the following:

$$\begin{array}{rcl} \text{CHARTER SCHOOL} & - & 60,000 \text{ S.F.} \\ \hline \text{TOTAL} & = & 60,000 \text{ S.F.} \end{array}$$

TRAFFIC CALCULATIONS: Traffic generation calculations are based upon I.T.E. Trip Generation Manual, 6th edition using Land Use #520 "Elementary School" & 522 "Middle School/Junior High School", based upon estimated student population of 900 students (540 elementary, 360 middle school). The ITE manual estimates that 60 percent of the student population will arrive to the school by bus with the remaining 40% to be delivered by their parents or by walking. It is assumed that no students will be walking to the school even though there are residential developments within walking distance of the school.

The weekday a.m. peak hour of the generator typically coincides with the peak hour of the adjacent street traffic. The weekday p.m. peak hour is between 3:00 p.m. & 4:00 p.m.

ELEMENTARY SCHOOL, LAND USE CODE #520

AVTE WEEKDAY: $\text{Ln}(T) = 1.007 \text{ Ln}(X) - 0.086$ (50% ENTER, 50% EXIT)

$$X = 540 \text{ Students}$$

$$\text{Ln}(T) = 1.007 (6.29) - 0.086 = 518$$

$$\textbf{T = 518 (259 ENTER, 259 EXIT)}$$

AVTE PEAK A.M.: Average Rate = 0.30 (58% ENTER, 42% EXIT)

$$T = 0.30 * 540 \text{ Students} = 162$$

$$\textbf{T = 162 (94 ENTER, 68 EXIT)}$$

AVTE PEAK P.M.: Average Rate = 0.26 (46% ENTER, 54% EXIT)

$$T = 0.26 * 540 \text{ Students} = 140$$

$$\textbf{T = 140 (64 ENTER, 76 EXIT)}$$

MIDDLE SCHOOL, LAND USE CODE #522

AVTE WEEKDAY: $\text{Ln}(T) = 1.559 \text{ Ln}(X) - 3.507$ (50% ENTER, 50% EXIT)

$$X = 360 \text{ Students}$$

$$\text{Ln}(T) = 1.559 (5.886) - 3.507 = 292$$

$$\textbf{T = 292 (146 ENTER, 146 EXIT)}$$

AVTE PEAK A.M.: Average Rate = 0.45 (57% ENTER, 43% EXIT)

$$T = 0.45 * 360 \text{ Students} = 162$$

T = 162 (92 ENTER, 70 EXIT)

AVTE PEAK P.M.: Average Rate = 0.29 (51% ENTER, 49% EXIT)

$$T = 0.29 * 360 \text{ Students} = 104$$

T = 104 (53 ENTER, 51 EXIT)

TOTAL TRAFFIC MOVEMENTS

AVTE WEEKDAY:

Elementary School	= 518 (259 Enter, 259 Exit)
Middle School	= 292 (146 Enter, 146 Exit)
Total	= 810 (405 Enter, 405 Exit)

AVTE PEAK A.M.:

Elementary School	= 162 (94 Enter, 68 Exit)
Middle School	= 162 (92 Enter, 70 Exit)
Total	= 324 (186 Enter, 138 Exit)

AVTE PEAK P.M.: (between 3:00 p.m. & 4:00 p.m.)

Elementary School	= 140 (64 Enter, 76 Exit)
Middle School	= 104 (53 Enter, 51 Exit)
Total	= 244 (117 Enter, 127 Exit)

QUICK CHECK OF ITE MANUAL ASSUMPTIONS:

School Population: 900 students (60% Bussed, 40% Dropped Off)
(540 Students Bussed, 360 Dropped Off)
60 Employees (100% Cars)

Assumptions Based on School Information from Internet:

Average Bus Length – 40 feet
Average Number of Students per Bus – 30

Information from Mike Carroll:

Bus Trips equal 1.7 Car Trips

Assumptions for Student Loading of Cars:

1.7 Students per Car

Trip Movements

540 students / 30 students per bus = 18 buses
18 buses * 1.7 car trips per bus = 31 car trips
360 students / 1.7 students per car = 212 Cars
60 employees * 1 car trip per employee = 60 car trips
Total Number of Estimated Trips 303 Trips (ITE Peak Trips 324 AM, 244 PM)

The project will have three (3) points of ingress/egress onto Commonwealth Drive. Commonwealth Drive is a private local access street with a posted speed limit of less than 35 mph.

The site distribution utilized a weighted share for each driveway of 80% for the closest access and 20% for the other available access of peak hour trips for both the A.M. and P.M. peak hours. Please refer to the attached exhibit which depicts peak trips for each access. A regional project distribution of 88% to Daniels Road and 12% to S.R. 82 was also utilized. Each access yields less than the allowable turn lane warrant of 60 vph for a private local street.

Therefore, due to site generation analysis and distributions - no on-site turn lanes are warranted for the project.

Project: Gateway Westlinks Charter School USA
Client: Westlinks Flex Space Association
Date: January 28, 2003 (revised November 19, 2002)
Project #: 2003.008

The purpose of the following analysis is to determine that the existing eastbound Daniels Parkway left-turn lanes at Commonwealth Drive is adequate for the AM peak hour traffic derived from Gateway Westlinks Business Park in a built-out condition based upon the existing developments and those development approved for construction as of this date. The built-out condition includes the Charter School.

The proposed Westlinks Charter School is located in Gateway Westlinks Business Park. The business park was platted as Gateway Phase 15 plat of subdivision (P.B. 53, pages 15 through 21). The plat is comprised of lots A1 thru A4, lots B1 thru B3 and Lots C1 thru C5. The total land area excluding rights-of-way tracts and conservation area is 60.185 acres. The platted subdivision is located in Gateway DRI. According to the Gateway PUD, a wide variety of commercial, office, industrial and institutional uses can be developed on each of the lots. Some of the existing landuses occupying the business park include: DSI Laboratories; South Trail Fire Station #4; Baader Foods; and various office and flexible lease industrial uses. Approximately 716,000 sq. ft. of gross floor area has been either constructed, or permitted for construction within the business park; including the subject Charter School. Currently, there are no businesses such as restaurant, banking, medical or dental office uses.

TRAFFIC GENERATION CALCULATIONS:

ITE Trip Generation Manual, 6th Edition
Land Use Code #710: GENERAL OFFICE

AM Peak Hour Trip Ends per 1000 sq. ft. Gross Floor Area

Where $X = 716$

$\ln(T) = 0.797 \ln(X) + 1.558$ (88% enter, 12% exit)

$\ln(T) = 0.797 \ln(716) + 1.558$

$T = 895$ (788 enter, 107 exit)

TRAFFIC DISTRIBUTION CALCULATIONS:

Gateway DRI utilizes a distribution of 80% to Daniels Parkway, and 20% to SR 82

Trip Ends to Daniels Parkway = $T(\text{enter}) \times 0.88 = 788 \times 0.88 = 693$

Traffic distribution from the business park has been estimated based upon the 2002 DRI monitoring report for Gateway as follows:

Westlinks/Daniels Access – 80%

Commonwealth/Daniels – 20%

From Eastbound Daniels – 83%

From Westbound Daniels – 17%

$$\begin{aligned}\text{Westbound Traffic} &= (0.17) (693) = 118 \\ \text{Commonwealth/Daniels} &= (0.20) (693) = 139\end{aligned}$$

ANALYSIS OF DANIELS ROAD LEFT-TURN LANE:

Daniels Parkway posted speed limit is 50 MPH. Utilizing FDOT Index 301, the allowable deceleration length for a left-turn lane is 240 feet for Urban Conditions.

According to the Lee County Traffic Counts report for Daniels Parkway between Gateway Blvd. and Chamberlain Parkway: the projected 2002 peak direction traffic volume is 1,236 vehicles. This value is for the peak directional flow, and includes traffic generated from the Westlinks Business Park. Therefore, the net peak directional flow for opposing traffic used in Figure N-1 for each location has been reduced by 105 (refer to Traffic Generation Calculations – Exiting AM peak Hour Trip Ends). The net opposing traffic volume is 1,131.

COMMONWEALTH DIRECTIONAL LEFT-TURN LANE:

The existing eastbound directional left-turn lane geometry at Daniels Parkway and Commonwealth Parkway is approximately 450 feet in length. The resulting storage, less 240 feet deceleration length, is 210 feet. Refer to Figure N-1; the required turn-lane storage is approximately 350 feet. The existing left-turn lane storage is not acceptable.

COMMONWEALTH LEFT-TURN LANE MITIGATION:

The existing turn lane no longer has acceptable storage for automobiles, trucks and the estimated school bus traffic that will use the turn lane. It will need to be extended from its existing length of 450 feet (240 feet deceleration/210 feet storage) to a minimum length 680 feet (240 feet deceleration/440 feet storage) based on table N-1. It is assumed that no more than 6 to 7 busses will be staged in the Left Turn Lane at any one time. The average bus length is 40 ft, assuming 6 feet from the vehicle in front of them, this will leave 118 feet for other vehicular traffic.

100TH Highest Hour Analysis

Analysis assumes build-out during year 2003

The Charter School is required to be open in July for the 2003-2004 school year.

