



SOUTHWEST FLORIDA REGIONAL PLANNING COUNCIL
Thursday, October 15, 2009 at 9:00 am

Charlotte Harbor Event & Conference Center
75 Taylor Street
Myakka Rooms A&B
Punta Gorda, FL 33950

AGENDA

Mission Statement

To work together across neighboring communities to consistently protect and improve the unique and relatively unspoiled character of the physical, economic and social worlds we share...for the benefit of our future generations.

INVOCATION

PLEDGE OF ALLEGIANCE

ROLL CALL – Ms. Nichole Gwinnett

- | | | |
|-----------|---|-----------------|
| 1. | AGENDA | Page 1 |
| 2. | MINUTES OF SEPTEMBER 17, 2009 | Page 7 |
| 3. | CONSENT AGENDA | Page 17 |
| | a) Intergovernmental Coordination and Review | Page 19 |
| | b) Financial Statement for September 30, 2009 | Page 23 |
| | c) FGCU and the SWFRPC Releases the Southwest Florida Regional Business Incubator Network Study – Press Release | Page 32 |
| | d) Toll-Rattlesnake DRI – Sufficiency Response Extension | Page 35 |
| | e) The Fountains DRI – Sufficiency Response Extension | Page 39 |
| | f) Villages of Lakewood Ranch South DRI – Sufficiency Response Extension | Page 43 |
| | g) City of North Port Comprehensive Plan Amendment (DCA 09-01) | Page 49 |
| | h) Charlotte County Comprehensive Plan Amendment (DCA 09-02) | Page 73 |
| 4. | ALICO INTERCHANGE PARK DRI – SUBSTANTIAL DEVIATION STAFF ASSESSMENT | Page 92 |
| 5. | ADMINISTRATIVE ISSUES | Page 93 |
| | a) Lower West Coast Watershed Implementation Committee Report – Mayor Mick Denham | Page 95 |
| | b) Community Planning Month Proclamation – Mr. Ken Heatherington | Page 110 |

Two or more members of the Peace River Basin Management Advisory Committee and Charlotte Harbor National Estuary Program may be in attendance and may discuss matters that could come before the Peace River Basin Management Advisory Committee and Charlotte Harbor National Estuary Program, respectively, for consideration.

In accordance with the Americans with Disabilities Act (ADA), any person requiring special accommodations to participate in this meeting should contact Ms. Deborah Kooi at the Southwest Florida Regional Planning Council 48 hours prior to the meeting by calling (239) 338-2550 #210; if you are hearing or speech impaired call (800) 955-8770 Voice/(800) 955-8771 TDD. Or email dkooi@swfrpc.org.

6. PUBLIC COMMENTS
7. DIRECTOR'S COMMENTS
8. STATE AGENCIES COMMENTS/REPORTS
9. COUNCIL ATTORNEY'S COMMENTS
10. COUNCIL MEMBERS' COMMENTS
11. ADJOURN TO THE "STATE OF THE REGION ADDRESS" IN HIBISCUS HALL C

NEXT MEETING DATE
November 19, 2009

Two or more members of the Peace River Basin Management Advisory Committee and Charlotte Harbor National Estuary Program may be in attendance and may discuss matters that could come before the Peace River Basin Management Advisory Committee and Charlotte Harbor National Estuary Program, respectively, for consideration.

In accordance with the Americans with Disabilities Act (ADA), any person requiring special accommodations to participate in this meeting should contact Ms. Deborah Kooi at the Southwest Florida Regional Planning Council 48 hours prior to the meeting by calling (239) 338-2550 ext. #210; if you are hearing or speech impaired call (800) 955-8770 Voice/(800) 955-8771 TDD. Or email dkooi@swfrpc.org.

SOUTHWEST FLORIDA REGIONAL PLANNING COUNCIL (SWFRPC) ACRONYMS

ABM - Agency for Bay Management - Estero Bay Agency on Bay Management

ADA - Application for Development Approval

ADA - Americans with Disabilities Act

AMDA -Application for Master Development Approval

BEER - Bureau of Economic Business and Research at the University of Florida

BLID - Binding Letter of DRI Status

BLIM - Binding Letter of Modification to a DRI with Vested Rights

BLIVR -Binding Letter of Vested Rights Status

BPCC -Bicycle/Pedestrian Coordinating Committee

CAC - Citizens Advisory Committee

CAO - City/County Administrator Officers

CDBG - Community Development Block Grant

CDC - Certified Development Corporation (a.k.a. RDC)

CEDS - Comprehensive Economic Development Strategy (a.k.a. OEDP)

CHNEP - Charlotte Harbor National Estuary Program

CTC - Community Transportation Coordinator

CTD - Commission for the Transportation Disadvantaged

CUTR - Center for Urban Transportation Research

DCA - Department of Community Affairs

DEP - Department of Environmental Protection

DO - Development Order

DOPA - Designated Official Planning Agency (i.e. MPO, RPC, County, etc.)

EDA - Economic Development Administration

EDC - Economic Development Coalition

EDD - Economic Development District

EPA – Environmental Protection Agency

FAC - Florida Association of Counties

FACTS - Florida Association of CTCs

FAW - Florida Administrative Weekly

FCTS - Florida Coordinated Transportation System

FDC&F -Florida Department of Children and Families (a.k.a. HRS)

FDEA - Florida Department of Elder Affairs

FDLES - Florida Department of Labor and Employment Security

FDOT - Florida Department of Transportation

FHREDI - Florida Heartland Rural Economic Development Initiative

FIAM – Fiscal Impact Analysis Model

FLC - Florida League of Cities

FQD - Florida Quality Development

FRCA -Florida Regional Planning Councils Association

FTA - Florida Transit Association

IC&R - Intergovernmental Coordination and Review

IFAS - Institute of Food and Agricultural Sciences at the University of Florida

JLCB - Joint Local Coordinating Boards of Glades & Hendry Counties

JPA - Joint Participation Agreement

JSA - Joint Service Area of Glades & Hendry Counties

LCB - Local Coordinating Board for the Transportation Disadvantaged

LEPC - Local Emergency Planning Committee

MOA - Memorandum of Agreement

MPO - Metropolitan Planning Organization

MPOAC - Metropolitan Planning Organization Advisory Council

MPOCAC - Metropolitan Planning Organization Citizens Advisory Committee

MPOTAC - Metropolitan Planning Organization Technical Advisory Committee

NARC -National Association of Regional Councils

NOPC -Notice of Proposed Change

OEDP - Overall Economic Development Program

PDA - Preliminary Development Agreement

REMI – Regional Economic Modeling Incorporated

RFB - Request for Bids

RFP - Request for Proposals

RPC - Regional Planning Council

SHIP -State Housing Initiatives Partnership

SRPP – Strategic Regional Policy Plan

TAC - Technical Advisory Committee

TDC - Transportation Disadvantaged Commission (a.k.a. CTD)

TDPN - Transportation Disadvantaged Planners Network

TDSP - Transportation Disadvantaged Service Plans

USDA - US Department of Agriculture

WMD - Water Management District (SFWMD and SWFWMD)

_____ Agenda
_____ Item

2

Minutes

2

2

**MINUTES OF THE
SOUTHWEST FLORIDA REGIONAL PLANNING COUNCIL
SEPTEMBER 17, 2009**

The regular meeting of the **Southwest Florida Regional Planning Council** was held on **September 17, 2009** at the Kimal Event Center at 11184 Hughey-Kimal Drive in Venice, Florida. **Chairman Jim Humphrey** called the meeting to order at **9:01 a.m.** **Commissioner Carolyn Mason** led an invocation and the Pledge of Allegiance. Senior Administrative Staff Nichole Gwinnett conducted the roll call.

MEMBERS PRESENT

Charlotte County: Councilman Don McCormick, Commissioner Tricia Duffy, Commissioner Robert Skidmore, Ms. Andrea Messina, Mr. Alan LeBeau

Collier County: Commissioner Jim Coletta, Mr. Bob Mulhere

Glades County: None

Hendry County: Commissioner Tristan Chapman, Mayor Paul Puletti, Mr. Melvin Karau

Lee County: Mayor Mick Denham, Commissioner Ray Judah, Commissioner Tammy Hall, Mayor Jim Humphrey, Mayor Jim Burch, Councilman John Spear, Ms. Laura Holquist

Sarasota County: Commissioner Jon Thaxton, Commissioner Carolyn Mason, Commissioner Tom Jones, Mr. George Mazzarantani

Ex-Officio Members: Ms. Terri Behling for Ms. Dianne Davies - SWFWMD, Mr. Jon Iglehart - FDEP, Mr. Phil Flood - SFWMD

MEMBERS ABSENT

Charlotte County: None

Collier County: Councilwoman Teresa Heitmann, Councilman Charles Kiester, Commissioner Frank Halas

Glades County: Councilman Michael Brantley, Dr. Edward Elkowitz, Commissioner Kenneth "Butch" Jones, Commissioner Paul Beck

Hendry County: Commissioner Karson Turner, Mayor Mali Chamness

Lee County: Councilman Tom Babcock, Mr. Paul Pass

Sarasota County: Councilman Ernie Zavodnyik, Mr. David Farley

Ex-Officio Membership: Mr. Johnny Limbaugh - FDOT, Ms. Tammie Nemecek - EDC of Collier County

**AGENDA ITEM #1
AGENDA**

No changes were made to the agenda at this time.

**AGENDA ITEM #2
MINUTES OF JUNE 18, 2009**

Commissioner Judah moved and Commissioner Coletta seconded to approve the minutes of June 18, 2009. The motion carried unanimously.

**AGENDA ITEM #3
CONSENT AGENDA**

Commissioner Judah pulled Item #3(i) The Red Sox Stadium DRI - Pre-Application Questionnaire Checklist and Item #3(j) City of Cape Coral Comprehensive Plan Amendment (DCA 09-2) for discussion.

Commissioner Thaxton pulled Item #3(k) Sarasota County Comprehensive Plan Amendment (DCA 09-D1) for discussion.

Commissioner Thaxton moved and Ms. Messina seconded to approve the balance of the consent agenda: Agenda Item #3(a) Intergovernmental Coordination and Review; Agenda Item #3(b) Financial Statements for June 30, 2009, July 31, 2009 & August 31, 2009; Agenda Item #3(c) SWFRPC Fixed Assets Removal; Agenda Item #3(d) SWFRPC/DCA FY09/10 Annual Contract ; Agenda Item #3(e) Town of Big Cypress DRI - Request for Sufficiency Response Extension; Agenda Item #3(f) Harborview DRI - Substantial Deviation Request for Extension; Agenda Item #3(g) Florida Gulf Coast Technology & Research Park DRI - Request for Extension; Agenda Item #3(h) North Port Gardens DRI - Request for Extension; and Agenda Item #3(l) Jetport DRI - Substantial Deviation Request for Extension. The motion carried unanimously.

**AGENDA ITEM #3(i)
The Red Sox Stadium DRI - Pre-Application Questionnaire Checklist**

Commissioner Judah requested that reclaimed wastewater for irrigation is addressed. Mr. Trescott of staff stated that he will make a special note, but staff does usually require reclaimed wastewater for irrigation.

Commissioner Judah moved and Commissioner Hall seconded to approve the pre-application questionnaire checklist as amended.

Commissioner Judah stated that Lee County is looking to have the Red Sox Stadium be a LEED certified building.

The motion carried unanimously.

**AGENDA ITEM #3(j)
City of Cape Coral Comprehensive Plan Amendment (DCA 09-2)**

Commissioner Judah explained that the reason for pulling the item is he has conservation concerns with the project.

Mr. Crawford of staff explained that there are two issues that staff has concerns with, besides normal transportation, the first issue are the new planning laws associated with Chapter 360; because the project should be going through the DRI process and it isn't because the City of Cape Coral is an exempt area in accordance to Chapter 360, therefore, this project is exempt from the DRI process unless the applicant does it voluntarily. The comprehensive plan states that it handles these types of issues through DRIs, but the DRI process is currently being challenged in court so staff cannot require this to be a DRI even though the project has DRI impacts.

Secondly, staff was focused mostly on the environmental issues on this project to make sure that there was language and text changes to those environmental areas and requested that the city conduct an environmental impact re-assessment and there is language within the text which states that those areas are preserved and will be preserved forever.

Commissioner Judah stated that because of the ramifications of the project that he would expect that the applicant would voluntarily go through the DRI process.

Mayor Denham asked if it has been requested of the applicant to go through the DRI process. Mr. Crawford explained that it would have to be presented to the applicant that the project could be a DRI, but as far as he knows that the project is not going to be a DRI because State Law states that it doesn't have to be unless they voluntarily go through the DRI process.

Mr. Heatherington explained that there have been numerous DRIs throughout the State that have voluntarily gone through the DRI process due to the multi- and extra-jurisdictional impacts.

Mayor Denham asked if the applicant has been asked to go through the DRI process. Mr. Crawford replied that staff had suggested that the project go through the DRI process to the applicant but to this date there has been no response back.

Chairman Humphrey suggested that the Council officially request that the applicant go through the DRI process.

Commissioner Judah moved and Mayor Denham seconded to have the Council forward an official request to the applicant that they go through the DRI process.

Mayor Burch explained that the process for the project has been going on since 2002. He cannot speak on behalf of the applicant on whether or not they will agree to go through the DRI process.

He also stated that he is also an environmentalist and he believes that the city has done a lot of things to try to address those issues. He noted that the city and applicant have had discussions with DCA Secretary Pelham to ensure further preservation.

Commissioner Hall asked under Chapter 360 and also under DCA Secretary Pelham's interpretation of Chapter 360, it is her understanding that municipalities and counties that could forego the DRI process would have to make a comprehensive land use amendment to identify the areas in which they are going to allow Chapter 360 to take affect and everything else that comes in outside of those areas would have to go through the DRI process.

Mr. Crawford stated that he asked the same question. He felt that a project wouldn't be exempt from the DRI process until the municipalities/counties identified the areas that were going to be exempt and amended their plan(s) to amend their transportation element and capital improvement element, then they would receive the benefit of not becoming a DRI, but he was informed by DCA that wasn't the case. They actually get to be exempt immediately because they are determined by the list by DCA on the density requirements, which Cape Coral meets; at that point once the list was approved as required by Chapter 360, they are automatically exempt.

Ms. Messina stated that if staff has been told by DCA that this project is exempt from the DRI process by law then the only thing that the Council can do is strongly encourage the applicant to willingly participate and that there are a lot of eyes watching.

Councilman McCormick stated that currently there is a lawsuit which may overturn Chapter 360, in that event we would revert to the DRI situation. He then asked staff if someone has noted to the applicant that if they don't decide to voluntarily go through the DRI process and if Chapter 360 gets overturned that the project could be delayed. Mr. Crawford explained that actually once the zoning is approved the project is ready for development.

Ms. Holquist explained that there is a similar project on the east coast that is in similar status and that Chapter 360 was caused by the prior Chapter 360 in 2005. There were two DRIs that went through prior to 2005 that took \$1 million and 2 years to accomplish. The DRIs since 2005 has taken 4 years to accomplish and \$6 million. So the new Chapter 360 is to bring things back in order to prior 2005. She then suggested that instead of having the applicant go through the DRI process, to have Council staff extract elements from the DRI process that are important to the region (environmental, transportation, etc.) and then get all of local jurisdictions to agree to those elements. She stated that she doesn't believe any developer is going to volunteer to go through the DRI process within this type of market/developer. She believes that if it is made plausible to the applicant then it will be the answer to our needs as a Council.

The motion passed with a 12 to 8 vote.

**AGENDA ITEM #3(k)
Sarasota County Comprehensive Plan Amendment (DCA 09-D1)**

Commissioner Thaxton stated that staff did a great job in addressing the issues; however, he does have some concerns which he did at the county level and he would appreciate another member making a motion to approve the item, but he will not be in support of it.

Ms. Messina moved and Commissioner Mason seconded to approve staff comments. Authorize staff to forward comments to the Department of Community Affairs and Sarasota County. The motion carried with two opposed.

AGENDA ITEM #4(a)

Lower West Coast Watersheds Implementation Committee - Vice Chairman Mick Denham

Mayor Denham gave a status report on the committee.

Councilman Spear requested to have staff keep the Council informed of the progress of the meetings. Mayor Denham stated that he would have staff work on that task. Also, there is a DEP proposal that he is awaiting staff's review on.

Mr. Flood confirmed that the SFWMD has stopped all work on the Basin Rule and is now working on the State wide Stormwater Rule and SFWMD staff has been working with FDEP's staff. He is expecting to have workshops held on the State-wide Stormwater Rule in the beginning of 2010.

Chairman Humphrey suggested placing the item on the October agenda for discussion.

AGENDA ITEM #4(b)

Energy & Climate Committee - Commissioner Jon Thaxton

Commissioner Thaxton gave a brief status report on the committee.

Chairman Humphrey suggested placing the item on the October agenda for discussion.

Commissioner Judah asked Commissioner Thaxton if the committee had set any deadline dates on when they would like to see any of the recommendations implemented. Commissioner Thaxton explained that the committee has not set any deadline dates at this time. It was one of the discussions that the committee did have and the committee decided that the committee needed to set their priorities first and then attach deadlines. He stated that it will be discussed at the next meeting of the committee.

AGENDA ITEM #4(c)

Budget Committee - Ms. Laura Holquist

Ms. Holquist reviewed the item as contained within the agenda packet.

Chairman Humphrey referred to the Reserve Policy in the agenda packet and asked for a motion.

Commissioner Hall moved and Commissioner Chapman seconded to approve the adoption of the Council's Reserve Policy.

Mr. Heatherington gave a status overview of the negotiations of the leasing of parking spaces to the Probation Office.

Commissioner Skidmore asked what the percentage of annual revenue is. Ms. Yell stated that she didn't have that information at this time, but will get the answer to him before the end of the meeting.

The motion carried unanimously.

AGENDA ITEM #5(a)
Legislative Wrap-up - Mr. Keith Arnold

Mr. Heatherington explained that Mr. Arnold was unable to attend due to a scheduling conflict, but he is scheduled to be one of the panelists at the State of the Region Address Workshop.

Commissioner Coletta requested that the members contact their local legislators and invite them to a Council meeting.

Commissioner Thaxton stated that with his conversations with Senator Bennett that SB360 will again be on the legislative floor during the next session. He then referred to the two of the four letters that were included in the agenda packet, which carried the exchange from Senator Bennett to DCA Secretary Pelham and if there is any question as to the clarity of the bill it is put to rest when you read the letters. When you write a growth management bill that even the Secretary of the State can't understand then you have a very serious problem with your bill, at least in terms of its clarity. He feels pretty confident that Senator Bennett is going to make it explicit rather than implicit in his glitch bill on SB360 to clarify those interpretations that he believes the secretary misinterpreted.

Mr. Heatherington stated that as a segway between SB360 and Amendment 4 (a.k.a. Hometown Democracy), yesterday's Cabinet upheld a 4-0 vote in Marion County on the development of 800 residential units based on need. This was based on the Cabinet decision, they stated that there wasn't a need for 800 residential units in Marion County and the developer argued that it was a matter of choice not need. But the Cabinet voted 4-0 and in the presentation it was stated that it was also an example on how government can work and that they don't need Amendment 4 because the citizens do have the right to intercede in the comprehensive plan amendment.

AGENDA ITEM #5(b)
Council Retreat 2009 - Mr. Ken Heatherington

Mr. Heatherington gave an overview of the Council Retreat.

Commissioner Chapman asked the members to place the colored dots next to the issue(s) they feel are the most important. The following priorities were identified:

- 1) SB360 and Growth Management
- 2) Amendment 4 - Hometown Democracy
- 3) Oil Drilling/Gulf Drilling
- 4) Funding Unfunded Mandates
- 5) US Sugar/Inland Port & Water Supply/ Water Quality Initiatives

AGENDA ITEM #5(c)
Other Emerging Regional Issues

2010 Census Partner Proclamation

Mr. Heatherington reviewed the item as contained in the agenda packet.

Ms. Messina moved and Commissioner Mason seconded to approve having the Chairman execute the 2010 Census Partner Proclamation. The motion carried unanimously.

State of the Region Address

Mr. Heatherington reviewed the item as contained in the agenda packet. He also gave an overview of the Green Region Expo which is being held on Saturday, October 17th at the Charlotte Harbor Event & Conference Center.

Chairman Humphrey stated that staff was able to come up with the percentage for their annual revenues and with the current Reserve Policy the Council should have 17%.

AGENDA ITEM #6
PUBLIC COMMENTS

No public comments were made at this time.

AGENDA ITEM #7
DIRECTOR'S COMMENTS

Mr. Heatherington thanked the members for traveling around the region and also asked them to fill out the registration form for the October 15th State of the Region Address and return them to Ms. Gwinnett prior to the September 30th deadline.

Mr. Heatherington announced that he was on the Hodges University Diversity Committee and March 6th is the Diversity Festival at the Estero Community Park and they are in the process of inviting the Seminole Indian Tribe to part of the process.

AGENDA ITEM #8
STATE AGENCIES COMMENTS/REPORTS

FDEP - Mr. Iglehart stated that this Saturday morning is DEP beach clean-up weekend.

AGENDA ITEM #9
COUNCIL ATTORNEY'S COMMENTS

Counsel Donley stated that she had no comments at this time.

AGENDA ITEM #10
COUNCILMEMBERS' COMMENTS

Mayor Burch thanked Mayor Denham, Commissioner Thaxton and Ms. Holquist for their time that they spend with the various committees. He also thanked the Council for supporting his efforts on the Cape Coral project.

Ms. Messina stated that she expects that some of the local municipalities are lowering the ad valorem assessments but are noticing that the school districts have to increase their mill age. She explained that the Florida Education Finance Plan requires a certain amount of local effort and the state legislators budget analysis has shifted from state level funding to local funding, so your local school districts required effort is a higher amount so we don't really have a choice in the matter but to assess at a higher level. Also, while the State had expected fewer students this year ($\pm 6,000$ fewer) statewide they have only been reporting $\pm 2,000$ fewer students statewide, so it appears the bleeding has somewhat subsided.

Councilman Spear expressed his appreciation of being able to move the meetings around the region.

Mr. Mazzarantani expressed his appreciation of being able to move the meetings around the region.

Commissioner Hall stated that she would like to thank the City of Punta Gorda because the Florida Association of Counties held a meeting at the Charlotte Harbor Event and Conference Center and everyone enjoyed themselves.

Councilman McCormick stated that the city has to give some credit to Charlotte County since they did put most of the money into the conference center.

Commissioner Duffy explained that the city owns the land and the county owns the building, so it is a great partnership.

Commissioner Tom Jones thanked the Charlotte County BOCC for their support and their letter of recommendation for the TIGER grant for Sumter Boulevard.

Commissioner Duffy thanked the Sarasota County BOCC for their support and their letter of recommendation for the TIGER grant.

AGENDA ITEM #11
ADJOURN

The meeting adjourned at 10:40 a.m.

Commissioner Paul Beck, Secretary

The meeting was duly advertised in the September 4, 2009 issue of the **FLORIDA ADMINISTRATIVE WEEKLY**, Volume 35, Number 35.

_____ Agenda
_____ Item

3

Consent Agenda

3

3

CONSENT AGENDA

Agenda Item #3(a) – Intergovernmental Coordination and Review

Information Item.

Agenda Item #3(b) – Financial Statement for September 30, 2009

Approve the financial statement for September 30, 2009 as presented.

Agenda Item #3(c) – EDA Feasibility Report Press Release

Information Item.

Agenda Item #3(d) – Toll-Rattlesnake DRI – Sufficiency Response Extension

Approve the request for extension.

Agenda Item #3(e) – The Fountains DRI – Sufficiency Response Extension

Approve the request for extension.

Agenda Item #3(f) – Villages of Lakewood Ranch South DRI – Sufficiency Response Extension

Approve the request for extension.

Agenda Item #3(g) – City of North Port Comprehensive Plan Amendment (DCA 09-01)

Approve staff comments. Authorize staff to forward comments to the Department of Community Affairs and the City of North Port.

Agenda Item #3(h) Charlotte County Comprehensive Plan Amendment (DCA 09-02)

Approve staff comments. Authorize staff to forward comments to the Department of Community Affairs and Charlotte County.

RECOMMENDED ACTION: Approve consent agenda as presented.

10/2009

_____ Agenda
_____ Item

3a

Intergovernmental
Coordination & Review

3a

3a

Project Review and Coordination Regional Clearinghouse Review

The attached report summarizes the project notifications received from various governmental and non-governmental agencies seeking federal assistance or permits for the period beginning September 1, 2009 and ending September 30, 2009.

The staff of the Southwest Florida Regional Planning Council reviews various proposals, Notifications of Intent, Preapplications, permit applications, and Environmental Impact Statements for compliance with regional goals, objectives, and policies of the Regional Comprehensive Policy Plan. The staff reviews such items in accordance with the Florida Intergovernmental Coordination and Review Process (Chapter 29I-5, F.A.C.) and adopted regional clearinghouse procedures.

Council staff reviews projects under the following four designations:

Less Than Regionally Significant and Consistent - no further review of the project can be expected from Council.

Less Than Regionally Significant and Inconsistent - Council does not find the project to be of regional importance, but notes certain concerns as part of its continued monitoring for cumulative impacts within the noted goal areas.

Regionally Significant and Consistent - Project is of regional importance and appears to be consistent with Regional goals, objectives and policies.

Regionally Significant and Inconsistent - Project is of regional importance and appears not to be consistent with Regional goals, objectives, and policies. Council will oppose the project as submitted, but is willing to participate in any efforts to modify the project to mitigate the concerns.

The report includes the SWFRPC number, the applicant name, project description, location, funding or permitting agency, and the amount of federal funding, when applicable. It also includes the comments provided by staff to the applicant and to the State Clearinghouse (Office of Planning and Budgeting) in Tallahassee.

RECOMMENDED ACTION: No action required this month.

10/2009

Review in Progress

<i>SWFRPC #</i>	<i>First Name</i>	<i>Last Name</i>	<i>Location</i>	<i>Project Description</i>	<i>Funding Agent</i>	<i>Funding Amount</i>	<i>Council Comments</i>
2009-035			Collier County	FDEP - Oil and Gas Section - Raccoon Point-Pad 5 Anode Well Drilling Permit Application No. 1336 in Collier County, Florida.			Review in Progress

_____ Agenda
_____ Item

3b

Financial Statement

For September 30, 2009

3b

3b

MONTHLY FINANCIAL CONTENTS
For the quarter ending September 30, 2009

	Pages
Financial Reports:	
Balance Sheet - Governmental Types and Account Groups	1
Balance Sheet - Assets, Liabilities and Capital	2
Income Statement - Combined	3
This page is a comparison of the budget and actual for the current month as well as the year to date figures. It also includes the net income for both the month and the year to date. The last column of the report reflects the percentage spent of the budget in each expense line as well as the overall total.	
Explanation of Council's Financial at current month end including:	4
- Percentage of Budget Spent for RPC, MPO, and NEP and any predicted expenses as to percentages not within acceptable range. There may be further comments on the breakdown of actual expenses.	
- Net income at current month end	
- Graphs showing the distribution of revenues and expenses	
- Any other notes felt needed at this time	
Amendments	5
As requested, amendments will be made as needed throughout the year rather than at year end as previously accepted.	
Breakdown of actual expenses for the RPC, MPO, NEP including	
- percentages and any amendments requested.	
- Please note that the Budget on the Income Statement on page 3 will not reflect any amendments, if needed, until they are actually approved.	
Combined RPC/MPO/NEP	6
Income statement - Comparison of current year vs. prior year	7
This page is a comparison of the actual figures for the current month and year to date to the previous year's figures. It also includes the net income for both years.	

**SOUTHWEST FLORIDA REGIONAL PLANNING COUNCIL
COMBINED BALANCE SHEET -
GOVERNMENTAL FUND TYPES AND ACCOUNT GROUPS
September-09**

	Governmental Fund Types		Account Groups		Totals
	General Fund	Special Revenue Fund	General Fixed Assets	General Long-Term Debt	(Memorandum Only)
ASSETS AND OTHER DEBIT					
Cash and cash equivalents	\$ (18,013)	\$ -	\$ -	\$ -	\$ (18,013)
Investments	519,106	-	-	-	519,106
Receivables - grants and contracts	-	586,149	-	-	586,149
Receivables - other	-	-	-	-	-
Due from other funds	-	(289,749)	-	-	(289,749)
Other assets	937	-	-	-	937
Property and equipment, net	-	-	1,619,940	-	1,619,940
Amount to be provided for retirement of general long-term debt	-	-	-	1,342,041	1,342,041
TOTAL ASSETS AND OTHER DEBIT	\$ 502,030	\$ 296,400	\$ 1,619,940	\$ 1,342,041	\$ 3,760,411
LIABILITIES, FUND EQUITY AND OTHER CREDIT					
LIABILITIES					
Accounts payable and accrued expenses	\$ 74,576	\$ -	\$ -	\$ -	\$ 74,576
Retainage payable	43,930	-	-	-	43,930
Due to other governments	-	-	-	-	-
Due to other funds	(289,749)	-	-	-	(289,749)
Deferred revenue - grants and contracts	-	296,400	-	-	296,400
Accrued compensated absences	-	-	-	67,943	67,943
Notes payable	-	-	-	1,274,098	1,274,098
TOTAL LIABILITIES	(171,242)	296,400	-	1,342,041	1,467,199
FUND EQUITY AND OTHER CREDIT					
Investment in general fixed assets	-	-	1,619,940	-	1,619,940
Fund balance					
Reserved, designated	550,200	-	-	-	550,200
Unreserved, undesignated	123,072	-	-	-	123,072
TOTAL FUND EQUITY AND OTHER CREDIT	673,272	-	1,619,940	-	2,293,213
TOTAL LIABILITIES, FUND EQUITY AND OTHER CREDIT	\$ 502,030	\$ 296,400	\$ 1,619,940	\$ 1,342,041	\$ 3,760,411

SWFRPC
Balance Sheet
September 30, 2009

ASSETS

Current Assets		
Cash - Bank of America Oper.	\$	(111,903.14)
Cash - Bank of America Max.		93,690.33
Cash - FL Local Gov't Pool		500,040.38
Cash - FL Gov't Pool-Fund B		19,065.78
Petty Cash		200.00
Accounts Receivable		334,819.72
Accounts Receivable-MPO		251,329.57
Bulk Mail Prepaid Postage		936.68
Amount t.b.p. for L.T.L.-Leave		67,943.06
Amount t.b.p. for L.T.Debt		1,274,098.02
		<hr/>
Total Current Assets		2,430,220.40
Property and Equipment		
Property, Furniture & Equip		2,021,409.66
Accumulated Depreciation		(401,469.57)
		<hr/>
Total Property and Equipment		1,619,940.09
		<hr/>
Total Assets	\$	<u><u>4,050,160.49</u></u>

LIABILITIES AND CAPITAL

Current Liabilities		
Retainage Payable	\$	43,930.37
Deferred Income		296,400.09
Accrued Salary		37,640.66
Accrued Expenses		34,570.27
Accrued Annual Leave		67,943.06
Long Term Debt - Bank of Am.		1,274,098.02
ABM Watershed Sym.		2,185.00
LEPC Contintency Fund		180.44
		<hr/>
Total Current Liabilities		1,756,947.91
		<hr/>
Total Liabilities		1,756,947.91
Capital		
Fund Balance-Unrestricted		87,790.72
Fund Balance-Restricted		550,200.00
Fund Balance-Fixed Assests		1,619,940.09
Net Income		35,281.77
		<hr/>
Total Capital		2,293,212.58
		<hr/>
Total Liabilities & Capital	\$	<u><u>4,050,160.49</u></u>

SWFRPC
Income Statement
Compared with Budget
For the Twelve Months Ending September 30, 2009

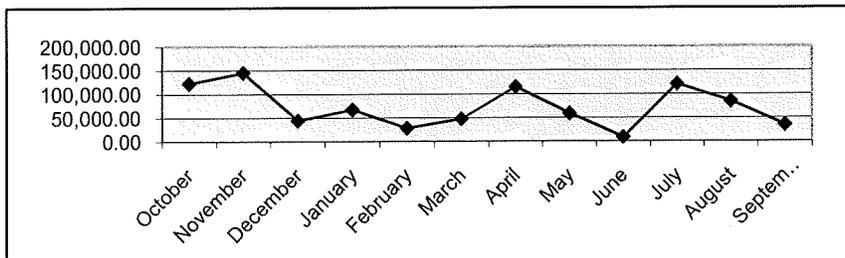
	Current Month Actual	Current Month	Year to Date Actual	Year to Date Budget	% Spent
Revenues					
Total Revenues	406,289.20	388,780	3,598,825.25	4,665,356	77.14
Expenses					
Salaries Expense	198,653.06	146,417	1,715,329.79	1,757,000	97.63
FICA Expense	12,134.14	10,167	129,994.34	122,000	106.55
Retirement Expense	30,201.86	14,167	181,380.54	170,000	106.69
Health Insurance Expense	(1,556.69)	17,500	177,977.46	210,000	84.75
Unemployment Comp. Expense	0.00	0	826.54	0	0.00
Workers Comp. Expense	424.00	833	5,291.00	10,000	52.91
Grant/Consulting Expense	1,200.00	10,500	125,706.50	126,000	99.77
NEP-Contractual	106,455.88	51,952	425,775.17	623,418	68.30
MPO-Contractual	63,731.17	24,167	173,191.91	290,000	59.72
Audit Services Expense	0.00	4,167	45,686.00	50,000	91.37
Travel Expense	5,449.02	4,542	46,858.50	54,500	85.98
Telephone Expense	781.96	1,042	8,192.01	12,500	65.54
Postage / Shipping Expense	15,339.01	2,750	37,476.82	33,000	113.57
Storage Unit Rental	224.00	283	2,912.00	3,400	85.65
Equipment Rental Expense	(10,903.98)	2,933	21,585.41	35,200	61.32
Insurance Expense	0.00	2,917	29,479.96	35,000	84.23
Repair/Maint. Expense	2,149.94	2,083	24,630.17	25,000	98.52
Printing/Reproduction Expense	375.00	6,125	61,146.54	73,500	83.19
Utilities (Elec, Water, Gar)	2,900.30	2,083	24,208.03	25,000	96.83
Advertising/Legal Notices Exp	1,695.17	1,238	13,349.66	14,850	89.90
Other Misc. Expense	25.00	417	3,402.60	5,000	68.05
Office Supplies Expense	1,302.17	2,000	19,654.33	24,000	81.89
Computer Related Expense	1,471.42	5,250	61,809.49	63,000	98.11
Publication Expense	0.00	308	1,624.98	3,700	43.92
Prof. Develop./Dues Expense	4,995.00	3,292	36,136.75	39,500	91.49
Meetings/Events Expense	9,091.77	4,317	44,678.64	51,800	86.25
Capitol Outlay Expense	0.00	2,833	12,175.28	34,000	35.81
Capitol Outlay - Building	0.00	667	5,200.00	8,000	65.00
Long Term Debt	10,645.92	10,667	127,751.04	128,000	99.81
Reserve for Operations Expense	0.00	53,166	0.00	637,988	0.00
Total Expenses	456,785.12	388,780	3,563,431.46	4,665,356	76.38
Net Income	\$ (50,495.92)	0	\$ 35,393.79	\$ 0	0.00

As stated when submitting Annual Budget:
Both CHNEP and MPO are multi-year budgets - Therefore total budget may appear high
For annual RPC Budget vs. Actual only - see page 9

The next few pages are a breakdown of actual expenses for each project in Special Revenues as well as in general operations. Included in these pages, as requested, are percentages for each line item and an overall percentage spent by the RPC, NEP, and MPO.

The overall percentage of the Budget spent is 88.19%
 This financial is before closing adjustments for year end.

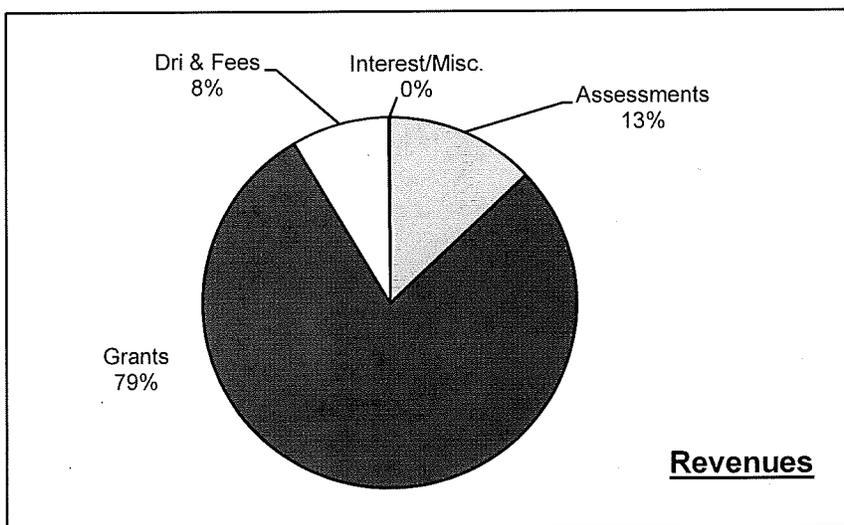
For the quarter ending September 30, 2009 **\$35,391** is our net income.



Net Income (unaudited)

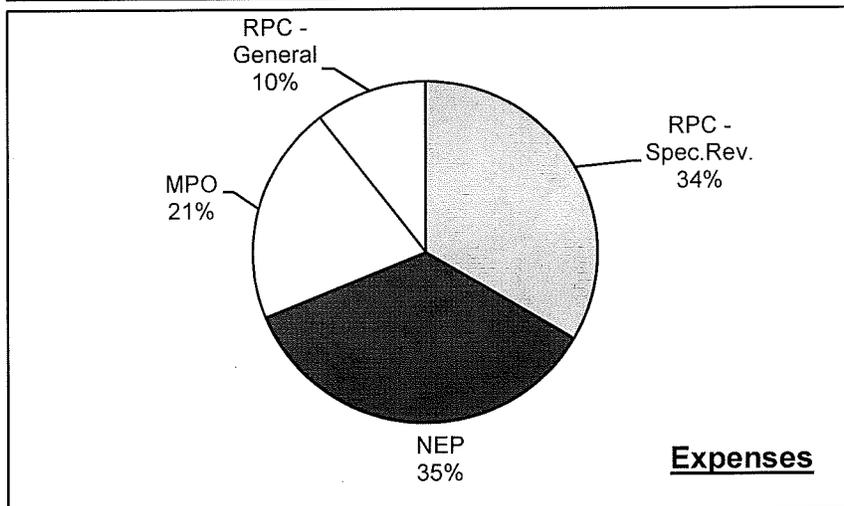
As can be seen in this graph, the net income moves in quarterly cycles. For the quarter ending September 30, 2009

Total Revenues	3,587,175
Total Expenses	3,551,782
Net Income	35,393



Revenues

Assessments	464,696
Grants	2,818,474
Dri & Fees	299,605
Interest/Misc.	4,400
Total	3,587,175



Expenses

RPC - Spec.Rev.	1,189,966
NEP	1,255,231
MPO	734,473
RPC - General	372,114
Total	3,551,782

There are no amendments this month

RPC-MPO-NEP Combined
Budget vs. Actual
For the quarter ending September 30, 2009

	Combined Actual	Combined Adopted Budget	Combined Amended Budget	Combined Total Amendments	Combined Amended Budget	Combined VARIABLE	100.00%	Combined Comments
Revenues								
Membership Dues	464,696	464,696	464,696	0	464,696	0	100.00%	
Federal/State/Local Grants	2,830,124	2,944,854	3,332,672	0	3,332,672	502,548	84.92%	
Dr/Monitoring Fees	299,605	200,000	200,000	0	200,000	-99,605	149.80%	
Interest And Miscellaneous	4,400	30,000	30,000	0	30,000	25,600	14.67%	
Carry Over Fund Balance		565,843	637,988	0	637,988			
Total Income	3,598,825	4,205,393	4,665,356	0	4,665,356	428,543		
Expenditures								
Direct:								
Salaries	1,715,331	1,757,000	1,757,000	0	1,757,000	41,669	97.63%	
FICA	129,994	122,000	122,000	0	122,000	-7,994	106.55%	
Retirement	181,381	170,000	170,000	0	170,000	-11,381	106.69%	
Health Insurance	177,977	210,000	210,000	0	210,000	32,023	84.75%	
Workers Compensation	6,118	10,000	10,000	0	10,000	3,882	61.18%	
Total Personnel	2,210,801	2,269,000	2,269,000	0	2,269,000	58,199		
Legal Fees	0	3,000	0	0	0	0		
Consultant Fees	125,707	40,000	126,000	0	126,000	294	99.77%	
NEP Contractual	425,775	255,200	623,418	0	623,418	197,643	68.30%	
MPO Contractual	173,192	290,000	290,000	0	290,000	116,808	59.72%	
Audit Fees	45,686	47,000	50,000	0	50,000	4,314	91.37%	
Travel	46,859	59,500	54,500	0	54,500	7,642	85.98%	
Telephone	8,192	14,500	12,500	0	12,500	4,308	65.54%	
Postage	37,477	30,000	33,000	0	33,000	-4,477	113.57%	NEP
Storage Space Rental	2,912	3,000	3,400	0	3,400	488	85.65%	
Equipment Rental	21,585	40,000	35,200	0	35,200	13,615	61.32%	
Insurance	29,480	35,000	35,000	0	35,000	5,520	84.23%	
Repair/Maintenance	24,631	30,000	25,000	0	25,000	369	98.52%	
Printing/Reproduction	61,147	81,500	73,500	0	73,500	12,353	83.19%	
Utilities (Elec, Gas, Water)	24,208	30,000	25,000	0	25,000	792	96.83%	
Advertising	13,350	11,050	14,850	0	14,850	1,500	89.90%	
Other Miscellaneous	3,403	5,000	5,000	0	5,000	1,597	68.05%	
Office Supplies	19,654	28,000	24,000	0	24,000	4,346	81.89%	
Computer Related Expenses	61,809	56,000	63,000	0	63,000	1,191	98.11%	
Publications	1,625	10,500	3,700	0	3,700	2,075	43.92%	
Professional Development	36,137	39,500	39,500	0	39,500	3,363	91.49%	
Meetings/Events	44,679	55,800	51,800	0	51,800	7,121	86.25%	
Capital Outlay-Operations	12,175	48,000	34,000	0	34,000	21,825	35.81%	
Capital Outlay-Building	5,200	30,000	8,000	0	8,000	2,800	65.00%	
Long Term Debt	127,751	128,000	128,000	0	128,000	249	99.81%	
Allocation of Fringe/Indirect Reserve for Operation Expense		565,843	637,988	0	637,988			
Total Cash Outlays	3,563,433	4,205,393	4,665,356	0	4,665,356	1,101,923	88.48%	
Net Income/(Loss)	35,391	0	0	0	0	0		

SWFRPC
Income Statement - Two Years
For the Twelve Months Ending September 30, 2009

	Current Month This Year	Current Month Last Year	Year to Date This Year	Year to Date Last Year
Revenues				
Total Revenues	406,289.20	412,762.19	3,598,825.25	3,439,972.77
Expenses				
Salaries Expense	198,653.06	194,937.31	1,715,329.79	1,620,636.10
FICA Expense	12,134.14	9,779.47	129,994.34	121,301.28
Retirement Expense	30,201.86	27,318.20	181,380.54	165,356.72
Health Insurance Expense	(1,556.69)	(2,646.43)	177,977.46	171,949.77
Unemployment Comp. Expe	0.00	0.00	826.54	0.00
Workers Comp. Expense	424.00	553.00	5,291.00	7,247.00
Grant/Consulting Expense	1,200.00	12,560.00	125,706.50	59,109.08
NEP-Contractual	106,455.88	60,137.69	425,775.17	380,741.39
MPO-Contractual	63,731.17	80,940.90	173,191.91	144,237.96
Audit Services Expense	0.00	0.00	45,686.00	49,039.00
Travel Expense	5,449.02	5,365.85	46,858.50	45,865.82
Telephone Expense	781.96	999.47	8,192.01	9,854.56
Postage / Shipping Expense	15,339.01	11,348.13	37,476.82	26,175.02
Storage Unit Rental	224.00	0.00	2,912.00	2,266.22
Equipment Rental Expense	(10,903.98)	(2,829.13)	21,585.41	31,602.26
Insurance Expense	0.00	0.00	29,479.96	31,056.08
Repair/Maint. Expense	2,149.94	2,570.05	24,630.17	24,924.51
Printing/Reproduction Expen	375.00	19,957.06	61,146.54	93,274.65
Utilities (Elec, Water, Gar)	2,900.30	2,672.68	24,208.03	23,052.70
Advertising/Legal Notices Ex	1,695.17	1,495.51	13,349.66	13,892.80
Other Misc. Expense	25.00	0.00	3,402.60	1,735.34
Office Supplies Expense	1,302.17	3,551.71	19,654.33	27,366.64
Computer Related Expense	1,471.42	18,905.61	61,809.49	52,879.95
Publication Expense	0.00	40.00	1,624.98	2,301.68
Prof. Develop./Dues Expens	4,995.00	4,258.00	36,136.75	45,665.26
Meetings/Events Expense	9,091.77	21,125.80	44,678.64	39,242.15
Capitol Outlay Expense	0.00	27,828.80	12,175.28	41,852.59
Capitol Outlay - Building	0.00	0.00	5,200.00	7,450.00
Long Term Debt	10,645.92	10,645.92	127,751.04	127,751.04
Total Expenses	456,785.12	511,515.60	3,563,431.46	3,367,827.57
Net Income	\$ (50,495.92)	\$ (98,753.41)	\$ 35,393.79	\$ 72,145.20

Agenda Item

3c

FGCU & SWFRPC Releases
The Southwest Florida Regional
Business Incubator Network
Study – Press Release

3c

FOR IMMEDIATE RELEASE



**FGCU and the Southwest Florida Regional Planning Council Releases
the Southwest Florida Regional Business Incubator Network Study**

FORT MYERS, FL – (September 23, 2009) - Florida Gulf Coast University's Lutgert College of Business Regional Economic Regional Institute and the Southwest Florida Regional Planning Council released to the public today a 220-page comprehensive report, the Southwest Florida Regional Incubator Planning Study. The study is available on the Southwest Florida Regional Planning Council website at www.swfrpc.org or at www.fgcu.edu/cob/veri.

The local economy has been hit very hard by the recent recession and there have been calls to create additional jobs and diversify the regional economy to lower the overall economic job losses that result from recessions. There are generally three assistance methods provided by economic development organizations to help diversify and improve the quality of jobs available in a region. These include (1) business recruitment, (2) retention and expansion, and (3) entrepreneurial assistance to help new or young startup companies in the region.

This study focused on the third economic development strategy for a region, entrepreneurial assist to new startup companies. A business incubator is an office or warehouse type building that provides space for new startup companies and works with a network of business professionals to assist new businesses through the first couple of years of operation when they are most likely to fail due to inexperience.

The real value add or benefit to the new business entrepreneur is access to a regional network of professional expertise that helps the new managers and owners develop a business plan including product or service development, a management and legal structure, and financial and marketing milestones. The benefit to the community is the creation of new and better jobs, wealth creation, technology commercialization, and economic diversification. The National Association of Business Incubation reports that there are approximately 1,100 incubators in the United States and 7,000 incubators worldwide, so this method is widely accepted and there has been considerable research on best practices for business incubators.

This study took approximately nine months to complete and included interviews with eight regional incubator networks managers across the U.S. to better understand their best practices. In addition, the study included an extensive review of articles and publications on incubators and regional networks. Five Southwest Florida focus groups and 22 key stakeholder interviews were conducted to provide regional information on the current entrepreneurial process and the economic development desires of the region. The literature research, interviews, and focus groups form the basis for the regional business incubator study recommendations for Southwest Florida.

The study provides key recommendations for the Southwest Florida region's economic development efforts, including:

- Communicate and provide education concerning the benefits of a regional business incubator network;
- Incorporate a regional entrepreneurial education program, regional mentoring program, research park, and regional business incubator network into the region's long-term economic development strategy;
- Explore development of a world-class regional entrepreneurial education program;
- Develop a regional business incubator consulting and mentoring program;
- Develop a research park tied to the regional colleges and universities;
- Sequentially grow incubator locations within the region;
- Develop a public-private partnership to manage and fund the regional incubator network;
- Obtain long-term funding commitments and utilize matching state and federal funds to grow the network;
- Develop a strategic implementation plan and guidelines for network operation;
- Hire experienced managers for the network; and
- Develop an informal and potentially formal link with the Florida High Tech Corridor.

In addition, the study provides information on incubator best practices and university-based incubator organizational structures. Each of these recommendations is explained in more detail in the study report.

The study was sponsored by the Southwest Florida economic development organizations, regional firms, foundations, and private individuals along with matching funds from the U.S. Economic Development Administration. The study was administered by the Southwest Florida Regional Planning Council and completed by the Regional Economic Research Institute at Florida Gulf Coast University.

For more information, media representatives should contact Gary Jackson, Director, Regional Economic Research Institute at (239) 590-7319.

-FGCU-

_____ Agenda
_____ Item

3d

Toll-Rattlesnake DRI –

Sufficiency Response Extension

3d

3d

TOLL-RATTLESNAKE REQUEST FOR SUFFICIENCY RESPONSE EXTENSION

The applicant's agent for the Toll-Rattlesnake Development of Regional Impact Application for Development Approval (ADA) has requested a 90-day extension to the deadline for responding to the ADA's sufficiency questions. The Florida Administrative Code's DRI Rule 29I-4.001(5) allows the Executive Director of the Regional Planning Council to administratively grant an initial 45-day time extension to any sufficiency response period. The Executive Director granted a 45-day extension to the sufficiency response period on September 19, 2007. The initial extension set the new deadline for sufficiency responses to November 05, 2007.

Subsequent sufficiency response extensions:

<u>Prior Deadline</u>	<u>Request Received</u>	<u>New Deadline</u>	<u>Meeting Date</u>	<u>Council Action</u>
November 05, 2007	October 01, 2007	February 02, 2008	October 18, 2007	Approved
February 02, 2008	December 13, 2007	May 02, 2008	January 17, 2008	Approved
May 02, 2008	April 08, 2008	July 31, 2008	April 17, 2008	Approved
July 31, 2008	June 04, 2008	October 29, 2008	June 19, 2008	Approved
October 29, 2008	October 07, 2008	January 23, 2009	October 16, 2008	Approved
January 23, 2009	January 05, 2009	April 25, 2009	January 15, 2009	Approved
April 25, 2009	April 01, 2009	July 24, 2009	April 16, 2009	Approved
July 24, 2009	June 01, 2009	October 22, 2009	June 18, 2009	Approved

The applicant has submitted another letter requesting a 90-day extension to the sufficiency response period (please see Attachment I). The new proposed deadline for sufficiency responses would be January 20, 2010. The Florida Administrative Code's DRI Rule 29I-4.001(5) states "Any further time extension, beyond the discretionary 45 day time extension, must be formally requested by the applicant and approved by the SWFRPC board at its regular monthly meeting, prior to expiration of the discretionary 45 day extension." The applicant's agent states "this extension request is made to anticipate a change in ownership of the lands currently under DRI review."

Staff recommends approval of this extension.



• Planning • Visualization
• Civil Engineering • Surveying & Mapping

September 29, 2009

Mr. Dan Trescott
DRI Coordinator
Southwest Florida Regional Planning Council
1926 Victoria Avenue
Fort Myers, FL 33901

Re: Toll Rattlesnake Application for Development Approval – 90 Day Extension
DRI #: 07-506-175

Dear Mr. Trescott:

Please accept this letter as our formal request for placement on the Southwest Florida Regional Planning Council's meeting agenda of October 15, 2009

As agent for the applicant, we wish to seek a 90-day extension for responding to the Application for Development Approval sufficiency comments, from the previously granted 90-day extension that will expire on October 22, 2009. Therefore, if granted, the new response deadline would be January 20, 2010. We have provided a letter from the new development entity that explains the property transfer and intent to complete the DRI process. Additionally, please find the attached check in the amount of \$3,500.00 to supplement the Rattlesnake – 4075 account with your agency

This extension request is made to anticipate a change in ownership of the lands currently under DRI review. This change in ownership is anticipated to occur within 90 days, and would facilitate a potential modification of the development intent that may include residential density and commercial intensity changes, as well as changes to the series of Map H.

Please feel free to contact me at (239) 597-0575 if you questions and/or comments.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. Mulhere', with a long horizontal flourish extending to the right.

Robert J. Mulhere, AICP
Vice President, Director of Planning

cc: David Torres, President, Hacienda Lakes of Naples, LLC
Richard D. Yovanovich, Goodlette, Coleman & Johnson P.A. - via email

_____ Agenda _____ Item

3e

The Fountains DRI – Sufficiency

Response Extension

3e

3e

THE FOUNTAINS REQUEST FOR SUFFICIENCY RESPONSE EXTENSION

The applicant's agent for the Fountains Development of Regional Impact Application for Development Approval (ADA) has requested an extension to the deadline for responding to the ADA's sufficiency questions. The Florida Administrative Code's DRI Rule 29I-4.001(5) allows the Executive Director of the Regional Planning Council to administratively grant an initial 45-day time extension to any sufficiency response period. The Executive Director granted a 45-day extension to the sufficiency response period on August 02, 2007. The 45-day extension set the new deadline for sufficiency responses to September 23, 2007. Subsequent to the granting of the 45-day extension, the applicant's agent submitted an incomplete sufficiency response to the Southwest Florida Regional Planning Council (SWFRPC) in September of 2007. SWFRPC staff has been awaiting a complete submittal from the applicant. In an effort to better track this project, SWFRPC staff contacted the applicant's attorney and asked for a formal extension letter. The applicant's attorney submitted a letter requested a sufficiency response period extension on August 04, 2009 (please see Attachment I). The new proposed deadline for sufficiency responses would be December 03, 2009. The Florida Administrative Code's DRI Rule 29I-4.001(5) states "Any further time extension, beyond the discretionary 45 day time extension, must be formally requested by the applicant and approved by the SWFRPC board at its regular monthly meeting, prior to expiration of the discretionary 45 day extension."

Staff recommends approval of this extension.

PAVESE LAW FIRM

STEVEN C. HARTSELL

Direct dial: (239) 336-6244
Email: SteveHartsell@PaveseLaw.com

1833 Hendry Street, Fort Myers, Florida 33901 | P.O. Drawer 1507, Fort Myers, Florida 33902-1507 | (239) 334-2195 | Fax (239) 332-2243

August 4, 2009

Mr. Jason Utley, Regional Planner/Asst. DRI Coord'r
Southwest Florida Regional Planning Council
1926 Victoria Ave.
Fort Myers, FL 33901

VIA E-MAIL & U.S. MAIL

RE: The Fountains - Lee County DRI2006-00001

Dear Mr. Utley:

On behalf of the owner/applicant for the above project, we hereby request an extension to December 17, 2009, to resubmit the requested additional information. The LPA hearing on the concurrent Comprehensive Plan Amendment, CPA2006-0001, has been postponed and the Lee County Zoning Response to RAI has been extended to December 3, 2009.

Please let this letter also serve to notify you and those copied below that the Owner is now the only applicant and that the authorized representatives for the application referenced above are the following individuals and that other representatives and consultants for the previous applicant, SouthStar Development, no longer need to be notified about the status of this application:

Steven C. Hartsell	Owner/Applicant's Attorney, Pavese Law Firm, PO Drawer 1507, Ft. Myers, FL 33902
David Depew	Owner/Applicant's Planner, Morris-Depew, 2914 Cleveland Ave., Ft. Myers, FL 33901

If you have any questions, please do not hesitate to contact me.

Very truly yours,



Steven C. Hartsell

SCH:llg

cc: Brenda Yates, SouthStar Development
Russell Schropp, Henderson, Franklin, Starnes and Holt, P.A.
Donna Marie Collins, Lee County Attorney's Office
Matt Noble, Lee County Planning
Dan Trescott, SWFRPC
William Keyes, Esquire, for Richard K. Bennett Trustee
David Depew, Morris-Depew

F:\WPDATA\SCHVI-- CLIENTS\Bennett TR, Richard K 82464.00\NDRI 2006-00001\Utley ltr requesting extension 8-4-09.wpd

4635 S. DEL PRADO BLVD.
CAPE CORAL, FLORIDA 33904
(239) 542-3148



4524 GUN CLUB ROAD, SUITE 203
WEST PALM BEACH, FLORIDA 33415
(561) 471-1366

_____ Agenda
_____ Item

3f

Villages of Lakewood Ranch
South DRI – Sufficiency
Response Extension

3f

**VILLAGES OF LAKEWOOD RANCH SOUTH REQUEST FOR SUFFICIENCY
RESPONSE EXTENSION**

The applicant's agent for the Villages of Lakewood Ranch South Development of Regional Impact Application for Development Approval (ADA) has requested a 60-day extension to the deadline for responding to the ADA's sufficiency questions. The Florida Administrative Code's DRI Rule 29I-4.001(5) allows the Executive Director of the Regional Planning Council to administratively grant an initial 45-day time extension to any sufficiency response period. The Executive Director granted a 45-day extension to the sufficiency response period on March 24, 2009. The initial extension moved the deadline for sufficiency responses from April 11, 2009 to May 26, 2009. However, the extension was never used as the applicant submitted a sufficiency response to the Southwest Florida Regional Planning Council in April of 2009. In light of the fact that the 45-day extension was never used, the Executive Director granted a 45-day extension to the current sufficiency response period on August 24, 2009. The extension moved the deadline for sufficiency responses from September 25, 2009 to November 09, 2009.

The applicant has submitted a letter, dated October 01, 2009, requesting an extension to the sufficiency response period (please see Attachment I). Council staff sent an e-mail on October 01, 2009 requesting the duration of the extension. The applicant's agent responded on October 06, 2009 by e-mail (please see Attachment II) stating "a two month extension should be more than sufficient". The new proposed deadline for sufficiency responses would be January 09, 2010. The Florida Administrative Code's DRI Rule 29I-4.001(5) states "Any further time extension, beyond the discretionary 45 day time extension, must be formally requested by the applicant and approved by the SWFRPC board at its regular monthly meeting, prior to expiration of the discretionary 45 day extension."

Staff recommends approval of this extension.

NEW DIRECTIONS IN PLANNING, DESIGN & ENGINEERING. SINCE 1956.



October 1, 2009

Mr. Dan Trescott
DRI Coordinator
Southwest Florida Regional Planning Council
1926 Victoria Avenue
Fort Myers, Florida 33901

**Subject: Villages of Lakewood Ranch South
Further Extension of Sufficiency Response Period**

Dear Dan:

On August 24, 2009, the Southwest Florida Regional Planning Council granted The Villages of Lakewood Ranch South a 45-day extension on the sufficiency response deadline to November 9, 2009. We were also advised at that time that if it was determined that a further extension was necessary, according to Jason Utley at the SWFRPC, that request must be submitted by October 1, 2009.

While it is our desire to meet a projected response submittal by mid-October, there may be a potential for a later submittal pending resolution of a few issues for which we still need clarification. Given that, we would respectfully request a further extension of the sufficiency response date. We understand that this request will be placed on the SWFRPC Council agenda for October 15, 2009. If our original response submittal becomes a reality, we would then withdraw the item from the SWRFPC Council agenda.

Please consider this request and advise us of the decision made as soon as possible. Thank you for your continued cooperation on this project.

Sincerely,

WilsonMiller, Inc.

James A. Paulmann, FAICP
Senior Vice President
Corporate Leader, Development Planning & Approvals

cc: Todd Pokrywa, Schroeder-Manatee Ranch, Inc.
Todd Dary, Sarasota County Planning
Shelley Hamilton, WilsonMiller, Inc.
Jason Utley, Southwest Florida Regional Planning Council

6900 Professional Parkway East Suite 100 Sarasota, Florida 34240

800.649.4336 941.907.6900 F 941.907.6910

WilsonMiller.com



Jason Utley

From: Shelley Hamilton [ShelleyHamilton@WilsonMiller.com]
Sent: Tuesday, October 06, 2009 8:47 AM
To: Jason Utley
Cc: Jim Paulmann; Dan Trescott
Subject: RE: SWFRPC Extension

Jason,
I just spoke with Todd Pokrywa from SMR and he said that a two month extension should be more that sufficient January 9, 2010).

Thanks,
Shelley

From: Jason Utley [mailto:jutley@swfrpc.org]
Sent: Thursday, October 01, 2009 4:54 PM
To: Shelley Hamilton
Cc: Jim Paulmann; Trescott, Dan
Subject: RE: SWFRPC Extension

Shelley,

I noticed the length of extension is not mentioned in the letter. How many days would you like to extend the sufficiency response period? Is 30 days acceptable? Thank you.

Jason Utley, LEED AP
Senior Planner/Assistant DRI Coordinator
Southwest Florida Regional Planning Council
1926 Victoria Avenue
Fort Myers, FL 33901
239.338.2550x227
jutley@swfrpc.org
<http://www.swfrpc.org>

From: Shelley Hamilton [mailto:ShelleyHamilton@WilsonMiller.com]
Sent: Thursday, October 01, 2009 2:06 PM
To: Jason Utley; Dan Trescott
Cc: Todd Pokrywa; Todd Dary; Jim Paulmann
Subject: SWFRPC Extension

Jason,
See attached letter requesting a further extension of our DRI Sufficiency Resubmittal.

<<DOC048.PDF>>

Shelley E. Hamilton
Senior Planner
WilsonMiller, Inc.
6900 Professional Pkwy East
Sarasota, FL 34240

_____ Agenda
_____ Item

3g

City of North Port

Comprehensive Plan

Amendment (DCA 09-01)

3g

**LOCAL GOVERNMENT COMPREHENSIVE PLAN AMENDMENTS
CITY OF NORTH PORT**

The Council staff has reviewed proposed amendment to the City of North Port Comprehensive Plan (DCA 09-1). The amendment was developed under the Local Government Comprehensive Planning and Land Development Regulation Act. A synopsis of the requirements of the Act and Council responsibilities is provided as Attachment I. Comments are provided in Attachment II. Maps are provided in Attachment III.

Staff review of the proposed amendments was based on whether they were likely to be of regional concern. This was determined through assessment of the following factors:

1. Location--in or near a regional resource or regional activity center, such that it impacts the regional resource or facility; on or within one mile of a county boundary; generally applied to sites of five acres or more; size alone is not necessarily a determinant of regional significance;
2. Magnitude--equal to or greater than 100% of the threshold for a Development of Regional Impact of the same type (a DRI-related amendment is considered regionally significant); and
3. Character--of a unique type or use, a use of regional significance, or a change in the local comprehensive plan that could be applied throughout the local jurisdiction; updates, editorial revisions, etc. are not regionally significant.

A summary of the results of the review follows:

<u>Proposed Amendment</u>	<u>Factors of Regional Significance</u>			
	<u>Location</u>	<u>Magnitude</u>	<u>Character</u>	<u>Consistent</u>
DCA 09-1 (Hospital)	no	no	no	(1) procedural (2) not regionally significant (3) consistent with SRPP
DCA 09-1 (Dwelling and Land Use Designation Increases and LOS Change)				(1) regionally significant (2) not consistent with SRPP

RECOMMENDED ACTION: Approve staff comments. Authorize staff to forward comments to the Department of Community Affairs and City of North Port.

10/09

Attachment I**LOCAL GOVERNMENT COMPREHENSIVE PLANNING AND LAND DEVELOPMENT REGULATION ACT****Local Government Comprehensive Plans**

The Act requires each municipal and county government to prepare a comprehensive plan that must include at least the following nine elements:

1. Future Land Use Element;
2. Traffic Circulation Element;
A local government with all or part of its jurisdiction within the urbanized area of a Metropolitan Planning Organization shall prepare and adopt a transportation element to replace the traffic circulation; mass transit; and ports, aviation, and related facilities elements. [9J-5.019(1), FAC]
3. General Sanitary Sewer, Solid Waste, Drainage, and Potable Water and Natural Groundwater Aquifer Recharge Element;
4. Conservation Element;
5. Recreation and Open Space Element;
6. Housing Element;
7. Coastal Management Element for coastal jurisdictions;
8. Intergovernmental Coordination Element; and
9. Capital Improvements Element.

The local government may add optional elements (e. g., community design, redevelopment, safety, historical and scenic preservation, and economic).

All local governments in Southwest Florida have adopted revised plans:

Charlotte County, Punta Gorda
 Collier County, Everglades City, Marco Island, Naples
 Glades County, Moore Haven
 Hendry County, Clewiston, LaBelle
 Lee County, Bonita Springs, Cape Coral, Fort Myers, Fort Myers Beach, Sanibel
 Sarasota County, Longboat Key, North Port, Sarasota, Venice

Comprehensive Plan Amendments

A local government may amend its plan twice a year. (Amendments related to developments of regional impact, certain small developments, compliance agreements, and the Job Siting Act are not restricted by this limitation.) Six copies of the amendment are sent to the Department of Community Affairs for review. A copy is also sent to the regional planning council, the water management district, the Florida Department of Transportation, and the Florida Department of Environmental Protection.
[s. 163.3184(3)(a)]

The proposed amendment will be reviewed by DCA in two situations. In the first, there must be a written request to DCA. The request for review must be received within forty-five days after transmittal of the proposed amendment. [s. 163.3184(6)(a)] Review can be requested by one of the following:

- the local government that transmits the amendment,
- the regional planning council, or
- an affected person.

In the second situation, DCA can decide to review the proposed amendment without a request. In that case, DCA must give notice within thirty days of transmittal.
[(s. 163.3184(6)(b))]

Within five working days after deciding to conduct a review, DCA must forward copies to various reviewing agencies, including the regional planning council. [s. 163.3184(4)]

Regional Planning Council Review

The regional planning council must submit its comments in writing within thirty days of receipt of the proposed amendment from DCA. It must specify any objections and may make recommendations for changes. The review of the proposed amendment by the regional planning council must be limited to "effects on regional resources or facilities identified in the strategic regional policy plan and extra-jurisdictional impacts which would be inconsistent with the comprehensive plan of the affected local government."
[s. 163.3184(5)]

After receipt of comments from the regional planning council and other reviewing agencies, DCA has thirty days to conduct its own review and determine compliance with state law. Within that thirty-day period, DCA transmits its written comments to the local government.

NOTE: THE ABOVE IS A SIMPLIFIED VERSION OF THE LAW. REFER TO THE STATUTE (CH. 163, FS) AND THE RULE (9J-11, FAC) FOR DETAILS.

Attachment II

**SOUTHWEST FLORIDA
REGIONAL PLANNING COUNCIL
COMPREHENSIVE PLAN AMENDMENT REVIEW**

- 1. Local Government Name:**
City of North Port
- 2. Amendment Number**
DCA 09-1 (Sarasota Memorial Hospital and Transportation Element LOS)
- 3. Did the RPC prepare the Plan Amendment: (YES) (NO)**
No
- 4. Date DCA Notified RPC that Amendment Package was Complete, if Applicable:**
No DCA Notice of Completeness has been received by the RPC to date.
- 5. Date Amendment Review must be Completed and Transmitted to DCA:**
No Notice of Final Review Date has been received by the RPC to Date.
- 6. Date the Review was Transmitted to DCA:**
The RPC staff review will be transmitted to DCA by October 7, 2009. The RPC will review this request at their October 15, 2009.
- 7. Description of the Amendment:**
The proposed changes to the North Port Comprehensive Plan have two parts:
 - (1) A privately requested large-scale amendment that seeks to redesignate land annexed into the City from Sarasota County. The proposed site of the change is referred to as the "Sarasota Memorial Hospital Comprehensive Plan Amendment." The subject site consists of 142.6± acres and is located in the western part of the City. Specifically, the requested is to change the existing County Future Land Use Map (FLUM) land use designation to a City FLUM land use designation of "Village." In addition, the proposed amendment raises the adopted residential cap for the Thomas Ranch/West Villages in the City to 15,400 dwelling units and expands the maximum acreage for the Town Center from 1,000 acres to 1,830 acres.
 - (2) A staff-generated large scale amendment proposal to change the transportation Level-of-Service (LOS) standard from a LOS "C" to a LOS "D." In addition, this request adds language to Policy 13 in the Future Land Use Element (FLUE) that resulted from a remedial for the H.M.T.A. amendment that was processed in 2005. At that time, the City failed to include the proposed language in the policy during the EAR-based amendment process and is proposing to add it into the City's Comprehensive Plan at this time. The language being added capped the H.M.T.A. village amendment at 1,350 dwelling units

8. Is the Amendment consistent with the Strategic Regional Policy Plan:

- (1) The request to change the land use of the proposed hospital site in the proposed amendment is found by the Council staff to be procedural, not regionally significant and consistent with the Strategic Regional Policy Plan.
- (2) The request to increase the size of the village area from 1000 acres to 1,830 acres, to increase the number of residential units from 15,000 to 15,400 in the Thomas Ranch/West Villages in the City is found by the Council staff to be regionally significant and inconsistent with the Strategic Regional Policy Plan. Council staff has requested that City continue to develop plans that are more sustainable and meet the State requirements for energy and greenhouse gas reductions. Council staff finds that the City's request is necessary for the City to meet their growth requirements and has requested that DCA send a monitoring letter to the developers of the Thomas Ranch properties and assess whether the subject lands and developments can be aggregate so that the properties impacted by the overall Villages land use category can go through DRI review and have the regional impacts of the proposed developments in that portion of the City properly mitigated.
- (3) Council staff supports the findings of the Florida Department of Transportation in reference to this propose amendment. The City's request to lower the Level of Service on the road network in the City should not be approved at this time in order to allow the proposed development in the Villages to assess the entire development impacts of the area through the DRI process.

9. Applicable Strategic Regional Policy Plan Goals, Strategies and Actions:

The following Goals Strategies and Actions are found by the Council staff to be applicable to the proposed amendment:

Economic Development

Economic Infrastructure

Goal 1: A well-maintained social, health, and educational infrastructure to support business and industry.

Strategy: Ensure a health care system that addresses the needs of both business and the work force

Action 2: Review proposed development for impacts on and opportunities to provide needed health care facilities and services.

Strategy: Maintain the physical infrastructure to meet growth demands.

Action 1: Review plan amendments, development proposal, and clearinghouse items for public facility deficits and encourage mitigation of those deficits.

- Action 2:** Assist local governments and state agencies in planning for future support service facilities, before the need arises.
- Action 3:** Review proposed public facilities to ensure their location in urban areas that have in place, or are covered by binding agreements to provide, the resources and facilities for desired growth in an environmentally acceptable manner.
- Action 4:** Study alternative and assist other entities to study alternatives to encourage land development that maximizes the use, rehabilitation, and re-use of existing facilities, structures, and buildings as an alternative to new construction and development.
- Action 5:** Review proposed public facilities and services to ensure that costs are allocated on the basis of benefits received by existing and future residents.
- Action 6:** Review proposed development to require the developer to install or finance the necessary infrastructure and to provide land for the needed support services.

Natural Resources Element

Livable Communities

Goal 4: Livable communities designed to improve quality of life and to provide for the sustainability of our natural resources.

Strategy: Promote through the Council's review roles community design and development principles that protect the Region's natural resources and provide for an improved quality of life.

- Action 6:** Working in cooperation with agencies and local governments insure that new public facilities, facility expansions and additions avoid designated natural resource protection areas.
- Action 8:** Working with all levels of government within Southwest Florida actively plan for lands that have been acquired for natural resource purposes to be maintained and managed to preserve their environmental integrity.
- Action 9:** Insure that opportunities for governmental partnerships and public/private partnerships in preserving wildlife habitats are maximized.

Regional Transportation Element

Balanced Intermodal/Multimodal System

Goal 1: Construct an interconnected multimodal transportation system that supports community goals, increases mobility and enhances Southwest Florida's economic competitiveness.

Strategy: Promote Smart Growth where residential communities are linked with job centers through transit, carpooling, or other high occupancy vehicle transportation.

Action 1: Annually, provide a report in conjunction with regional transit agencies on the use of mass transit where development densities or population support such transit.

Action 2: In cooperation with transit providers and other governmental and private entities, seek long term, dedicated funding sources for use for improving and expanding the transit system.

Action 3: Report on the overall effect of regional land use policies and pricing policies on urban sustainability.

Livable Communities

Goal 2: Livable communities designed to affect behavior, improve quality of life and responsive to community needs.

Strategy: Promote through the Council's review function a good environment for driving, walking, bicycling, and public transit using a highly connected network of public streets, green space, and community centers.

Action 4: Review comprehensive plans and land development regulations for incentives to develop and redevelop using mixed uses, higher densities, shared parking; and improved vehicular, mass transit, pedestrian and bicycle access and travel, as well as providing a variety of affordable residential densities and types.

Action 5: Coordinate with local governments in the construction of bicycle paths and pedestrian ways that cross jurisdictional boundaries.

Action 6: Assist local government and private sector in the design and location of shared parking to enhance the character and attractiveness of the community and to encourage the use of alternate modes of transportation.

Strategy: Incorporate community impact assessment techniques throughout the transportation project planning and development process.

Action 2: Work with project development members to identify potential design or engineering options to address community impacts starting with avoidance, and then moving on to minimization on minority and low income populations.

Strategy: Review projects for impacts on our neighborhoods, commercial centers, and natural areas due to roadway expansions and right-of-way reservations.

Action 3: During the development approval process, assist local government in requiring dedicated right-of-way where there is a relationship between the land use and need for the transportation improvement.

10. The effects on the Proposed Amendment on Regional Resources or Facilities Identified in the Strategic Regional Policy Plan:

Council staff finds that the existing and proposed developments on the Thomas Ranch properties have historically not provided adequate off-site impact analyses and the request for additional units will only exacerbate the existing situation. Council staff believes that the existing and proposed developments already approved vis-a-vis the Comprehensive Plan for the subject lands will have significant impacts on regional natural resources including the Wild and Scenic Myakka River and the Charlotte Harbor and Lemon Bay Aquatic Preserves. In addition, the area contains numerous species found on the rare and endangered list that could be negatively impacted by the subject development. Finally, the traffic generated by these developments will potentially significantly impact US 41 and Interstate 75.

11. Extra-Jurisdictional Impacts that would be Inconsistent with the Comprehensive Plan or the Affected Local Government:

The existing and proposed development of the Thomas Ranch properties within the City of North Port will have significant extra-jurisdictional impacts. Council staff believes that this development cannot take place without the lowering of levels-of-service on the road network in the region and will significantly impact adjacent lands in Sarasota County.

Analysis of the effects on the proposed amendments on the following issues to the extent they are addressed in the Strategic Regional Policy Plan on:

12. Compatibility among local plans including, but not limited to, land use and compatibility with military bases:

There are no military bases in the areas of the proposed amendments and therefore no compatibility issues with this request.

13. Impacts to significant regional resources and facilities identified in the Strategic Regional Policy Plan, including, but not limited to, impacts on groundwater recharge and the availability of water supply:

Council staff agrees with the City staff that there at present adequate sources of water for the existing and approved development. Council staff is unable to determine the long term water available and impacts on groundwater recharge for the entire Thomas Ranch/Village area.

14. Affordable housing issues and designation of adequate sites for affordable housing:

Under the current economic situation in Southwest Florida, sufficient affordable housing is available at the present time for the expect population growth for the City of North Port.

15. Protection of natural resources of regionally significance identified in the Strategic Regional Policy Plan including, but limited to, protection of spring and groundwater resources, and recharge potential:

While the City of North Port provides for the protection of natural resources including groundwater recharge within their jurisdiction, with the full development of the approved 15,000 units in the Village land use category on the Thomas Ranch properties, Council staff is concerned with potential limits to groundwater recharge as impervious roof tops, roadways and parking lots increase in the area. These limitations will have the potential to impact regional resources already mentioned in this report. While Council staff is concerned, the extent of the problem and potential mitigation for these impacts are impossible to determine at this time. Council staff recommends that the Thomas Ranch properties be aggregated and undergo DRI review to adequately address this issue.

16. Compatibility with regional transportation corridors and facilities including, but not limited to, roadways, seaports, airports, public transportation systems, high speed rail facilities, and intermodal facilities:

Council staff agrees with and supports the findings of FDOT with respect to the compatibility with regional transportation facilities due to this this request (see the attached report).

17. Adequacy and compatibility with emergency preparedness plans and local mitigation strategies including, but not limited to, the impacts on and availability of hurricane shelters, maintenance of county hurricane clearance times, and hazard mitigation:

Council staff agrees with and supports the findings of the Southwest Florida Water Management District staff concerning this request. The District staff has stated that the applicant references the FEMA Floodplain Map and states, "there is currently no 100-year FEMA floodplain located on the subject property." The District staff clarified the issue by pointing out that the FEMA maps were last updated in September 1992 and the District is a

Cooperating Partner with FEMA and is updating and modernizing the FEMA Flood Insurance Rate Maps with new data and digital format with Sarasota County.