Analysis for Daniels Road

$$\text{Growth Rate Over Last Five Years} = (18000/9700)^{0.25} = 1.1671$$

$$\text{Estimated 2004 Peak Direction Traffic} = (1.1671)^2 \times 1236 = 1,684$$

$$\text{Additional Trips derived from Charter School} = 0.88 \times 186 = 164$$

Assume School Distribution at 70% coming from the West and 30% from the East

$$\text{Peak Direction at 70\%} = 164 \times 0.7 = 115$$

$$\text{2004 Estimated Peak Direction Volume at Daniels Road} = 1684 + 115 = 1799$$

$$\text{Peak Hour Direction LOS C} = 1,970 \text{ (OK)}$$

Analysis for S.R 82

Growth Rate Over Last Five Years = $(9700/7200)^{0.25} = 1.0774$

Estimated 2004 Peak Direction Traffic = $(1.0774)^2 \times 753 = 874$

Additional Trips derived from Charter School = $0.12 \times 186 = 22$

Assume School Distribution at 70% coming from the North and 30% from the South

Peak Direction at 70% = $22 \times 0.7 = 15$

2004 Estimated Peak Direction Volume at Daniels Road = $874 + 22 = 896$

Peak Hour Direction LOS E = 1350 (OK)

Performed By;
Hole Montes, Inc.

Charles L. Krebs
FL #56835



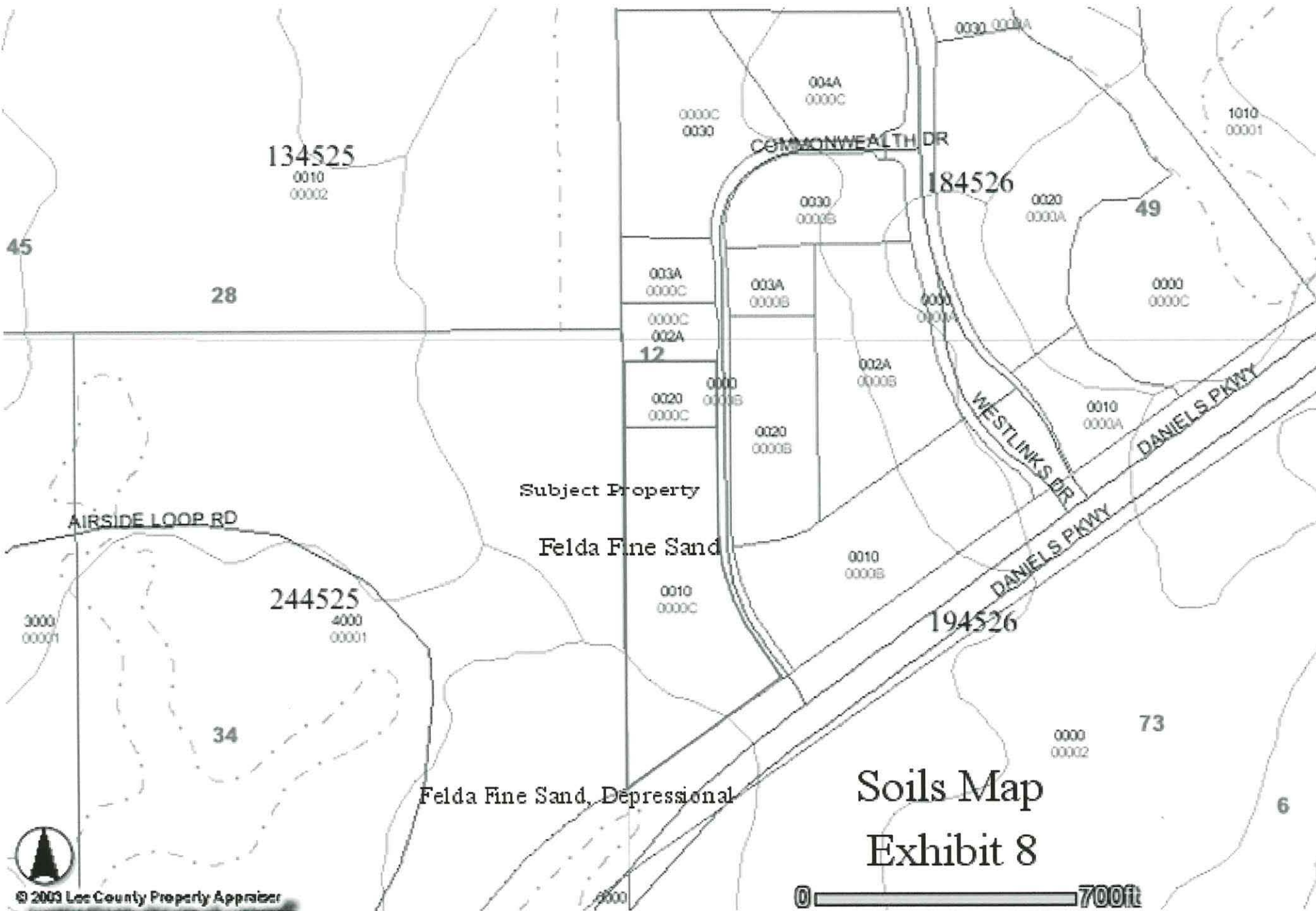
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Exhibit 7



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Exhibit 8



Soils Map Exhibit 8



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Exhibit 9

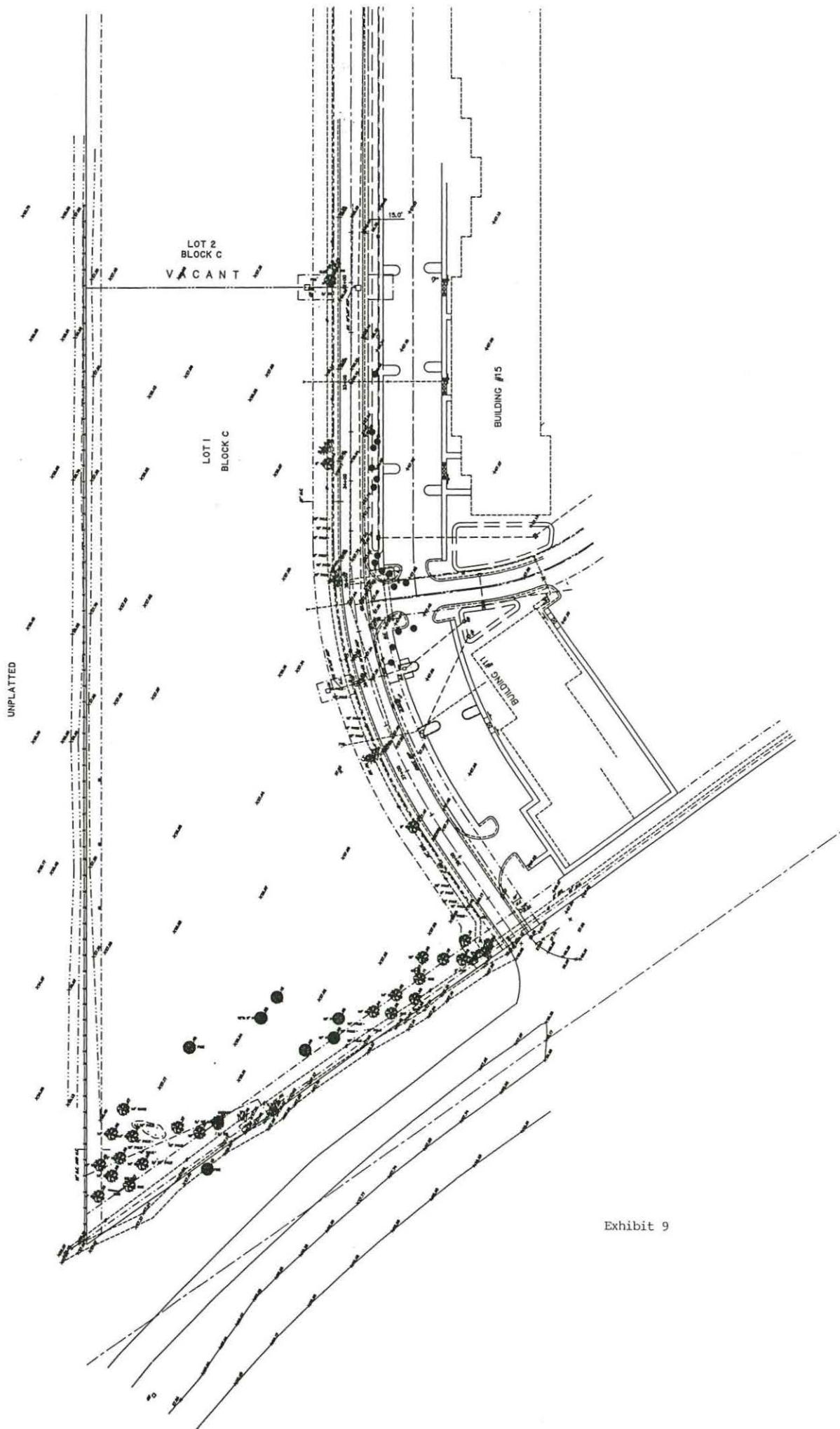


Exhibit 9

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E 580,500

E 582,000

9-37-1

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SUBJECT

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MORRIS-DEPEW ASSOCIATES, INC.
ENGINEERS • PLANNERS • SURVEYORS & MAPPERS
2216 Altamont Avenue • Fort Myers, Florida 33901 • (941) 337-3993 • FAX (941) 337-3994