The District staff also stated that the applicant is engaged in a cooperative project with the District to assess and provide data and recommendations regarding the Big Slough Watershed Management Program (WMP). The WMP includes five major elements: 1) topographic information, 2) watershed evaluation, 3) watershed management plans, 4) implementation of best management practices, and 5) maintenance of watershed parameters and models. According to the District staff, the information developed with this project will be used to update the FIRM's representing the watershed.

The District staff also stated that the applicant should be aware that the floodplain designations are likely to be revised when the FEMA Map Modernization and updates are complete. This has the potential to significantly impact development with the County and City.

18. Analysis of the effects of extra-jurisdiction impacts which may be created by the amendment:

Historically, as development occurred along the US 41/Interstate 75 corridor from Bradenton to Marco Island and as these areas were substantially built out, many of the older large land holdings that were once active cattle and timber ranches and were located east of the Interstate came under pressures for development. Over time, ranches like Lakewood Ranch and Babcock Ranches and others were sold and turned into urban land uses and State parks to meet the population increases experienced in Southwest Florida. In order to provide for these large scale developments, those projects under went DRI reviews to insure that the regional impacts from their development were addressed and mitigated. Unfortunately, the Thomas Ranch (originally Taylor Ranch) has not followed that pattern. Over the years, the Thomas Ranch lands have been annexed into the City of North Port and the City in an attempt to provide plans for the properties has amended its Comprehensive Plan to provide for significant development in that portion of the City. While the City has done significant work on attempting to properly address the issues associated with the subject lands, significant regional issues were never addressed because the development of the ranch was done over a long period of time, under different governmental entities, in a piece meal manner. Under the current Village land use designation, the land that once was the Thomas Ranch now has 15,000 units and significant commercial development to support such development approved. Unfortunately, external impacts to important regional natural and infrastructure resources will occur and they will not be addressed by either the City or the land owners. This will create a situation where external costs due to the development will have to be borne by all tax payers in a remedial action instead of being paid by those who actually will benefit by the development in a planned and proactive manner.

Based on this situation, Council staff agrees with the City's village planning concept and acknowledges their effort to create a sustainable alternative to the major platted lands they

have in a major portion of the City. While the actual need for additional units on the subject lands have not been demonstrated, Council staff understands the argument that a different type of development pattern is desirable and healthy for the City to allow. However, a review of the resultant proposed Future Land Use Map (see the attached map), Council staff is concerned that as approved the Village land use designation does not provide a walkable community that would allow energy and greenhouse gas reductions as required by the State would be met. Council staff believes that due to the overall size of the Village area, additional planning should be done to add additional town centers and the strip commercial uses along the north-south roadways be limited and eliminated over time. Council staff would recommend that the proposed amendments (except for the hospital) not be approved at this time until additional planning can be conducted to improve the overall Village concept. Council staff agrees with the City that this area is a needed alternative to the existing platted lands areas but there seems to be enough units in the Villages at this time to provide for the limited on-going development in the area.

More importantly, Council staff is concerned with the potential external impacts on important and significant regional resources of the entire development. Like the other ranches that have undergone entitlement acquisition processes that mitigated their impacts and provided for better land planning, Council staff would request that DCA conduct a monitoring effort on the Thomas Ranch lands and provide direction for the developer to undergo an Application for Master Development Approval (AMDA). Council staff believes that without a regional review of the impacts generated by this development, significant problems in this area of the region will be the results and the final correction of these impacts would be borne by the future generations.



Florida Department of Transportation

CHARLIE CRIST
GOVERNOR

2295 Victoria Avenue, Suite 292
Fort Myers, FL 33901

STEPHANIE C. KOPELOUSOS
SECRETARY

September 11, 2009

Mr. Ray Eubanks
Plan Review and Processing Administrator
Department of Community Affairs (DCA)
Division of Community Planning
2555 Shumard Oaks Blvd.
Tallahassee, FL 32399

RE: North Port 09-1 Proposed Comprehensive Plan Amendments – FDOT Comments

Dear Mr. Eubanks:

The Florida Department of Transportation, District 1, has reviewed the proposed version of the North Port 09-1 comprehensive plan amendments in accordance with the requirements of Chapter 163, Florida Statutes (F.S.) and Chapter 9J-11, Florida Administrative Code (F.A.C.). The Department offers DCA the following comments and recommendations for your consideration in reviewing the proposed amendments.

FLUM AMENDMENT - SARASOTA MEMORIAL HOSPITAL

The Sarasota Memorial Hospital (SMH) site is located approximately one mile south of U.S. 41 and approximately 1.5 miles west of South River Road on the west side of North Port. The table below shows the maximum development that can occur for the 142.6-acre site under the adopted and proposed future land use designations. Without consideration of associated text amendments, the FLUM amendment will result in an increase of 82,801 daily trips and an increase of 8,508 p.m. peak hour trips.

Scenario	Land Use Designation	Maximum Allowed Density/Intensity	ITE Land Use Code	Size of Development		Daily Trips	P.M. Peak Trips
				Acres	Allowed Development		
Adopted	Rural (County)	1 DU/5 acres	210	142.6	28 DU	322	33
Proposed	Village	30% @ 24 DU/acre ¹	220	142.6	1,026 DU	6,341	582
		60% @ 1.0 FAR ¹	820		3,726,994 SF	71,338	7,184
		10% @ 1.0 FAR ¹	710		621,166 SF	5,444	775
Proposed, Subject to Text Amendments	Village	30% @ 400 DU ^{1,2}	220	142.6	400 DU	2,548	238
		60% @ 1.0 FAR ¹	820		3,726,994 SF	71,338	7,184
		10% @ 1.0 FAR ¹	710		621,166 SF	5,444	775
Change in Trips						+82,801	+8,508
Change in Trips, Subject to Text Amendments						+79,008	+8,164

NOTE: Trip generation based on ITE's *Trip Generation*, 8th Edition. DU = dwelling unit, FAR = floor area ratio, and SF = square feet.

¹ Reflects the Town Center standards in Future Land Use Policy 13.2 and a May 22, 2008 joint planning agreement.

² Conservatively assumes that all 400 dwelling units that are the subject of the Future Land Use Policy 13.1n text amendment are located on the SMH site.

Mr. Ray Eubanks
 North Port 09-1 Proposed Comprehensive Plan Amendments – FDOT Comments
 September 11, 2009
 Page 2 of 4

Text amendments associated with the FLUM amendment are as follows:

- Future Land Use Policy 13.1n is being revised to increase the maximum number of dwelling units for the Thomas Ranch property (of which the SMH site is not currently a part) from 15,000 dwelling units to 15,400 dwelling units.
- New Future Land Use Policy 13.o requires the applicant to coordinate with the City and Manatee Community College (MCC) regarding student housing.
- New Future Land Use Policy 13.p requires submittal of a “Village Index Map Amendment” application within six months of adoption of the FLUM amendment.
- New Future Land Use Policy 13.q states that the SMH site will be part of the West Villages Town Center and will be developed in accordance with Future Land Use Policy 13.2. The new policy also states that the applicant will coordinate with MCC and the University of South Florida campus to identify Town Center land uses that support students.
- New Future Land Use Policy 13.r requires sustainable development on the SMH site.
- New Future Land Use Policy 13.s states that existing buildings on the site are exempt from meeting Village development standards.
- Future Land Use Policy 13.2 is being revised to increase the maximum size of the Thomas Ranch Town Center from 1,000 acres to 1,830 acres. The staff report states that the existing Town Center is 1,520 acres in size, it would increase to 1,663 acres in size as a result of the FLUM amendment, and anticipated future annexations would increase the size of the Town Center to a total of 1,830 acres.

The Department offers the following comments on the FLUM amendment and text amendments:

FDOT Comment 1. The Department notes that the transportation analysis and Commission Staff Report states that the proposed amendment will result in a net decrease of 238 peak hour trips. However, based upon the Department’s review, as indicated in the table above, the FLUM amendment may result in a significant increase in trip generation. Therefore, State roadway segments near the SMH site may be significantly impacted. A revised traffic analysis should be provided to evaluate the impacts of the FLUM amendment. This updated analysis should state the adopted land use designation(s) on the properties, evaluate near-term (5 years) and long-term (10 years) conditions under the maximum development scenario, and identify mitigation needed to maintain adopted Level of Service (LOS) standards on State roadways. Funding sources should be identified for improvements required to alleviate all short term failures. For long term failures, appropriate policies should be indentified in the Capital Improvement Element or Transportation Element of the local comprehensive plan and the needed improvements should be added to the appropriate plans and programs.

The August 2007 traffic study prepared for the FLUM amendment is insufficient for the following reasons:

- The adopted scenario in the traffic study reflects the adopted zoning designation, not the adopted future land use designation.
- The proposed scenario in the traffic study does not include the non-residential development that is allowed under the Village future land use designation.
- The proposed scenario in the traffic study uses a density of 3 dwelling units per acre, whereas Future Land Use Policy 13.2 and the May 22, 2008, joint planning agreement require a minimum of 4 dwelling units per acre and allow up to 24 dwelling units per acre.

Mr. Ray Eubanks
 North Port 09-1 Proposed Comprehensive Plan Amendments – FDOT Comments
 September 11, 2009
 Page 3 of 4

- The traffic study does not include information justifying why the trip generation calculations reflect 128 acres instead of 142.6 acres.
- The traffic study does not use the 8th Edition of ITE's *Trip Generation*.
- The traffic study does not evaluate the impact of the proposed FLUM amendment on U.S. 41 east of River Road or on S.R. 776.
- The traffic study does not include a trip distribution pattern.

FDOT Comment 2. The staff report suggests that the 400 additional dwelling units in Future Land Use Policy 13.1n are not restricted to the SMH site. Please confirm this assumption. If the assumption is correct, please state whether or not the 400 dwelling units will be associated with anticipated future annexations or with sites that are already part of the Village (i.e., in the city). If the 400 dwelling units are associated with anticipated future annexations, the Department recommends deferring the Future Land Use Policy 13.1n amendment until the anticipated annexations occur in order to maintain consistency between the FLUM and Future Land Use Policy 13.1n. If the 400 dwelling units are associated with sites that are already part of the Village, please provide an analysis of the traffic impacts of the additional dwelling units. This analysis should state the adopted land use designation(s) on the property, evaluate near-term (5 years) and long-term (10 years) conditions under the maximum development scenario, reflect currently planned and programmed projects, and identify mitigation needed to maintain adopted LOS standards on State roadways.

FDOT Comment 3. The proposed FLUM indicates that the MCC site and the other future annexation sites are not being annexed at this time, yet the maximum acreage of the Town Center, specified in Future Land Use Policy 13.2, is being increased to accommodate them. The Department recommends modifying the Future Land Use Policy 13.2 amendment to reflect only the properties that are being annexed at this time. This modification would maintain consistency between the FLUM and Future Land Use Policy 13.2. Alternatively, a traffic analysis should be provided to evaluate the impacts of the increase in Town Center acreage. This analysis should state the adopted land use designation(s) on the properties, evaluate near-term (5 years) and long-term (10 years) conditions under the maximum development scenario, reflect currently planned and programmed projects, and identify mitigation needed to maintain adopted LOS standards on State roadways.

FDOT Comment 4. The proximity of this site to other development sites in the Village suggests that the City and affected developers should coordinate to ensure that all developments in the Village are interconnected and designed in a manner that encourages multimodal travel and reduces greenhouse gas emissions. The Department notes that if all development in the Village were considered cumulatively, they may meet DRI thresholds.

FDOT Comment 5. The text amendment to Future Land Use Policy 13.1n suggests that the Thomas Ranch property is of a size to meet DRI thresholds. Please confirm whether or not the remainder of the Thomas Ranch property will be developed as a DRI.

TEXT AMENDMENT - TRANSPORTATION LOS STANDARDS AND FLUE POLICY 13.1n

This text amendment consists of the following revisions:

- The LOS standard for arterials and collectors has been changed from LOS 'C' to LOS 'D' in Transportation Policy 1.1 and Capital Improvement Policy 3.5.

Mr. Ray Eubanks
North Port 09-1 Proposed Comprehensive Plan Amendments – FDOT Comments
September 11, 2009
Page 4 of 4

- New language in Future Land Use Policy 13. In limits development associated with the H.M.T.A. villages, located in the area northeast of the I-75/Toledo Blade Boulevard, to 1,350 dwelling units. This limit is the result of a 2006 settlement agreement with DCA.

FDOT has no comments on these changes.

If you have any questions or need additional information, please contact me at (239) 461-4300 or lawrence.massey@dot.state.fl.us.

Sincerely,

A handwritten signature in black ink, appearing to read 'Lawrence Massey', with a large, sweeping flourish extending to the right.

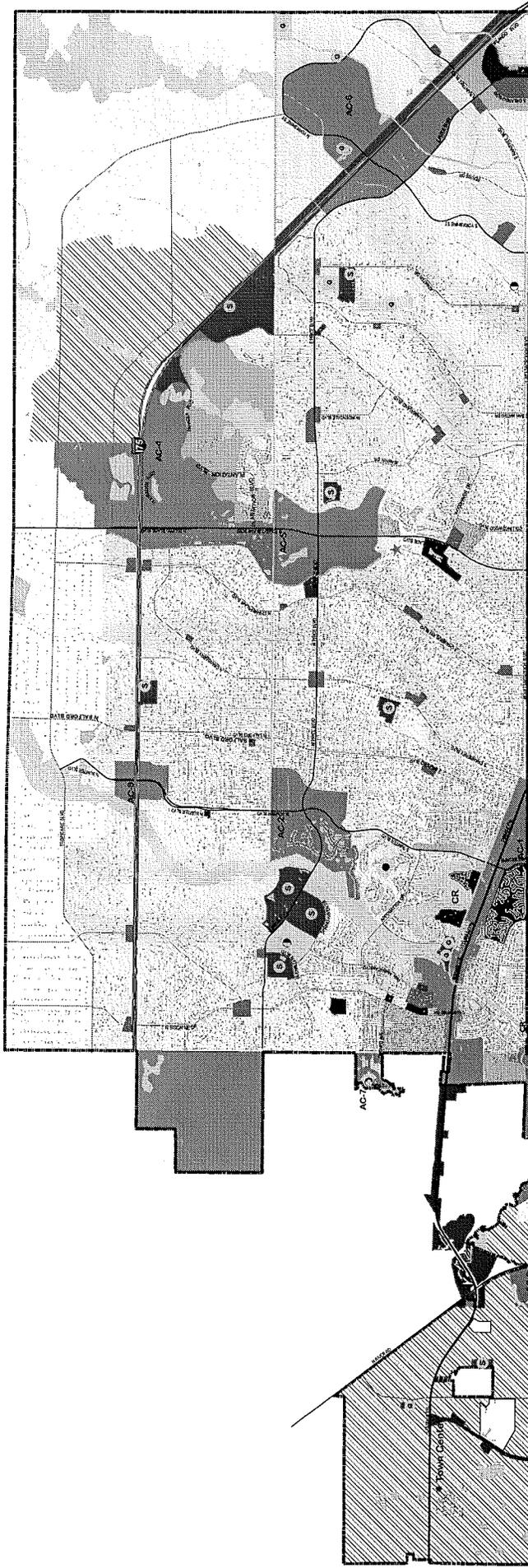
Lawrence Massey
Growth Management Coordinator

LLM/lm/ka

Attachment III

Maps

**City of North Port
DCA 09-1**



EXISTING LAND USE MAP

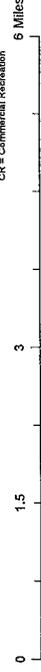
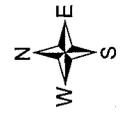
CITY OF NORTH PORT, FLORIDA

Map 2-8

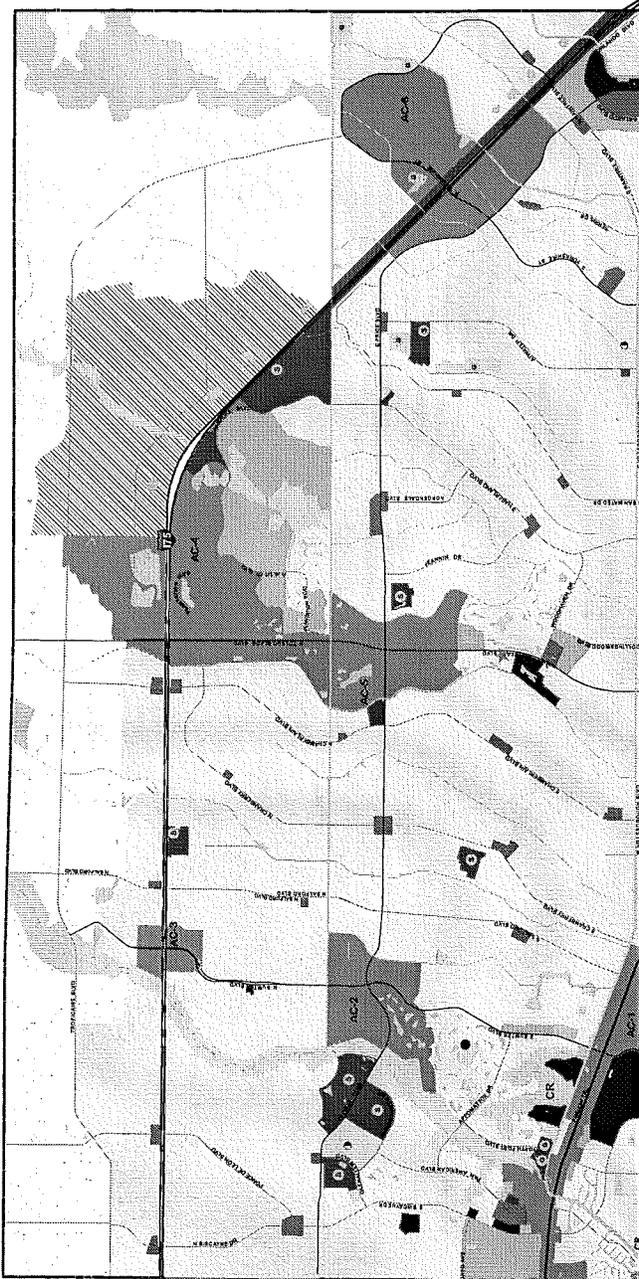
- Legend**
- Future Land Use
 - Activity Center (TDR Receiving Zone - Except AC-3)
 - Commercial
 - Professional Office/Institutional
 - Industrial
 - Utility/Industrial Corridor
 - Village
 - Agricultural Estates
 - Low Density Residential
 - Medium Density Residential
 - High Density Residential
 - Public
 - Conservation (TDR Sending Zone)
 - Recreation Open Space (TDR Sending Zone)
 - None
 - Future Annexation Area

- Historic Sites
- (1) Inactive Privately-Owned Landfill
- Balboa Village Non-Residential Area
- Town Center
- G = Government Uses
- S = School
- CR = Commercial Reservation

- North Port City Limits
- Future Roads
- North Port Roads
- Arterial
- Collector
- Primary Arterial
- Water Features and Canals



Prepared by:
City of North Port, Florida
Planning and Zoning Department
and GIS Division
December 2008



FUTURE LAND USE MAP CITY OF NORTH PORT, FLORIDA

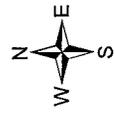
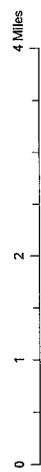
Map 2-7

Legend

- Future Land Use**
- ACTIVITY CENTER (TDR RECEIVING ZONE - EXCEPT AC-3)
 - COMMERCIAL
 - PROFESSIONAL OFFICE/INSTITUTIONAL
 - INDUSTRIAL
 - UTILITY/INDUSTRIAL CORRIDOR
 - VILLAGE
 - AGRICULTURAL, ESTATES
 - LOW DENSITY RESIDENTIAL
 - MEDIUM DENSITY RESIDENTIAL
 - HIGH DENSITY RESIDENTIAL
 - PUBLIC
 - CONSERVATION (TDR-SENDING ZONE)
 - RECREATION OPEN SPACE (TDR-SENDING ZONE)
 - NONE
 - FUTURE ANNEXATION AREA

- Legend**
- North Port Roads**
- PRIMARY ARTERIAL
 - ARTERIAL
 - COLLECTOR
- Future Roads**
- ARTERIAL
 - COLLECTOR
- Water Features and Canals**

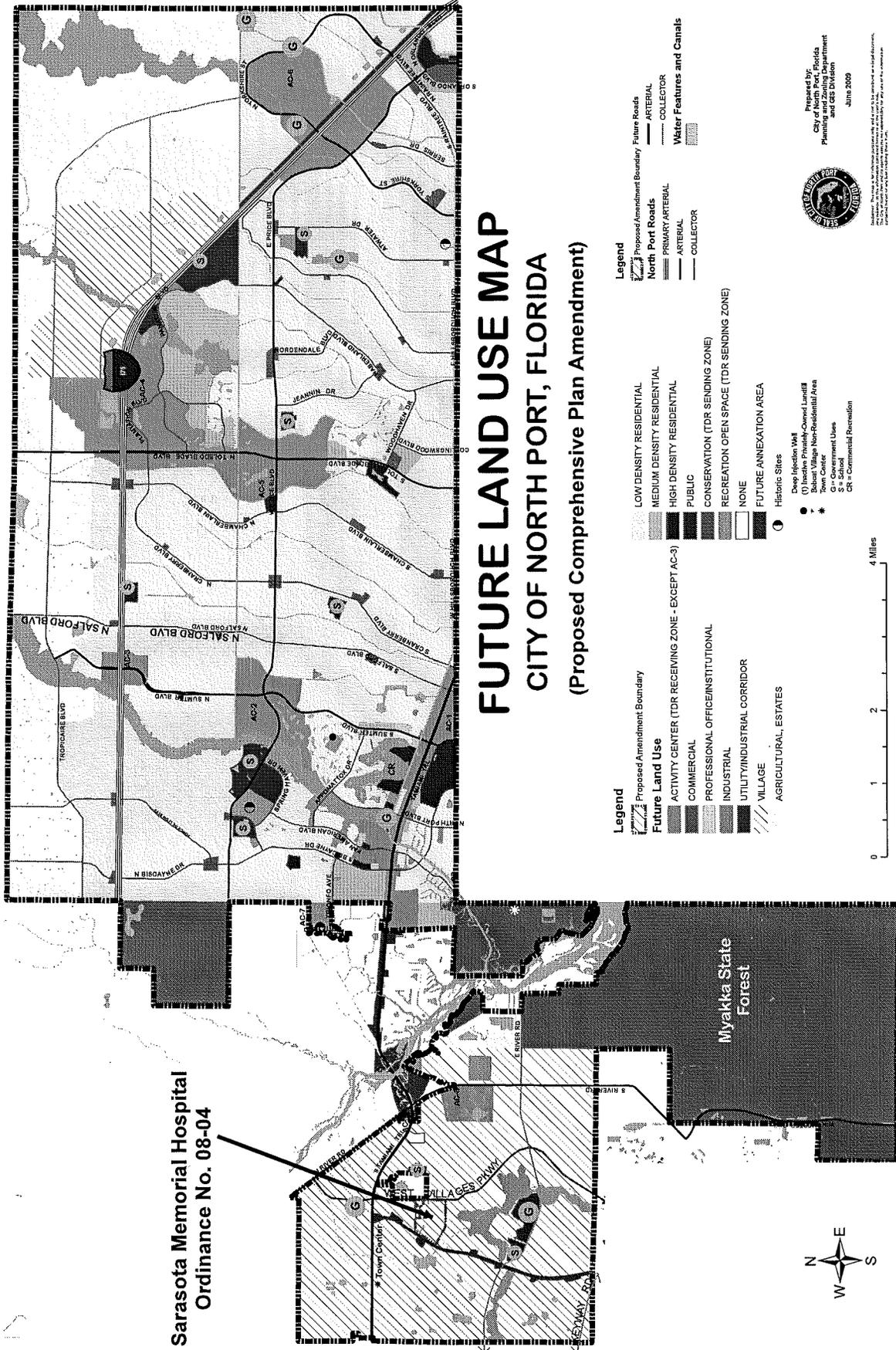
- Historic Sites**
- Deep Injection Well
 - (I) Inactive Privately-Owned Landfill
 - Bokeah Village Non-Residential Area
 - Town Center
 - G = Government Uses
 - CR = Commercial Recreation



Prepared by:
City of North Port, Florida
Planning and Zoning Department
and GIS Division
November 2008

Disclaimer: This map and its information are provided as a public resource. The City of North Port and its employees make no warranty, expressed or implied, for any use of the information. Errors and omissions notwithstanding, the user assumes all liability for any use of the information. Printed on 100% Recycled Paper.

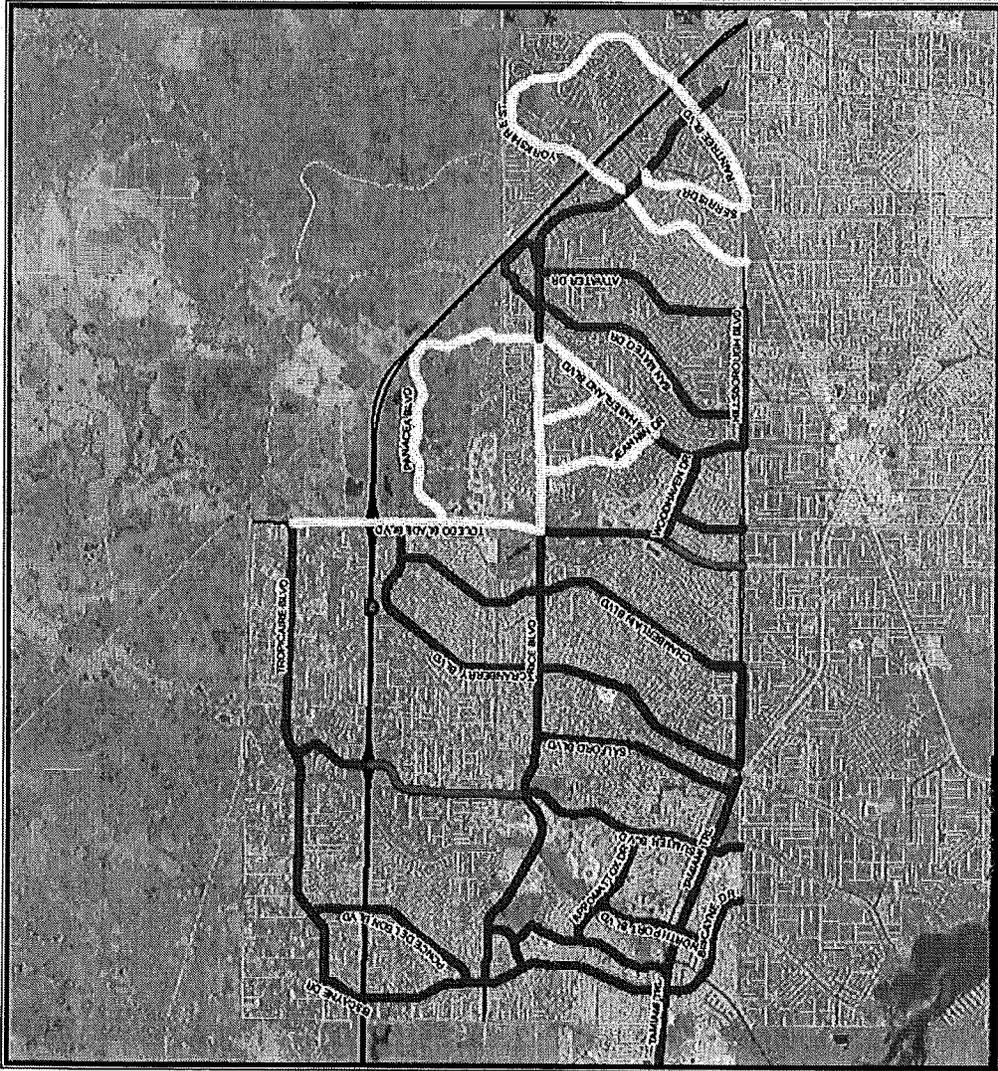
Sarasota Memorial Hospital
Ordinance No. 08-04



Prepared by
City of North Port, Florida
Planning and Zoning Department
and City Division
June 2009

BY: [Signature]
DATE: [Date]

Exhibit A



City of North Port
LOS "C" Congestion Levels

Segment	Volume	Capacity	Ratio	LOS
1	100	100	1.00	C
2	150	100	1.50	C
3	200	100	2.00	C
4	250	100	2.50	C
5	300	100	3.00	C
6	350	100	3.50	C
7	400	100	4.00	C
8	450	100	4.50	C
9	500	100	5.00	C
10	550	100	5.50	C
11	600	100	6.00	C
12	650	100	6.50	C
13	700	100	7.00	C
14	750	100	7.50	C
15	800	100	8.00	C
16	850	100	8.50	C
17	900	100	9.00	C
18	950	100	9.50	C
19	1000	100	10.00	C
20	1050	100	10.50	C
21	1100	100	11.00	C
22	1150	100	11.50	C
23	1200	100	12.00	C
24	1250	100	12.50	C
25	1300	100	13.00	C
26	1350	100	13.50	C
27	1400	100	14.00	C
28	1450	100	14.50	C
29	1500	100	15.00	C
30	1550	100	15.50	C
31	1600	100	16.00	C
32	1650	100	16.50	C
33	1700	100	17.00	C
34	1750	100	17.50	C
35	1800	100	18.00	C
36	1850	100	18.50	C
37	1900	100	19.00	C
38	1950	100	19.50	C
39	2000	100	20.00	C
40	2050	100	20.50	C
41	2100	100	21.00	C
42	2150	100	21.50	C
43	2200	100	22.00	C
44	2250	100	22.50	C
45	2300	100	23.00	C
46	2350	100	23.50	C
47	2400	100	24.00	C
48	2450	100	24.50	C
49	2500	100	25.00	C
50	2550	100	25.50	C
51	2600	100	26.00	C
52	2650	100	26.50	C
53	2700	100	27.00	C
54	2750	100	27.50	C
55	2800	100	28.00	C
56	2850	100	28.50	C
57	2900	100	29.00	C
58	2950	100	29.50	C
59	3000	100	30.00	C
60	3050	100	30.50	C
61	3100	100	31.00	C
62	3150	100	31.50	C
63	3200	100	32.00	C
64	3250	100	32.50	C
65	3300	100	33.00	C
66	3350	100	33.50	C
67	3400	100	34.00	C
68	3450	100	34.50	C
69	3500	100	35.00	C
70	3550	100	35.50	C
71	3600	100	36.00	C
72	3650	100	36.50	C
73	3700	100	37.00	C
74	3750	100	37.50	C
75	3800	100	38.00	C
76	3850	100	38.50	C
77	3900	100	39.00	C
78	3950	100	39.50	C
79	4000	100	40.00	C
80	4050	100	40.50	C
81	4100	100	41.00	C
82	4150	100	41.50	C
83	4200	100	42.00	C
84	4250	100	42.50	C
85	4300	100	43.00	C
86	4350	100	43.50	C
87	4400	100	44.00	C
88	4450	100	44.50	C
89	4500	100	45.00	C
90	4550	100	45.50	C
91	4600	100	46.00	C
92	4650	100	46.50	C
93	4700	100	47.00	C
94	4750	100	47.50	C
95	4800	100	48.00	C
96	4850	100	48.50	C
97	4900	100	49.00	C
98	4950	100	49.50	C
99	5000	100	50.00	C
100	5050	100	50.50	C

City of North Port

Level of Service "C" Volume to Capacity Ratios

- Not Congested (Volume to Capacity < 0.85)
- Borderline Congested (Volume to Capacity 0.85 - 1.05)
- Congested (Volume to Capacity 1.05 - 1.20)
- Severely Congested (Volume to Capacity > 1.20)
- Daily Weighted Volumes

_____ Agenda
_____ Item

3h

Charlotte County Comprehensive
Plan Amendment (DCA 09-02)

3h

3h

**LOCAL GOVERNMENT COMPREHENSIVE PLAN AMENDMENTS
CHARLOTTE COUNTY**

The Council staff has reviewed proposed amendment to the Charlotte County Comprehensive Plan (DCA 09-2). The amendment was developed under the Local Government Comprehensive Planning and Land Development Regulation Act. A synopsis of the requirements of the Act and Council responsibilities is provided as Attachment I. Comments are provided in Attachment II. Maps are provided in Attachment III.

Staff review of the proposed amendments was based on whether they were likely to be of regional concern. This was determined through assessment of the following factors:

1. Location--in or near a regional resource or regional activity center, such that it impacts the regional resource or facility; on or within one mile of a county boundary; generally applied to sites of five acres or more; size alone is not necessarily a determinant of regional significance;
2. Magnitude--equal to or greater than 100% of the threshold for a Development of Regional Impact of the same type (a DRI-related amendment is considered regionally significant); and
3. Character--of a unique type or use, a use of regional significance, or a change in the local comprehensive plan that could be applied throughout the local jurisdiction; updates, editorial revisions, etc. are not regionally significant.

A summary of the results of the review follows:

<u>Proposed Amendment</u>	<u>Factors of Regional Significance</u>			
	<u>Location</u>	<u>Magnitude</u>	<u>Character</u>	<u>Consistent</u>
DCA 09-2 (PA-09-04-06-LS)	no	no	no	(1) not regionally significant (2) consistent with SRPP

RECOMMENDED ACTION: Approve staff comments. Authorize staff to forward comments to the Department of Community Affairs and Charlotte County.

Attachment I**LOCAL GOVERNMENT COMPREHENSIVE PLANNING AND LAND DEVELOPMENT REGULATION ACT****Local Government Comprehensive Plans**

The Act requires each municipal and county government to prepare a comprehensive plan that must include at least the following nine elements:

1. Future Land Use Element;
2. Traffic Circulation Element;
A local government with all or part of its jurisdiction within the urbanized area of a Metropolitan Planning Organization shall prepare and adopt a transportation element to replace the traffic circulation; mass transit; and ports, aviation, and related facilities elements. [9J-5.019(1), FAC]
3. General Sanitary Sewer, Solid Waste, Drainage, and Potable Water and Natural Groundwater Aquifer Recharge Element;
4. Conservation Element;
5. Recreation and Open Space Element;
6. Housing Element;
7. Coastal Management Element for coastal jurisdictions;
8. Intergovernmental Coordination Element; and
9. Capital Improvements Element.

The local government may add optional elements (e. g., community design, redevelopment, safety, historical and scenic preservation, and economic).

All local governments in Southwest Florida have adopted revised plans:

Charlotte County, Punta Gorda
 Collier County, Everglades City, Marco Island, Naples
 Glades County, Moore Haven
 Hendry County, Clewiston, LaBelle
 Lee County, Bonita Springs, Cape Coral, Fort Myers, Fort Myers Beach, Sanibel
 Sarasota County, Longboat Key, North Port, Sarasota, Venice

Attachment I

Comprehensive Plan Amendments

A local government may amend its plan twice a year. (Amendments related to developments of regional impact, certain small developments, compliance agreements, and the Job Siting Act are not restricted by this limitation.) Six copies of the amendment are sent to the Department of Community Affairs for review. A copy is also sent to the regional planning council, the water management district, the Florida Department of Transportation, and the Florida Department of Environmental Protection.

[s. 163.3184(3)(a)]

The proposed amendment will be reviewed by DCA in two situations. In the first, there must be a written request to DCA. The request for review must be received within forty-five days after transmittal of the proposed amendment. [s. 163.3184(6)(a)] Review can be requested by one of the following:

- the local government that transmits the amendment,
- the regional planning council, or
- an affected person.

In the second situation, DCA can decide to review the proposed amendment without a request. In that case, DCA must give notice within thirty days of transmittal.

[(s. 163.3184(6)(b))]

Within five working days after deciding to conduct a review, DCA must forward copies to various reviewing agencies, including the regional planning council. [s. 163.3184(4)]

Regional Planning Council Review

The regional planning council must submit its comments in writing within thirty days of receipt of the proposed amendment from DCA. It must specify any objections and may make recommendations for changes. The review of the proposed amendment by the regional planning council must be limited to "effects on regional resources or facilities identified in the strategic regional policy plan and extra-jurisdictional impacts which would be inconsistent with the comprehensive plan of the affected local government."

[s. 163.3184(5)]

After receipt of comments from the regional planning council and other reviewing agencies, DCA has thirty days to conduct its own review and determine compliance with state law. Within that thirty-day period, DCA transmits its written comments to the local government.

NOTE: THE ABOVE IS A SIMPLIFIED VERSION OF THE LAW. REFER TO THE STATUTE (CH. 163, FS) AND THE RULE (9J-11, FAC) FOR DETAILS.

Attachment II

**SOUTHWEST FLORIDA
REGIONAL PLANNING COUNCIL
COMPREHENSIVE PLAN AMENDMENT REVIEW**

- 1. Local Government Name:**
Charlotte County
- 2. Amendment Number**
DCA 09-2
- 3. Did the RPC prepare the Plan Amendment: (YES) (NO)**
No
- 4. Date DCA Notified RPC that Amendment Package was Complete, if Applicable:**
September 2, 2009
- 5. Date Amendment Review must be Completed and Transmitted to DCA:**
October 1, 2009
- 6. Date the Review was Transmitted to DCA:**
The RPC staff review will be transmitted to DCA by October 7, 2009. The RPC will review this request at their October 15, 2009.
- 7. Description of the Amendment:**
This proposed change to the Charlotte County Comprehensive Plan is a private request to amend the Future Land Use Map (FLUM) from Agriculture to Mineral Resource Extraction (MRE). The purpose of the amendment is to allow the petitioners to apply for a Group III excavation permit. Excavations were a permitted use under the Agriculture FLUM designation prior to the Board of County Commissioners (BoCC) adoption of the of the MRE designation in 2008. As currently applied by the County, the MRE FLUM designation is intended for use on properties that are already being used for or are proposed to become the locations of Group III excavations.

The subject site is located on Bermont Road (CR 74), east of US 17, south of the DeSoto County line, and west of SR 31, in east Charlotte County (see attached map). The site contains 121.17± acres.
- 8. Is the Amendment consistent with the Strategic Regional Policy Plan:**
Council staff has reviewed the request to change the land use designation on the subject lands and has determined that the proposed amendment is not to regionally significant and is consistent with the Strategic Regional Policy Plan.
- 9. Applicable Strategic Regional Policy Plan Goals, Strategies and Actions:**

The following Goals Strategies and Actions are found by the Council staff to be applicable to the proposed amendment:

Economic Development

Economic Infrastructure

Goal 1: A well-maintained social, health, and educational infrastructure to support business and industry.

Strategy: Maintain the physical infrastructure to meet growth demands.

Action 2: Assist local governments and state agencies in planning for future support service facilities, before the need arises.

Action 7: Assist local governments to obtain funding to maintain, improve, or expand their infrastructure.

Strategy: Ensure the adequacy of lands for commercial and industrial centers, with suitable services provided.

Action 3: Include in planning efforts the recognition of lands with natural capacity, accessibility, previous preparation for urban purposes, and adequate public facilities.

Action 4: Participate, coordinate, or promote intergovernmental coordination for siting unpopular land uses.

Strategy: Ensure adequate infrastructure for rural areas.

Action 2: Evaluate locally undesirable land uses as part of rural economic development.

Livable Communities

Goal 3: A stable economy based on a continuing excellent quality of life.

Strategy: Ensure sustainable volumes of natural resources for economic productivity.

Action 1: Promote and assist resource planning programs to incorporate local government population projections and assessments of land consumption.

Action 2: Offer mediation and facilitation to resource-based planning programs that have conflicts with land use-based planning programs.

Strategy: Enhance existing commercial, service, and industrial centers through adequate maintenance and reinvestment.

Action 1: Maintain an inventory of public infrastructure and recommended improvements.

Action 2: Review plan amendments, new plans, and land development regulations for incentives to develop and redevelop.

Action 3: Review proposed development to maximize the use, rehabilitation, and reuse of existing infrastructure.

Natural Resources Element

Livable Communities

Goal 4: Livable communities designed to improve quality of life and to provide for the sustainability of our natural resources.

Strategy: Promote through the Council's review roles community design and development principles that protect the Region's natural resources and provide for an improved quality of life.

Action 4: Working in cooperation with agencies and local governments insure that all mining and borrow operations prepare and implement reclamation programs that restore and ensure long-term sustainability of their watersheds and native habitats.

10. The effects on the Proposed Amendment on Regional Resources or Facilities Identified in the Strategic Regional Policy Plan:

The proposed amendment will allow the development of a mine that will provide building materials for Charlotte County. Based on the information submitted with the requested amendment, Council staff finds that the proposed mine will have not have significant regional impacts on the surrounding environment and infrastructure. The proposed amendment will provide an economic benefit for the general area of the region and provide materials needed for future construction activities in County.

Based on the County staff analysis of the request, there are no residential land uses within 2,640 feet of the subject site. All the surrounding lands are shown on the FLUM as Agriculture and are zoned for agricultural uses, except of lands south of the site which are designated as Resource Conservation. The agricultural uses that are permitted within the AG zoning district allow noise, dust and odors typically associated with farming. Council staff agrees with the County findings that the proposed excavation will not create adverse

impacts additional to those already anticipated in the agriculture areas adjacent to the proposed mining activities.

11. Extra-Jurisdictional Impacts that would be Inconsistent with the Comprehensive Plan of the Affected Local Government:

Based on the Council staff's review of the proposed Comprehensive Plan FLUM designation change the project will not have significant extra-jurisdictional impacts and agrees with County staff that the request is not inconsistent with the Comprehensive Plan of Charlotte County.

Analysis of the effects on the proposed amendments on the following issues to the extent they are addressed in the Strategic Regional Policy Plan on:

12. Compatibility among local plans including, but not limited to, land use and compatibility with military bases:

The requested amendment will allow an extraction mine. The location of the mine appears to be consistent with the surrounding land uses. There are no military bases impacted by the proposed excavation.

13. Impacts to significant regional resources and facilities identified in the Strategic Regional Policy Plan, including, but not limited to, impacts on groundwater recharge and the availability of water supply:

The applicant has submitted and County staff has reviewed a concept plan that was prepared by Southwest Engineering & Design Inc. dated March 30, 2009. The concept plan shows the proposed excavation boundaries, the probable size, shape, and depth of the proposed excavation area, existing wetlands, and the proposed lakes. The applicant also submitted a map (Monitoring Well Locations) showing the existing wetlands. Due to the adjacent wetlands on the subject property, Southwest Engineering & Design Inc. developed a Surface and Groundwater Monitoring Plan for the proposed excavation in order to monitor groundwater levels in proximity to the excavation. Should water levels be affected by the proposed project, measures described in the Monitoring Plan will be implemented to offset the resulting effects. The Monitoring Plan submitted by the applicant must be agreed upon by the Charlotte County staff and the jurisdictional agencies prior to the commencement of mining activities. There are no significant regional resources adjacent to the subject site.

Council staff also agrees and supports the South Florida Water Management District (SFWMD) findings concerning this request in that the District concluded that the proposed mine is unlikely to impact the surface water resources of the district. The District stated in their comments (see attached report) that they will coordinate with the South Florida Water Management District (SFWMD) during the water use permitting stage to ensure that there are no impacts to the groundwater resources of the District.

- 14. Affordable housing issues and designation of adequate sites for affordable housing:**
Under the current economic situation in Southwest Florida, sufficient affordable housing is available at the present time for the expected population growth for the Charlotte County.

- 15. Protection of natural resources of regionally significance identified in the Strategic Regional Policy Plan including, but limited to, protection of spring and groundwater resources, and recharge potential:**

Council staff has reviewed the studies and plans submitted by the County concerning the protection of regional resources and finds that adequate protections are being taken by the County. There are no springs being impacted by the requested Comprehensive Plan amendment.

- 16. Compatibility with regional transportation corridors and facilities including, but not limited to, roadways, seaports, airports, public transportation systems, high speed rail facilities, and intermodal facilities:**

Based on the Traffic Impact Statement prepared by Florida Transportation engineering, Inc. dated November 10, 2008 as revised on March 19, 2009 and the County staff's review, Bermont Road currently operated at a Level-of-Service (LOS) B. The proposed excavation will generate slightly more traffic volume per hour on Bermont Road than the volume generated by the existing agricultural uses currently allowed under the FLUM designation. However, the proposed mining use is not anticipated to the roadway below the adopted LOS D. Council staff agrees with the County analyses that the change will not have an adverse effect on the density pattern or on the public facilities and will not create concurrency issues.

In addition, Council staff finds that the proposed mine that will result from this amendment will not significantly impact the region roadway network. It must also be kept in mind that the mining activities will not be permanent and once the mining is completed, the traffic impacts from the trucks transporting the mined materials will cease use of the roadways. The proposed mine will not impact any seaports, airports, public transportation systems, high speed rail facilities or intermodal facilities.

- 17. Adequacy and compatibility with emergency preparedness plans and local mitigation strategies including, but not limited to, the impacts on and availability of hurricane shelters, maintenance of county hurricane clearance times, and hazard mitigation:**

The proposed Comprehensive Plan amendment and the resulting mining activities will not impact emergency preparedness plans or local mitigation strategies.

- 18. Analysis of the effects of extra-jurisdiction impacts which may be created by the amendment:**

The requested amendment will have minimal extra-jurisdictional impacts on regionally significant resources.



SOUTH FLORIDA WATER MANAGEMENT DISTRICT

October 1, 2009

Mr. Ray Eubanks
Plan Review and Processing
Department of Community Affairs
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

Dear Mr. Eubanks:

**Subject: Charlotte County DCA #09-2
SFWMD Comments on Proposed Comprehensive Plan Amendment
Package**

The South Florida Water Management District (District) has completed its review of the proposed comprehensive plan amendment from Charlotte County. The County is within the boundaries of both this District and the Southwest Florida Water Management District (SWFWMD), with which we have coordinated our review. The amendment package contains one proposed future land use amendment for excavation that is located outside of, but near, the District's boundary. The District has reviewed the amendment and concluded that it is unlikely to impact the surface water resources of the District. The District will coordinate with the SWFWMD during the water use permitting stage to ensure that there are no impacts to the groundwater resources of the District. Therefore, we forward no recommendations for inclusion in your report to the County.

We look forward to collaborating with the Department of Community Affairs and the County on developing sound, sustainable solutions to meet the County's future water needs. For assistance or additional information, please contact Henry Bittaker at (561) 682-6792 or hbittak@sfwmd.gov.

Sincerely,



John Mulliken
Director
Water Supply Planning Division

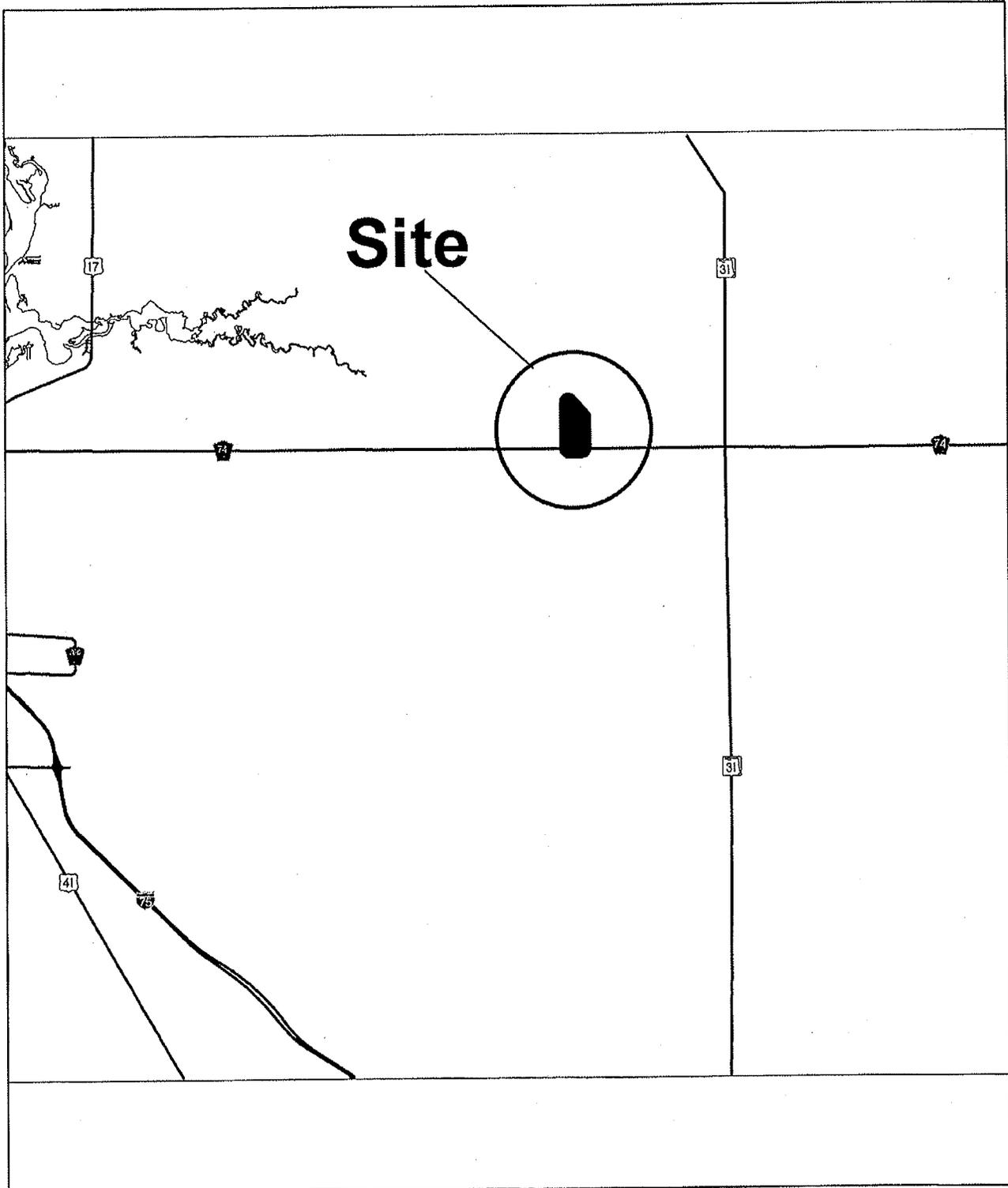
c: Rand Frahm, SWFWMD
Ken Heatherington, SWFRPC
Jim Quinn, DEP
Jeff Ruggieri, Charlotte County
Brenda Winningham, DCA

Attachment III

Maps

**Charlotte County
DCA 09-2**

PA-09-04-06-LS George & Christina Davis General Area Map



Charlotte County Growth Management
Planning Division
JS on May 15, 2009

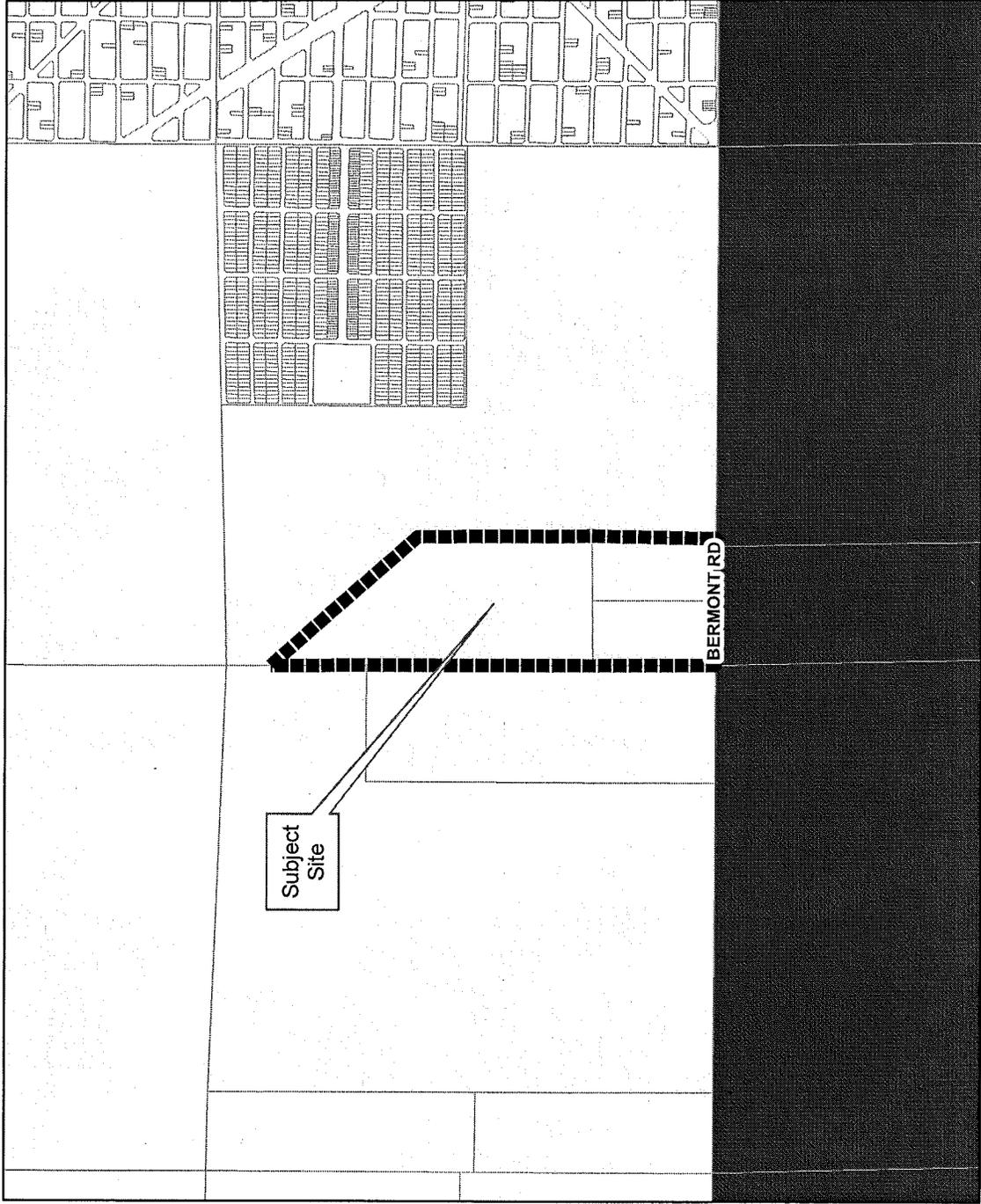
Map Page: 7A/33X

This map is a representation of compiled public information. It is believed to be an accurate and true depiction for the stated purpose, but Charlotte County and its employees make no guarantees, implied or otherwise as to its use. This is not a survey or is it to be used for design. Future Land Use & Zoning Designation boundaries are assumed to meet at the centerline of the road right of way unless otherwise determined by the Growth Management Director.



NOT TO SCALE

PA-09-04-06-LS Existing FLUM



Legal



PA-09-04-06-LS

- Agriculture
- Babcock Ranch Overlay District
- City
- Coastal Residential
- Commercial
- Commercial Center
- Commercial Corridor
- Commercial Tourist
- Compact Growth Mixed Use
- Enterprise Charlotte Airport Park
- High Density Residential
- High Intensity Industrial
- Industrial
- Limited Development
- Low Density Residential
- Low Intensity Industrial
- Medium Density Residential
- Mineral Resource Extraction
- Mixed Use
- Murdock Village Mixed Use Redevelopment
- Neighborhood Residential
- Parks & Recreation
- Preservation
- Public Lands & Facilities
- Recreational - Non-Public
- Recreational Vehicle Park
- Resource Conservation
- Rural Estate Residential
- US 41 Overlay Mixed Use
- Village Residential

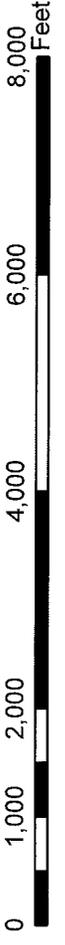
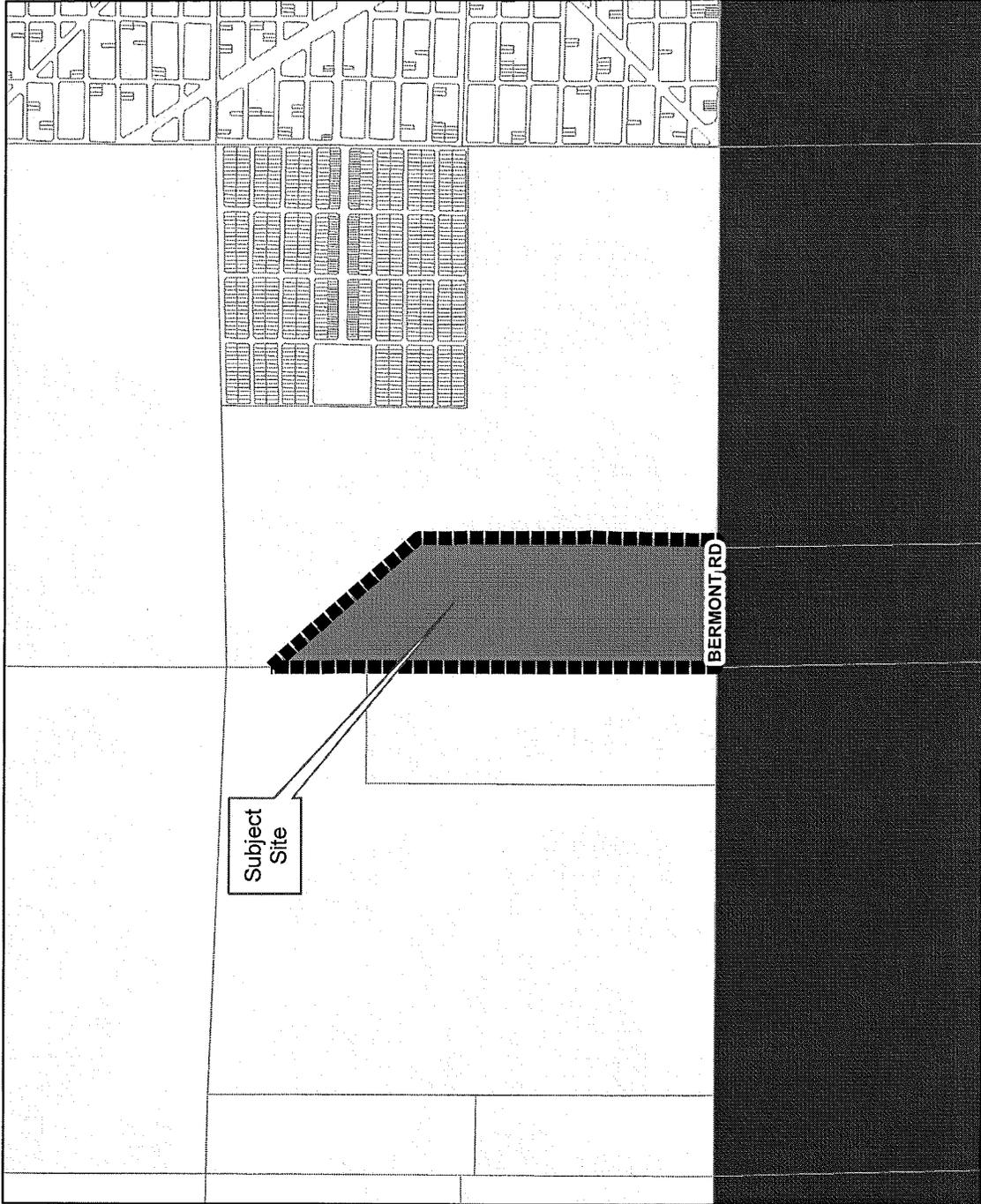
PA-09-04-06-LS Proposed FLUM



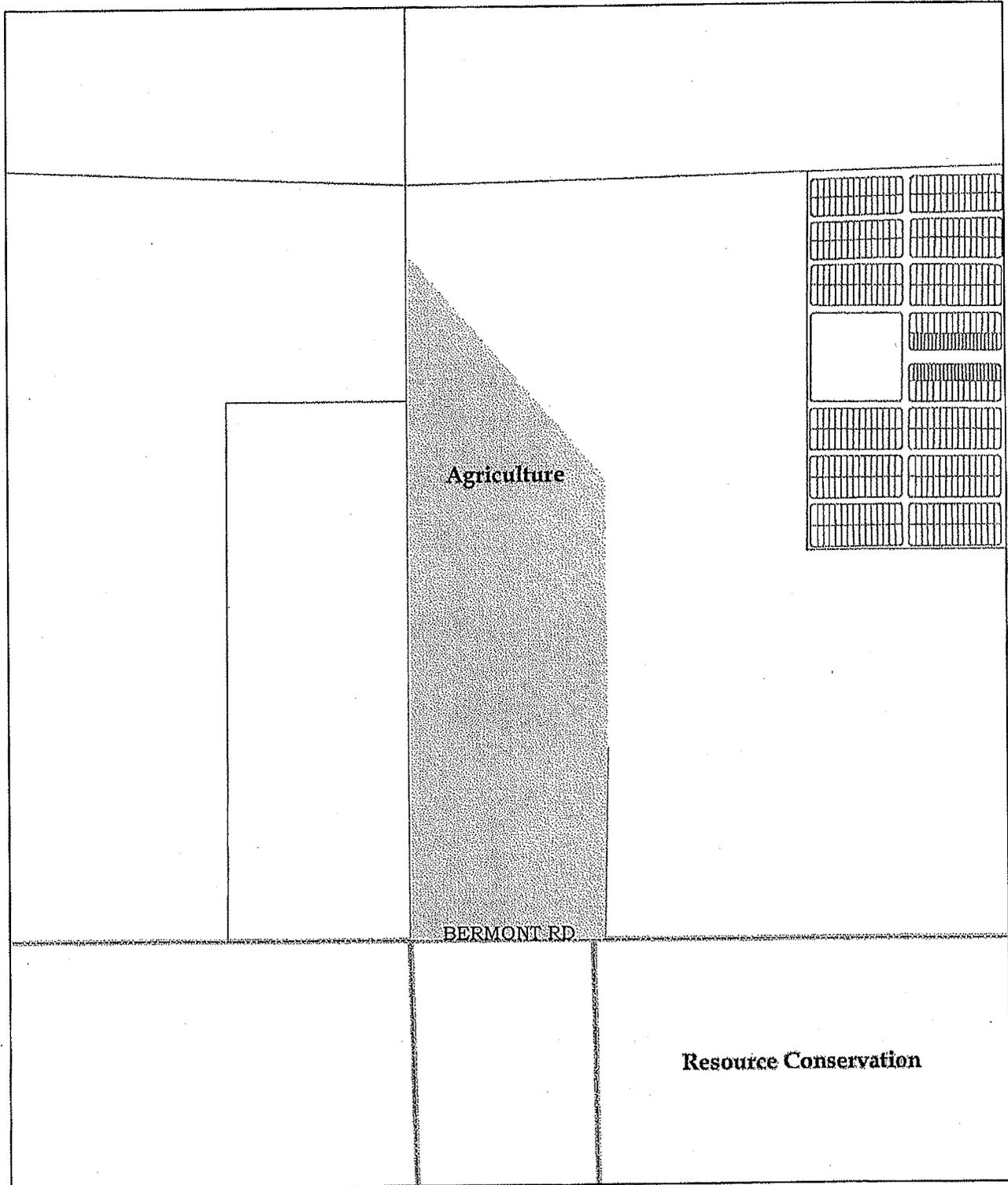
Legend

PA-09-04-06-LS

- Agriculture
- Babcock Ranch Overlay District
- City
- Coastal Residential
- Commercial
- Commercial Center
- Commercial Corridor
- Commercial Tourist
- Compact Growth Mixed Use
- Enterprise Charlotte Airport Park
- High Density Residential
- High Intensity Industrial
- Industrial
- Limited Development
- Low Density Residential
- Low Intensity Industrial
- Medium Density Residential
- Mineral Resource Extraction
- Mixed Use
- Murdock Village Mixed Use Redevelopment
- Neighborhood/Residential
- Parks & Recreation
- Preservation
- Public Lands & Facilities
- Recreational - Non-Public
- Recreational Vehicle Park
- Resource Conservation
- Rural Estate Residential
- US 41 Overlay Mixed Use
- Village Residential



PA-09-04-06-LS
George & Christina Davis
FLUM



Charlotte County Growth Management
Planning Division
JS on May 15, 2009

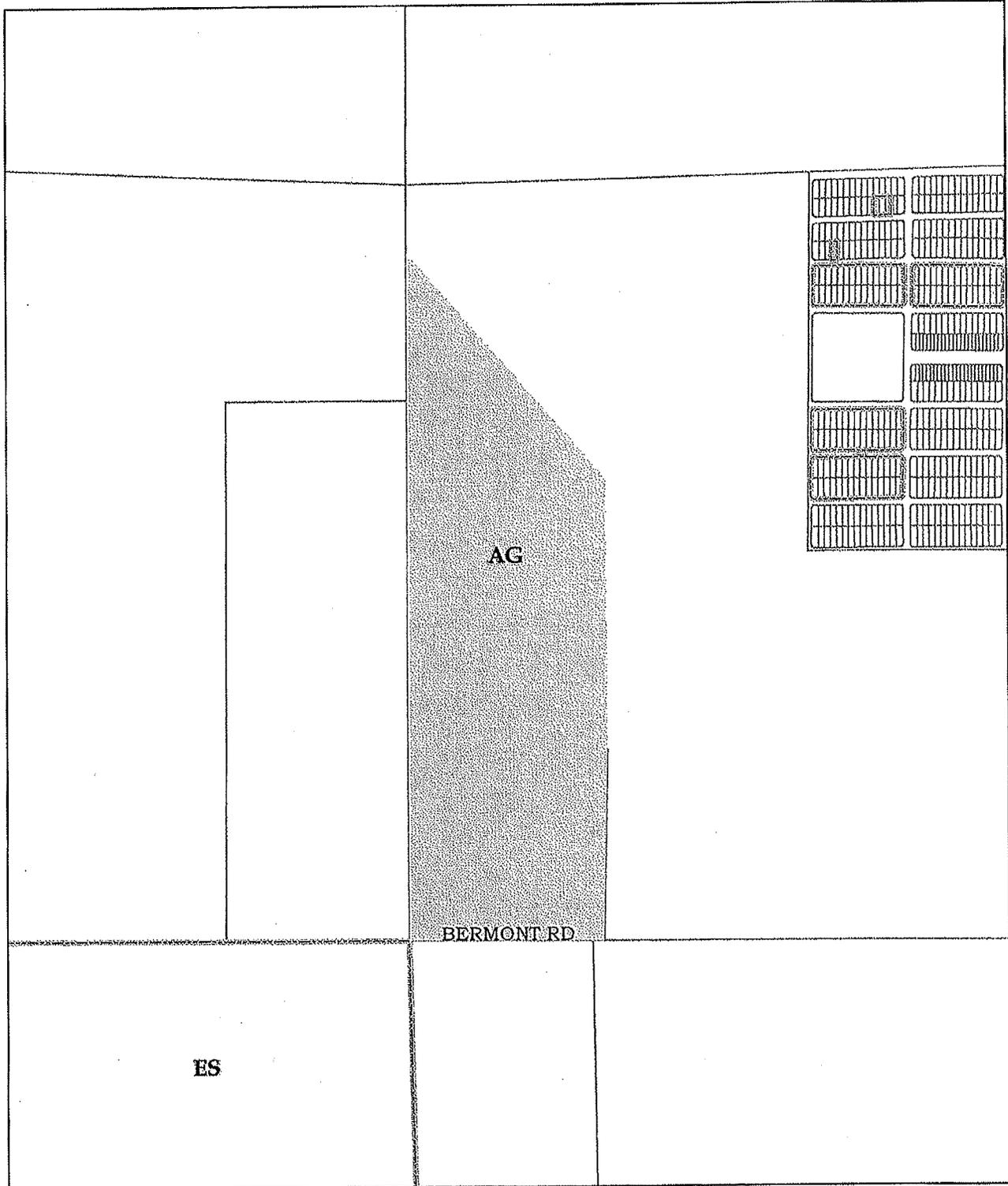
Map Page: 7A/33X

This map is a representation of compiled public information. It is believed to be an accurate and true depiction for the stated purpose, but Charlotte County and its employees make no guaranties, implied or otherwise as to its use. This is not a survey or is it to be used for design. Future Land Use & Zoning Designation boundaries are assumed to meet at the centerline of the road right of way unless otherwise determined by the Growth Management Director.



NOT TO SCALE

PA-09-04-06-LS
George & Christina Davis
Zoning



Charlotte County Growth Management
Planning Division
JS on May 15, 2009

Map Page: 7A/33X

This map is a representation of compiled public information. It is believed to be an accurate and true depiction for the stated purpose, but Charlotte County and its employees make no guaranties, implied or otherwise as to its use. This is not a survey or is to be used for design. Future Land Use & Zoning Designation boundaries are assumed to meet at the centerline of the road right of way unless otherwise determined by the Growth Management Director.



NOT TO SCALE

_____ Agenda
_____ Item

4

ALICO INTERCHANGE PARK

DRI – SUBSTANTIAL DEVIATION

STAFF ASSESSMENT

4

DEVELOPMENT OF REGIONAL IMPACT ASSESSMENT FOR ALICO INTERCHANGE PARK SUBSTANTIAL DEVIATION DRI # 12-0809-184

The Alico Interchange Park project was originally approved in 1986 for 250,000 square feet of retail development, 326,000 square feet of office and professional services, 400 hotel rooms, 905,000 square feet of mixed commercial and services (of which 720,000 square feet was listed as a regional mall) and 1,124 dwelling units with a possibility for additional dwelling units subject to Lee County density bonus provisions. The original project encompassed 345 ± acres of land located in Lee County at the southwest quadrant of Alico Road and I-75 (see page iv for regional location map). The project's development order has been amended four times with the most recent amendment occurring on May 05, 2008. The project is currently approved for 1,446,000 square feet of combined total office/retail square footage (which includes up to 750,000 square feet planned for corporate headquarters/office use) provided the retail square footage does not exceed a maximum of 696,000 square feet; 400 hotel rooms and 800 residential dwelling units (5.0 dwelling units per gross acre). The proposed development order amendment would increase the total square footage of office uses from 750,000 to 1,200,000 square feet (an increase of 450,000) square feet. Commercial retail development would still be limited to a maximum of 696,000 square feet. Hotel rooms and residential entitlements will remain unchanged. The project, as proposed, will result in an increase in vertical entitlements. The applicant does not propose to increase horizontal development on the project site. A South Florida Water Management District Environmental Resource Permit has been issued for the project site. The proposed change in development that created a substantial deviation is an increase in office uses by 450,000 square feet from the current development order. As part of the change, the maximum amount of total development will be limited to 1,896,000 square feet of office and retail combined. The current analysis focused primarily on the regional issue of transportation along with affordable housing, energy, wildlife and vegetation, water, water supply, wastewater, stormwater management, historical and archaeological resources, consistency with the local comprehensive plan and consistency with the strategic regional policy plan. The project buildout expires on April 20, 2011.

RECOMMENDED ACTION:

The Southwest Florida Regional Planning Council recommends Conditional Approval of Alico Interchange Park Substantial Deviation DRI to be further conditioned on a finding of Consistency with the Local Government Comprehensive Plan by the Lee County Board of County Commissioners.

OCTOBER 2009



Southwest Florida Regional Planning Council
1926 Victoria Avenue, Fort Myers, Florida

**DEVELOPMENT OF REGIONAL
IMPACT ASSESSMENT
FOR
ALICO INTERCHANGE PARK SUBSTANTIAL DEVIATION
DRI # 12-0809-184**

OCTOBER 2009



Southwest Florida Regional Planning Council
1926 Victoria Avenue, Fort Myers, Florida

SOUTHWEST FLORIDA REGIONAL PLANNING COUNCIL MEMBERSHIP

CHAIRMAN..... Mayor James Humphrey
 VICE CHAIRMAN..... Mayor Mick Denham
 SECRETARY..... Commissioner Paul Beck
 TREASURER.....Mr. Charles "Chuck" Kiester

CHARLOTTE COUNTY

Commissioner Tricia Duffy
 Commissioner Robert Skidmore
 Council member Don McCormick
 Mr. Alan LeBeau
 Ms. Andrea Messina

COLLIER COUNTY

Commissioner Jim Coletta
 Commissioner Frank Halas
 Council member Teresa Heitman
 Council member Charles Kiester
 Mr. Robert Mulhere

GLADES COUNTY

Commissioner Kenneth S. Jones
 Commissioner Paul Beck
 Council member Michael Brantley
 Dr. Edward Elkowitz

HENDRY COUNTY

Commissioner Tristan Chapman
 Commissioner Karson Turner
 Mayor Mali Chamness
 Mayor Paul Puletti
 Mr. Mel Karau

LEE COUNTY

Commissioner Ray Judah
 Commissioner Tammy Hall
 Deputy Mayor John Spear
 Mayor Mick Denham
 Mayor James Humphrey
 Mayor Jim Burch
 Council member Tom Babcock
 Ms. Laura Holquist
 Mr. Paul Pass

SARASOTA COUNTY

Commissioner Jon Thaxton
 Commissioner Carolyn Mason
 Council member Tom Jones
 Council member Ernie Zavodnyik
 Mr. George H. Mazzarantani
 Mr. David Farley

EX-OFFICIO MEMBERS

Mr. Phil Flood, SFWMD
 Ms. Tammie Nemecek, EDC of Collier County
 Mr. Jon Iglehart, FDEP
 Ms. Dianne Davies, SWFWMD
 Mr. Johnny Limbaugh, FDOT

SOUTHWEST FLORIDA REGIONAL PLANNING COUNCIL STAFF

KEN HEATHERINGTON.....EXECUTIVE DIRECTOR
 DAVID HUTCHINSON....PLANNING DIRECTOR
 LIZ DONLEY.....LEGAL COUNSEL

James Beever
 Lisa Beever
 Daniel Cobb
 David Crawford
 Nancy Doyle
 John L. Gibbons
 Ron Gogoi
 Whitney Gray

Nichole Gwinnett
 Rebekah Harp
 Maran Hilgendorf
 Deborah A. Kooi
 Meghan Marion
 Judy Ott
 Jennifer Pellechio
 Brian Raimondo

Don Scott
 Angela Tomlinson
 Gaila Triggs
 Daniel L. Trescott
 Jason Utley
 Timothy Walker
 Janice Yell

PRIMARY STAFF FOR
ALICO INTERCHANGE PARK SUBSTANTIAL DEVIATION DRI REVIEW

Coordinator - Daniel L. Trescott

Reviewers:

Vegetation and Wildlife, Water, Stormwater Management, Water Supply, Wastewater and Historical
& Archaeological - James Beever

Transportation – David Hutchinson

Affordable Housing, Energy, Consistency with Local Comprehensive Plan and Consistency with the
Strategic Regional Policy Plan – Jason Utley

TABLE OF CONTENTS

	<u>Page</u>
Introduction.....	i
Applicant Information and Development Summary	iii
Regional Location Map.....	iv
Local Project Location Map.....	v
Development Concept Plan.....	vi
Regional Recommendations	1
Appendices: Staff Reports and Support Data	11
Appendix I: Regional Issues Analysis	
A. Affordable Housing	I-A-1
B. Energy.....	I-B-1
C. Vegetation and Wildlife	I-C-1
D. Water, Water Supply and Wastewater Management	I-D-1
E. Stormwater Management.....	I-E-1
F. Historical and Archaeological Sites.....	I-F-1
G. Transportation	I-G-1
H. Consistency with the Local Comprehensive Plan	I-H-1
I. Consistency with the Strategic Regional Policy Plan	I-I-1
Appendix II: Draft Development Order	II-1
Appendix III: Substantial Deviation Monitoring Form	III-1

INTRODUCTION

The project was originally approved in 1986 for 250,000 square feet of retail development, 326,000 square feet of office and professional services, 400 hotel rooms, 905,000 square feet of mixed commercial and services (of which 720,000 square feet was listed as a regional mall) and 1,124 dwelling units with a possibility for additional dwelling units subject to Lee County density bonus provisions. The original project encompassed 345 + acres of land located within unincorporated Lee County at the southwest quadrant of Alico Road and I-75 and has land uses consistent with the comprehensive plan (see page iv for regional location map). The project's development order has been amended four times with the most recent amendment occurring on May 05, 2008. The project is currently approved for 1,446,000 square feet of combined total office/retail square footage (which includes up to 750,000 square feet planned for corporate headquarters/office use) provided the retail square footage does not exceed a maximum of 696,000 square feet; 400 hotel rooms and 800 residential dwelling units (5.0 dwelling units per gross acre). The proposed development order amendment would increase the total square footage of office uses from 750,000 to 1,200,000 square feet (an increase of 450,000) square feet. Commercial retail development would still be limited to a maximum of 696,000 square feet. Hotel rooms and residential entitlements will remain unchanged. The project, as proposed, will result in an increase in vertical entitlements. The applicant does not propose to increase horizontal development on the project site. A South Florida Water Management District Environmental Resource Permit has been issued for the project site. The proposed change in development that created a substantial deviation is an increase in office uses by 450,000 square feet from the current development order. As part of the change, the maximum amount of total development will be limited to 1,896,000 square feet of office and retail combined. The current analysis focused primarily on the regional issue of transportation along with affordable housing, energy, wildlife and vegetation, water, water supply, wastewater, stormwater management historical and archaeological resources, consistency with the local comprehensive plan and consistency with the strategic regional policy plan. The project buildout expires in April 2011.