Exhibit 10

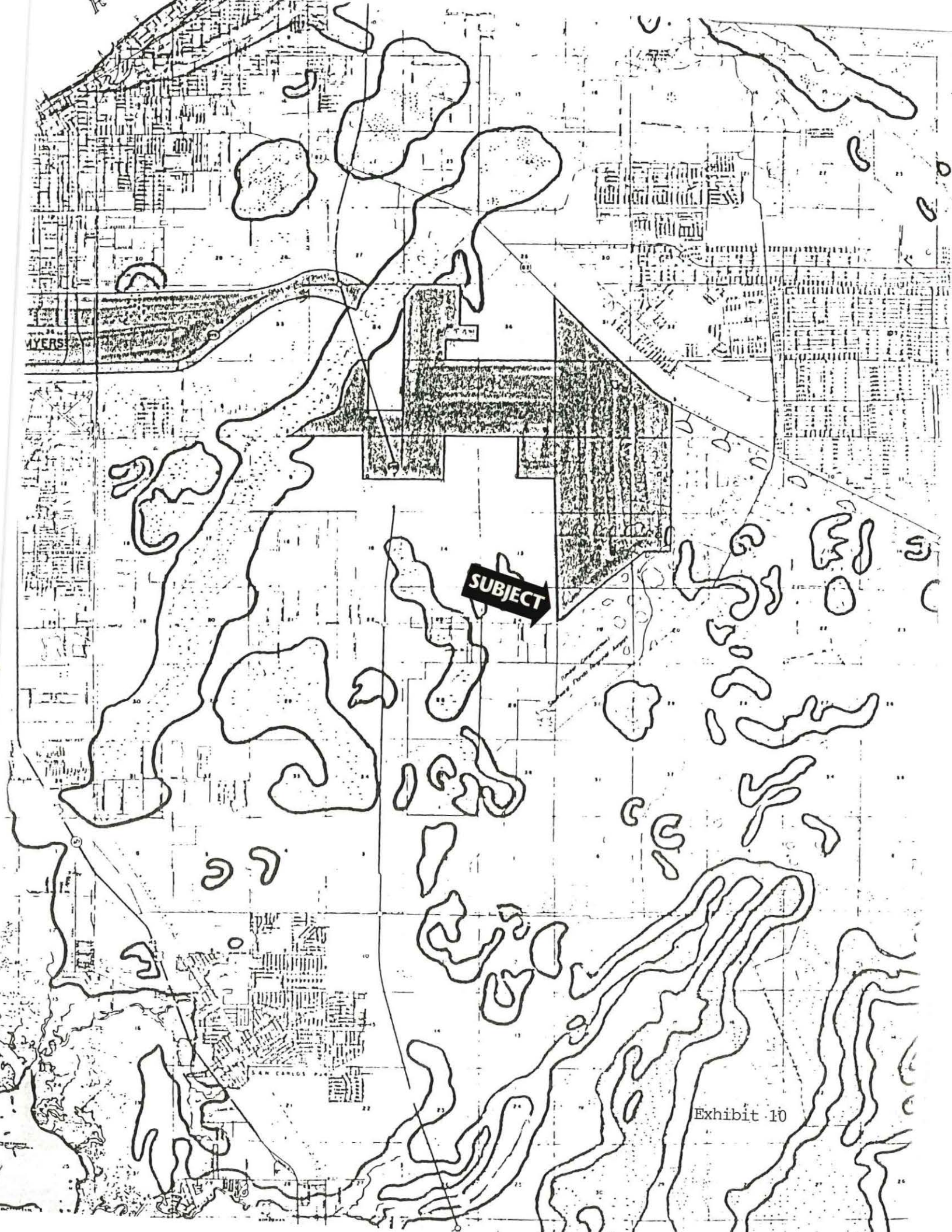


Exhibit 10



MORRIS-DEPEW ASSOCIATES, INC.
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Exhibit 11

Michael Chafee Enterprises

Phone (941) 921-4294
Fax (941) 923-7944
Email: mchafeecn1@cs.com

5690 Derek Avenue
Sarasota, FL 34233

April 7, 2003

To Whom It May Concern:

I performed a site survey at 12850 Commonwealth Drive, Ft. Myers, FL on April 7, 2003 from 10:55 – 11:15am. During that time the average sound pressure level during take off/landing of eight airplanes was 60.1db. Only two aircraft exceeded 60db. The average level due to traffic on the adjacent highway was 54.82db. During that time five trucks exceeded 60db.

In reviewing the construction of the building it appears that the minimum barrier to sound is presented by the windows which have a STC of approximately 30, bringing average sound pressure levels inside the building to below 30db. The recommended NC (noise criteria curve) for school rooms is 25, which equals to a sound level meter reading of 35.

It appears from this study that this space will meet the noise requirements for a school room.

Sincerely



Michael Chafee
Michael Chafee Enterprises

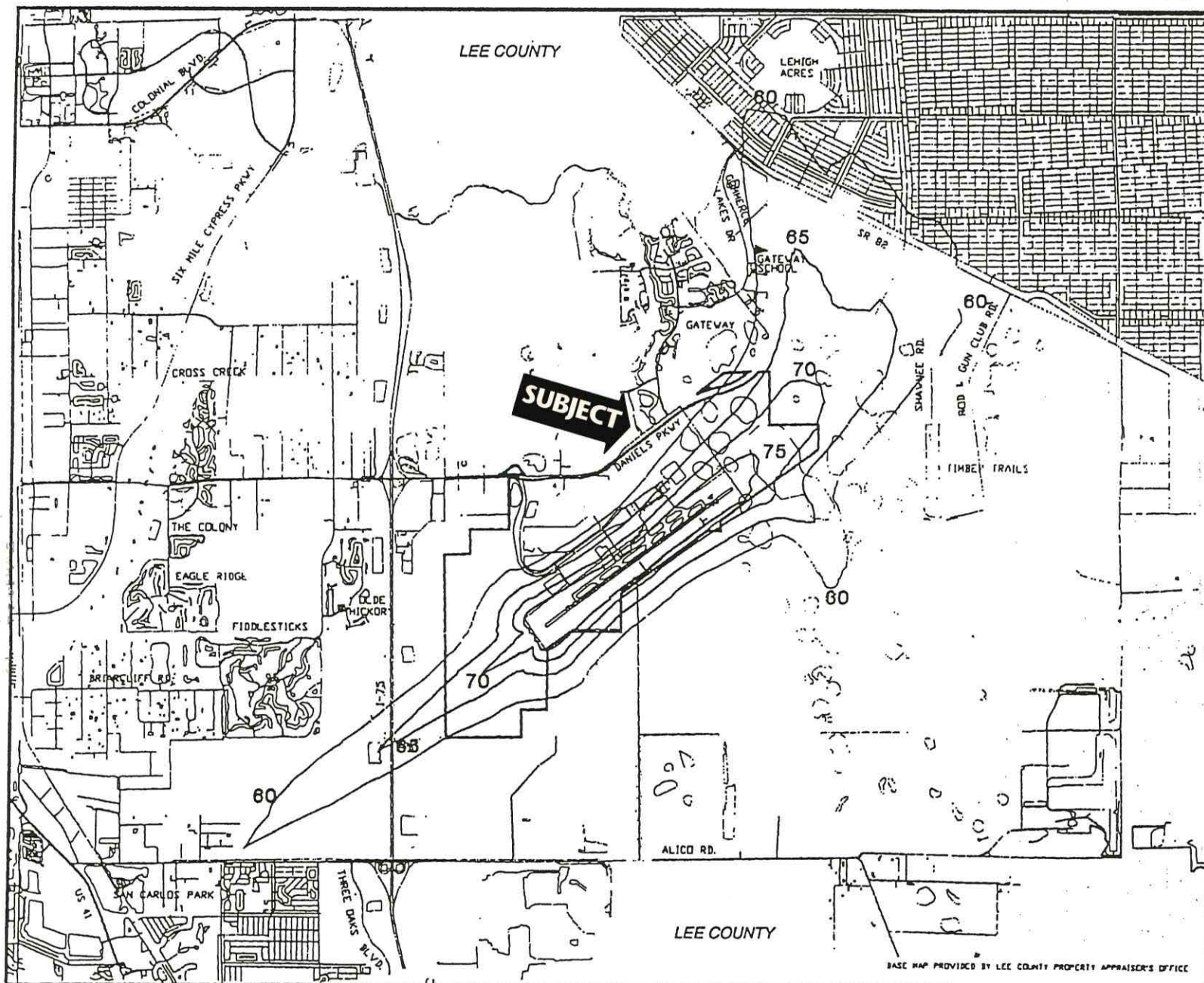
MC/pc

Exhibit 11



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Exhibit 12



LEGEND

- CURRENT AIRPORT PROPERTY LINE
- PROPOSED AIRPORT PROPERTY LINE
- RESIDENTIAL

INCOMPATIBLE (FAA GUIDANCE)



N

0 5000 10000

SCALE IN FEET

SOUTHWEST FLORIDA
INTERNATIONAL AIRPORT



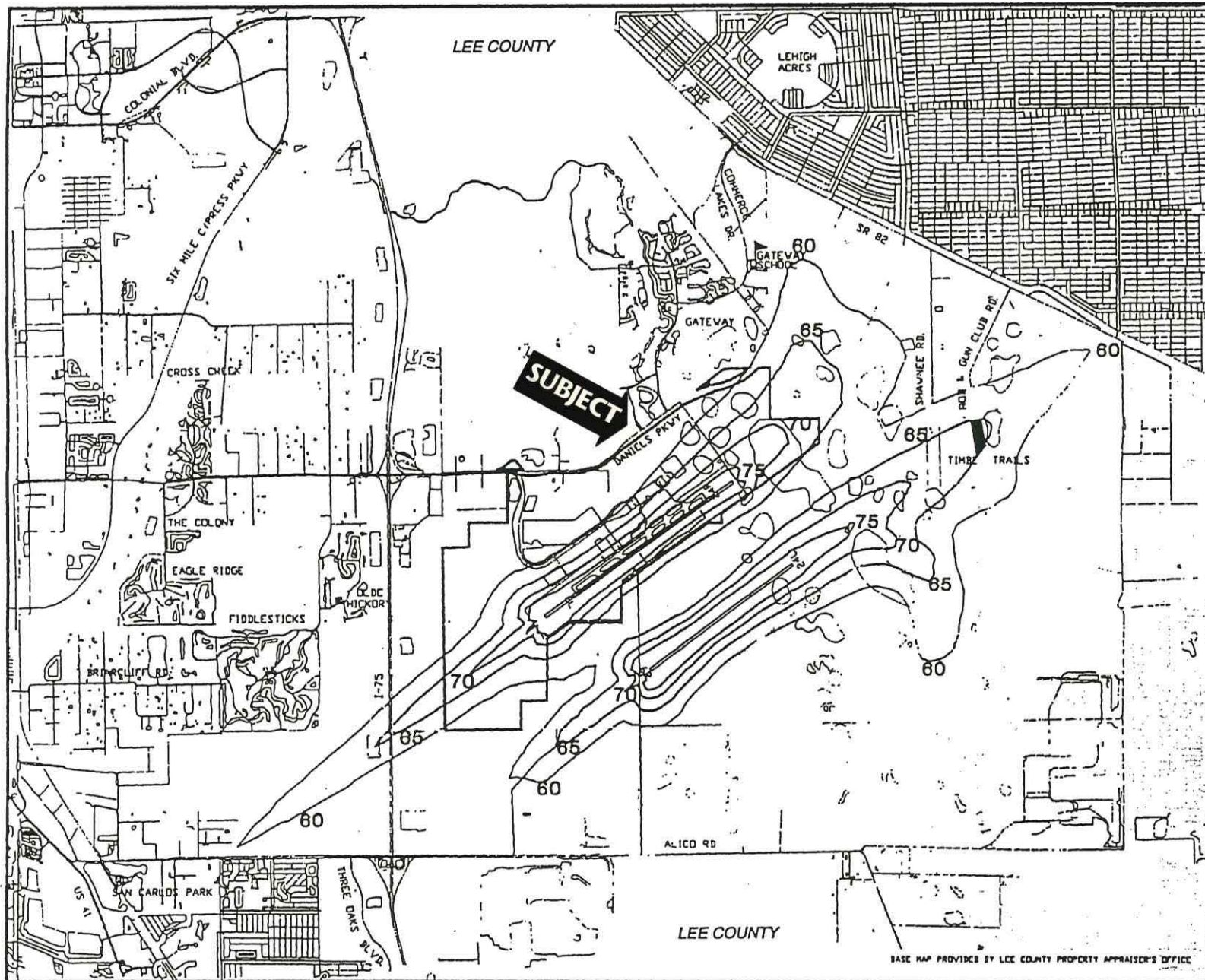
FAR PART 150 STUDY

CURRENT (1994)
NOISE CONTOURS
WITH RUNWAY
EXTENSIONS



TSI, Tampa, FL

BASE MAP PROVIDED BY LEE COUNTY PROPERTY APPRAISER'S OFFICE



LEGEND

CURRENT AIRPORT
PROPERTY LINE
PROPOSED AIRPORT
PROPERTY LINE
RESIDENTIAL

INCOMPATIBLE
(FAA GUIDANCE)

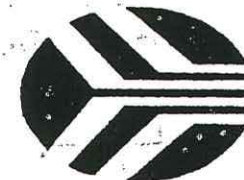


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SCALE IN FEET

SOUTHWEST FLORIDA
INTERNATIONAL AIRPORT



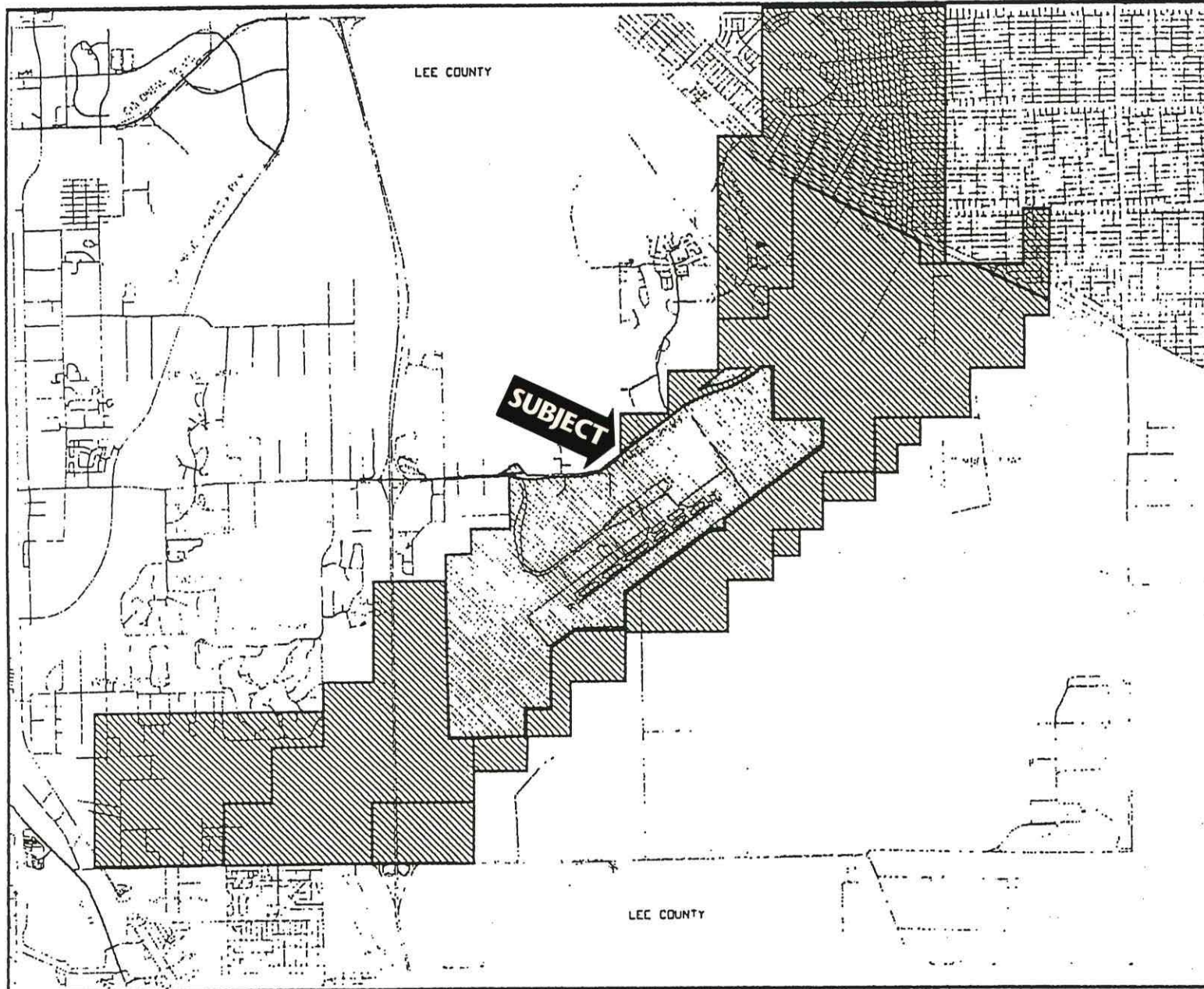
FAR PART 150 STUDY

FUTURE (1999)
NOISE CONTOURS
WITH RUNWAY
EXTENSIONS AND
PARALLEL RUNWAY







TSI, Tampa, FL

BASE MAP PROVIDED BY LEE COUNTY PROPERTY APPRAISER'S OFFICE



LEGEND

-  ZONE 4
-  ZONE 3
-  ZONE 2
-  ZONE 1
- ALL OTHER AREAS



0 5000 10000

SCALE IN FEET

**SOUTHWEST FLORIDA
INTERNATIONAL AIRPORT**



FAR PART 150 STUDY

**EXISTING AIRPORT
OVERLAY ZONING**



TSI, Tampa, FL



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Exhibit 13

PB 53 PG 16

D.O. #89-

GATEWAY PHASE 15

A SUBDIVISION LOCATED IN SECTIONS 18 AND 19,
TOWNSHIP 45 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDASEPTEMBER 1993
JOB NO. 08-119.10

PLAT BOOK 53 PAGE 16

DEDICATION:

KNOW ALL MEN BY THESE PRESENTS THAT WESTINGHOUSE GATEWAY COMMUNITIES, INC., A FLORIDA CORPORATION BEING THE OWNER OF THE HEREIN DESCRIBED LANDS HAVE CAUSED THIS PLAT OF "GATEWAY PHASE 15", A SUBDIVISION LOCATED IN SECTIONS 18 AND 19, TOWNSHIP 45 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA TO BE MADE AND DO HEREBY MAKE THE FOLLOWING DEDICATIONS:

THE ROAD RIGHTS-OF-WAY OF WESTLINKS DRIVE AND COMMONWEALTH DRIVE, REFERRED TO AS TRACTS "A" AND "B" RESPECTIVELY, THE SIGNAGE AND LANDSCAPE EASEMENTS, AND THE 35-FOOT WIDE INGRESS/EGRESS, UTILITY AND DRAINAGE EASEMENT LYING 17.5 FEET EITHER SIDE OF THE LINE DIVIDING LOT 1 AND LOT 2 OF BLOCK "B" TO THE WESTLINKS BUSINESS PARK PROPERTY OWNERS ASSOCIATION, INC., A FLORIDA NOT FOR PROFIT CORPORATION, FOR THE BENEFIT OF ITS PRESENT AND FUTURE MEMBERS, ITS SUCCESSORS AND ASSIGNS, AND THEIR TENANTS' INVITEES, LICENSEES, MORTGAGEES AND EMPLOYEES, RESERVING UNTO WESTINGHOUSE GATEWAY COMMUNITIES, INC., ITS SUCCESSORS, ASSIGNS, EMPLOYEES AND INVITEES, A PERPETUAL RIGHT OF INGRESS AND EGRESS ON AND OVER SAID TRACTS "A" AND "B".

TRACT "C", LAKE MAINTENANCE EASEMENTS AND DRAINAGE EASEMENTS SHOWN HEREON, AND AN EASEMENT FOR UTILITIES AND DRAINAGE-WATER MANAGEMENT PURPOSES, OVER, IN AND ACROSS TRACTS "A" AND "B" ARE HEREBY GRANTED TO THE GATEWAY SERVICES DISTRICT.

AN EASEMENT FOR DRAINAGE AND UTILITY PURPOSES INCLUDING INGRESS AND EGRESS ON, OVER, ACROSS AND UNDER TRACTS "A" AND "B" IS HEREBY GRANTED TO THE GATEWAY SERVICES DISTRICT AND PUBLIC UTILITIES.

ALL UTILITY EASEMENTS SHOWN HEREON ARE FOR THE PURPOSES OF INSTALLATION, REPAIR AND MAINTENANCE OF WATER, SEWER, ELECTRIC, CABLE TELEVISION AND TELEPHONE. THE DECLARANT HEREBY RESERVES UNTO GATEWAY/JONES COMMUNICATIONS, LTD., ITS SUCCESSORS AND ASSIGNS, THE ADDITIONAL AND NON-EXCLUSIVE USE OF SAID UTILITY EASEMENTS FOR CABLE TELEVISION PURPOSES, THE UTILITY EASEMENTS ARE GRANTED TO GOVERNMENT AGENCIES AND PUBLIC UTILITY COMPANIES.

IN WITNESS WHEREOF WESTINGHOUSE GATEWAY COMMUNITIES, INC., HAS CAUSED THESE PRESENTS TO BE MADE AND SIGNED BY ITS RESPECTIVE OFFICERS THIS 23rd DAY OF SEPTEMBER 1993 A.D.

David Caldwell
WITNESS AS TO BOTH

David Caldwell
PRINTED NAME

Deanne McAllister
WITNESS AS TO BOTH

Deanne McAllister
PRINTED NAME

ACKNOWLEDGEMENT:

STATE OF FLORIDA)
COUNTY OF LEE)

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS 23rd DAY OF SEPTEMBER 1993 A.D. BY SAMUEL L. CROUCH, EXECUTIVE VICE PRESIDENT AND PETER D. DORAGH, ASSISTANT SECRETARY OF WESTINGHOUSE GATEWAY COMMUNITIES, INC., A FLORIDA CORPORATION, ON BEHALF OF THE CORPORATION. THEY ARE PERSONALLY KNOWN TO ME.

October 9, 1995
MY COMMISSION EXPIRES:

WESTINGHOUSE GATEWAY COMMUNITIES, INC.

Samuel L. Crouch
SAMUEL L. CROUCH, EXEC. VICE PRESIDENT

Peter D. Doragh
PETER D. DORAGH, ASSISTANT SECRETARY

Janet Y. Valery
NOTARY PUBLIC, STATE OF FLORIDA

Janet Y. Valery
PRINTED NAME

Notary Public
TITLE OR RANK (IF ANY)

CC 130445
SERIAL NUMBER (IF ANY)

LEGAL DESCRIPTION:

A TRACT OR PARCEL OF LAND LYING IN SECTIONS 18 AND 19, TOWNSHIP 45 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE SOUTHWEST CORNER OF SAID SECTION 18; THENCE N00°53'07"W ALONG THE WESTERLY BOUNDARY OF THE SOUTHWEST ONE-QUARTER OF SAID SECTION 18 A DISTANCE OF 1610.00 FEET TO A POINT OF INTERSECTION WITH THE SOUTHERLY RIGHT-OF-WAY LINE OF COMMERCE LAKES DRIVE; THENCE N89°06'53"E A DISTANCE OF 375.27 FEET TO A POINT OF CURVATURE OF A CIRCULAR CURVE CONCAVE TO THE NORTHWEST; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE HAVING FOR ITS ELEMENTS A RADIUS OF 1305.00 FEET, A CENTRAL ANGLE OF 30°13'11", AN ARC DISTANCE OF 688.30 FEET, A CHORD DISTANCE OF 680.35 FEET AND A CHORD BEARING OF N74°00'18"E; THE PRECEDING TWO COURSES BEING COINCIDENTIAL WITH THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID COMMERCE LAKES DRIVE; THENCE S31°06'18"E ALONG A RADIAL LINE TO SAID CURVE A DISTANCE OF 671.01 FEET; THENCE S05°18'51"E A DISTANCE OF 528.28 FEET; THENCE S31°08'04"E A DISTANCE OF 154.87 FEET TO A POINT OF INTERSECTION WITH THE NORTHERLY RIGHT-OF-WAY LINE OF DANIELS PARKWAY AS RECORDED IN OFFICIAL RECORDS BOOK 1644 AT PAGE 1741 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE S54°00'05"W ALONG SAID NORTHERLY RIGHT-OF-WAY LINE A DISTANCE OF 2269.01 FEET TO A POINT OF INTERSECTION WITH THE WESTERLY BOUNDARY OF THE NORTHWEST ONE-QUARTER OF SAID SECTION 19; THENCE N00°55'36"W ALONG SAID WESTERLY BOUNDARY A DISTANCE OF 1233.07 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINING 80.112 ACRES, MORE OR LESS.

GATEWAY SERVICES DISTRICT:

THE DISTRICT HEREBY ACKNOWLEDGES ACCEPTANCE OF EASEMENTS DEDICATED ON THIS PLAT AND DRAINAGE OF ALL LANDS CONTAINED WITHIN THIS PLAT.

John H. Goff
WITNESS AS TO BOTH

Willard E. Decker
WITNESS AS TO BOTH

Willard E. Decker
PRINTED NAME

Willard E. Decker
PRINTED NAME

ACKNOWLEDGEMENT:

STATE OF FLORIDA)
COUNTY OF LEE)

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS 23rd DAY OF SEPTEMBER 1993 A.D. BY DOUGLAS G. BROWN, PRESIDENT AND STEVE SHIMP, ASST. SECRETARY OF THE GATEWAY SERVICES DISTRICT, ON BEHALF OF SAID DISTRICT. THEY ARE PERSONALLY KNOWN TO ME.

August 15, 1995
MY COMMISSION EXPIRES:

GATEWAY SERVICES DISTRICT

Douglas G. Brown
DOUGLAS G. BROWN, PRESIDENT

Steve Shimp
STEVE SHIMP, ASSISTANT SECRETARY

Janet Y. Valery
NOTARY PUBLIC, STATE OF FLORIDA

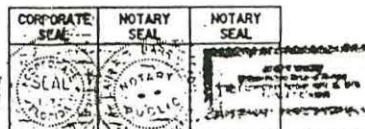
Janet Y. Valery
PRINTED NAME

Notary Public
TITLE OR RANK (IF ANY)

CC 130445
SERIAL NUMBER (IF ANY)

PREPARED BY:
POST, BULLEY, SCHUM & JETTERMAN, INC.
6326 PRESIDENTIAL COURT
FORT MYERS, FL 33919

SHEET 2 OF 7

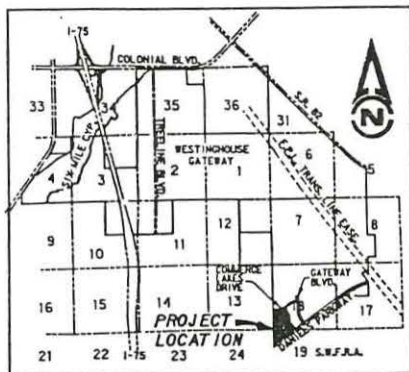


GATEWAY PHASE 15

A SUBDIVISION LOCATED IN SECTIONS 18 AND 19,
TOWNSHIP 45 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA

SEPTEMBER 1993
JOB NO. 08-119.10

PLAT BOOK 53 PAGE 15



NOTICE:
LANDS DESCRIBED IN THIS PLAT ARE SUBDIVIDED BY THE DEVELOPER WITHOUT THE ROADS, DRAINAGE AND SEWER FACILITIES BEING ACCEPTED FOR MAINTENANCE BY LEE COUNTY. ANY PURCHASER OF A LOT IN THIS SUBDIVISION IS ADVISED THAT HE MAY BE SUBJECT TO ASSESSMENT OR CALLED UPON TO BEAR A PORTION OR ALL OF THE EXPENSE OF CONSTRUCTION, MAINTENANCE OR IMPROVEMENT OF ROADS, DRAINAGE AND SEWER FACILITIES.

APPROVAL:

THIS PLAT ACCEPTED THIS 10th DAY OF NOVEMBER, 1993 A.D. IN OPEN MEETING OF THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA.

Ray J. Ryan
VICE-CHAIRMAN OF THE BOARD

Ray J. Ryan
PRINTED NAME

Patricia G. White
COUNTY ATTORNEY

Patricia G. White
PRINTED NAME

Mary Gibbs
DIRECTOR, DEPARTMENT OF COMMUNITY DEVELOPMENT

Mary Gibbs
PRINTED NAME

Charlie Green
CLERK OF COURT

Charlie Green
PRINTED NAME

Mary Gibbs
DIRECTOR, DIVISION OF ZONING AND DEVELOPMENT REVIEW

Mary Gibbs
PRINTED NAME



NOTICE:

THERE MAY BE ADDITIONAL RESTRICTIONS THAT ARE NOT RECORDED ON THIS PLAT THAT MAY BE FOUND IN THE PUBLIC RECORDS OF THIS COUNTY.

SURVEYOR'S CERTIFICATION:

I HEREBY CERTIFY THAT THE ATTACHED PLAT OF 'GATEWAY PHASE 15', A SUBDIVISION LOCATED IN SECTIONS 18 AND 19, TOWNSHIP 45 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA, IS A TRUE AND CORRECT REPRESENTATION OF THE HEREIN DESCRIBED LAND ACCORDING TO A RECENT SURVEY MADE AND PLATTED UNDER MY DIRECTION AND SUPERVISION AND THAT THE SURVEY DATA COMPLIES WITH ALL OF THE REQUIREMENTS OF CHAPTER 177, FLORIDA STATUTES. I FURTHER CERTIFY THAT THE PERMANENT REFERENCE MONUMENTS (PRM'S) HAVE BEEN PLACED AT THE LOCATIONS SHOWN ON THIS PLAT.

DATE 9-23-93

POST, BUCKLEY, SMITH & JERNIGAN, INC.
Richard L. McCarrier
RICHARD L. MCCARRIER
PROFESSIONAL LAND SURVEYOR NO. 3875
STATE OF FLORIDA

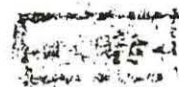
CERTIFICATION:

3489626

I HEREBY CERTIFY THAT THE ATTACHED PLAT OF 'GATEWAY PHASE 15', A SUBDIVISION LOCATED IN SECTIONS 18 AND 19, TOWNSHIP 45 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA, HAS BEEN EXAMINED BY ME AND FROM MY EXAMINATION I FIND THAT THE SAID PLAT COMPLIES WITH THE REQUIREMENTS OF CHAPTER 177, FLORIDA STATUTES. I FURTHER CERTIFY THAT THIS PLAT WAS FILED FOR RECORD AT 11:11 A.M. THIS 17th DAY OF SEPTEMBER, 1993 A.D., AND DULY RECORDED IN PLAT BOOK 53 AT PAGES 14 AND 15 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

Charlie Green
CLERK OF COURT

Charlie Green
PRINTED NAME



PREPARED BY:
POST, BUCKLEY, SMITH & JERNIGAN, INC.
8300 PRESIDENTIAL COURT
FORT MEANS, FL 33518

SHEET 1 OF 7

D.O. 89-02-018.000

PB 53 PG 15

PB 53 PG 17

GATEWAY PHASE 15

A SUBDIVISION LOCATED IN SECTIONS 18 AND 19,
TOWNSHIP 45 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA

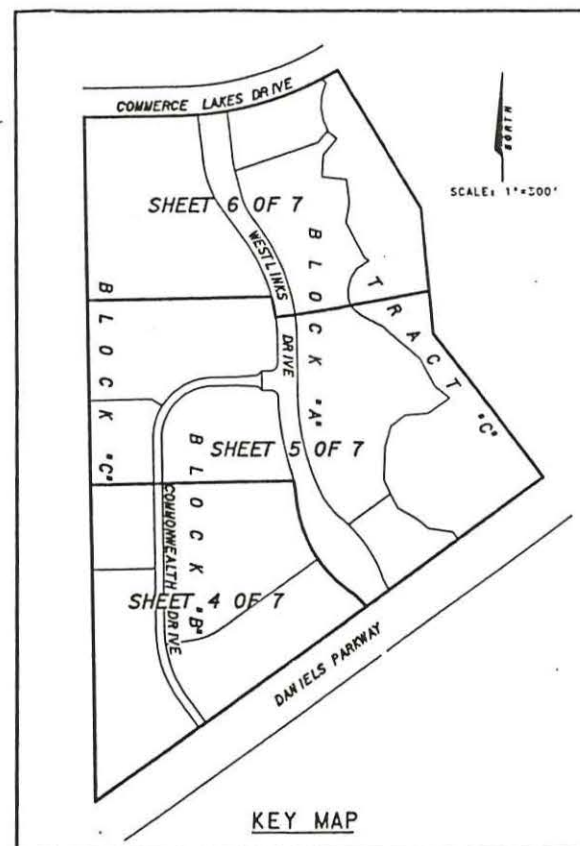
SEPTEMBER 1993
JOB NO. 08-119.10

PLAT BOOK 58 PAGE 17

NOTES:

1. BEARINGS SHOWN HEREON ARE BASED UPON FIXING THE WESTERLY BOUNDARY OF THE SOUTHWEST ONE-QUARTER OF SECTION 18, TOWNSHIP 45 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA AS N00°53'07"W.
2. *P.O.B.* INDICATES POINT OF BEGINNING
3. ■ INDICATES SET 4" X 4" PERMANENT REFERENCE MONUMENT (PRM) STAMPED "PBSJ 3875"
4. * INDICATES SET PERMANENT CONTROL POINT (PCP) - 5/8" P.K. NAIL WITH DISC STAMPED "LB024"
5. *O.R.* INDICATES OFFICIAL RECORDS
6. *C* INDICATES CENTERLINE
7. A 6-FOOT WIDE UTILITY EASEMENT IS RESERVED ALONG EACH SIDE AND REAR LOT LINE AND A 10-FOOT WIDE UTILITY EASEMENT IS RESERVED ALONG THE FRONT LINE OF EACH LOT UNLESS OTHERWISE INDICATED. SEE PLAT FOR ADDITIONAL EASEMENTS.

AREA TABLE	
AREA (ACRES)	
LOT A1	1.872
LOT A2	7.797
LOT A3	5.273
LOT A4	2.184
LOT B1	5.226
LOT B2	7.230
LOT B3	4.287
LOT C1	5.777
LOT C2	2.008
LOT C3	2.058
LOT C4	6.526
LOT C5	9.947
TRACT A	5.436
TRACT B	1.464
TRACT C	13.027
TOTAL	80.112



NOTICE:

PROPERTY DESCRIBED HEREIN LYING IN SECTION 19 TOWNSHIP 45S RANGE 26E IS SUBJECT TO AN AVIGATION EASEMENT RECORDED IN O.R. BOOK 219 PAGE 334P OFFICIAL RECORDS OF LEE COUNTY, FLORIDA.