IMPACT ASSESSMENT AND RECOMMENDATIONS

The impact assessment for the Alico Interchange Park Substantial Deviation DRI/Application for Development Approval (ADA) has been prepared by the Southwest Florida Regional Planning Council as required by Chapter 380.06, Florida Statutes. The DRI assessment is largely based on information supplied in the ADA and subsequent sufficiency review rounds. Additional information was obtained by contacting local officials, consulting official plans, and by reviewing reports related to specific issues in the impact assessment. No final comments were received by other review agencies, their concerns were addressed adequately during the sufficiency review rounds.

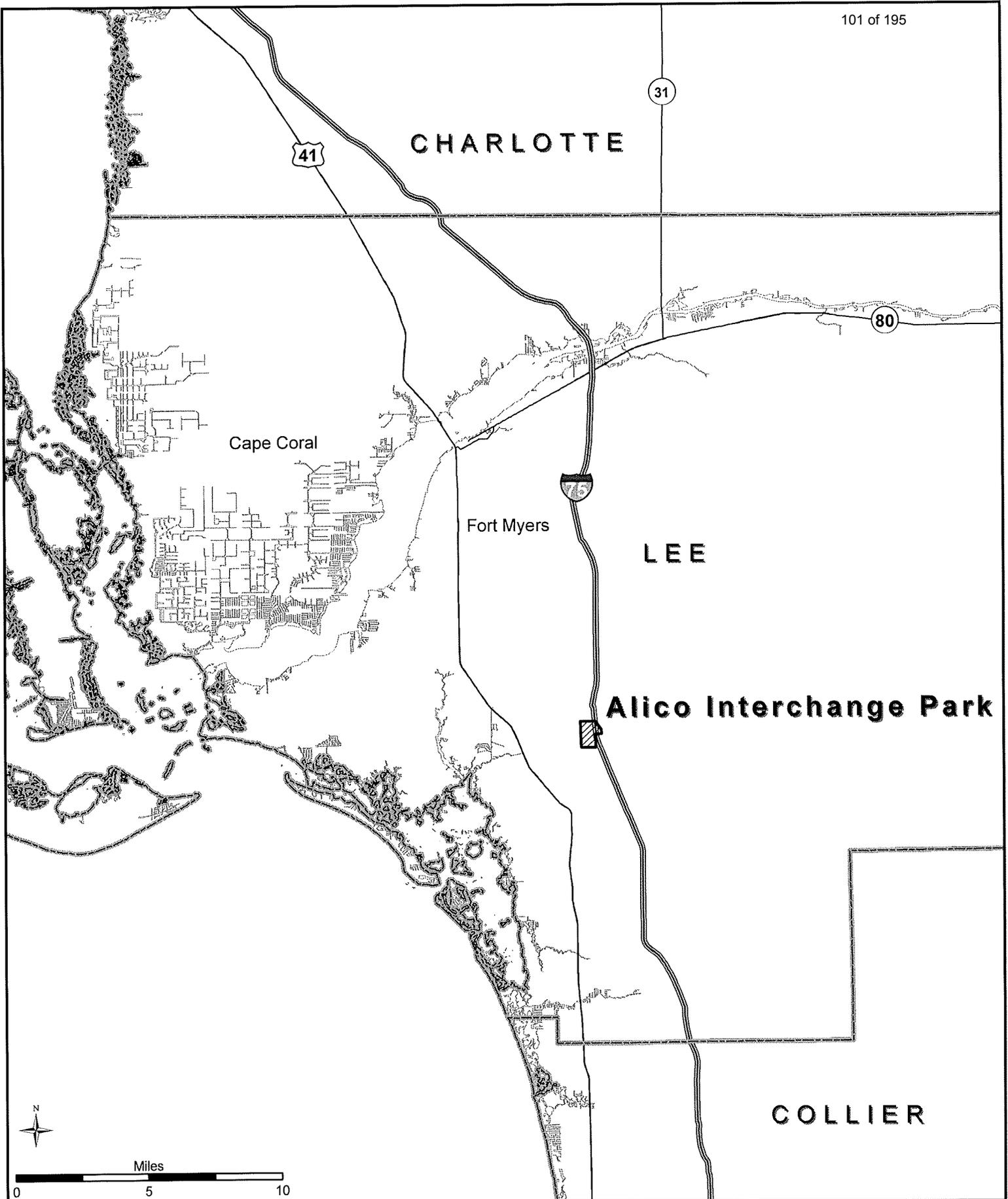
The Council staff assessment will only address regional issues since the local issues addressed in the original ADA will not change. The regional issues are those that affect more than one jurisdiction. Recommendations made by the staff regarding these issues are formal conditions to be included by the local government in any Development Order that is issued.

The findings of this evaluation and the Southwest Florida Regional Planning Council's recommendations are intended to assist Lee County in reaching its decision regarding the proposed development. The recommendations are not intended to foreclose or abridge the legal responsibility of local government to act pursuant to applicable local laws and ordinances. Copies of any "Development Order" (an order granting, denying, or granting with conditions an Application for Development permit) issued with regard to the proposed development shall be transmitted to the Southwest Florida Regional Planning Council and the Florida Department of Community Affairs.

APPLICANT INFORMATION AND DEVELOPMENT SUMMARY

APPLICANT INFORMATION

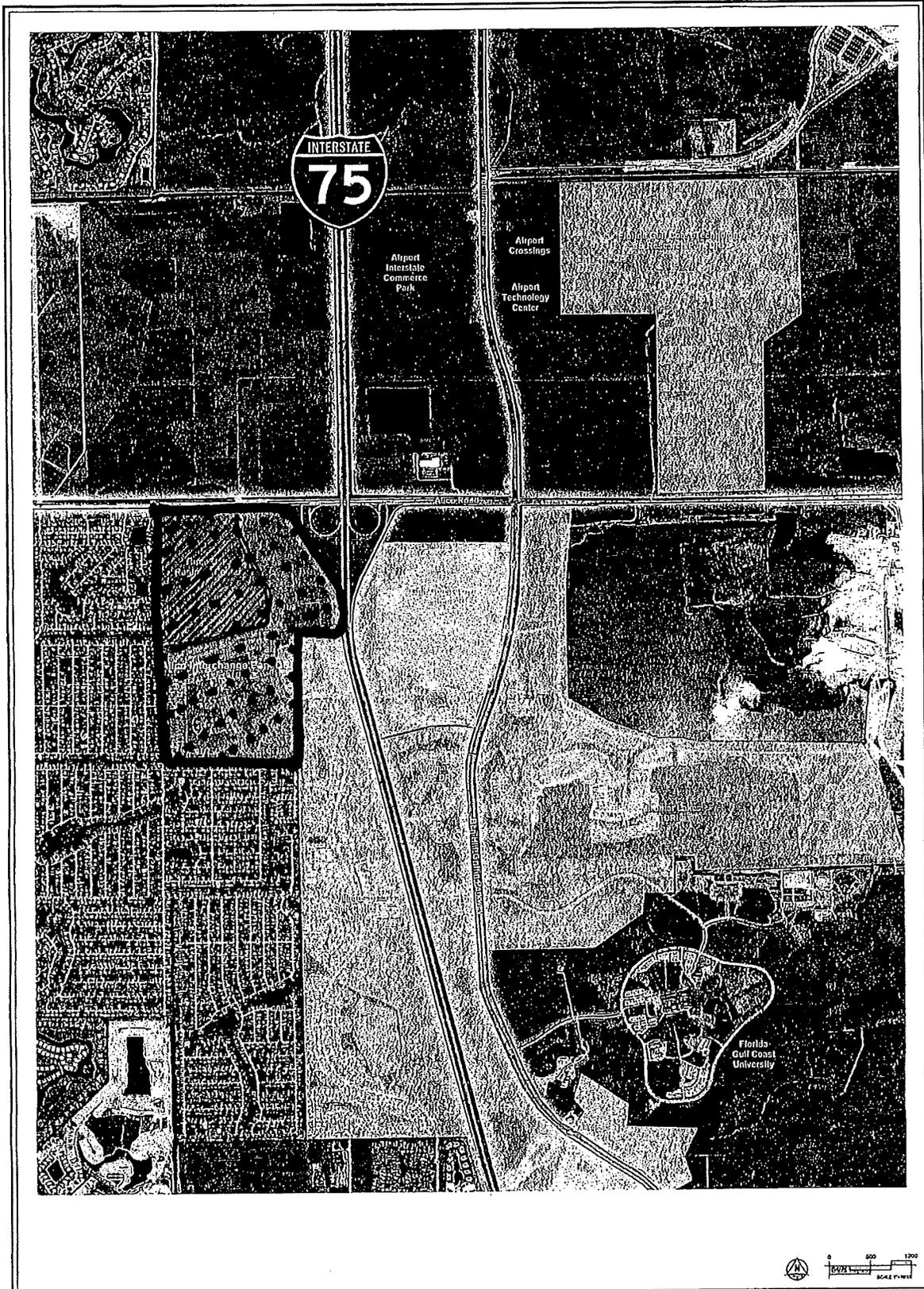
Project Name	Alico Interchange Park Substantial Deviation DRI
Applicant	Three Oaks Regional, LLC John McGarvey, Manager 9530 Marketplace Rd. Suite 601 Fort Myers, Florida 33912 Phone 239-738-7800
Date on which DRI/ADA was officially accepted	December 10, 2008
Date on which DRI/ADA was found sufficient	August 03, 2009
County DRI Hearing Date	December 02, 2009
Date County Notified SWFRPC of Public Hearing	August 28, 2009
Type of Development	Mixed use consisting of commercial (including regional mall uses), office, hotel and residential
Location of Development	Unincorporated Lee County
DRI Threshold	400,000 square feet of retail and 300,000 square feet of office
 <u>Development Summary</u>	
Commercial and Office	Increase office/commercial entitlements from 1,446,000 to 1,896,000 square feet. Increase office uses by 450,000 square feet from 750,000 to 1,200,000 square feet and the maximum allowable retail is 696,000 square feet.
Total Acres	345 acres (entire DRI) 105.5± acres (parcel owned by the applicant)
Estimated Average Potable Water Demand	The applicant estimates adding 450,000 square feet of office will increase demand for potable water by 67,500 GPD.
Estimated Average Wastewater Demand	The applicant estimates adding 450,000 square feet of office will increase wastewater generation by approximately 67,500 GPD.
Estimated Solid Waste Generation	The applicant estimates adding 450,000 square feet of office will increase solid waste generation by 36 cubic yards per day or 0.864 tons per day.
Project Construction Period	1.5 years until April 20, 2011



Legend
 Alico

Alico Interchange Park DRI





**Three Oaks Regional Center
at Alico Interchange Park DRI
Map A
General Location Map**



MORRIS
DEPEW
ENGINEERS • PLANNERS • SURVEYORS
LANDSCAPE ARCHITECTS

**SOUTHWEST FLORIDA REGIONAL PLANNING COUNCIL'S
STAFF FINDINGS AND RECOMMENDATIONS**

REGIONAL

IT IS THE RECOMMENDATION OF THE SOUTHWEST FLORIDA REGIONAL PLANNING COUNCIL THAT THE APPLICATION FOR DEVELOPMENT APPROVAL SUBMITTED DECEMBER 10, 2008, FIRST SUFFICIENCY RESPONSES DATED FEBRUARY 27, 2009 AND SECOND SUFFICIENCY RESPONSES SUBMITTED JUNE 25, 2009, IS APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. AFFORDABLE HOUSING (Refer to Appendix I-A)

The applicant did not use the East Central Florida Regional Planning Council (ECFRPC) methodology to assess the affordable housing impacts for the Alico Interchange Park Substantial Deviation. Instead, the applicant's agent prepared a report titled the Affordable Housing Impact Analysis for Three Oaks Regional Center". The report was dated October 01, 2009.

According to the applicant a need for affordable housing does not currently exist in Lee County. However, the applicant has agreed to commit to one of the three conditions required by the Southwest Florida Regional Planning Council. The applicant has agreed to make a financial contribution in the amount of \$10,000 to Lee County in order to offset any demand created through buildout for affordable housing. Council staff acknowledges the applicant's commitment and encourages the applicant to reach an agreement with Lee County related to affordable housing.

RECOMMENDATIONS

Any DRI Development Order issued by Lee County shall contain the following provision:

A. Conditions for Development Approval.

- 1) To satisfy the project's affordable housing impacts cumulatively the applicant shall contribute funds to Lee County's Affordable Housing Trust Fund.

2. ENERGY (Refer to Appendix I-B)

The proposed development will be electrically powered and will increase the energy demands of the region.

RECOMMENDATIONS

Any DRI Development Order issued by Lee County shall contain the following provision:

A. Conditions for Development Approval.

- 1) The provision of a bicycle/pedestrian system connecting all land uses, to be placed along arterial and collector roads within the project, and also along Alico Road west of Three Oaks Parkway (Corlico Parkway). This system is to be constructed in accordance with Lee County standards, and include walking/jogging paths and the extension of the bicycle/pedestrian system along all public streets within the development;
- 2) The provision of bicycle racks or storage facilities in recreational, commercial and multi-family residential areas which are located closer to the building entrances than non-handicapped parking spaces ;
- 3) The location of bus stops, shelters, and other passenger and system accommodations for a transit system to serve the project area, bus stop locations should at a minimum provide adequate vegetative shading, a bench or other seating, should be located no further than one quarter mile from a multistory building entrances and the transit system should have an acceptable level of service during peak hours (i.e. stops occurring once every 30 minutes or less);
- 4) The material choices for streets, parking lots, sidewalks, and any other path system should be evaluated in order to reduce the heat island effect. Alternatives to impervious pavement, and the use of open areas, landscaping and shade trees will be an integral component of the design.
- 5) The use of energy-efficient features in window design (e.g., tinting and exterior shading) and use of operable windows and ceiling fans in residential units;
- 6) The installation of energy-efficient appliances and equipment;
- 7) The prohibition of deed restrictions or covenants that would prevent or unnecessarily hamper energy conservation efforts (e.g., building orientation, clotheslines, and solar water heating systems);

- 8) The minimum necessary coverage by asphalt, concrete, rock, and similar substances in streets, parking lots, and other areas to reduce local air temperatures and reflected light and heat;
- 9) Water closets will have a maximum water usage of 1.6 gallons/flush. Showerheads and faucets will have a maximum flow rate of 2.5 gallons/minute at 80 psi water pressure. Faucet aerators will limit flow rates to 0.5 gallons per minute.
- 10) The selection, installation and maintenance of native plants, trees, and other vegetative and landscape design features that can be shown to reduce requirements for water, fertilizer, maintenance, and other needs, compared to non-native exotic plant species;
- 11) The planting of native shade trees to provide shade for all streets, parking areas, recreation areas and building solar heat gain;
- 12) The placement of trees to provide shade in the warmer months while not overly reducing the benefits of sunlight in the cooler months;
- 13) The orientation of structures, to reduce solar heat gain by walls and to utilize the natural cooling effects of the wind;
- 14) The provision for structural shading (e.g., trellises, awnings, and roof overhangs) wherever practical when natural shading cannot be used effectively;
- 15) The inclusion of porch/patio areas in residential units whenever possible;
- 16) The establishment of an architectural review committee and consideration by the project architectural review committee(s) of energy conservation measures (both those noted here and others) to assist builders and tenants in their efforts to achieve greater energy efficiency in the development and compliance with Conditions B.1 through B.15.
- 17) Developer will strive to use innovative irrigation technology, such as drip irrigation, moisture sensors, and micro spray heads to reduce irrigation water use.
- 18) Site development shall comply with the Florida Green Building Coalition Certification Standards or equivalent green building standards.
- 19) All thermostats installed in any structure shall be programmable.

- 20) Lighting for streets, parking, recreation and other public areas shall include energy efficient fluorescent lighting with electronic ballasts or light-emitting diode technology, photovoltaics, low voltage lighting, motion sensors and/or timers on lighting and full cut-off luminaires in fixtures that comply with the International Dark-Sky Association standards.
- 21) All recreational areas as well as the integrated sidewalks, trails, and paths shall include native shade trees where design allows.
- 22) Cool roofing material (roofing materials with a high solar reflectance value) will be used on all newly constructed commercial structures. Green roofs shall be evaluated at the time of building design.
- 23) The United States Green Building Council's Leadership in Energy and Environmental Design (LEED) certification will be evaluated for all office structures constructed within the DRI.
- 24) The above conditions shall be reported in the annual monitoring report.

3. VEGETATION AND WILDLIFE (Refer to Appendix I-C)

Wildlife surveys submitted by the applicant indicate on-site observations of gopher tortoise. Meandering pedestrian transects, spaced approximately 50-100 feet apart, were surveyed by qualified ecologists for the presence of state and federally listed species. A survey for species listed by the Florida Fish and Wildlife Conservation Commission (FWC) and/or U.S. Fish and Wildlife Service as threatened, endangered, or species of special concern was conducted in June and July 2007 for the Three Oaks Regional Center property. Based on the that survey, approximately 11 to 12 gopher tortoises occur in the disturbed upland pine flatwoods on that portion of the DRI.

An application for a gopher tortoise incidental take permit was submitted to the FWC on July 30, 2007. Additional information was submitted to the FWC on December 4, 2007. The FWC has completed their review of the project and will issue gopher tortoise incidental take permit number LEE-129 upon receipt of Lee County's Development Order approved on September 22, 2008.

The Three Oaks Regional Center site plan has been designed to provide an 8.0± acre gopher tortoise recipient area along the western property boundary. All gopher tortoise burrows located within the development footprint will be excavated and the resident gopher tortoises relocated into the 8.0± acre gopher tortoise recipient area. The submitted Lee County Indigenous Area Management Plan contains the gopher tortoise relocation plan.

RECOMMENDATIONS

Any Development Order issued by Lee County shall contain the following provision:

A. Conditions for Development Approval

- 1) All stormwater lake bank slopes shall be constructed with broad littoral zones. These littoral areas shall be planted with native vegetation (with a total cattail population of not more than 20 percent); if the survival rate of the native vegetation after one year is less than 80 percent, replanting will be required.
- 2) Isolated wading bird “pools” shall be constructed to provide aquatic habitat for mosquito larvae predators, such as *Gambusia affinis*. And foraging areas for wading bird species, such as the wood stork, consistent with South Florida Water Management District (“SFWMD”), Florida Department of Environmental Protection (“FDEP”), and Lee County requirements.
- 3) The developer shall prepare a proposal for a long-term exotic vegetation control program. Lee County shall review this proposal, and either accept or reject the plan, with the basis of any rejection clearly stated. The developer or his successors shall be responsible for the implementation of this program for those portions of the subject property that have not been conveyed to their final users. The status of the long-term exotic vegetation control program shall be submitted with each developer's Bi-annual report.
- 4) The developer shall coordinate construction of bird roosting areas within the southern lake system with the Florida Fish and Wildlife Conservation Commission (FWC) in order to insure improved wildlife habitats.
- 5) The developer or his successor(s) shall utilize a strong native landscaping program throughout the project, with an effort to save and/or create native upland habitat. This program shall be submitted to and approved by the Lee County. This plan shall be submitted as part of the local development order process.

- 6) The developer or his successor(s) shall provide a 7.8± acre gopher tortoise recipient area along the western property boundary. All gopher tortoise burrows located within the development footprint will be excavated and the resident gopher tortoises relocated into the 8.0± acre gopher tortoise recipient area. The submitted Lee County Indigenous Area Management Plan contains the gopher tortoise relocation plan. This plan shall be submitted as part of the local development order process for each phase.

4. WATER, WATER SUPPLY AND WASTEWATER (Refer to Appendix I-D)

The following standard and project specific recommendations reflect the existing development order for the project, conservation measures and protections for regional significant water issues in the Estero Bay watershed.

RECOMMENDATIONS

Any Development Order issued by Lee County shall contain the following provision:

A. Conditions for Development Approval

- 1) Water Conservation
 - a) Low Flow Fixtures: Low volume plumbing fixtures will be installed in all new homes and businesses. The plumbing fixtures will comply with the following maximum flow volumes at 80 psi:
 - i) Toilets: 1.6 gallons per flush
 - ii) Shower heads: 2.5 gallons per minute
 - iii) Faucets: 2.0 gallons per minute
 - b) Drought-Tolerant Landscaping: The use of native landscaping and the Florida Yards and Neighborhoods Program principles will be incorporated throughout the project site.
 - c) Reuse Water: Irrigation water will utilize reclaimed water produced by the water reclamation facility. During times when irrigation demand exceeds reclaimed water supply, irrigation water will be derived from the on-site lake system. The lake system will be replenished with ground water derived from Floridan aquifer wells.

- 2) Leak Detection Program: Reports of water leaks will be directed to personnel during business hours. Site tours and routine maintenance personnel trips along water supply and distribution lines will also be conducted. On a monthly basis, customer metered usage will be compared to the master meter reading.
- 3) Irrigation System Design: Rain sensors and/or soil moisture sensors are required for irrigation systems within the project site in order to preclude irrigation during rainfall events. The project will install low flow irrigation systems for common areas.
- 4) Fertilization Program: Written fertilization guidelines will be developed that establish standards for all common area fertilization and guidelines for individual property owners. The guidelines will comply with SWFRPC Resolution 2007-1. The program will be based on the results of soil samples, water sources, drainage patterns, and the landscape planned. This program will be designed to provide sufficient nutrition to sustain density and vigor for the landscape plantings intended for the community that will enhance their resistance to disease, weeds, and insects. Education of residents and landscape maintenance contractors will be included in the program. The program standards will include an annual schedule for applications of controlled release and slow release fertilizers. The program will also identify appropriate buffer requirements for all areas on the site with respect to wetlands and all natural or created bodies of water.
- 5) The proposed water treatment and distribution and wastewater collection and treatment systems will be designed consistent with County standards. The project wastewater management will plan to comply with SWFRPC Resolution 2007-02.
- 6) All potable water facilities will be properly sized to supply average and peak day domestic demand, in addition to fire flow demand, at a flow rate approved by the County Fire Department.
- 7) The lowest quality of water available and acceptable shall be utilized for all non-potable water uses.
- 8) The applicant will establish water, wastewater and reclaimed water services with Lee County Utilities for the Three Oaks Regional Planning Center within the Alico Interchange Park DRI.

5. **STORMWATER MANAGEMENT (Refer to Appendix I-E)**

The following standard and project specific recommendations reflect the existing development order for the project and protections for regional significant water quality issues in the Estero Bay watershed.

RECOMMENDATIONS

Any Development Order issued by Lee County shall contain the following provision:

A. **Conditions for Development Approval**

1. All internal stormwater management lakes and ditches, and any on-site preserved/enhanced wetland areas, shall be set aside as recorded drainage and/or conservation easements granted to the South Florida Water Management District. Stormwater lakes shall include, where practical, adequate maintenance easements around the lakes, with access to a paved roadway.
2. Any silt barriers and any anchor soil, as well as accumulated silt, shall be removed upon completion of construction. Either the Developer or the entities responsible for the specific construction activities requiring these measures shall assume responsibility for having them removed upon completion of construction.
3. Any shoreline banks created along the on-site stormwater management system shall include littoral zones constructed on slopes consistent with South Florida Water Management District (“SFWMD”), Florida Department of Environmental Protection (“FDEP”), and Lee County requirements and shall be planted in native emergent or submergent aquatic vegetation. The Developer shall ensure, by supplemental replanting as necessary, that at least 80% cover by native aquatic vegetation is established within the littoral zone planting areas for the duration of the project.
4. The Developer shall conduct annual inspections in accordance with the conditions of the approved SFWMD Environmental Resource Permit (“ERP”), and any preserved/enhanced wetland areas on the project site so as to ensure that these areas are maintained in keeping with the final approved designs, and that the water management system is capable of accomplishing the level of stormwater storage and treatment for which it was intended.

5. The Developer shall undertake a regularly scheduled vacuum sweeping of all common streets and parking areas within the project. The Developer shall encourage any private parcel owners within the development to institute regularly scheduled vacuum sweeping of their respective streets and/or parking areas.
6. Design considerations will be given to ditch and swale slopes, where practical, so that these facilities may provide some additional water quality treatment prior to discharge. Treatment swales shall be planted with vegetation as reviewed and approved during the ERP approval process.
7. Any debris that may accumulate in project lakes, ditches or swales, or which may interfere with the normal flow of water through discharge structures and under drain systems, shall be cleaned from the detention/retention areas on a regular basis. Any erosion to banks shall be repaired.
8. Grease baffles shall be inspected and cleaned and/or repaired on a regular basis. In no instance shall the period between such inspections exceed eighteen months.
9. The master stormwater management system will be maintained by the Developer or legal assignee.

6. HISTORICAL AND ARCHAEOLOGICAL SITES (Refer to Appendix I-F)

A Cultural Resources Survey was prepared and approved by the Florida Department of State, Division of Historical Resources (“DHR”). No cultural resources eligible for listing on the National Register of Historic Places were identified within the project site, and the development is unlikely to affect historic properties.

RECOMMENDATIONS

Any Development Order issued by Lee County shall contain the following provision:

- A) Conditions for Development Approval
 - 1) If any archaeological/historical sites are discovered during the development activities, all work that might cause damage to such sites shall cease immediately, and the Developer shall contact the State Division of Historical Resources (“DHR”), SWFRPC, and Lee County so that a state-certified archaeologist can determine the significance of the findings and recommend appropriate preservation and mitigation actions, as necessary.

7. **TRANSPORTATION (Refer to Appendix I-G)**

Three Oaks Regional Center at Alico Interchange Park is an approved 105-acre parcel within the larger approved Alico Interchange Park development of regional impact, located south of Alico Road and west of I-75 in Lee County. This application (proposes the addition of 450,000 sq. ft. of commercial office space to the development through vertical expansion of nine of the 17 office buildings within the development. No change is requested to the build-out date for the project of April 20, 2011.

Previously in the DRI process, the Alico Interchange Park DRI prepaid transportation mitigation obligations of \$10,484, 427 to Lee County, consistent with a development agreement with Lee County that included concurrency vesting. Lee County, FDOT and SWFRPC staff reviewers agree that the Transportation Analysis provided by the applicant sufficiently supports the conclusion that the proposed changes to the development order are not likely to result in significant regional impacts beyond those which are identified and that the applicant is not subject to additional mitigation payments based on this application.

RECOMMENDATIONS

Any Development Order issued by Lee County shall contain the following provision:

- A) **Conditions for Development Approval**
- 1) The condition that the project may not exceed a maximum of 4,489 peak hour external trips without further DRI review and approvals be retained and included in the development order;
 - 2) The project build-out date is April 20, 2011, and that should be clearly specified in the development order;
 - 3) Development Order condition D3(c) listed under Transportation be modified to language acceptable to Lee County, retaining provisions for the middle access on Three Oaks Parkway while eliminating reference to a full median opening which will accommodate all turning movements;
 - 4) All other transportation-related conditions in the current development order will be included in the new development order and remain in effect, including monitoring requirements, reporting requirements, and requirements to provide multi-modal transportation mobility options within the project and connecting to off-site bicycle, pedestrian and transit networks.

APPENDICES

ANALYSIS OF REGIONAL ISSUES

The Council staff's assessment of the "Alico Interchange Park Substantial Deviation DRI" identified nine issues of regional concern: affordable housing, energy, wildlife and vegetation, water/water supply/wastewater management(evaluated together), stormwater management, historical and archaeological resources, transportation and consistency with the local comprehensive plan and the strategic regional policy plan. The SWFRPC staff reports for these issues are attached as Appendix I.

Before formulating the recommendations in the previous section, the SWFRPC staff analyzed the entire local and regional issues discussed in the Alico Interchange Park application for development approval and the existing Alico Interchange Park development order. As a part of each analysis, the staff determined the project's impacts, any necessary remedial action and the applicant's commitments to a solution. Such determinations were based upon both the calculations and estimates of the applicant, Lee County development review staff and Council staff. Where applicable, support correspondence is included. A draft development order is included in the Appendix II. The Substantial Deviation Monitoring Form is found in Appendix III.

APPENDIX I

REGIONAL ISSUES ANALYSIS

A. AFFORDABLE HOUSING

1. Project Impact

The proposed entitlements for the DRI include: 467 single family dwelling units, 333 multi-family dwelling units, 400 hotel rooms and 1,896,000 square feet of office/retail uses. Retail uses are limited to a maximum of 696,000 square feet¹. This substantial deviation proposes increasing the amount of office space from 750,000 square feet to 1,200,000 square feet (an addition of 450,000 square feet of office space).

Based on the supply analysis provided by the housing consultant for the applicant there is adequate supply of for sale and for-rent affordable housing needs in Lee County². That analysis evaluated the May 2009 median sales price for single family homes in Lee County and the fourth quarter 2008 median annual salary for Lee County workers by sector. The substantial deviation proposes to increase office entitlements by 450,000 square feet on the project site. The applicant asserts that the office jobs created as a result of this change will not create a significant demand for affordable housing. The analysis states “earnings for workers in the office sector in the 10th percentile of median annual wages of that sector equal 91% of the annual median wage for all sectors in Lee County”. The annual median wage considering all occupations in Lee County is \$30,110. The source of this wage data is the Bureau of Labor Statistics, Department of Labor, May 2008 Occupational Employment Statistics Survey.

The consultant considered the significant decline in housing prices and two previous affordable housing contributions made by recent Developments of Regional Impact (Gulf Coast Town Center in the year 2000 and Coconut Point in the year 2002). Both of these DRIs are located in Lee County. It is worth noting that the land use mix of these two projects was more heavily weighted to retail-oriented development which creates a higher demand for affordable housing.

The consultant averaged the contributions made by Gulf Coast Town Center and Coconut Point to obtain their proposed financial contribution for affordable housing. Gulf Coast Town Center contributed \$259 per each low income job created. Coconut Point contributed \$354 per each low income job created. Averaging the two, $(\$259 + \$354 / 2 = \$307)$ the consultant derived their proposed contribution per each low income job created. The consultant did not clearly define the number of low income jobs that will be created as a result of this substantial deviation. The consultant proposes to make a financial contribution to Lee County for affordable housing in the amount of \$10,000.

The Southwest Florida Regional Planning Council has, in recent years, asked DRI applicants to meet one of three conditions related to affordable housing. The

three conditions are: 1) provide an appropriate amount of affordable housing onsite 2) provide an appropriate amount of affordable housing offsite or 3) provide an appropriate financial contribution to the local government to be used for providing affordable housing.

The applicant has agreed to meet one of the three conditions. Council staff encourages the applicant to reach an agreement with Lee County related to affordable housing.

2. Applicant Commitment

- (1) Provide \$10,000 to Lee County to offset affordable housing impacts created by this project.

3. Remedial Actions

- (1) Finalize agreement with Lee County prior to the issuance of the development order including details related to the payment of funds to Lee County.

4. References

1. Page 6 under RPC (Utley) tab in the applicant's First Sufficiency Response
2. Affordable Housing Impact Analysis for Three Oaks Regional Center at Alico Interchange Park DRI prepared on October 01, 2009

B. ENERGY1. Project Impact

The proposed development will be electrically powered and will increase the energy demands of the region.

2. Applicant Commitments

- (1) The provision of a bicycle/pedestrian system connecting all land uses, to be placed along arterial and collector roads within the project, and also along Alico Road west of Three Oaks Parkway (Corlico Parkway). This system is to be constructed in accordance with Lee County standards, and include walking/jogging paths and the extension of the bicycle/pedestrian system along all public streets within the development;
- (2) The provision of bicycle racks or storage facilities in recreational, commercial and multi-family residential areas;
- (3) The location of bus stops, shelters, and other passenger and system accommodations for a transit system to serve the project area, to specifications of the appropriate Lee County agencies;
- (4) The use of energy-efficient features in window design (e.g., tinting and exterior shading), and use of operable windows and ceiling fans in residential units;
- (5) The installation of energy-efficient appliances and equipment;
- (6) The prohibition of deed restrictions or covenants that would prevent or unnecessarily hamper energy conservation efforts (e.g., building orientation, clotheslines, and solar water heating systems);
- (7) The minimum necessary coverage by asphalt, concrete, rock, and similar substances in streets, parking lots, and other areas to reduce local air temperatures and reflected light and heat, as determined by the Lee County Department of Community Development;
- (8) The installation of energy-efficient lighting for streets, parking areas, and other interior and exterior public areas;
- (9) The installation of water closets with a maximum flush of 3.5 gallons and shower heads and faucets with a maximum flow rate of 3.0 gallons per

minute (at 60 pounds of pressure per square inch) as specified in the Water Conservation Act, ' 553.14, Florida Statutes.

- (10) The selection, installation and maintenance of native plants, trees, and other vegetative and landscape design features that can be shown to reduce requirements for water, fertilizer, maintenance, and other needs, compared to non-native exotic plant species;
- (11) The planting of native shade trees for each residential unit, and to provide shade for all streets, parking areas, and recreation areas;
- (12) The placement of trees to provide shade in the warmer months while not overly reducing the benefits of sunlight in the cooler months;
- (13) The orientation of structures, to reduce solar heat gain by walls and to utilize the natural cooling effects of the wind;
- (14) The provision for structural shading (e.g., trellises, awnings, and roof overhangs) wherever practical when natural shading cannot be used effectively;
- (15) The inclusion of porch/patio areas in residential units whenever possible; and
- (16) The establishment of an architectural review committee and consideration by the project architectural review committee(s) of energy conservation measures (both those noted here and others) to assist builders and tenants in their efforts to achieve greater energy efficiency in the development and compliance with Conditions B.1 through B.15.

3. Remedial Actions

The applicant has expressed a desire to incorporate low impact development design measures and stated an intention to apply for the United States Green Building Council's prestigious Leadership in Energy and Environmental Design (LEED) certification¹. Considering the applicant's desire to incorporate sustainable measures into this project, Southwest Florida Regional Planning Council staff would recommend the following:

- (1) The provision of a bicycle/pedestrian system connecting all land uses, to be placed along arterial and collector roads within the project, and also along Alico Road west of Three Oaks Parkway (Corlisco Parkway). This system is to be constructed in accordance with Lee County standards, and include walking/jogging paths and the extension of the bicycle/pedestrian system along all public streets within the development;

- (2) The provision of bicycle racks or storage facilities in recreational, commercial and multi-family residential areas which are located closer to the building entrances than non-handicapped parking spaces ;
- (3) The location of bus stops, shelters, and other passenger and system accommodations for a transit system to serve the project area, bus stop locations should at a minimum provide adequate vegetative shading, a bench or other seating, should be located no further than one quarter mile from a multistory building entrances and the transit system should have an acceptable level of service during peak hours (i.e. stops occurring once every 30 minutes or less);
- (4) The material choices for streets, parking lots, sidewalks, and any other path system should be evaluated in order to reduce the heat island effect. Alternatives to impervious pavement, and the use of open areas, landscaping and shade trees will be an integral component of the design.
- (5) The use of energy-efficient features in window design (e.g., tinting and exterior shading) and use of operable windows and ceiling fans in residential units;
- (6) The installation of energy-efficient appliances and equipment;
- (7) The prohibition of deed restrictions or covenants that would prevent or unnecessarily hamper energy conservation efforts (e.g., building orientation, clotheslines, and solar water heating systems);
- (8) The minimum necessary coverage by asphalt, concrete, rock, and similar substances in streets, parking lots, and other areas to reduce local air temperatures and reflected light and heat;
- (9) Water closets will have a maximum water usage of 1.6 gallons/flush. Showerheads and faucets will have a maximum flow rate of 2.5 gallons/minute at 80 psi water pressure. Faucet aerators will limit flow rates to 0.5 gallons per minute.
- (10) The selection, installation and maintenance of native plants, trees, and other vegetative and landscape design features that can be shown to reduce requirements for water, fertilizer, maintenance, and other needs, compared to non-native exotic plant species;
- (11) The planting of native shade trees to provide shade for all streets, parking areas, recreation areas and building solar heat gain;
- (12) The placement of trees to provide shade in the warmer months while not overly reducing the benefits of sunlight in the cooler months;

- (13) The orientation of structures, to reduce solar heat gain by walls and to utilize the natural cooling effects of the wind;
- (14) The provision for structural shading (e.g., trellises, awnings, and roof overhangs) wherever practical when natural shading cannot be used effectively;
- (15) The inclusion of porch/patio areas in residential units whenever possible;
- (16) The establishment of an architectural review committee and consideration by the project architectural review committee(s) of energy conservation measures (both those noted here and others) to assist builders and tenants in their efforts to achieve greater energy efficiency in the development and compliance with Conditions B.1 through B.15.
- (17) Developer will strive to use innovative irrigation technology, such as drip irrigation, moisture sensors, and micro spray heads to reduce irrigation water use.
- (18) Site development shall comply with the Florida Green Building Coalition Certification Standards or equivalent green building standards.
- (19) All thermostats installed in any structure shall be programmable.
- (20) Lighting for streets, parking, recreation and other public areas shall include energy efficient fluorescent lighting with electronic ballasts or light-emitting diode technology, photovoltaics, low voltage lighting, motion sensors and/or timers on lighting and full cut-off luminaries in fixtures that comply with the International Dark-Sky Association standards.
- (21) All recreational areas as well as the integrated sidewalks, trails, and paths shall include native shade trees where design allows.
- (22) Cool roofing material (roofing materials with a high solar reflectance value) will be used on all newly constructed commercial structures. Green roofs shall be evaluated at the time of building design.
- (23) The United States Green Building Council's Leadership in Energy and Environmental Design (LEED) certification will be evaluated for all office structures constructed within the DRI.
- (24) The above conditions shall be reported in the annual monitoring report.