PREPARED BY:
POST, BUCKLEY, SCHUB & JENKINS, INC.
6325 PRESIDENTIAL COURT
FORT WORTH, FL 33619

SHEET 3 OF 7

D.O. 08-02-010-008

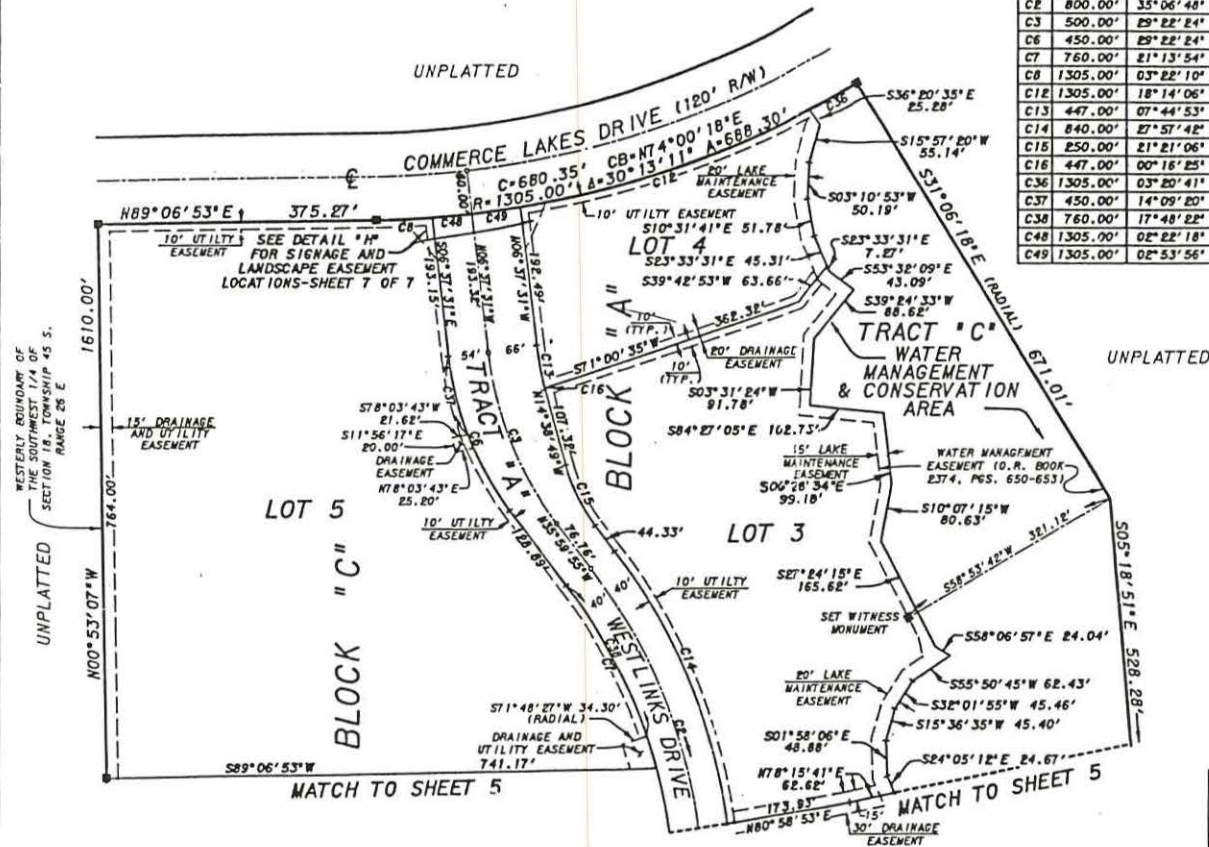
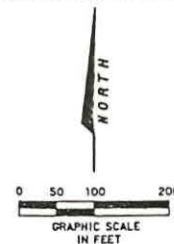
D.O. #89-02-018.000

GATEWAY PHASE 15

A SUBDIVISION LOCATED IN SECTIONS 18 AND 19,
TOWNSHIP 45 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA

SEPTEMBER 1993
JOB NO. 08-119.10

PLAT BOOK 53 PAGE 20



NO.	RADIUS	A	ARC	CHORD	CHORD BEARING
C2	800.00'	35°06'48"	490.27'	482.64'	N18°26'31"W
C3	500.00'	29°22'24"	256.33'	253.53'	N21°18'43"W
C6	450.00'	29°22'24"	230.70'	228.18'	S21°18'43"E
C7	760.00'	21°13'54"	281.63'	280.02'	S25°22'58"E
C8	1305.00'	03°22'10"	76.74'	76.73'	N87°25'43"E
C12	1305.00'	18°14'06"	415.33'	413.58'	N71°21'27"E
C13	447.00'	07°44'53"	60.45'	60.40'	N10°29'57"W
C14	840.00'	27°57'42"	409.94'	405.88'	N22°01'04"W
C15	250.00'	21°21'06"	93.16'	92.63'	N25°19'22"W
C16	447.00'	00°16'25"	2.13'	2.13'	N14°30'40"W
C36	1305.00'	03°20'41"	76.18'	76.17'	N60°34'03"E
C37	450.00'	14°09'20"	111.18'	110.90'	S13°42'11"E
C38	760.00'	17°48'22"	236.19'	235.24'	S27°05'44"E
C48	1305.00'	02°22'18"	54.02'	54.01'	N84°33'35"E
C49	1305.00'	02°53'56"	66.03'	66.02'	N81°55'28"E

PREPARED BY:
POST, BUCKLEY, SCHUB & JENKINS, INC.
6325 PRESIDENTIAL COURT
FORT MYERS, FL 33919

SHEET 6 OF 7

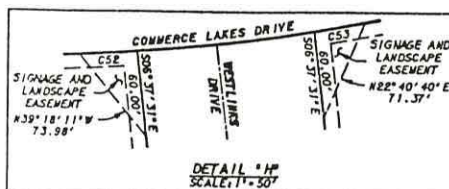
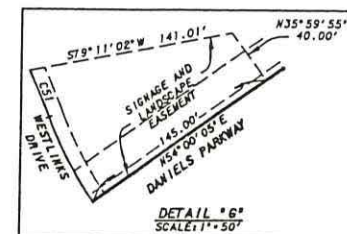
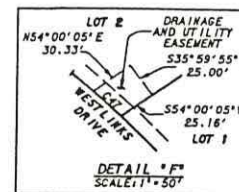
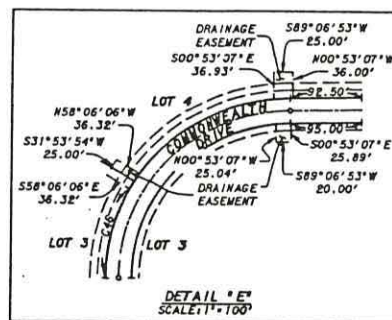
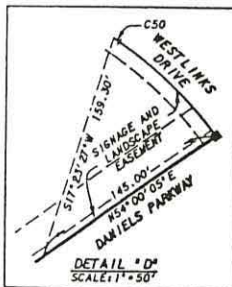
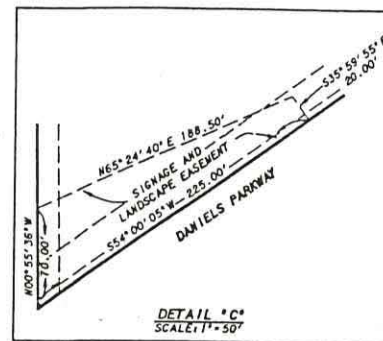
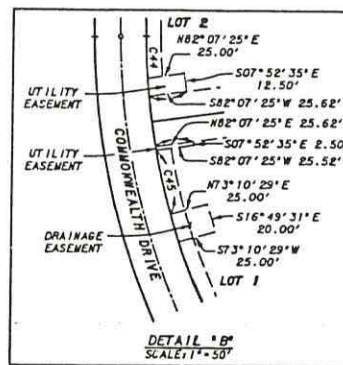
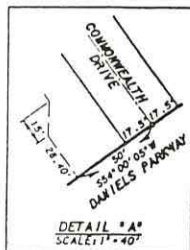
GATEWAY PHASE 15

A SUBDIVISION LOCATED IN SECTIONS 18 AND 19,
TOWNSHIP 45 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA

SEPTEMBER 1993
JOB NO. 08-119.10

PLAT BOOK 53 PAGE 21

NORTH



CURVE TABLE					
NO.	RADIUS	Δ	APC	CHORD	CHORD BEARING
C44	482.50'	03°23'06"	28.51'	28.50'	S02°37'09"E
C45	482.50'	05°23'09"	45.35'	45.34'	S12°56'41"E
C46	247.50'	29°55'48"	129.29'	127.82'	S14°02'18"W
C47	574.00'	02°32'54"	25.53'	25.53'	N47°40'25"W
C50	529.00'	00°30'30"	4.89'	4.89'	N55°16'07"W
C51	574.00'	03°30'18"	35.12'	35.11'	S22°45'09"E
C52	1305.00'	01°45'23"	40.01'	40.00'	N86°37'25"E
C53	1305.00'	01°34'13"	35.00'	35.00'	S79°42'24"W

PREPARED BY:
POST, BUCKLEY, SCHUB & JENNIFER, INC.
6328 PRESIDENTIAL COURT
FORT MEADS, FL 33918



MORRIS-DEPEW ASSOCIATES, INC.
ENGINEERS • PLANNERS • SURVEYORS & MAPPERS
2216 Altamont Avenue • Fort Myers, Florida 33901 • (941) 337-3993 • FAX (941) 337-3994

Exhibit 14
Additional Supporting Documentation



April 3, 2003

Mr. Daniel Gerner
Gateway Flex Space Assoc., LLC
27300 Riverview Center Boulevard
Bonita Springs, Florida 34134

Reference: Lee County – PW
Notification of Use of
General Permit
Notice Number: 0190848-005DSGP
Charter Schools USA
Lee County Utilities/Corkscrew/Gateway

Dear Mr. Gerner:

In response to your request, this letter is to advise you that the department has received your notice of intent to use a general permit as provided in Rule 62-555.540, Florida Administrative Code to construct an extension to a public water supply distribution system and does not object to your use of such general permit. Please be advised that you are required to abide by all conditions in Rules 62-4.510 through 62-4.540, Florida Administrative Code, the general requirements for general permits; and Rule 62-555.540, Florida Administrative Code.

Sincerely,

A handwritten signature in cursive script that reads "Gary A. Maier".

Gary A. Maier, P.E.
Director
Environmental Engineering

GAM/ksm

cc: Charles Krebs P.E., Hole Montes, Inc.
Thom Osterhout, Lee County Utilities



April 3, 2003

Mr. Charles Krebs, P.E.
Hole Montes, Inc.
6202-F Presidential Court
Fort Myers, Florida 33919

Reference: Charter Schools USA
Permit No: 0190848-005DSGP
Lee County Utilities/Corkscrew/Gateway

Dear Mr. Krebs:

This will acknowledge receipt of applications and related materials for the referenced water project. We have reviewed the submitted materials and approval has been processed in accordance with department policy.

Please be advised that bacteriological sampling points for compliance purposes have been established and are shown on the copy of the plans returned to you. Sampling for compliance purposes must be conducted by this office. It will be your responsibility to see that the contractor is advised of the clearance procedures and the location of sampling points in order to avoid delays in clearing the project for service.

Bacteriological test results for all new and altered public drinking water facilities other than wells will be considered invalid if the results are for samples collected more than 30 days before the results are received by the Department.

Sincerely,

A handwritten signature in cursive script that reads "Gary A. Maier".

Gary A. Maier, P.E.
Director
Environmental Engineering

GAM/ksm
cc: Daniel Gerner, Gateway Flex Space Assoc., LLC

FROM : GRANTS

FAX NO. : 19413378594

Apr. 07 2003 03:40PM P1



THE SCHOOL DISTRICT OF LEE COUNTY

2055 CENTRAL AVENUE • FORT MYERS, FLORIDA 33901-3916 • (239) 334-1102 • TTD/TTY (239) 335-1512

IRVING S. DUBOIS
Chairman - District 1

ELINOR C. BURGESS, Ph.D.
Vice Chairman - District 2

ROBERT D. CHILMOND
District 3

JANE E. KUCKEL, Ph.D.
District 4

STEVEN K. TRUBER
District 5

JAMES W. BROWNELL, Ed.D.
Superintendent

KEITH B. MARTIN
Board Attorney

April 7, 2003

Mr. John McGarvey, President
McGarvey Development Company
27300 Riverview Center Boulevard
Bonita Springs, Florida 34134

Dear Mr. McGarvey,

The School District of Lee County and the Lee Charter Foundation entered into Charter Agreement August 20, 2002. The contract permits the Foundation to open a kindergarten through eighth grade school for the 2003-2004 school year in the District's east attendance zone. There has been a great deal of interest in this school and nearly 800 students are enrolled. The area is rapidly growing and our East Zone schools need additional seats. The Charter was granted because the proposal met all of the educational and fiscal expectations set forth in our district regulation. This school also will provide very much needed additional student stations.

At this time we have begun planning for student needs in the 2003-2004 school year. Our student projections, personnel allocations and facilities planning processes have all taken into consideration 900 student seats in the Lehigh Charter School. We are planning, in good faith, that the school will in fact have a certificate of occupancy no later than July 14, 2003 in order to meet its contractual obligation and open August 11, 2003. Families, other public schools, and the District staff are all looking forward to a successful opening of the Lehigh Charter School to meet the needs of rapidly growing Lehigh and Gateway Communities. Your support in overcoming any obstacles and achieving the on time completion of the Daniels/Commonwealth location is greatly appreciated.

Sincerely,

Lynn Pottorf, Coordinator
Charter Schools, The School District of Lee County

LP/dlm

DISTRICT VISION

TO PREPARE EVERY STUDENT FOR SUCCESS

DISTRICT MISSION

TO PROVIDE A QUALITY EDUCATION IN A SAFE AND WELL-MANAGED ENVIRONMENT



SOUTH FLORIDA WATER MANAGEMENT DISTRICT
SURFACE WATER MANAGEMENT
GENERAL PERMIT NO. 36-00678-S
DATE ISSUED: March 28, 2003

Form #0942
08/95

PERMITTEE: GATEWAY FLEX ASSOCIATES LLC
27300 RIVERVIEW CENTER BLVD
BONITA SPRINGS, FL 34134

PROJECT DESCRIPTION: Modification of a surface water management system serving 5.78 acres of an institutional development known as the Charter School USA, part of the 5319 acre Gateway Community. The system discharges to the Six Mile Cypress Strand via the Gateway Community master surface water management system.

PROJECT LOCATION: LEE COUNTY, SEC 18,19 TWP 45S RGE 26E

PERMIT DURATION: See Special Condition No:1. See attached Rule 40E-4.321, Florida Administrative Code.

This is to notify you of the District's agency action concerning Permit Application No. 030128-4, dated January 28, 2003. This action is taken pursuant to Rule 40E-1.606 and Chapter 40E-40, Florida Administrative Code (F.A.C.).

Based on the information provided, District rules have been adhered to and a Surface Water Management General Permit is in effect for this project subject to:

1. Not receiving a filed request for a Chapter 120, Florida Statutes, administrative hearing.
2. the attached 19 Standard Limiting Conditions (See Pages : 2 - 3 of 4),
3. the attached 11 Special Conditions (See Pages : 4 - 4 of 4) and
4. the attached 6 Exhibit(s).

Should you object to these conditions, please refer to the attached "Notice of Rights" which addresses the procedures to be followed if you desire a public hearing or other review of the proposed agency action. Please contact this office if you have any questions concerning this matter. If we do not hear from you in accordance with the "Notice of Rights," we will assume that you concur with the District's action.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a "Notice of Rights" has been mailed to the Permittee (and the persons listed in the attached distribution list) no later than 5:00 p.m. on this 28th day of March, 2003, in accordance with Section 120.60(3), Florida Statutes.

BY:

Carla N. Palmer
Carla N. Palmer, P.E.

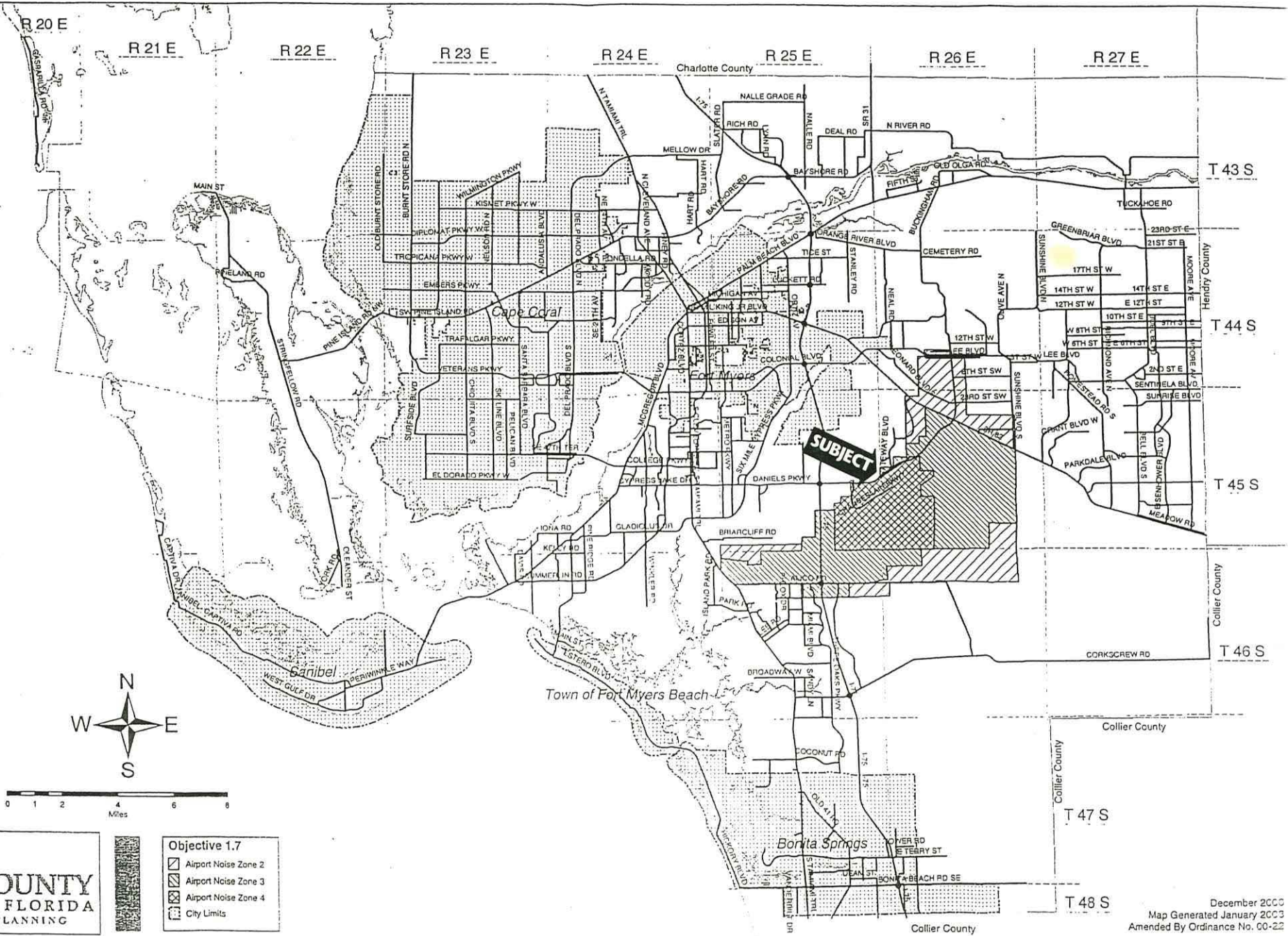
Director

Lower West Coast Service Center

Certified mail number 7002 2410 0000 5729 5729

SPECIAL TREATMENT AREAS

(Lee Plan Map 1 Page 5 of 5)



Description	Revenue Account Number	Created Date	Amount	Due
Small Map Amendment <10 ac	LB5150715500.322000.9018	4/14/2003	1,500.00	0.00
			Total Due:	\$0.00