4. References

1. Page 2 of RPC (Utley) tab in the Alico Interchange Park Substantial Deviation First Round Sufficiency

C. VEGETATION AND WILDLIFE

1. Project Impact

Wildlife surveys submitted by the applicant indicate on-site observations of gopher tortoise¹. Meandering pedestrian transects, spaced approximately 50-100 feet apart, were surveyed by qualified ecologists for the presence of state and federally listed species. A survey for species listed by the Florida Fish and Wildlife Conservation Commission (FWC) and/or U.S. Fish and Wildlife Service as threatened, endangered, or species of special concern was conducted in June and July 2007 for the Three Oaks Regional Center property. Based on the that survey, approximately 11 to 12 gopher tortoises occur in the disturbed upland pine flatwoods on that portion of the DRI.

An application for a gopher tortoise incidental take permit was submitted to the FWC on July 30, 2007. Additional information was submitted to the FWC on December 4, 2007. The FWC has completed their review of the project and will issue gopher tortoise incidental take permit number LEE-129 upon receipt of Lee County's Development Order approved on September 22, 2008.

The Three Oaks Regional Center site plan has been designed to provide an 8.0± acre gopher tortoise recipient area along the western property boundary. All gopher tortoise burrows located within the development footprint will be excavated and the resident gopher tortoises relocated into the 8.0± acre gopher tortoise recipient area. The submitted Lee County Indigenous Area Management Plan contains the gopher tortoise relocation plan.

2. Applicant Commitment

- (1) All lake bank slopes must be constructed with broad littoral zones not steeper than 6:1 to a depth of 4 feet below the dry season water table. These littoral areas must be planted with native vegetation (with a total cattail population of not more than 20 percent); if the survival rate of the native vegetation after one year is less than 80 percent, replanting will be required. These requirements apply also to the existing borrow pit just north of the wellfield.
- (2) The developer must prepare a proposal for a long-term exotic vegetation control program. The Lee County Department of Community Development must review this proposal, and either accept or reject the plan, with the basis of any rejection clearly stated. The developer or his successors are responsible for the implementation of this program for those portions of the subject property that have not been conveyed to their

final users. This proposal must be submitted with the developer's first biennial report.

- (3) The developer must coordinate construction of bird roosting areas within the southern lake system with the Florida Wildlife Commission (FWC) in order to ensure improved wildlife habitats.
- (4) The developer or his successor(s) must utilize a strong native landscaping program throughout the project, with an effort to save and/or create native upland habitat. This program must be submitted to the Lee County Department of Community Development. The Department must review this proposal, and either accept or reject the plan, with the basis of any rejection clearly stated. This plan must be submitted as part of the local development order process for each phase.

3. Remedial Actions

1. All stormwater lake bank slopes shall be constructed with broad littoral zones. These littoral areas shall be planted with native vegetation (with a total cattail population of not more than 20 percent); if the survival rate of the native vegetation after one year is less than 80 percent, replanting will be required.
2. Isolated wading bird "pools" shall be constructed to provide aquatic habitat for mosquito larvae predators, such as *Gambusia affinis*. And foraging areas for wading bird species, such as the wood stork, consistent with South Florida Water Management District ("SFWMD"), Florida Department of Environmental Protection ("FDEP"), and Lee County requirements.
3. The developer shall prepare a proposal for a long-term exotic vegetation control program. Lee County shall review this proposal, and either accept or reject the plan, with the basis of any rejection clearly stated. The developer or his successors shall be responsible for the implementation of this program for those portions of the subject property that have not been conveyed to their final users. The status of the long-term exotic vegetation control program shall be submitted with each developer's Bi-annual report.
4. The developer shall coordinate construction of bird roosting areas within the southern lake system with the Florida Fish and Wildlife Conservation Commission (FWC) in order to insure improved wildlife habitats.
5. The developer or his successor(s) shall utilize a strong native landscaping program throughout the project, with an effort to save and/or create native upland habitat. This program shall be submitted to and approved by the

Lee County. This plan shall be submitted as part of the local development order process.

6. The developer or his successor(s) shall provide a 7.8± acre gopher tortoise recipient area along the western property boundary. All gopher tortoise burrows located within the development footprint will be excavated and the resident gopher tortoises relocated into the 8.0± acre gopher tortoise recipient area. The submitted Lee County Indigenous Area Management Plan contains the gopher tortoise relocation plan. This plan shall be submitted as part of the local development order process for each phase.

4. References

1. Question 30, Alico Interchange Park Substantial Deviation Application

D. WATER, WATER SUPPLY, AND WASTEWATER MANAGEMENT

1. Project Impact

The Alico Interchange Park DRI is located within the service area of Lee County Utilities.

PHASE/ LAND USE	POTABLE WATER DEMAND (MGD)	NON-POTABLE WATER DEMAND (MGD)		TOTAL WATER DEMAND (MGD)
		IRRIGATION	OTHER	
Existing Office (750,000 SF)	0.113	0.121	0.00	0.234
Retail (146,000 SF)	0.015	0.025	0.00	0.040
Fire station	0.001	0.003	0.00	0.004
Proposed				
Office (450,000 SF)	0.068	0.000	0.00	0.068
Total	0.197	0.149	0.00	0.346

For potable water demand, the demand was estimated assuming a consumption of 15 gallons of water per day per 100 square feet of building area (450,000SF x 0.15 =67,500 GPD)¹. This demand is for the additional 450,000 SF of office uses only. Because the request to increase the development by 450,000 SF of office will occur by virtue of vertical expansion, there will be no increase in demand for non-potable water. However, a copy of the SFWMD Water Use Permit for the irrigation of the overall site was included in the review of the substantial deviation².

Best management practices will be implemented throughout the development of the site, and construction will be consistent with the terms and conditions of the SFWMD permits. In addition, the Three Oaks Regional Center project contained within the Alico Interchange Park DRI is committed to green development practices, including

water conservation.

The on-site water supply system will be operated and maintained by the developer or its successor property owners' association (if applicable).

Wastewater component: The existing level of service (LOS) of wastewater management for the project: is 200 gpd/ERC. The adopted LOS is 200 gpd/ERC, and the LOS after the project buildout will be 200 gpd/ERC.

The projected wastewater generation at the end of the single phase of development will be 0.0675 MGD³. All treatment will be off-site with Lee County Utilities. This project is for the addition of 450,000 SF of office uses to the already-permitted Alico Interchange Park DRI and will not have industrial related effluents. No septic tanks or package plants will be utilized in the project. All wastewater services will be provided by Lee County Utilities.

2. Applicant Commitments

- (1) The developer must install and maintain a dual piping system for those parts of the project outside the 100-day travel time contour, in order to provide properly treated wastewater effluent to meet irrigation requirements. Any such system should meet all relevant requirements and standards of the South Florida Water Management District, the Florida Department of Environmental Regulation, Lee County, and other pertinent agencies.
- (2) Within the 100-day travel time contour of the potable water wellfield, the following additional regulations apply:
 - (a) No spray irrigation, or other disposal method for sewage effluent may be conducted;
 - (b) Lakes may not be excavated closer than four (4) feet to the limestone portion of the aquifer, as determined by test borings submitted to the Division of Environmental Services at the time of final plan approval;
 - (c) If the limestone is encountered during excavation, it must be covered with four (4) feet of clean sand; and
 - (d) Bulk storage of fuels or pesticides, gasoline stations, and sewage effluent disposal ponds are not permitted.
- (3) Irrigation withdrawals from surface or ground water resources are only permitted for those parts of the project inside the 100-day travel time contour.

- (4) The use, generation, or storage of hazardous materials within the 210-day travel time contour of the wellfield is hereby prohibited in order to protect the potable water wellfield.
- (5) For those areas within the proposed project that are outside the 210-day travel time contour, any use, generation, or storage of hazardous materials should be preceded by the development and approval (by appropriate agencies) of containment features, as well as an emergency response plan in the event a spill occurs.
- (6) Any gasoline station must be located the maximum distance from the wellfield, and designed with an extra bentonite (or comparable) liner outside of the tank to prevent any potential contaminant from entering the aquifer. Monitoring wells must be constructed around such facilities to check the quality of the groundwater on a regular basis.

3. Remedial Actions

1) Water Conservation

- a) Low Flow Fixtures: Low volume plumbing fixtures will be installed in all new homes and businesses. The plumbing fixtures will comply with the following maximum flow volumes at 80 psi:
 - i) Toilets: 1.6 gallons per flush
 - ii) Shower heads: 2.5 gallons per minute
 - iii) Faucets: 2.0 gallons per minute
- b) Drought-Tolerant Landscaping: The use of native landscaping and the Florida Yards and Neighborhoods Program principles will be incorporated throughout the project site.
- c) Reuse Water: Irrigation water will utilize reclaimed water produced by the water reclamation facility. During times when irrigation demand exceeds reclaimed water supply, irrigation water will be derived from the on-site lake system. The lake system will be replenished with ground water derived from Floridan aquifer wells.

- 2) Leak Detection Program: Reports of water leaks will be directed to personnel during business hours. Site tours and routine maintenance personnel trips along water supply and distribution lines will also be conducted. On a monthly basis, customer metered usage will be compared to the master meter reading.

- 3) Irrigation System Design: Rain sensors and/or soil moisture sensors are required for irrigation systems within the project site in order to preclude irrigation during rainfall events. The project will install low flow irrigation systems for common areas.
- 4) Fertilization Program: Written fertilization guidelines will be developed that establish standards for all common area fertilization and guidelines for individual property owners. The guidelines will comply with SWFRPC Resolution 2007-1. The program will be based on the results of soil samples, water sources, drainage patterns, and the landscape planned. This program will be designed to provide sufficient nutrition to sustain density and vigor for the landscape plantings intended for the community that will enhance their resistance to disease, weeds, and insects. Education of residents and landscape maintenance contractors will be included in the program. The program standards will include an annual schedule for applications of controlled release and slow release fertilizers. The program will also identify appropriate buffer requirements for all areas on the site with respect to wetlands and all natural or created bodies of water.
- 5) The applicant will establish water, wastewater and reclaimed water services with Lee County Utilities for the Three Oaks Regional Center within the Alico Interchange Park DRI.
- 6) The lowest quality of water available and acceptable shall be utilized for all non-potable water uses.
- 7) All potable water facilities will be properly sized to supply average and peak day domestic demand, in addition to fire flow demand, at a flow rate approved by the County Fire Department.
- 8) The proposed water treatment and distribution and wastewater collection and treatment systems will be designed consistent with County standards. The project wastewater management system will comply with SWFRPC Resolution 2007-02.

4. References

1. Question 17, Alico Interchange Park Substantial Deviation Application
2. Question 13, Alico Interchange Park Substantial Deviation Application
3. Question 18, Alico Interchange Park Substantial Deviation Application

E. STORMWATER MANAGEMENT

1. Project Impact

The existing drainage pattern for this site follows a northeast to southwest direction throughout the majority of the site. The project site consists of previously cleared farmed lands, a small borrow area and forested areas.

Originally the majority of the site was vegetated with pine flatwoods and melaleuca. The original permit was issued prior to October 1995; therefore the site was not delineated under Chapter 62-340 FAC. There are no jurisdictional wetlands located within or affected by the proposed project.

The site was conceptually permitted in 1993 within the 345 acre Alico Interchange Park Residential/Commercial development (Permit No. 36-02476-SJApplication No. 920904-3). In 1995, a permit modification authorized Construction and Operation of the backbone surface water management system serving the entire 345-acre development discharging into Mullock Creek, and construction of 140.3 acres of The Lakes at Three Oaks residential tracts, which has been built (Permit No. 36-02476-S) (Application No. 940728-2). The remaining 240.7 acres was required to provide 9.77 acres of dry detention area only.

The applicant proposed the construction of a fire station building, and a multi-office building office park with internal roadways, parking, landscape areas and surface water management facilities. Four turn lanes along Three Oaks Parkway, three turn lanes along Winged Foot Drive and a turn lane along Alico Road are proposed to provide access to the site.

Stormwater runoff from the site is to be conveyed to interconnected dry detention areas via underground culverts and catch basins. The dry detention system will discharge through two control structures into the existing storm sewer along Winged Foot Drive, part of the master surface water management system.

The project will provide 7.4 acres of dry detention area, part of the required 9.77 acres for the remaining 240.7 acres of undeveloped areas. The proposed dry detention system will provide a total volume of 4.4ac-ft of water quality pretreatment.

The proposed development meets or exceeds the permitted original control elevation of 14.5 feet NGVD, the minimum road crown elevation at 17.5 feet NGVD and minimum finished floor elevation at 19.0 feet NGVD.

The project is in substantial compliance with the original permit. No adverse water quality or discharge impacts are anticipated as a result of the proposed project.

This phase of the project will have Building Coverage of 10.95 acres; Dry Detention Areas of 7.40 acres; Pavement of 49.97 acres; and Pervious 37.48 acres.

The proposed project will discharge through two control structures into the master surface water management system. No adverse discharge impacts are anticipated as a result of the proposed project. The dry detention system will provide the required 4.4 ac-ft of water quality pretreatment prior to discharging into the master surface water management system. The backbone system provides the remainder of water quality. An Urban Stormwater Management Program and Construction Pollution Prevention Plan specifications and guidelines are part of the required water quality. Construction and daily operation of the project shall be conducted in accordance with Special Conditions No. 13 and 14 of the ERP.

Erosion and sedimentation control devices will be utilized during the construction of the proposed activities pursuant to the approved construction plans. No adverse water quality impacts are anticipated as a result of the proposed project.

A Property Owner's Association will be responsible for the operation and maintenance of the drainage system after completion of the development.

2. Applicant Commitment

- (1) The applicant has not yet made any commitment regarding stormwater management other than compliance with the South Florida Water Management District's Environmental Resource Permit.

3. Remedial Actions

- 1) All internal stormwater management lakes and ditches, and any on-site preserved/enhanced wetland areas, shall be set aside as recorded drainage and/or conservation easements granted to the South Florida Water Management District. Stormwater lakes shall include, where practical, adequate maintenance easements around the lakes, with access to a paved roadway.
- 2) Any silt barriers and any anchor soil, as well as accumulated silt, shall be removed upon completion of construction. Either the Developer or the entities responsible for the specific construction activities requiring these measures shall assume responsibility for having them removed upon completion of construction.
- 3) Any shoreline banks created along the on-site stormwater management system shall include littoral zones constructed on slopes consistent with South Florida Water Management District ("SFWMD"), Florida Department of Environmental Protection ("FDEP"), and Lee County

requirements and shall be planted in native emergent or submergent aquatic vegetation. The Developer shall ensure, by supplemental replanting as necessary, that at least 80% cover by native aquatic vegetation is established within the littoral zone planting areas for the duration of the project.

- 4) The Developer shall conduct annual inspections in accordance with the conditions of the approved SFWMD Environmental Resource Permit (“ERP”), and any preserved/enhanced wetland areas on the project site so as to ensure that these areas are maintained in keeping with the final approved designs, and that the water management system is capable of accomplishing the level of stormwater storage and treatment for which it was intended.
- 5) The Developer shall undertake a regularly scheduled vacuum sweeping of all common streets and parking areas within the project. The Developer shall encourage any private parcel owners within the development to institute regularly scheduled vacuum sweeping of their respective streets and/or parking areas.
- 6) Design considerations will be given to ditch and swale slopes, where practical, so that these facilities may provide some additional water quality treatment prior to discharge. Treatment swales shall be planted with vegetation as reviewed and approved during the ERP approval process.
- 7) Any debris that may accumulate in project lakes, ditches or swales, or which may interfere with the normal flow of water through discharge structures and under drain systems, shall be cleaned from the detention/retention areas on a regular basis. Any erosion to banks shall be repaired.
- 8) Grease baffles shall be inspected and cleaned and/or repaired on a regular basis. In no instance shall the period between such inspections exceed eighteen months.
- 9) The master stormwater management system will be maintained by the Developer or legal assignee.

4. References

None

F. HISTORICAL AND ARCHAEOLOGICAL SITES1. Project Impact

Review of the initial application for development approval, submitted in 1985, required the determination and review of any significant historical and/or archaeological sites on the Alico Interchange Park project site. The Florida Department of State submitted a letter to the consultant for the applicant dated October 15, 1984¹. The letter states “a review of the information contained in the Florida Master Site File indicates that there are no archaeological or historic sites recorded within the project area”. The letter goes on to state “furthermore, because of the location of the project, it is considered highly unlikely that any significant, unrecorded sites exist in the vicinity”.

2. Applicant Commitment

- (1) The applicant has not yet made any commitment regarding historical and archeological sites.

3. Remedial Actions

- (1) If any archaeological/historical sites are discovered during the development activities, all work that might cause damage to such sites shall cease immediately, and the Developer shall contact the State Division of Historical Resources (“DHR”), SWFRPC, and Lee County so that a state-certified archaeologist can determine the significance of the findings and recommend appropriate preservation and mitigation actions, as necessary.

4. References

1. Question 30, last page of the Alico Interchange Park Substantial Deviation Application

G. TRANSPORTATION

1. Project Impact (Project Inventory and Impact Assessment)

Three Oaks Regional Center at Alico Interchange Park is an approved 105-acre development of regional impact within the larger approved Alico Interchange Park development of regional impact, located south of Alico Road west of I-75 in Lee County. This application (proposes adding 450,000 sq. ft. of commercial office space to the development through vertical expansion of nine of the 17 office buildings within the development. No change is requested to the build-out date for the project of April 20, 2011. **SWFRPC staff recommends support for the applicant's request providing the recommendations listed herein are incorporated into the development order.**

This impact assessment for the Alico Interchange Park Substantial Deviation was prepared by the Southwest Florida Regional Planning Council as required by Chapter 380, Florida Statutes. The DRI assessment is largely based on information supplied by the applicant in the ADA. Additional information was obtained by contacting local officials, state and regional agencies, consulting official plans, and by reviewing reports related to specific issues in the impact assessment. The ADA included a Transportation Analysis prepared by TR Transportation consultants, Inc., based on methodology discussions involving the applicant, Lee County, Florida Department of Transportation (FDOT) and the SWFRPC. Lee County, FDOT and SWFTPC staff reviewed the applicant's Transportation Analysis as amended through several sufficiency rounds.

The draft development order included in this agenda packet outlines the history of previous changes to the original development order for the Alico Interchange Park DRI. Previously in the DRI process, the Alico Interchange Park entered into a development agreement with Lee County and prepaid transportation mitigation obligations of \$10,484,427. The development agreement with Lee County and prepayment of transportation mitigation provided the applicant with concurrency vesting for development with the provision that the project may not exceed a maximum of 4,489 peak hour external trips without further DRI review and approvals.

A key function of the applicant's Transportation Analysis was to provide data and analysis in support of the applicant's contention that the Substantial Deviation proposed would not result in additional transportation impacts that had not been adequately mitigated, and that the additional development requested would not result in exceeding the maximum of 4,489 peak hour trips for the development. Although certain technical disagreements (related to trip generation) regarding the applicant's Transportation Analysis methodology were not resolved, the net result of the Analysis is unchallenged and the applicant is complimented on the thoroughness of their analysis. Lee County, FDOT and SWFRPC staff reviewers agree that the Transportation Analysis provided by the applicant sufficiently supports the conclusion that the proposed changes to the development order are not likely to result in significant regional impacts beyond those which are identified, and that the applicant is not subject to additional mitigation payments based on this application.

One issue, which remains to be addressed by Lee County, is finalizing revised development order language to clarify that full median openings and signalization will be determined administratively by Lee County. Current Lee County Department of Transportation plans will provide for a directional median opening (left turn-in, right-in, and right-out with no left-out) at the middle access point (Three Oaks Access #2) versus a full median opening currently specified in the development order. At the Winged Foot Drive intersection, a full access is permitted. Lee County's transportation review indicates that signalizing the Winged Foot Drive intersection, when warranted, coupled with the directional median opening at the middle access, will provide for the best traffic operations and will provide adequate ingress and egress to the project.

TRIP GENERATION

The applicant's Transportation Analysis evaluated project trip generation and the impact of the project on the level of service (LOS) on the surrounding roadway network. The Analysis estimated 4,700 total trip ends at project driveways, 3,478 external trip ends crossing or using public roadways, 3,010 net new external trip ends in the P.M. peak hour, and 34,517 new daily trips ends generated by the project.

From the applicant's Transportation analysis:

The last amendment to the DRI Development Order allows for the construction of up to approximately 1,446,000 square feet of office/retail uses, up to approximately 467 single-family dwelling units, up to approximately 333 multi-family dwelling units, and up to approximately 400 hotel rooms. To date, all of the single-family residential uses have been constructed and a portion of the multi-family housing is currently under construction. None of the office/retail or hotel uses have been constructed. The proposed Substantial Deviation would permit an additional 450,000 square feet of office uses to be constructed on the subject site for a total of 1,896,000 square feet of office/retail uses. **Table 1** indicates the permitted uses for the Alico Interchange Park DRI as currently approved and as currently proposed.

Table 1
Existing/Proposed Land Uses
Alico Interchange Park DRI

Land Use	Existing DRI	DRI as Proposed
Shopping Center (LUC 820)	696,000 sq. ft.	696,000 sq. ft.
General Office (LUC 710)	750,000 sq. ft.	1,200,000 sq. ft.
Single-Family Housing (LUC 210)	467 d.u.	467 d.u.
Multi-Family Housing (LUC 230)	333 d.u.	333 d.u.
Hotel (LUC 310)	400 rooms	400 rooms

The following trip generation table, revised as a result of two sufficiency rounds, is as follows.

**Trip Generation – Proposed Development
Alico Interchange Park DRI**

Land Use	Weekday P.M. Peak Hour		
	In	Out	Total
Single Family	265	156	421
Less Retail East Internal Capture	-82	-83	-165
Less Retail West Internal Capture	-50	-36	-86
Less Office Internal Capture	-5	-0	-5
Multi-Family	108	53	161
<i>Less Retail East Internal Capture</i>	<i>-33</i>	<i>-25</i>	<i>-58</i>
Less Retail West Internal Capture	-33	-28	-61
Less Office Internal Capture	-2	-0	-2
Hotel	125	111	236
<i>Less Retail East Internal Capture</i>	<i>-39</i>	<i>-59</i>	<i>-98</i>
Less Retail West Internal Capture	-39	-36	-75
Less Office Internal Capture	-3	-0	-3
Retail East	977	1,016	1,993
Less SF Internal Capture	-83	-82	-165
<i>Less MF Internal Capture</i>	<i>-25</i>	<i>-33</i>	<i>-58</i>
<i>Less Hotel Internal Capture</i>	<i>-59</i>	<i>-39</i>	<i>-98</i>
Less Retail West Internal Capture	-84	-80	-164
Less Office Internal Capture	-20	-30	-50
Retail West	402	418	820
Less SF Internal Capture	-36	-50	-86
Less MF Internal Capture	-28	-33	-61
Less Hotel Internal Capture	-36	-39	-75
Less Retail West Internal Capture	-80	-84	-164
<i>Less Office Internal Capture</i>	<i>-8</i>	<i>-13</i>	<i>-21</i>
Office	242	1,181	1,423
Less SF Internal Capture	0	-5	-5
Less MF Internal Capture	0	-2	-2
Less Hotel Internal Capture	0	-3	-3
Less Retail East Internal Capture	-30	-20	-50
<i>Less Retail West Internal Capture</i>	<i>-13</i>	<i>-8</i>	<i>-21</i>
Total Trips	2,119	2,935	5,054
<i>Less Internal Capture (WILL NOT use/cross public roadways)</i>	<i>-177</i>	<i>-177</i>	<i>-354</i>
Total Trips at Project Driveways	1,942	2,758	4,700
Less Internal Capture (WILL use/cross public roadways)	-611	-611	-1,222
Total External Trips	1,331	2,147	3,478
IC Equivalent Percentage	31.2%		
Less 25% Retail Pass-by	-230	-238	-468
New External Trips	1,101	1,909	3,010

The final intersection analysis, I-75 ramp analysis, and the final list of significant and adverse transportation impacts (extracted from the Transportation Analysis) are included below. The analysis clearly indicates that benefits accrue to this project from recent improvements to I-75, Alico Road, and planned improvements to the Metro Parkway Extension.:

Table 9 has been revised below to incorporate the S.R. 82 widening improvement as well as the updated analysis of the U.S. 41/Island Park Road, Alico Road/NB I-75, Alico Road/SB I-75, and Daniels Parkway/NB I-75 intersections.

Table 9
Intersection Analysis Results
Alico Interchange Park DRI

Intersection	LOS (Delay) for each Scenario						Improvements
	Background		Build-Out		Build-Out + Improvements		
	AM	PM	AM	PM	AM	PM	
U.S. 41 @ Alico Rd.	LOS D (50.7 sec)	LOS F (101.9 sec)	LOS E (64.0 sec)	LOS F (152 sec)	N/A	N/A	Metro Pkwy Extension
U.S. 41 @ Island Park Rd.	LOS E (74.5 sec)	LOS F (133.3 sec)	LOS F (97.0 sec)	LOS F (174.0 sec)	N/A	N/A	Metro Pkwy Extension
U.S. 41 @ Briarcliff Rd.	LOS F (172.4 sec)	LOS F (260.3 sec)	LOS F (195.6 sec)	LOS F (302.7 sec)	N/A	N/A	Metro Pkwy Extension
U.S. 41 @ Jamaica Bay Blvd.	LOS D (47.0 sec)	LOS F (99.4 sec)	LOS E (57.0 sec)	LOS F (127.8 sec)	N/A	N/A	Metro Pkwy Extension
U.S. 41 @ Six Mile Cypress Pkwy.	LOS F (235.2 sec)	LOS F (278.4 sec)	LOS F (254.0 sec)	LOS F (308.8 sec)	N/A	N/A	Metro Pkwy Extension & Overpass on U.S. 41
Alico Rd. @ SB I-75	LOS C (23.8 sec)	LOS C (25.3 sec)	LOS C (25.8 sec)	LOS C (27.5 sec)	N/A	N/A	None
Alico Rd. @ NB I-75	LOS C (25.9 sec)	LOS C (29.9 sec)	LOS C (26.2 sec)	LOS C (31.3 sec)	N/A	N/A	None
Daniels Pkwy @ SB I-75	LOS C (28.2 sec)	LOS D (43.1 sec)	LOS C (30.4 sec)	LOS D (53.6 sec)	LOS C (27.7 sec)	LOS C (34.5 sec)	Additional WB Left Turn Lane
Daniels Pkwy @ NB I-75	LOS C (21.5 sec)	LOS C (31.0 sec)	LOS C (22.2 sec)	LOS C (33.9 sec)	N/A	N/A	None
Colonial Blvd @ SB I-75	LOS F (206.3 sec)	LOS F (149.4 sec)	LOS F (283.6 sec)	LOS F (154.3 sec)	LOS B (19.4 sec)	LOS C (27.4 sec)	Additional E/W Through Lane & Free-Flow SB Right
Colonial Blvd @ NB I-75	LOS F (100.2 sec)	LOS F (132.1 sec)	LOS F (103.0 sec)	LOS F (132.2 sec)	LOS C (26.9 sec)	LOS C (33.1 sec)	Additional E/W Through Lane
S.R. 82 @ SB I-75	LOS C (21.3 sec)	LOS C (25.4 sec)	LOS C (21.8 sec)	LOS C (25.4 sec)	N/A	N/A	Additional E/W Through Lane
S.R. 82 @ NB I-75	LOS C (33.0 sec)	LOS C (26.7 sec)	LOS C (33.7 sec)	LOS C (27.6 sec)	N/A	N/A	Additional E/W Through Lane

**Table 11
Ramp Analysis Results
Alico Interchange Park DRI**

Intersection	LOS (Density in pc/mi/ln) for each Scenario						Improvements
	Background		Build-Out		Build-Out + Improvements		
	AM	PM	AM	PM	AM	PM	
Alico Rd. @ NB I-75 Merge	LOS A (9.8)	LOS B (12.2)	LOS B (11.3)	LOS B (18.5)	N/A	N/A	None
Alico Rd. @ SB I-75 Diverge	LOS B (17.6)	LOS B (16.0)	LOS B (19.9)	LOS B (18.1)	N/A	N/A	None
Daniels Pkwy @ NB I-75 Diverge	LOS C (27.7)	LOS D (30.7)	LOS D (28.5)	LOS D (33.8)	N/A	N/A	None
Daniels Pkwy @ SB I-75 Merge	LOS D (26.7)	LOS D (24.2)	LOS E (29.3)	LOS D (26.2)	N/A	N/A	None
Colonial Blvd. @ NB I-75 Diverge	LOS C (27.0)	LOS D (29.0)	LOS C (27.5)	LOS D (30.9)	N/A	N/A	None
S.R. 82 @ NB I-75 Diverge	LOS E (36.7)	LOS E (40.1)	LOS E (37.3)	LOS E (42.7)	LOS D (29.4)	LOS D (34.8)	Widen I-75 – Colonial Blvd. to S.R. 82

MODIFIED LIST OF SIGNIFICANT AND ADVERSE IMPACTS:

The following list indicates a comprehensive look at the infrastructure improvements as required to mitigate the traffic impacts of the DRI based upon the revised analysis, however, please note that improvements that were required by more than one form of analysis are only indicated below once:

Roadway Link Capacity Improvements

Roadway Link

Corkscrew Road from Three Oaks Parkway to I-75
I-75 from Colonial Boulevard to S.R. 82
U.S. 41 from Alico Rd to Six Mile Cypress Pkwy

Improvement Required

Widen to six-lanes
Widen to six-lanes
Metro Parkway Extension

Additional Intersection Improvements

Intersection

Alico Road at Oriole Road
Three Oaks Parkway at Corkscrew Road
Three Oaks Parkway at Pittsburgh Boulevard
Three Oaks Parkway at Winged Foot Drive

Improvement Required

Signalize
Dual NB right turn lanes
Signalize
Signalize
Add EB left turn lane
Add EB right turn lane
Add WB left turn lane
Signalize
Add EB left turn lane
Add WB left turn lane
Widen EB Approach to 2-lanes
Lengthen WB left from existing 305' to 375'
Lengthen SB left from existing 835' to 1,115'
Overpass on U.S. 41
Dual WB left turn lanes
Additional E/W Through Lane
Additional E/W Through Lane
Free-flow SB right turn movement
Lengthen EB left from existing 473' to 775'

Three Oaks Parkway at Three Oaks Access #2

U.S. 41 at Alico Road

U.S. 41 at Six Mile Cypress Parkway
Daniels Parkway at SB I-75 Ramp
Colonial Boulevard at NB I-75 Ramp
Colonial Boulevard at SB I-75 Ramp

S.R. 82 at NB I-75 Ramp

Additional Interstate Ramp Improvements

None

COMMITTED IMPROVEMENTS

Lee County's staff review of the applicant's Transportation Analysis confirmed the following improvements: Colonial Boulevard six-laning is under construction from I-75 to State Road 82; Estero Parkway extension is under construction from Three Oaks Parkway to Ben Hill Griffin Parkway and is scheduled for construction this year; Metro Parkway extension from Ben Pratt/Six Mile Cypress Parkway is under construction by FDOT with economic stimulus funds; U.S. 41 six-laning is funded for construction in the FDOT Five Year Work Program in Fiscal Year 2010/11. Three Oaks Parkway four-laning is completed from Bonita Springs to Alico Road; and I-75 six-laning is under construction by FDOT with completion expected in 2010.

2. Remedial Actions

It is recommended that:

- 1) The condition that the project may not exceed a maximum of 4,489 peak hour external trips without further DRI review and approvals be retained and included in the development order;
- 2) The project build-out date the build out date of April 20, 2011, and the development order termination date of April 20, 2013 be clearly specified in the development order;
- 3) Development Order condition D3(c) listed under Transportation be modified to language acceptable to Lee County, retaining provisions for the middle access on Three Oaks Parkway while eliminating reference to a full median opening which will accommodate all turning movements;
- 4) All other transportation-related conditions in the current development order will be included in the new development order and remain in effect, including monitoring requirements, reporting requirements, and requirements to provide multi-modal transportation mobility options within the project and connecting to off-site bicycle, pedestrian and transit networks.

3. Applicant Commitments

As noted, in conjunction with the third change to the original development order, the Alico Interchange Park DRI prepaid transportation mitigation obligations of \$10,484, 427 to Lee County, consistent with a development agreement with Lee County that included concurrency vesting.

The Transportation Analysis took into account committed improvements to Colonial Boulevard, Estero Parkway, Metro Parkway, Three Oaks Parkway, U.S. 41 and I-75. The analysis identified significant impacts to portions of Alico Road, Ben Hill Griffin Parkway, Corkscrew Road, Cypress Drive, Daniels Parkway, I-75, Lee Road, Oriole Road, Three Oaks Parkway, U.S. 41 and Winged Foot Drive. The applicant's

Transportation Analysis recommended improvements including six-laning of Corkscrew Road from Three Oaks parkway to I-75, six-laning of I-75 from Colonial Boulevard to State Road 82, and the extension of Metro Parkway. Intersection improvements were identified for project entrances, Alico Road at Oriole Road, Three Oaks Parkway at Corkscrew Road, Three Oaks Parkway at Pittsburgh Boulevard, Three Oaks Parkway at Winged Foot Drive, U.S. 41 at Alico Road, U.S. 41 at Ben Pratt/Six Mile Cypress Parkway, Daniels Parkway at the I-75 Southbound ramp, and Colonial Boulevard at I-75 Northbound and Southbound ramps.

Lee County staff analyzed the applicant's project proportionate share of regional impacts to be approximately \$10,100,000, which is less than the previously paid DRI mitigation. Thus no further mitigation is required based on this application. The applicant will continue to be responsible the full cost of all site-related improvements as required in the development order.

4. References

Alico Interchange Park Development of Regional Impact, Substantial Deviation Application for Development Approval (ADA), November 14, 2008

Transportation Analysis for the Substantial Deviation, Alico Interchange Park Development of Regional Impact (Project No. F0806.08), prepared by TR Transportation Consultants, November 12, 2008

Sufficiency Responses, Correspondence and e-mails from Lee County, FDOT, Morris-Depew and TR Transportation Consultants

Records, previous assessments, and previous Development Orders for the Alico Interchange Park Development of Regional Impact

Trip Generation, 8th Edition, Institute of Transportation Engineers

Florida Department of Transportation Adopted Five Year Work Program, Fiscal Years 2009-2013

H. CONSISTENCY WITH THE LOCAL COMPREHENSIVE PLAN

1. Project Impact

When the Alico Interchange Park DRI was originally approved, the project was found to be consistent with the Goals, Objectives and Policies of the Lee Plan. The approval of the additional 450,000 square feet of office uses requested by this application is still consistent with those goals, objectives and policies, particularly Goal 2, Growth Management which promotes compact growth patterns to contain urban sprawl, minimize energy costs and to direct growth to urban areas where adequate public facilities exist.

2. Applicant Commitment

(1) The applicant has committed to sidewalks, transits stops, evaluation of vegetative shading for structures and pedestrians and Low Impact Development design measures and the pursuit of the United States Green Building Council's Leadership in Energy and Environmental Design (LEED) certification for buildings within the Development of Regional Impact¹.

3. Remedial Actions

None due to the applicant's commitments above.

4. References

1. The Alico Interchange Park Substantial Deviation Application and subsequent sufficiency responses.

I. CONSISTENCY WITH THE STRATEGIC REGIONAL POLICY PLAN

Staff has described regional impacts within the previous section of this report. Staff has then related those impacts to the regional plan DRI review list and has prepared the following plan consistency checklist. Staff finds that without appropriate mitigation actions and conditions the project will have a net negative impact on the regional resources and infrastructure. The regional recommendations presented within this assessment are intended to neutralize the negative and questionable impacts.

**DRI REVIEW LIST
SWFRPC ISSUES AND GOALS**

Regional Issues and Goals

1. Affordable Housing

		YES	NO	SEE COMMENTS
Goal 1	Supply a variety of housing types in various price ranges to ensure that all residents have access to decent and affordable housing.	X		2
Goal 2	Southwest Florida will develop (or redevelop) communities that are livable and offer residents a wide range of housing and employment opportunities.	X		2
Goal 3	The housing needs of persons with special needs will be met.			4
Goal 4	Communities and non-profit organizations will work together to identify and address the population's human service needs.	X		2
Goal 5	Communities and local non-profit organizations will cooperate when possible to reduce duplication of services and improve cost efficiency.	X		2

Further SRPP*

2. Economic Development

Goal 1	A well-maintained social, health, and educational infrastructure to support business and industry.	X		4
Goal 2	A well-educated, well-trained work force.	X		4
Goal 3	Stable regional economy based on a continuing excellent quality of life.	X		1
Goal 4	A diverse regional economy.	X		1
Goal 5	Increased tourism and business relocation.			4
Goal 6	A system of cooperation and coordination for economic development that includes a broad range of public and private participants.	X		2

Further SRPP*

3. Emergency Preparedness

		YES	NO	SEE COMMENTS
Goal 1	The general public and its governmental agencies become aware of the extent of flooding that can be induced from the Gulf of Mexico and Lake Okeechobee by a tropical storm or hurricane.			4
Goal 2	An organized recovery response to the effects of freezes, droughts, or floods on food and fiber production			4
Goal 3	Safe evacuation or protection for the most threatened populations.			4
Goal 4	Ensure that emergency management programs have the logistical support for successful evacuation, sheltering, and post storm relief and recovery.			4
Goal 5	Be prepared to respond to accidental spills of hazardous materials or severely improper disposal of hazardous wastes.	X		5
Goal 6	New private and public developments are built further from flood prone areas than in the past and structures and roadways are protected from rain induced flooding.	X		4
Goal 7	Designated shelters safe from flooding, and containing enough capacity to meet existing estimates of need.			4
Goal 8	Plan for and accommodate the segments of the population with special evacuation needs.			4
Goal 9	Public buildings designed to serve as short term shelters.			4
Goal 10	Regional medical centers capable of operating through a natural disaster.			4
Goal 11	A Region prepared for potential fuel shortages or prolonged electrical outages.			4
Goal 12	Fire, ambulance, and police services provide satisfactory service and responses times, not withstanding the pressures of growth.	X		5
Goal 13	Evacuation routes identified and clearly designated, and at the capacity and quality needed to carry the expected number of evacuating vehicles.			4
Goal 14	Regional news media fully aware of and prepared for their critical role in helping the public respond to emergencies.			4

Further SRPP*

4. Natural Resources

Goal 1	The Region's environmental awareness educational programs will be modernized and directed to all citizens of the region.			4
Goal 2	The diversity and extent of the Region's protected natural systems will increase consistently beyond that existing in 2001.	X		4
Goal 3	Water Management Districts and local governments must have programs based on scientific modeling to protect surface water, potable water wells, wellfields and contributing areas from contamination.	X		5
Goal 4	Livable communities designed to improve quality of life and provide for the sustainability of our natural resources.	X		2
Goal 5	Effective resource management is maintained across the borders of sovereign public agencies.	X		2

Further SRPP*

5. Regional Transportation

		YES	NO	SEE COMMENTS
Goal 1	Construct an interconnected multimodal transportation system that supports community goals, increases mobility and enhances Southwest Florida's economic competitiveness.	X		5
Goal 2	Livable communities designed to affect behavior, improve quality of life and responsive to community needs.	X		2
Goal 3	Achieve a competitive and diversified regional economy through improved work force development, enhanced access to technology and education, and investment in multi-modal transportation facilities.	X		5
Goal 4	A regional transportation system that provides Southwest Florida citizens and visitors with safe, timely and efficient access to services, jobs, markets and attractions.	X		5
Goal 5	Develop a cost-effective and financially feasible transportation system that adequately maintains all elements of the transportation system to better preserve and manage the Region's urban and non-urban investment.	X		5

Further SRPP*

X The proposed project would likely further the SRPP if implementation of the project would produce progress toward achievement of the regional goal.

General Comments

1. The proposed project would likely have a positive effect on the SRPP if the regional conditions outlined in this report are implemented.
2. The proposed project would likely have a neutral effect on the SRPP if the regional conditions outlined in this report are implemented.
3. Less than regionally significant, see local issues section of report.
4. Not applicable for this project or project type.
5. Previous addressed in the original development order

APPENDIX II

DRAFT DEVELOPMENT ORDER

FIFTH AMENDED DEVELOPMENT ORDER¹

FOR

ALICO INTERCHANGE PARK

A DEVELOPMENT OF REGIONAL IMPACT

#4-8485-54

Let it be known, that pursuant to Florida Statutes § 380.06, the Board of County Commissioners of Lee County, Florida, has heard at a public hearing first convened on March 17, 1986, the application for development approval for Alico Interchange Park, a residential/commercial development on approximately 345 acres to be developed in accordance with the application filed for development on April 11, 1985 by Paul H. Freeman, authorized representative for Alico Interchange Park.

WHEREAS, the original Alico Interchange Park DRI Development Order was approved on November 10, 1986; and

WHEREAS, the Alico Interchange Park DRI Development Order was subsequently amended on February 17, 1992 to reduce the total number of dwelling units from 1,124 to 992; reduce motel acreage from 19 to 11 acres; increase mixed commercial square footage from 720,000 to 965,000 for the regional mall, but decrease other retail area so as to maintain overall commercial retail at 1,155,000 square feet; transfer a 15-acre park site and 10-acre school site to Villages of San Carlos DRI; realign Winged Foot Drive extension; establish procedures for impact fee credits; and extend buildout of all phases and final completion by three years less one day starting May 6, 1987 (the effective date of the original DRI DO); and

WHEREAS, on July 16, 1998 the developer submitted a Notice of Proposed Change to amend the Alico Interchange Park DRI Development Order a second time to comply with Conditions II.D and II.E.1 pertaining to traffic impacts attributable to development of the 990,000 square foot regional mall; and

WHEREAS, the Alico Interchange Park Development Order was subsequently amended on August 21, 2000 to amend the mix of uses to consist of the following: a total of 800 dwelling units; 400 hotel rooms; 326,000 square feet of office and professional non-retail commercial; and 1,120,000 square feet of retail commercial (130,000 square feet of

¹This document represents a compilation of the original DRI Development Order dated November 10, 1986, the First Development Order Amendment dated February 17, 1992, the Second Development Order Amendment dated August 21, 2000, the Third Development Order Amendment dated November 15, 2005, and the Fourth Development Order Amendment dated May 5, 2008, and shows the changes proposed by this Notice of Proposed Change, with additions underlined and deletions struck through.

retail and service and 990,000 square feet for a regional mall) for a total of 1,446,000 square feet of commercial development;

WHEREAS, on September 8, 2005 the Developer submitted a Notice of Proposed Change to amend the Alico Interchange Park DRI Development Order a third time to extend the build out date to April 20, 2011, eliminate reference to a regional mall land use, and amend the development order text and Map H to conform to administrative zoning changes approved by Lee County; and provide for a maximum of 1,446,000 square feet of combined total office/retail square footage (which includes up to 750,000 square feet planned for corporate headquarters/office use) provided the retail square footage does not exceed a maximum of 1,120,000 square feet; 400 hotel rooms; and 800 residential dwelling units (5.0 dwelling units per gross residential acre). Maximum building height is 95 feet; and

WHEREAS, the Alico Interchange Park DRI Development Order was subsequently amended on November 15, 2005 as follows: extend the build out date to April 20, 2011, delineate a termination date of April 20, 2013, eliminate reference to a regional mall land uses, amend this development order text and Map H to conform to administrative zoning changes approved by Lee County, provide for a maximum of 1,446,000 square feet of combined total office/retail square footage (which includes up to 750,000 square feet planned for corporate headquarters office use) provided the retail square footage does not exceed a maximum of 1,120,000 square feet, 400 hotel rooms, 800 residential dwelling units (5.0 dwelling units per gross residential acre) and a maximum building height of 95 feet; and

WHEREAS, on February 8, 2008, the Developer submitted a Petition to amend the Interchange Park DRI Development Order by revising the Master Development Plan (Map H) to reflect the addition of a driveway connection to Winged Foot Drive; and,

WHEREAS, on May 5, 2008 Alico Interchange Park DRI Development Order was subsequently amended to reflect the addition of a driveway connection to Winged Foot Drive by revising the Master Development Plan (Map H); and,

WHEREAS, on January 24, 2008, the Developer submitted a Notice of Proposed Change to amend the Alico Interchange Park DRI Development Order a fifth time to add 450,000 square feet of office use in the parcel located in the Northwest corner of the project and labeled as _____ on Map H for a total commercial square footage in the overall DRI (including office and retail uses) of 1,896,000 square feet, provided the retail square footage does not exceed a maximum of 696,000 square feet, 400 hotel rooms, 800 residential dwelling units (5.0 dwelling units per gross residential acre) and a maximum building height of 95 feet; and

WHEREAS, in accordance with Florida Statutes 380.06(19)(e)2, the proposed change to the Alico Interchange Park DRI Development Order constitutes a substantial deviation and, therefore, is subject to the requirements of ' 380.06(19)(e)(3) or (e)(5); and

11/20/08 8:43 AM

WHEREAS, the Board desires to adopt a codified Development Order to consolidate all of the past actions taken in regards to this approved development; and

NOW, THEREFORE, IT IS RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS of Lee County, Florida, that the development order for Alico Interchange Park DRI is further amended as set forth below:

NOTE: *New language is underlined and deleted language is struck through.*

I. FINDINGS OF FACT/CONCLUSIONS OF LAW

A. The applicant originally proposed to develop a mixed use project with 1,498 residential dwelling units (including 200 congregate living units), a 20-acre motel/tourist district, a 60-acre regional mall, 8 acres for general commercial purposes, 41 acres for office space, 30 acres for general retail and services, and 17 acres for public use, on approximately 345 acres.

The mixed use DRI project as originally approved in 1986 consisted of a total of 1,124 dwelling units (481 single-family, 643 multiple-family); 400 hotel units; 326,000 square feet of office and professional non-retail commercial; and a total of 1,155,000 square feet of retail commercial (250,000 square feet retail service; 720,000 square feet regional mall; 185,000 square feet miscellaneous retail associated with mall).

In 1992, the Alico Interchange Park DRI was amended to approve a mixed use project consisting of a total of 992 dwelling units (467 single family, 525 multiple-family); 400 hotel rooms; 326,000 square feet of office and professional non-retail commercial; and a total of 1,155,000 square feet of retail commercial (165,000 retail and service; 965,000 square feet regional mall and 25,000 square feet miscellaneous retail associated with mall).

In 2000, the Alico Interchange Park was amended to approve the mix of uses approved as part of the Alico Interchange DRI to consist of the following: a total of 800 dwelling units (467 single family, 333 multiple-family); 400 hotel rooms; 326,000 square feet of office and professional non-retail commercial; and a total of 1,120,000 square feet of retail commercial (130,000 square feet of retail and service; and 990,000 square feet regional mall).

Adoption of the third DRI Development Order amendment extended the build out date to April 20, 2011, eliminated reference to the regional mall land use, and amended Map H to conform to administrative zoning changes approved by Lee County in October 2005 that provided for a maximum of 1,446,000 square feet of combined total office/retail square footage (includes up to 750,000 square feet planned for corporate headquarters/office use), provided the retail square footage does not exceed a maximum

11/20/08 8:43 AM

of 1,120,000 square feet; 400 hotel rooms; and 800 residential dwelling units (5.0 dwelling units per gross residential acre). Maximum building height is 95 feet. (See ADD2005-00180). These development parameters are reflected on the phasing schedule and Map H, attached as Exhibits A and B. Notwithstanding the foregoing, the project may not exceed a maximum of 4,489 peak hour external trips without further DRI review and approvals.

Adoption of the Fourth DRI Development Order amendment revised the Master Development Plan (Map H) to include an additional driveway connection to Winged Foot Drive.

Adoption of the Fifth DRI Development Order amendment adds a total of 450,000 square feet of office use to for a maximum of 1,896,000 square feet of combined total office/retail square footage , provided that the retail square footage does not exceed a maximum of 696,000 square feet, 400 hotel rooms, 800 residential dwelling units (5.0 dwelling units per gross residential acre) and a maximum building height of 95 feet.

B. The legal description of the entire Alico Interchange Park DRI property is attached as Exhibit C.

C. The property is currently zoned Residential Planned Development and Commercial Planned Development. Zoning resolution Z 91-082 and ADD2005-00180 contains additional details and restrictions on Alico Interchange Park, and also provides for certain deviations from the Lee County property development regulations; and COMMENT:SHOULD ADD2008-00007 BE INCLUDED HERE AS WELL?

D. The Application for Development Approval is consistent with the requirements of ' 380.06, Florida Statutes; and

E. The proposed development is not in an area designated as an Area of Critical State Concern pursuant to the provisions of ' 380.05, Florida Statutes; and

F. The development does not unreasonably interfere with the achievement of the objectives of the State Land Development Plan; and

G. The proposed development has been reviewed by the Southwest Florida Regional Planning Council and is the subject of the report and recommendations adopted by that body on November 21, 1985, and subsequently forwarded to Lee County pursuant to the provisions of ' 380.06, Florida Statutes, and the proposed development, as modified by this Development Order is consistent with the report and recommendations of the Southwest Florida Regional Planning Council; and

H. The proposed conditions below meet the criteria found in ' 380.06(15)(d), and (e), Florida Statutes; and

I. The proposed development, as modified by the conditions stated herein, is consistent with the Lee County Comprehensive Plan; and

J. This third COMMENT: THIS IS THE FIFTH AMENDMENT amendment to the DRI Development Order includes conditions necessary to mitigate the traffic impacts associated with the entire DRI, with a build out date of 2011. Impacts associated with further extensions of the buildout date may require review of traffic impacts, as noted in Condition D.7, and subject to the Developer Agreement referred to therein.

II. ACTION ON REQUEST AND CONDITIONS OF APPROVAL

NOW, THEREFORE, be it ordained by the Board of County Commissioners of Lee County, Florida, in a public meeting duly advertised, constituted and assembled on _____, that the requested amendments to the Alico Interchange Park Development of Regional Impact are hereby APPROVED, subject to the following conditions, restrictions, and limitations:

A. DRAINAGE/WATER QUALITY

1. The surface water management system for the Alico Interchange Park must implement the design standards and water quality "best management practices" outlined in the Application for Development Approval (A.D.A.) (in particular, the response to Question 22, Drainage), and all supplemental information presented in response to sufficiency questions. These design standards and practices include, but are not limited to, the following:

- (a) The existing borrow pit will be physically separated from the surface water management system, due to its proximity to the potable water wellfield;
- (b) One-half inch of dry retention pre-treatment will be required prior to sheet flow discharge into the lake system (10.5 +/- acres of land were proposed for this purpose in the A.D.A.);
- (c) The use of gently-sloped grassed swales to channel run-off on long travel paths through the swale network to increase filtering/recharge, and to cause removal of turbidity, petroleum residue, and nutrients;
- (d) The use of berms along the lake banks to preclude the direct flow of polluted run-off directly into the lake; and
- (e) The use of a baffled outfall structure to limit the discharge rate and facilitate the entry of water from the central portion of the pond water column.

2. The developer and his successor(s) must implement and maintain an on-going monitoring and maintenance program that regularly inspects, maintains, and samples the stormwater drainage system, including lake and wetlands monitoring, during and after the development of Alico Interchange Park. The developer will establish the legal entity that will carry out this program after tracts and/or units are sold; the documents creating such entity must be approved by the Lee County Attorney's Office and the South Florida Water Management District prior to the implementation of the monitoring program. The program must be designed in consultation with the staffs of the Southwest Florida Regional Planning Council, the South Florida Water Management District, and Lee County. Final approval of the program rests with the Lee County Department of Community Development. The purpose of this program is to ensure that the stormwater drainage system functions in every aspect as planned. Should the monitoring program indicate that the system is not functioning as planned, or not constructed in accordance with all approved plans, permits, and county requirements, or is not meeting water quality standards of the applicable agencies, further development approvals will not be granted until the developer has completed corrective measures as specified by Lee County.

3. The developer must prepare a proposal to construct littoral shelves in the large lake system shown on the Master Concept Plan, in addition to the 6:1 side slopes, to offset the exceptionally large size of this lake. The Lee County Department of Community Development will review this proposal, and either accept or reject the plans, with the basis of any rejection clearly stated. The developer is responsible for the construction and planting of these shelves during the construction of the surface water management system.

4. The developer must implement a parking lot and street vacuum-sweeping program for all commercial areas of the project, on at least a twice-weekly basis.

5. Restrictive covenants must be prepared by the developer (subject to the approval of the Lee County Attorney's Office) that prohibit the use, generation, or storage of hazardous materials within the cone of influence for the Gulf Utility Company wellfield, as specified by the South Florida Water Management District at the time of permitting of the surface water management system, and require the use of appropriate containment features to ensure the separation of possible hazardous materials handling areas from the surface water management system as well as the development of an emergency response plan in the event a spill occurs. See also Conditions M.4 and M.5 below. COMMENT: IS THIS REFERENCE TO CONDITIONS M.4 AND M.5 ACCURATE?

6. The developer must coordinate with Lee County and the Florida Department of Protection (DEP) for the provision of temporary transfer/storage facilities to accommodate all special and hazardous wastes, as classified by DEP, that are generated by the development. This facility should not be located on-site due to the potential risk of groundwater contamination to the Gulf Utility Company wellfield along the southeastern boundary of the Alico Interchange Park site.

B. ENERGY

All site plans or architectural programs must incorporate, as a minimum, the following conservation features into all site plans and architectural programs, or the property owner/developer must ensure that the following features are implemented through deed restrictions or covenants with successors in title. All applications for site plan approvals and building permits must be accompanied by a document detailing proposed compliance with these conditions. If deed restrictions or covenants are utilized to ensure compliance, such documents must be approved by the Lee County Attorney's Office prior to recording. If no deed restrictions are approved and recorded, the prior alternative must be utilized and the following features must be included.

These features are:

1. The provision of a bicycle/pedestrian system connecting all land uses, to be placed along arterial and collector roads within the project, and also along Alico Road west of Three Oaks Parkway (Corlico Parkway). This system is to be constructed in accordance with Lee County standards, and include walking/jogging paths and the extension of the bicycle/pedestrian system along all public streets within the development;
2. The provision of bicycle racks or storage facilities in recreational, commercial and multi-family residential areas;
3. The location of bus stops, shelters, and other passenger and system accommodations for a transit system to serve the project area, to specifications of the appropriate Lee County agencies;
4. The use of energy-efficient features in window design (e.g., tinting and exterior shading), and use of operable windows and ceiling fans in residential units;
5. The installation of energy-efficient appliances and equipment;
6. The prohibition of deed restrictions or covenants that would prevent or unnecessarily hamper energy conservation efforts (e.g., building orientation, clotheslines, and solar water heating systems);
7. The minimum necessary coverage by asphalt, concrete, rock, and similar substances in streets, parking lots, and other areas to reduce local air temperatures and reflected light and heat, as determined by the Lee County Department of Community Development;
8. The installation of energy-efficient lighting for streets, parking areas, and other interior and exterior public areas;
9. The installation of water closets with a maximum flush of 3.5 gallons and shower heads and faucets with a maximum flow rate of 3.0 gallons per minute (at 60

pounds of pressure per square inch) as specified in the Water Conservation Act, ' 553.14, Florida Statutes.

10. The selection, installation and maintenance of native plants, trees, and other vegetative and landscape design features that can be shown to reduce requirements for water, fertilizer, maintenance, and other needs, compared to non-native exotic plant species;

11. The planting of native shade trees for each residential unit, and to provide shade for all streets, parking areas, and recreation areas;

12. The placement of trees to provide shade in the warmer months while not overly reducing the benefits of sunlight in the cooler months;

13. The orientation of structures, to reduce solar heat gain by walls and to utilize the natural cooling effects of the wind;

14. The provision for structural shading (e.g., trellises, awnings, and roof overhangs) wherever practical when natural shading cannot be used effectively;

15. The inclusion of porch/patio areas in residential units whenever possible; and

16. The establishment of an architectural review committee and consideration by the project architectural review committee(s) of energy conservation measures (both those noted here and others) to assist builders and tenants in their efforts to achieve greater energy efficiency in the development and compliance with Conditions B.1 through B.15.

C. FLOOD PLAIN/HURRICANE EVACUATION

1. The developer must establish a homeowner=s association to provide a program of education and information to the residents. This program will include the risks of environmental hazards, actions to be taken in the event of an evacuation, and actions necessary to mitigate the dangers posed by environmental hazards such as hurricanes.

2. The developer must establish a hotel/motel emergency management program to educate and inform the clientele. This program will include the subject matter described in Condition C.1 above.

3. The developer must contact the Lee County Disaster Preparedness Director to discuss the designation and use of certain non-residential areas as an alternative public emergency shelter.

4. All finished floor levels within the development must be at a minimum elevation of 17 feet NGVD.

D. TRANSPORTATION

1. The traffic impact assessment upon which this Development Order for Alico Interchange Park is based, assumes a maximum generation of 4,489 peak hour external trips at build out.

2. A biennial monitoring program to be performed by traffic engineers engaged by the developer must be established to monitor the development's impact upon the area's roadways. The monitoring program must be designed in cooperation with the Lee County Department of Transportation and Engineering, which will determine specific information needed, frequency of information gathered, critical roadway points, and any other necessary information. At minimum, the Biennial Monitoring Report must contain:

(a) average daily and PM peak-hour traffic counts with turning movements at the following intersections:

- (1) All project access points onto Alico Road, Three Oaks Parkway (Corlico Parkway) and Winged Foot Drive (Ohio Boulevard);
- (2) Three Oaks Parkway (Corlico Parkway) at Alico Road and Winged Foot Drive (Ohio Boulevard);
- (3) Oriole Road at Alico Road, Winged Foot Drive (Ohio Boulevard) and Pittsburgh Boulevard;
- (4) U.S. 41 at Alico Road;
- (5) U.S. 41 at Gladiolus Drive/Six Mile Parkway;
- (6) U.S. 41 at Corkscrew Road;
- (7) Alico Road at all I-75 ramps; and
- (8) Daniels Parkway at all I-75 ramps.
- (9) U.S. 41 and San Carlos Boulevard

(b) a level of service analysis on the following significantly impacted road segments:

- (1) Alico Road - from US 41 to Ben Hill Griffin Parkway
- (2) Ben Hill Griffin Parkway - from FGCU entrance to Alico Road
- (3) Corkscrew Road - from U.S. 41 to Three Oaks Parkway

- (4) Daniels Parkway - from Metro Parkway to Fiddlesticks Boulevard
- (5) Daniels Parkway - from Chamberlin Parkway to Gateway Boulevard
- (6) Daniels Parkway - from Chamberlin Parkway to SR 82
- (7) Gunnery Road - from SR 82 to SW 23rd Avenue
- (8) Lee Road - from San Carlos Boulevard to Pittsburgh Boulevard
- (9) Lee Road - from San Carlos Boulevard to Alico Road
- (10) Oriole Road - from North Cypress Drive to Alico Road
- (11) Oriole Road - from San Carlos Boulevard to Alico Road
- (12) Pittsburgh Boulevard - from Lee Road to Three Oaks Parkway
- (13) San Carlos Boulevard - from Corkscrew Road to Daniels Parkway
- (14) San Carlos Boulevard - from U.S. 41 to Lee Road
- (15) Three Oaks Parkway - from Corkscrew Road to Daniels Parkway
- (16) Treeline Avenue - from Alico Road to Daniels Parkway
- (17) Treeline Avenue - from Alico Road to SWFIA west entrance
- (18) U.S. 41 - from Alico Road to Ben C. Pratt/Six Mile Cypress Parkway
- (19) U.S. 41 - from Old 41 to Corkscrew Road
- (20) Winged Foot Drive - from Oriole Road to Three Oaks Parkway
- (21) I-75 from Alico to Daniels Parkway

The developer or his representative must submit the first monitoring report to the Lee County Engineer, the Southwest Florida Regional Planning Council and the Florida Department of Transportation one year after the issuance of the first certificate of occupancy for Alico Interchange Park DRI. Reports will then be submitted to the agencies listed above each year until buildout of Alico Interchange Park DRI. Actual buildout will

occur when the developer has constructed the maximum number of dwelling units and commercial area permitted by the Development Order. Declared buildout would occur if the developer formally declared in writing to the County Administrator that no more units or commercial area will be constructed despite the fact that less than the permissible maximum had been built to date. The purpose of this program is to (a) determine whether or not the traffic levels projected in the Traffic Impact Statement for Alico Interchange Park are exceeded by actual traffic; and (b) assist Lee County in determining the proper timing of necessary roadway improvements.

3. During each phase of development, the developer must construct, at no cost to Lee County, all improvements deemed necessary by the Lee County Engineer at the project's access points onto Alico Road, Three Oaks Parkway (Corlico Parkway), and Winged Foot Drive (Ohio Boulevard), including those necessary to accommodate the specific access configurations listed below.

The developer must also construct, at no cost to Lee County, all improvements deemed necessary by the Lee County Engineer to interconnect DRI internal roads with Oriole Road, Winged Foot Drive (Ohio Boulevard), and Pittsburgh Boulevard.

The developer's obligation for these improvements must include the full costs of design/engineering, utility relocation, right-of-way acquisition, construction of turn lanes, acceleration and deceleration lanes, construction inspection, contract administration, testing, and signalization (as needed). If the developer is not able to acquire the necessary right-of-way, he may enter into an agreement with Lee County to reimburse all costs incurred by Lee County in a condemnation action necessary to acquire this land. The alignment, design, signalization and construction schedule for these improvements must be approved by the Lee County Engineer.

In order to maintain efficient traffic operation in the I-75/Alico Road interchange area, no direct access to Alico Road will be allowed between the I-75 interchange and Three Oaks Parkway (Corlico Parkway).

Unless additional access is approved by the Director of Lee County Department of Transportation, access from the project shown on Map H to Alico Road and Three Oaks Parkway is approved and will be permitted as follows:

- (a) The access to the site to and from Alico Road will include a median opening that will accommodate all turning movements, and signalization if warranted. If the Traffic Impact Statement (TIS) submitted for the local development order demonstrates that a signal is warranted, then the signal will be built as part of the access construction.
- (b) The north and south accesses from Three Oaks Parkway to and from the commercial site west of Three Oaks Parkway and the commercial

property east of Three Oaks Parkway will be right-in/right-out accesses only.

- (c) The middle access from Three Oaks Parkway to and from the commercial site west of Three Oaks Parkway and the commercial property to the east of Three Oaks Parkway will be a full median opening that will accommodate all turning movements and signalization, if warranted.
- (d) The intersection of Winged Foot Drive and Three Oaks Parkway will include a median opening that will accommodate all turning movements.
- (e) All other accesses to the project will be as depicted on Map H.

The developer is not eligible for credits against roads impact fees for construction or dedication of right-of-way associated with the specific improvements listed in Condition D.3 above because they are site-related as defined in the Lee County Roads Impact Fee regulations

4. The developer is responsible for:
 - (a) Dedicating, at no cost to Lee County, sufficient right-of-way to provide a total of one hundred (100) feet of right-of-way for Three Oaks Parkway (Corlico Parkway) from Alico Road to the southern boundary of the DRI²; and
 - (b) Constructing an additional two lanes to Three Oaks Parkway (Corlico Parkway) from Alico Road to the southern boundary of the DRI when deemed necessary by the Lee County Engineer to maintain the adopted level of service prior to buildout of Alico Interchange Park; and
 - (c) Providing all intersection improvements deemed necessary by the Lee County Engineer as a result of the development of Alico Interchange Park at the intersection of Alico Road and Three Oaks Parkway (Corlico Parkway) during buildout of Alico Interchange Park.

At minimum, the developer must provide, at no cost to Lee County, the following improvements at the intersection of Three Oaks Parkway (Corlico Parkway) with Alico Road: on the Three Oaks Parkway (Corlico) approach to Alico Road, dual left-turn lanes, and a free flow right-turn lane with a full acceleration lane on Alico Road. These

²This requirement has been satisfied.

improvements are necessary due to the traffic generated by Alico Interchange Park DRI. The timing of these improvements will be established by the Lee County Engineer.

The developer=s obligation for these improvements includes the full costs of design/engineering, utility relocation, right-of-way acquisition, construction, construction inspection, contract administration, testing, and signalization (as needed). If the developer is not able to acquire the necessary right-of-way, he may enter into an agreement with Lee County to reimburse all costs incurred by Lee County in a condemnation action necessary to acquire this land. The alignment, design, signalization and construction schedule for these improvements must be approved by the Lee County Engineer.

Road impact fee credits will be issued for construction and any additional right-of way dedication associated with the widening of Three Oaks Parkway from 2 lanes to 4 lanes, including the intersection improvements required at Three Oaks Parkway and Alico Road in conjunction with this widening, in accordance with the Roads Impact Fee regulations in effect at the time the developer applies for the credits.[The issuance of road impact fee credits for this improvement is appropriate because it is in the 5 year CIP of 2000 and considered a class one road.] For dedication purposes, the value of the land will be established as of the date the Lee County Engineer determines the widening is necessary to maintain the adopted level of service. Improvements to Three Oaks Parkway have also been identified in the MPO 2020 Financially Feasible Plan as a means to relieve traffic volumes on I-75.

5. The developer must : (a) dedicate a total of eighty (80) feet of right-of-way for the extension of Winged Foot Drive (Ohio Boulevard) from Oriole Road to Three Oaks Parkway (Corlico Parkway); and (b) construct the two-lane extension of Winged Foot Drive (Ohio Boulevard) from Oriole Road to Three Oaks Parkway (Corlico Parkway).

The developer=s obligation for these improvements includes the full costs of design/engineering, utility relocation, right-of-way acquisition, construction, construction inspection, contract administration, testing, and signalization (as needed). If the developer is not able to acquire the necessary right-of-way, he may enter into an agreement with Lee County to reimburse all costs incurred by Lee County in a condemnation action necessary to acquire this land. The alignment, design, signalization and construction schedule for these improvements must be approved by the Lee County Engineer.

Credits against roads impact fees for construction and right-of-way dedication associated with this extension of Winged Foot Drive (Ohio Boulevard) will be granted in accordance with the Roads Impact Fee regulations in effect at the time credits are claimed. No credit against roads impact fees may be granted for right-of-way dedication in excess of the eighty (80) feet required in Condition D.5.

6. In accordance with the traffic impact analysis prepared for the second development order amendments the total proportionate share obligation for the development of the Alico Interchange Park DRI through 2005 is \$10,484,427.

7. The Developer and Lee County entered into a Developer Agreement on November 15, 2005, that provides for a lump sum payment of the development's proportionate share obligation (as adjusted), in exchange for concurrency vesting until 2014 for the build out level of development up to a maximum of 4,489 peak hour external trips. COMMENT: I WOULD SUGGEST WE FOOTNOTE THIS TO INDICATE WHEN THIS OBLIGATION WAS FULFILLED.

8. Nothing contained in this Development Order may be construed to exempt this development from participation in the funding, through Municipal Services Taxing or Benefit Units or other special assessment districts, of improvements to various State and County arterial and collector roads to the degree that this development generates demand or is benefited.

F. RESIDENTIAL DENSITY

1. Residential development is limited to a maximum total of 800 units in the mix identified in Exhibit A, except as provided in the following paragraph.

2. The Lee Plan does not allow residential density in the area of this development to exceed 6.0 units per acre without the use of a bonus provisions for low and moderate income housing. The oval-shaped residential area shown on the Master Concept Plan and bounded by Winged Foot Drive, Three Oaks Parkway (Corlico Parkway), Pittsburgh Boulevard, and the new road parallel to Three Oaks Parkway (Corlico Parkway), is an appropriate location for bonus density units in the event the developer applies and qualifies for such additional units in the future, as the potential density would be compatible with the intensity of the surrounding land uses. The developer may apply for bonus density units. In order to qualify for bonus density units in the future, the developer must amend his zoning approval and comply with all other Lee County requirements. Bonus density may only be granted to the extent permitted by the Lee Plan and Housing Bonus Density Ordinance in effect at the time of approval of bonus density units.

G. EDUCATION

1. The original DRI Development Order required the dedication of a 10-acre school site or fee-in-lieu for Alico Interchange Park.³ That dedication is revised so that:

- (a) Instead of 10 acres or fee-in-lieu for Alico Interchange Park, the dedication must consist of a 5-acre site adjacent to the middle school site in the Villages of San Carlos Development of Regional Impact and provision for road access improvements. The developer of Alico Interchange Park must construct an east bound left turn lane from Koreshan Boulevard onto Cypress View Drive, and Cypress View

³ This condition has been satisfied.

Drive must be extended to connect Koreshan Boulevard to Three Oaks Elementary School. The access improvements must be completed no later than 18 months after the effective date of the First Development Order Amendment.

- (b) Consistent with the requirements of § 380.06(16)(b), Florida Statutes, the developer is entitled to impact fee credit for the school site dedication and road access improvements, if a school impact fee is enacted at a later date and such credit is provided for, or if required by law.

2. The developer must provide school bus stops within the project, in conjunction with the roadway phasing. Design features and specific locations are to be determined by the Lee County School Board and the developer as part of the local development order process for each appropriate phase.

H. FIRE PROTECTION

1. The original development order approval required the developer to donate to the Lee County Board of County Commissioners, for shared use by the Sheriff's Department, Emergency Medical Service and the San Carlos Fire District, a 2.7+/- acre Sheriff's Substation/EMS Substation/Fire Station site to be known as the emergency services site. It has been determined that this site is no longer necessary to meet the public safety needs generated by the project. Therefore, the donation is no longer required.

Also, a total of \$58,412 (or a contribution of equal or greater value, acceptable to the fire district) must be provided to the fire district. The size, location, and timing of any monetary contribution must be negotiated with and satisfactory to the San Carlos Fire District. For any payment that is deferred, the amount due upon eventual payment should be the original amount adjusted for changes in the Construction Price Index (C.P.I.) published by the Engineer News Record (McGraw-Hill Publications). Such donation and payment must be made no later than the developer's first biennial report, unless a binding contract between the developer and the District agreeing to a different schedule is executed. The developer must provide a copy of any such agreement to the Department of Community Development. If this payment has not been made in a timely manner, no further building permits will be issued until payment is made, including 10% interest per annum.

2. If the height of any buildings in the development exceeds three (3) habitable stories, or if other construction styles or occupancy types so warrant, the developer must purchase ladder trucks and other equipment deemed necessary for this specialized fire protection by the San Carlos Fire District, and donate said equipment to the District.

3. Consistent with the requirements of § 380.06(16), Florida Statutes, and if allowed by and pursuant to the applicable ordinances, or if required by law, the developer is entitled to:

11/20/08 8:43 AM

- (a) Fire impact fee credits equal to the amount of the contribution the developer makes to the San Carlos Fire District, pursuant to Condition H.1. and H.2.

4. The aforesaid impact fee credits will be established, in the case of fire and EMS, at the time the contribution is made.

I. HEALTH CARE

The developer must designate a site to be used by Lee County Emergency Medical Services as an emergency helicopter landing site. The site should have road frontage and be free of aerial obstacles, and is subject to the approval of Lee County Emergency Medical Services.

J. RECREATION AND OPEN SPACE

1. The original DRI Development Order required the dedication of a 15-acre park site to Lee County. That dedication is revised so that instead of 15 acres within Alico Interchange Park, the obligation consists of a 15-acre transfer to a park site in the Villages of San Carlos Development of Regional Impact so that the park will total 38.2 acres within that project.⁴

2. There must be no reduction in open space relative to the original DRI Development Order as a result of this amendment. The development must consist of no less than 86.36 acres of open space excluding lakes.

K. VEGETATION AND WILDLIFE/WETLANDS

1. All lake bank slopes must be constructed with broad littoral zones not steeper than 6:1 to a depth of 4 feet below the dry season water table. These littoral areas must be planted with native vegetation (with a total cattail population of not more than 20 percent); if the survival rate of the native vegetation after one year is less than 80 percent, replanting will be required. These requirements apply also to the existing borrow pit just north of the wellfield.

2. The developer must prepare a proposal for a long-term exotic vegetation control program. The Lee County Department of Community Development must review this proposal, and either accept or reject the plan, with the basis of any rejection clearly stated. The developer or his successors are responsible for the implementation of this program for those portions of the subject property that have not been conveyed to their final users. This proposal must be submitted with the developer's first biennial report.

⁴ This condition has been satisfied.
11/20/08 8:43 AM

3. The developer must coordinate construction of bird roosting areas within the southern lake system with the Florida Wildlife Commission (FWC) in order to ensure improved wildlife habitats.

4. The developer or his successor(s) must utilize a strong native landscaping program throughout the project, with an effort to save and/or create native upland habitat. This program must be submitted to the Lee County Department of Community Development. The Department must review this proposal, and either accept or reject the plan, with the basis of any rejection clearly stated. This plan must be submitted as part of the local development order process for each phase.

L. WATER SUPPLY

The Wellfield protection regulations set forth in Lee County Land Development Code Chapter 14 will be used to establish groundwater travel times applicable to providing protection to the potable water wellfields operated by Gulf Utility Company-located in easements on this property. The following special conditions apply:

1. The developer must install and maintain a dual piping system for those parts of the project outside the 100-day travel time contour, in order to provide properly treated wastewater effluent to meet irrigation requirements. Any such system should meet all relevant requirements and standards of the South Florida Water Management District, the Florida Department of Environmental Regulation, Lee County, and other pertinent agencies.

2. Within the 100-day travel time contour of the potable water wellfield, the following additional regulations apply:

- (a) No spray irrigation, or other disposal method for sewage effluent may be conducted;
- (b) Lakes may not be excavated closer than four (4) feet to the limestone portion of the aquifer, as determined by test borings submitted to the Division of Environmental Services at the time of final plan approval;
- (c) If the limestone is encountered during excavation, it must be covered with four (4) feet of clean sand; and
- (d) Bulk storage of fuels or pesticides, gasoline stations, and sewage effluent disposal ponds are not permitted.

3. Irrigation withdrawals from surface or ground water resources are only permitted for those parts of the project inside the 100-day travel time contour.

4. The use, generation, or storage of hazardous materials within the 210-day travel time contour of the wellfield is hereby prohibited in order to protect the potable water wellfield.

5. For those areas within the proposed project that are outside the 210-day travel time contour, any use, generation, or storage of hazardous materials should be preceded by the development and approval (by appropriate agencies) of containment features, as well as an emergency response plan in the event a spill occurs.

6. Any gasoline station must be located the maximum distance from the wellfield, and designed with an extra bentonite (or comparable) liner outside of the tank to prevent any potential contaminant from entering the aquifer. Monitoring wells must be constructed around such facilities to check the quality of the groundwater on a regular basis.

M. PHASING

The development phasing schedule attached to this document as Exhibit A is hereby incorporated as a condition of approval of this Development Order. The Development Order conditions and applicant commitments based upon and incorporated the Application for Development Approval, sufficiency documents, NOPC applications and amended Development Order are intended to mitigate regional impacts. If these conditions and commitments are not generally carried out as indicated, to the extent or in accord with the timing schedules specified within this Development Order and phasing schedule, then a substantial deviation for the affected regional issues will be deemed to have occurred.

III. LEGAL EFFECT AND LIMITATIONS OF THIS DEVELOPMENT ORDER, AND ADMINISTRATIVE REQUIREMENTS

1. Resolution. This Development Order constitutes the response of the Board to the Development of Regional Impact Application for Development Approval and subsequent NOPC applications filed for Alico Interchange Park DRI.

2. Additional Developer Commitments. All commitments and impact mitigating actions volunteered by the developer in the Application for Development Approval, subsequent NOPC applications and supplementary documents and not in conflict with conditions or stipulations specifically enumerated, above are hereby incorporated into this Development Order by reference.

3. Binding Effect. This Development Order is binding upon the developer and their heirs, assignees or successors in interest. Those portions of this Development Order that clearly apply only to the project developer, including but not limited to the initial construction of capital facilities, may not be construed to be binding upon future residents

of single dwelling units. It will be binding upon any builder/developer who acquires any tract of land within Alico Interchange Park that would allow the construction of commercial facilities or more than one residential unit on such tract.

4. Reliance. The terms and conditions set out in this document constitute a basis upon which the developer and County may rely in future actions necessary to implement fully the final development contemplated by this Development Order.

5. Enforcement. All conditions, restrictions, stipulations and safeguards contained in this Development Order may be enforced by either party hereto by action at law or equity, and all costs of such proceedings, including reasonable attorney=s fees, will be paid by the defaulting party.

6. Successor Agencies. Any reference herein to any governmental agency will be construed to mean any future instrumentality that may be created and designated as successor in interest to, or which otherwise possesses any of the powers and duties of any referenced governmental agency in existence on the effective date of this Development Order.

7. Severability. In the event that any portion or section of this Development Order is determined to be invalid, illegal, or unconstitutional by a court of competent jurisdiction, such decision will not affect the remaining portions or sections of the Development Order, which will remain in full force and effect.

8. Applicability of Regulations. The approval granted by this Development Order is limited. Such approval may not be construed to obviate the duty of the applicant to comply with all applicable local or state review and permitting procedures, except where otherwise specifically provided. Such approval does not obviate the duty of the applicant to comply with any applicable ordinances or other regulations adopted after the effective date of this Development Order.

9. Further Review. Subsequent requests for local development permits will not require further review pursuant to ' 380.06, Florida Statutes, unless it is found by the Board of County Commissioners, after due notice and hearing, that one or more of the following is present:

- (a) A substantial deviation from the terms or conditions of this Development Order, or other changes to the approved development plans that create a reasonable likelihood of adverse regional impacts or other regional impacts not evaluated in the review by the Southwest Florida Regional Planning Council; or
- (b) An expiration of the period of effectiveness of this Development Order as provided herein; or

- (c) Any other requirements of Chapter 380, Florida Statutes, that would require additional review.

Upon a finding that any of the above are present, the Board will order a termination of all development activity until such time as a new DRI Application for Development Approval has been submitted, reviewed and approved in accordance with § 380.06, Florida Statutes, and all local approvals have been obtained.

This Development Order terminates on April 20, 2013, unless an extension is approved. An extension may be granted by the Board of County Commissioners if the project has been developing substantially in conformance with the original plans and approval conditions, and if no substantial adverse impacts not known to the Southwest Florida Regional Planning Council or to Lee County at the time of their review and approval, or arising due to the extension, have been identified.

The established build out date is April 20, 2011. Based upon the conditions applicable to approval of the second DRI development order amendment, extensions of the build out date beyond 2011 may be subject to further development-of-regional-impact review pursuant to F.S. § 380.06(19). Subject to the Developer Agreement referred to in Section II.D.7, the developer may be required to submit a cumulative traffic reanalysis and address mitigation of additional traffic impacts identified by the reanalysis in accordance with Condition II.D.7. For the purpose of calculating when a build out date has been exceeded, the time will be tolled during the pendency of administrative and judicial proceedings relating to development permits.

11. Assurance of Compliance. The Administrative Director of the Lee County Department of Community Development or his/her designee, is the local official responsible for assuring compliance with this Development Order.

12. Biennial Reports. The developer, or his successor(s) in title to the undeveloped portion of the subject property, must submit a report biennially to the Lee County Board of County Commissioners, the Southwest Florida Regional Planning Council, the State land planning agency, and all affected permit agencies. This report must describe the state of development and compliance as of the date of submission, and be consistent with the rules of the State land planning agency. The biennial report must contain information as specified in Exhibit D. The first monitoring report must be submitted to the Administrative Director of the Department of Community Development not later than November 1, 1987. Subsequent reports must be submitted no later than November 1st of each calendar year. Failure to comply with this reporting procedure is governed by § 380.06(18) Florida Statutes, and the developer must so inform any successor in title to any undeveloped portion of the real property covered by this Development Order. This condition will not be construed to require reporting from residents or successors of individual home sites, or dwelling units.

13. Protection of Development Rights. The development will not be subject to down-zoning, unit density reduction, or intensity reduction, until April 20, 2013, unless the County demonstrates that substantial changes have occurred in the conditions underlying the approval of this Development Order including, but not limited to, such factors as a finding that the Development Order was based on substantially inaccurate information provided by the developer, or that the change is clearly established by local government to be essential to the public health, safety, and welfare.

14. Transmittal and Effective Dates. Certified copies of this Development Order will be forwarded to the Southwest Florida Regional Planning Council, the developer, and appropriate state agencies. This Development Order is rendered as of the date of that transmittal, but will not be effective until the expiration of the statutory appeals period (45 days from rendition) or until the completion of any appellate proceedings, whichever time is greater. Upon this Development Order becoming effective, notice of its adoption must be recorded in the Office of the Clerk of the Circuit Court by the developer, as provided in § 380.06(15), Florida Statutes.

THE MOTION TO ADOPT this Development Order was offered by Commissioner Janes, and seconded by Commissioner St. Cerny, and, upon poll of the Commission present, the vote was as follows:

Commissioner Judah	_____
Commissioner Hall	_____
Commissioner St. Cerny	_____
Commissioner Janes	_____
Commissioner Albion	_____

COMMENT: THIS LIST
NEEDS TO BE UPDATED.

DULY PASSED AND ADOPTED this ____ day of _____ 200__.

ATTEST:
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: _____
Deputy Clerk

By: _____
Chairperson

Approved as to form:

Donna Marie Collins
Assistant County Attorney

Exhibits:

- A. Phasing Schedule
- B. Map H (reduced copy)
- C. Legal Description
- D. Biennial Monitoring Report Guidelines

EXHIBIT A

SUMMARY OF PROPOSED DEVELOPMENT PROGRAM
AND PHASING SCHEDULE*

ALICO INTERCHANGE PARK DRI

Land Use	Buildout 2011
Single Family	467 d.u.
Multi-Family	333 d.u.
Hotel	400 rooms
Office/Retail	1,896,000 sq. ft.**

*The Third Amendment to the DRI Development Order contemplates one phase ending on April 20, 2011

**The 1,896,000 square. feet. of combined office/retail square footage includes up to a maximum of 696,000 square. feet. devoted to retail uses.

Exhibit B

Map H (reduced copy)
(To be supplied)

EXHIBIT C

Legal Description

A parcel of land lying in part of Section 10, Township 46 South, Range 25 East, Lee County, Florida, being more particularly described as follows:

Commencing at the Northwest Corner of Section 10; thence run S. 1° 15' = 49@ E. along the West line of the Northwest Quarter (N.W. 3) of said Section 10 for 50.00 feet to the point of beginning; thence run N. 89° 22' = 49@ E. along the southerly right of way of Alico Road for 244.41 feet; thence run S. 74° 28' = 23@ E. for 141.38 feet; thence run S. 85° 16' = 39@ E. for 201.00 feet; thence run S. 87° 24' = 43@ E. for 400.78 feet; thence N. 89° 00' = 43@ E. for 400.00 feet; thence run S. 87° 25' = 17@ E. for 225.04 feet; thence run N. 89° 00' = 43@ E. for 296.95 feet; thence run S. 87° 10' = 27@ E. continuing along said southerly right of way of Alico Road for 493.03 feet; thence run S. 58° 57' = 34@ E. along the westerly right of way line of the southbound I-75 entrance ramp for 204.08 feet; thence run S. 30° 48' = 27@ E. for 1414.02 feet; thence run southeasterly for 737.74 feet on the arc of a curve concave westerly having a radius of 1543.02 feet (chord distance 730.72 feet; chord bearing S. 17° 06' = 38@ E.); thence run S. 3° 24' = 50@ E. for 225.00 feet; thence continuing along said right of way line of Highway I-75 run southeasterly for 260.98 feet on the arc of a curve concave easterly having a radius of 5823.58 feet to a point on the South line of the Northeast Quarter (N.E. 3) of said Section 10 (chord distance 260.96 feet; chord bearing S. 4° 54' = 53@); thence run S. 89° 18' = 02@ W. along said South line for 835.53 feet to the Northeast corner of the Southwest Quarter (S.W. 3) of said Section 10; thence run S. 1° 23' = 47@ E. along the East line of said Southwest Quarter (S.W. 3) for 2664.23 feet to the Southeast Corner of said Southwest Quarter (S.W. 3); thence run S. 89° 49' = 38@ W. along said South line for 2650.40 feet to the Southwest corner of said Section 10; thence run N. 1° 26' = 04@ W. along the West line of said Southwest Quarter (S.W. 3) for 2641.04 feet to the Northwest Corner of said Southwest Quarter (S.W. 3); thence run N. 1° 15' = 49@ W. along the West line of the Northwest Quarter (N.W. 3) of said Section 10 for 2637.03 feet to the point of beginning.

Tract herein described contains 345.3 acres.

DRI
EXHIBIT D

Biennial MONITORING REPORT REQUIREMENTS

The Biennial Monitoring Report that must be submitted by the developer in accordance with Subsections 380.06(15) and 380.06(18), Florida Statutes, and 9J-2.025(7), Florida Administrative Code, must include the following:

- A. Any changes in the plan of development or in the representations contained in the application for development approval, or in the phasing for the reporting year and for the next year;
- B. A summary comparison of development activity proposed and actually conducted for the year;
- C. Identification of undeveloped tracts of land, other than individual single family lots, that have been sold to separate entities or developers.
- D. Identification and intended use of lands purchased, leased, or optioned by the developer adjacent to the original DRI site since the development order was issued;
- E. A specific assessment of the developer=s and the local government=s compliance with each individual condition of approval contained in the DRI Development Order and the commitments which are contained in the application for development approval and which have been identified by the local government, the RPC, or the DCA as being significant;
- F. Any requests for substantial deviation determination that were filed in the reporting year and to be filed during the following year;
- G. An indication of a change, if any, in local government jurisdiction for any portion of the development since the development order was issued;
- H. A list of significant local, state, and federal permits which have been obtained or which are pending by agency, type of permit, permit number and purpose of each;
- I. A statement that all persons have been sent copies of the biennial report in conformance with Subsections 380.06(15) and (18), Florida Statutes;
- J. A copy of any recorded notice of the adoption of a development order or the subsequent modification of an adopted development order that was recorded by the developer pursuant to Paragraph 380.06(15)(f), Florida Statutes.

NOTE: The Florida Administrative Code specifically requires that the development order specify the requirements for the biennial report. The Administrative Code requires that the annual report will be submitted to DCA, the RPC, and the local government on Form RPM-BSP-Annual Report-1.

APPENDIX III

SUBSTANTIAL DEVIATION MONITORING FORM

SUBSTANTIAL DEVIATION DETERMINATION LEVELS

Question	Issue Area	Subject	Measure of Impact	Degree of Significance of Change	Applicability
1-12	General Project Description/Information	Location Project Boundaries Topography, delineation 100 yr. Flood zone and Hurricane Flood zone Land Use existing and abutting Master Development Plan Phasing	Proximity to other local governments Resources not previously reviewed Is it in such zones? Land use conflicts with regional resources or other jurisdictions Change of Land Uses Concurrency with facility timing	Annexation without equivalent regulations, etc. Ch. 380.06(19)(a), <u>F.S.</u> Redesign causing flood zone expansion or greater levels of hurricane evacuees of more than 5% of shelter capacity or 5% of hurricane route LOS "D" Ch. 380.06(19)(a), <u>F.S.</u> ; Change in on-site land use to incompatible use Ch. 380.06(19)(b)16, <u>F.S.</u> ; 15% of acreage to new land use One phase or 5 years, Ch. 380.06(19)(c), <u>F.S.</u>	Y Y Y Y Y
13	Environmental and Natural Resources	Air Quality	Point or complex source emission permit needed? Hazardous materials storage	Any new point source New storage, or failure to follow a plan	Y Y
14	Environmental and Natural Resources	Land	Soil suitability; unique features; erosion control	Discovery of unique features; sinkholes forming	Y
15	Environmental and Natural Resources	Water	Aquifer recharge; water quality	Ch. 380.06(19)(d), <u>F.S.</u> ; Violations of water quality and/or permit conditions	Y
16	Environmental and Natural Resources	Wetlands	Loss of wetland acreage	2 acres	Y

SUBSTANTIAL DEVIATION DETERMINATION LEVELS

Question	Issue Area	Subject	Measure of Impact	Degree of Significance of Change	Applicability
17	Environmental and Natural Resources	Floodplains	Additional intrusion into 100-year floodplain	5% additional increase	Y
		Evacuation Time	Increase in evacuation route time to evacuate	5% additional increase	N/A
		Shelters	Absorption of 5% of proximate shelter space	5% additional increase	N/A
18	Environmental and Natural Resources	Vegetation	Vegetated area in type, acres	Ch. 380.06(19)(b)17, <u>F.S.</u> ; Development of area set aside for preservation, buffers, special habitat	Y
		Listed * Vegetation	Any permanent loss of endangered species	Any new loss areas or species	Y
		Listed * Wildlife	Any permanent loss of endangered species	Any new loss	Y
19	Environmental	Historic and Archaeological sites	Any loss without State overview	Any additional loss	Y
20	Economy	Employment	Housing needs for low and moderate income workers	Increase in needs by 15%	Y
		Salary Ranges	Housing needs	Increase in needs by 15%	Y
		Skills	Education needs for special skills	None	Y
		Seasonality	Housing needs	None	Y
		Agricultural Loss	None	None	N
		On Site Economic Needs (such as shopping)	Onsite reduction that will occur than other can be expected, cause increase in off-site traffic	Ch. 380.06(19)(b)15, <u>F.S.</u> ; Increase in external trips by 15%	Y
		Federal Assistance	None	Failure to get assistance prevents timely provision of facilities	N

SUBSTANTIAL DEVIATION DETERMINATION LEVELS

Question	Issue Area	Subject	Measure of Impact	Degree of Significance of Change	Applicability
20 (cont'd)	Economy (continued)	Market Studies Taxes and Costs	Absorption Rate Fiscal Soundness	See "Phasing" Failure to pay/see "Phasing"	Y Y
21	Public Facilities: Wastewater Management	Central Service Septic Tanks Spray Irrigation	Meet DER Standards Density; treatment quality Health issues/Water conservation	Failure to provide central service Failure to keep low density/meet treatment quality Unanticipated health issues/Failure to provide	Y Y Y
22	Drainage	Design Storm Receiving Body	As set by WMDs Quality concerns of receiving body	Failure to meet design storm and best management practices Ch. 380.06(19)(d), F.S.; Violations of Water Quality and/or Permit Conditions	Y Y
23	Water Supply	Central Service Provider On Site Provider Lot Sales	Water conservation program Capacity of provider Availability of resource Availability of resources for buildout	Failure to enact stated program Capacity of provider exceeded prior to project buildout Failure to receive permission for resource but marketing of property for DRI uses continue Failure to provide resources for buildout	Y Y Y Y
24	Solid Waste	Hazardous Waste Recycling	Storage Program Commitment to participate in local sponsored program	Failure to enact a stated program or change of program to improper disposal of wastes Failure to participate	Y Y

SUBSTANTIAL DEVIATION DETERMINATION LEVELS

Question	Issue Area	Subject	Measure of Impact	Degree of Significance of Change	Applicability
25	Energy	Conservation	Appropriate best practices	Failure to enact stated program	Y
26	Education	School Sites Training Needs	Reserving sites Joint financing	Failure to reserve sites Failure to participate in financing	Y Y
27	Recreation & Open Space	Facilities and Sites	As related to population needs	Ch. 380.06(19)(b)(13), F.S.; decrease in open space by 5%	Y
28	Health Care	Facility Needs Ambulances	Meeting community needs Capacity of serving facilities (5%) Service times	Failure to receive approval for stated uses, or changing the uses, which require certificate of need for more than one county. Increase in need by 5% more of capacity None	Y Y Y
29	Police	Police Protection	Service capacities	None	Y
30	Fire	Fire Service	Response times	New type of demand for service that was not stated in DRI that creates need for interlocal agreement which does not exist	Y
31	Transportation	Total Trips	Fire flow Offsite trip direction, timing volumes Capture rate	Failure to provide fire flow Ch. 380.06(19)(b)15, F.S.; or 5% level of service facility (and facility falls below acceptable LOS standard) Same as above	Y Y Y
32	Housing	Low and Moderate Buyers	Number proximate to new workers of low and moderate income	Failure to provide low/moderate income housing, if required	Y
33-34	Specific DRI Information	DRI Type	Specific to DRI type	Ch. 380.06(19)(b)1-16, F.S.	N

_____ Agenda
_____ Item

5

ADMINISTRATIVE ISSUES

5

5

_____ Agenda
_____ Item

5a

Lower West Coast Watershed
Implementation Committee

5a

Report on the Lower West Coast Watershed Implementation Committee

With the condition of the Caloosahatchee River and its dependent estuary deteriorating since 2000, a motion was passed by the SWFRPC on February 16th, 2006 to form the Lower West Coast Watersheds Subcommittee. In reviewing the Subcommittee's purpose, the group decided that it needed a goal and objectives to measure future actions. The Subcommittee has attempted to develop recommended water quality guidance for staff review of Comprehensive Plans, Comprehensive Plan Amendments, Developments of Regional Impact, and other regionally significant developments and public infrastructure projects to achieve the goal.

The work plan of the Subcommittee included recommending appropriate scientifically-based guidelines and conditions on the above items for review that would improve storm water runoff, eliminate sewage treatment disposal that negatively impacts water quality, improve fertilizer applications on public and private properties, and improve regional scale drainage systems.

The Subcommittee prepared Resolutions which address water quality impacts and mitigation methods that the Council may consider in order to improve water quality in the region. The Resolutions stress the importance of these issues and provide additional regional requirements relative to the Water Quality section of any DRI Applications for Development Approval (ADA) or Comprehensive Plan Amendment reviews that are forwarded to the council for comment and approval.

The General Structure of the Resolutions included: Preamble; Purpose and Intent; Recommended Definitions; Recommended Methods; Recommended Exemptions; Recommended Public Education Program; Recommended Appeals, Administrative Relief and Penalties.

To date the implementation includes the following adopted SWFRPC Resolutions:

- Fertilizers on Developed Landscapes (07-01) March 15, 2007
- Wastewater Treatment Plants (07-02) May 17, 2007
- Package Treatment Plants (07-05) October 18, 2007
- On-site Wastewater Treatment Facilities (Septic and Aerobic) (08-02) May 15, 2008
- Stormwater Treatment for New Development and Re-Development (08-011) August 28, 2008
- Stormwater Treatment for Retrofit Development (08-012) January 15, 2009

After the final stormwater resolution was presented and approved, the SWFRPC sunsetted the Lower West Coast Watershed Subcommittee. Mayor Denham then proposed a new implementation subcommittee, to be discussed at the February meeting. In February 2009 discussion was deferred to the March meeting. In March 2009, a presentation on potential

implementation activities was made. In April 2009, there was a presentation on implementation activities and the SWFRPC approved a motion to “give general support of the committee’s implementation plan and its efforts.” The first biannual report from the “Lower West Coast Watershed Implementation Committee” tracking implementation efforts was made to the SWFRPC in the June 2009 meeting.

Subcommittee Progress Report
October 6, 2009

<p>Fertilizer</p> <p>Provide recommendations and guidelines to be considered by local government jurisdictions in Southwest Florida for the regulation and control of: Fertilizer Application Containing Nitrogen and/or Phosphorous</p>	<p>Status</p> <p>Resolution was approved by the SFRPC on March 15,2007</p> <p>Next Step</p> <ol style="list-style-type: none"> 1. Include the resolution recommendations in all future DRIs 2. Included in Climate Change Adaptation Planning 3. Track the Fertilizer Ordinance progress in local government jurisdictions of Southwest Florida via a Resolution to Ordinance completion matrix 4. Progress reviewed monthly by the Regional Planning Council 5. Twelve jurisdictions have adopted ordinances stricter than State model 6. Two jurisdictions have education programs 7. One jurisdiction is considering adopting weaker State model 8. Six jurisdictions have taken no action 9. End of calendar year for ordinance compliance
<p>Waste Water Discharge</p> <p>Provide recommendations and guidelines to be considered by local government jurisdictions in Southwest Florida for the regulation and control of</p> <p>Treated Wastewater Discharges of Nitrogen and/or Phosphorous</p>	<p>Status</p> <p>Resolution approved by the SFRPC on May 17,2007</p> <p>Next Step</p> <ol style="list-style-type: none"> 1. Include the resolution recommendations in all future DRIs 2. To fund this potential expensive process change, the Council members believe that it will be more effective to lobby for wastewater treatment facilities improvement funds from the Federal government as a multi-jurisdictional entity (6 Counties and 14 Municipalities). The council staff will make grant application on behalf of its members. 3. It is requested that all local government jurisdictions in Southwest Florida provide an estimate of the cost for process modifications necessary so that wastewater treatment facilities comply with the approved resolution. 4. Begin a Federal grant application process for funding on behalf of the South West Florida Region so that the necessary process changes can be made to enable compliance with the recommendations of the approved resolution

<p>Package Treatment</p> <p>Provide recommendations and guidelines to be considered by local government jurisdictions of Southwest Florida for the regulation and control of:</p> <p>Package Wastewater Treatment Facility Discharges</p>	<p>Status</p> <p>Draft resolution being prepared and planned for first review by SWFRPC on August 16, 2007</p> <p>Next Step</p> <p>Similar to Waste Water Discharge</p>
<p>Storm Water</p> <p>Provide recommendations and guidelines to be considered by local government jurisdictions in Southwest Florida for the regulation and control of Storm Water Runoff</p>	<p>Status</p> <p>A partnership has been proposed to South Florida Water District Management, where they would</p> <ol style="list-style-type: none"> 1. Review the CDM “Nutrient Loads Assessment Estero Bay and Caloosahatchee River Watersheds” identifying which sub-watersheds are the largest contributors of pollutants to the area 2. Determine land use sources that are contributing the major part of the of the current nutrient and the projections at projected build out 3. Identify the land use that have the greatest pollutant level and the potential to ameliorate through management 4. Determine the highest nutrient source priority in each watershed and identify the actions that could be undertaken to reduce or eliminate the nutrient source 5. Within the priority watershed identify the specific actions to address the sources of nutrient load and provide a draft action plan to reduce and or eliminate the nutrient load <p>Next Step</p> <p>The results of this CDM review by the South Florida Water Management will form the basis of a Stormwater Runoff Control Resolution</p>

Fertilizer Matrix Route from

Resolution to Ordinance

Southwest Florida Regional Planning Council

October 6, 2009

City or County	Resolution Approved by SWFRPC	Ordinance Under Review by Local Jurisdiction	Ordinance Approved by Local Jurisdiction	Ordinance Legislation Effective	Ordinance Citation
Name	Date	Date	Date	Date	
Sarasota County	03-15-07	4-07	8-27-07	8-27-07	2007-062
City of Sarasota	03-15-07	4-07	10-15-07	10-15-07	07-4768
City of Venice	03-15-07	4-07	Agreement to comply with Sarasota County Ordinance	10-15-07	By reference 07-4768
Town of Longboat Key	03-15-07	4-26-07	5-5-08	5-5-08	2008-04
City of North Port	03-15-07	11-11-07	11-26-07	11-26-07	07-45
Charlotte County	03-15-07	11-8-07	3-18-08	3-18-08	2008-028
City of Punta Gorda	03-15-07	11-6-07	11-19-07 on agenda in review	Incorporated in Climate Change Adaptation Plan to be considered 11-18-09	Informational brochures and tip cards are in distribution.
Lee County	03-15-07	8-28-07	5-13-08	5-13-08	08-08

City of Bonita Springs	03-15-07	11-13-07 to 11-18-08	11-19-08	11-19-08	08-11-0543
City of Cape Coral	03-15-07	10-12-07 Ordinance 72-07, adopted 10- 29-07 constitutes intent to develop fertilizer ordinance	Currently the city of Cape Coral has the adoption of a ordinance as a Net Environmental Benefit in the NSWEMA		
City of Fort Myers	03-15-07	1-1-08	11-17-08	11-17-08	3489
City of Sanibel	03-15-07	2-20-07 first 8-21-07 amended	3-6-07 first adoption 9-18-07 amended	3-6-07 first 9-18-07 amended	07-003
Town of Fort Myers Beach	03-15-07	7-18-08	12-18-08	12-18-08	08-61808
Collier County	03-15-07	8-4-07	Discussed as part of Watershed Management Plan development by end of 2009		
City of Naples	03-15-07	6-7-2006	6-7-2006	10-10-06	06-11245
City of Marco Island	03-15-07	Utilizing the Rookery Bay Greenscape BMPs			Utilizing the Rookery Bay Greenscape BMPs
Everglades City	03-15-07	No Action to Date			

Glades County	03-15-07	No Action to Date			
City of Moore Haven	03-15-07	No Action to Date			
Hendry County	03-15-07	No Action to Date			
City of LaBelle	03-15-07	No Action to Date			
City of Clewiston	03-15-07	No Action to Date			

Three significant rulemaking activities by FDEP will effect implementation of water quality protection and restoration in southwest Florida.

They are:

- 1. Development of Numeric Nutrient Criteria for Florida's Waters**
- 2. Statewide Stormwater Treatment Rule Development**
- 3. Florida's Surface Water Quality Standards Redefining Designated Uses & Classifications**

1. Development of Numeric Nutrient Criteria for Florida's Waters

<http://www.dep.state.fl.us/water/wqssp/nutrients/>

The State of Florida initiated rulemaking in 2001 to adopt quantitative nutrient water quality standards to facilitate the assessment of designated use attainment for its waters and to provide a better means to protect state waters from the adverse effects of nutrient over enrichment. The addition of excess nutrients, often associated with human alterations to watersheds, can negatively impact waterbody health and interfere with designated uses of waters - by causing noxious tastes and odors in drinking water, producing algal blooms and excessive aquatic weeds in swimming and boating waters, and altering the natural community of flora and fauna.

The Florida Department of Environmental Protection (FDEP) plans to develop numeric criteria for causal variables (phosphorus and nitrogen) and/or response variables (potentially chlorophyll- a and transparency), recognizing the hydrologic variability (waterbody type) and spatial variability (location within Florida) of the nutrient levels of the state's waters, and the variability in ecosystem response to nutrient concentrations. FDEP's preferred approach is to develop cause/effect relationships between nutrients and valued ecological attributes, and to establish nutrient criteria that ensure that the designated uses of Florida's waters are maintained.

Florida currently uses a narrative nutrient standard to guide the management and protection of its waters. Chapter 62-302.530, Florida Administrative Code (FAC), states that "in no case shall nutrient concentrations of body of water be altered so as to cause an imbalance in natural populations of flora or fauna." The narrative criteria also states that (for all waters of the state) "the discharge of nutrients shall continue to be limited as needed to prevent violations of other standards contained in this chapter [Chapter 62-302, FAC]. Man-induced nutrient enrichment (total nitrogen or total phosphorus) shall be considered degradation in relation to the provisions of Sections 62-302.300, 62-302.700, and 62-4.242, F.A.C."

FDEP has relied on this narrative for many years because nutrients are unlike any other "pollutant" regulated by the federal Clean Water Act (CWA). Most water quality criteria are based on a toxicity threshold, evidenced by a dose-response relationship, where higher concentrations can be demonstrated to be harmful, and acceptable concentrations can be established at a level below which adverse responses are elicited (usually in laboratory toxicity tests). In contrast, nutrients are not only present naturally in aquatic systems, they are absolutely

necessary for the proper functioning of biological communities, and are sometimes moderated in their expression by many natural factors.

The FDEP has been actively working with EPA on the development of numeric nutrient criteria for several years. FDEP submitted its initial [DRAFT Numeric Nutrient Criteria Development Plan](#) to EPA Region IV in May 2002, and received [mutual agreement](#) on the Numeric Nutrient Criteria Development Plan from EPA on July 7, 2004. The FDEP revised its [plan](#) in September 2007 to more accurately reflect its evolved strategy and technical approach, and FDEP received [mutual agreement](#) on the 2007 revisions from EPA on September 28, 2007. On January 14, 2009, EPA formally determined that numeric nutrient criteria should be established on an expedited schedule. On March 3, 2009 FDEP submitted its [Current Numeric Nutrient Criteria Development Plan](#) to EPA Region IV. This revised plan reflects DEP's current approaches and expedited schedule.

To limit nutrient enrichment, Florida will develop nutrient criteria for all waters, guided by recommendations from a [Technical Advisory Committee](#) (TAC) composed of technical experts from throughout the state. The TAC will review all available technical information to ensure that the resulting criteria reflect the characteristics and aquatic life use of Florida's diverse waterbodies. Nutrient criteria development is very actively in progress, and this page will contain links to updates of meetings and information.

DEP intends to use electronic mail, as well as a website, to distribute information on the direction and status of numeric nutrient criteria development for Florida's waterbodies. If you would like to be added to the Department's Nutrient Criteria mailing list or for questions regarding the development of the nutrient criteria, please contact DEP's Nutrient Criteria Development Coordinator, [Ken Weaver](#).

Currently FDEP

- Is not moving forward with October ERC committee and having parallel state rulemaking. Instead FDEP would rather invest in assisting federal rulemaking effort with the EPA. FDEP has shared all its information (including TAC recommendations) and has weekly teleconferences with EPA.
- There will be another Nutrient TAC in November (date not yet set, they will be reconvening the TAC members to continue to form more recommendations with regard to numeric nutrient criteria development).
- The most controversial criteria thus far have been the stream criteria according to FDEP.

2. Statewide Stormwater Treatment Rule Development Documents

http://www.dep.state.fl.us/water/wetlands/erp/rules/stormwater/rule_docs.htm

Beginning in 2006, the Department of Environmental Protection (Department) together with the state's five water management districts, began rule development on a statewide stormwater rule that focuses on providing increased protection of our State's surface and ground waters. Currently, excess nutrients represent the leading cause of impairment in our surface water bodies. Additionally, increasing nitrogen concentrations in ground water and springs are a growing concern. Therefore, it is critically important that stormwater treatment standards are enhanced to provide for increased levels of nutrient removal and better protection of ground water. Further, a statewide regulation will provide consistent best management practice (BMP) design criteria throughout the state.

Background

The original "statewide" stormwater rule, Chapter 17-25 was adopted by the Environmental Regulation Commission in October 1981 with an effective date of February 1982. This rule was the successor to the state's first stormwater treatment regulations established in Rule 17-4.248 as an interim regulation. When adopted in 1982, performance standard for stormwater treatment was set to 80% average annual load reduction of Total Suspended Solids. BMP design criteria were established, based on Florida field data, which provided a rebuttable presumption that the stormwater discharge did not cause harm to water resources. Although originally implemented statewide by the Department, authority for the Chapter 17-25 stormwater permitting program was delegated to each of the water management districts (excepting the NFWFMD) in the mid-1980s.

In the mid-1990s, the Environmental Reorganization Act provided the water management districts independent authority under Chapter 373, F.S., to regulate stormwater quality under the Environmental Resource Permit program. Accordingly, each of the WMDs promulgated their own stormwater rules. The resultant BMP design criteria adopted by each of the WMDs varied widely, ranging from essentially the same criteria found in Chapter 17-25 (now Chapter 62-25, F.A.C.) to criteria that provided both higher and lesser degrees of treatment.

Additionally, in 1990, the State Water Implementation Rule, Chapter 62-40, F.A.C. was developed and adopted in response to stormwater legislation in 1989. The stormwater program's institutional foundation, goals, and performance standards were clearly set forth in this rule. The stormwater treatment performance standard was revised to read "80% average annual load reduction of pollutants that cause or contribute to violations of water quality standards." While amended from time to time to respond to BMP monitoring results, most of the State's stormwater criteria are based on data predating 1995 and they were never changed to meet the new performance standard. More recently, with the implementation of Florida's Total Maximum Daily Load/watershed restoration program and the Springs Initiative, it has become increasingly clear that increased removal of nutrients from stormwater is critical to protecting Florida's surface and ground waters. Further, research has indicated that current design and performance

criteria do not properly address nutrient loadings resulting from typical stormwater runoff conditions.

The proposed statewide stormwater rule provides for the following broad objectives:

1. To update the ERP water quality treatment rules to increase the effectiveness of new stormwater treatment systems in removing nutrients and reducing nutrient loads, and in decreasing the movement of nutrients into ground waters.
2. To reduce the number of water bodies that become impaired by nutrients from future development (about 45% of Florida's current verified impaired waters are nutrient related).
3. To meet the goal of the Water Resource Implementation Rule, Chapter 62-40, F.A.C, which is to assure that post-development stormwater characteristics do not exceed pre-development stormwater characteristics (peak discharge rate, pollutant load, volume)?
4. To streamline stormwater permitting and make stormwater regulatory requirements more consistent throughout the state (provide a more level playing field).

The proposed performance standard for new stormwater treatment systems is for post-development nutrient loads to not exceed the pre-development nutrient loads. For the purposes of this rule, pre-development is equivalent to undeveloped and is defined as native landscape, not the current existing land use such as row crops or other "developed" condition. Also, nutrients are defined as the more limiting of total nitrogen (TN) and total phosphorus (TP). It is presumed that treating TP and TN will provide adequate treatment for other pollutants.

Under the proposed framework, each project will require a nutrient loading assessment for both the pre-development and post-development condition. This results in each project developing its own unique treatment efficiency goal. This represents a significant departure current rules in which only post-development loading is considered and reduced. Stormwater pond design volumes for retention and detention facilities are derived primarily from values calculated in the report entitled "Evaluation of Current Stormwater Design Criteria within the State of Florida" (Harper and Baker, 2007). Stormwater treatment volumes will vary around the state depending on historical rainfall records, and will also vary in the same location based on pre- and post-development site conditions and land use.

It is proposed to use the "applicant's handbook" platform for establishing BMP criteria. The recently completed Applicant's Handbook for ERP in the Northwest Florida Water Management District has been used initially as the model document.

BMP "treatment trains" may be required in many cases in order to meet the required removal efficiencies. The proposed rule provides a mechanism to calculate the treatment credit associated with successive BMPs that are used in series. Although BMP treatment trains have always been "encouraged" by the agencies, there has not been a methodology established to calculate the appropriate load reduction for such trains.

It is anticipated that reuse or recycling of stormwater may become more commonplace in order to reduce discharge of stormwater volumes and pollutant loads, especially when using wet detention systems. Stormwater reuse may be used in combination with other “traditional” stormwater BMPs. Tables are provided that allow for calculating the amount of treatment credit to be allowed for associated water storage and irrigation rates.

In addition to stormwater reuse, a comprehensive menu of Low Impact Design (LID) concepts is under development. Credits will be established to increase the focus on nonstructural, pollution prevention BMPs as first “car” in the treatment train. These LID concepts include:

- Green roof/cistern/irrigation systems
- Pervious concrete
- Florida Friendly Landscaping/Green Industry BMP Program
- Promotion of natural vegetation on-site to reduce compaction of urban soils/loss of infiltration capacity

Lastly, a section specific to stormwater retrofitting will serve to accelerate stormwater enhancement and restoration projects for existing development.

Significant Issues to be Resolved

Staff members from DEP and the WMDs have met several times in late 2007 and early 2008 to discuss rule concepts and to compile a draft handbook. A number of significant issues have been identified that require resolution prior to moving forward with formal rulemaking. Work groups consisting of DEP and WMD staff have been assigned to each of the issue topics. These work groups will work with the members of the Technical Advisory Committee to address these and other rulemaking issues. Issue papers have been developed by the work groups and are attached.

3. Florida's Surface Water Quality Standards Redefining Designated Uses & Classifications

In July 2009, the Department of Environmental Protection (DEP) received a petition from the Florida Stormwater Association requesting formal rulemaking to amend the existing classification structure. The Florida Department of Environmental Protection (DEP) has initiated a review of Florida's current designated uses and associated [water body classification](#) system to determine if revisions are needed. DEP states it is undertaking this effort to ensure better protection for our lakes, rivers, springs, estuaries, coastal waters and even artificially created surface waters. <http://www.dep.state.fl.us/secretary/designateduse.htm>

What FDEP is doing with this rulemaking?

Propose to refine the classification system Change from system with 5 classes that combines both human uses and aquatic life uses to a new system with 7 human use classes and 4 aquatic life use classes

Also revising process for reclassifications

Will also populate the criteria for the existing classes into the new structure. New system includes classes that are analogous to old system, but also includes new classes

Proposed Human Uses (HU)

- HU 1** Protection of potable water supply suitable for human consumption (following conventional drinking water treatment methods), fish consumption, and full body contact.
- HU 2** Protection of shellfish harvesting for human consumption, fish consumption, and full body contact.
- HU 3** Protection of fish consumption and full body contact.
- HU 4** Protection of fish consumption and incidental human contact.
- HU 5** Protection of fish consumption, but human contact limited or restricted due to unsafe physical conditions.
- HU 6** Protection of waters for crop irrigation or consumption by livestock.
- HU 7** Utility and industrial uses

Proposed Aquatic Life (AL) Uses

- AL 1** Propagation and maintenance of aquatic communities that approximate the biological structure and function of natural background.
- AL 2** Propagation and maintenance of a healthy, well-balanced aquatic community with minimal deviation of biological structure and function relative to natural background. (Default)

AL 3 Protection of an aquatic community with moderate deviation of biological structure and function relative to natural background (habitat and hydrology limitations)

AL 4 Protection of an aquatic community with substantial deviation of biological structure and function relative to natural background (severe habitat and hydrology limitations)

_____ Agenda
_____ Item

5b

Community Planning Month

Proclamation

5b

COMMUNITY PLANNING MONTH PROCLAMATION

WHEREAS, change is consistent and affects all cities, towns, suburbs, counties, rural areas, and urban places; and

WHEREAS, community planning and plans can help manage this change in a way that provides better choices for how people work and live; and

WHEREAS, community planning provides an opportunity for all residents to be meaningfully involved in making choices that determine the future of their community; and

WHEREAS, the full benefits of planning requires public officials and citizens who understand, support, and demand excellence in planning and plan implementation; and

WHEREAS, the month of October is designated as National Community Planning Month throughout the United States of America and its territories, and

WHEREAS, the Florida Association of Regional Planning Councils endorse National Community Planning Month as an opportunity to highlight the contributions sound planning and plan implementation make to the quality of our settlements and environment; and

WHEREAS, the celebration of National Community Planning Month gives us the opportunity to publicly recognize the participation and dedication of the members of planning councils and other citizen planners who have contributed their time and expertise to the improvement of Florida; and

WHEREAS, we recognize the many valuable contributions made by professional community and regional planners of Florida and extend our heartfelt thanks for the continued commitment to public service by these professionals;

NOW, THEREFORE, BE IT RESOLVED THAT, the month of October 2009 is hereby designated as **Community Planning Month** in Florida in conjunction with the celebration of National Community Planning Month.

Adopted this 15th day of October, 2009.

James Humphrey, SWFRPC Chairman

SEAL:
