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July 22, 2010

Mike McDaniel,
Chief, Office of Comprehensive Planning
Florida Department of Community Affairs
Division of Community Planning
2555 Shumard Oak Boulevard
Tallahassee, FL. 32399-2100

Re: Lee County Comprehensive Plan Amendment 10-1
DOAH case; Docket No. 10-1-NOI-3601
CPA2008-06 Lee Plan Amendments for Southeast Lee County (DR/GR area)
Lee County Response to Department of Community Affairs' July 14th, 2010 comments

Dear Mr. McDaniel:

Thank you for the July 14, 2010 Department of Community Affairs (DCA) staff comments regarding Lee County's proposed remedial actions for CPA2008-06. The County has considered these comments and provided revised language as contained in "Exhibit B" and the response document attached to this letter. These changes are in redlined text for ease of review.

Concerning the provision of potable water and wastewater service to the Mixed-Use Communities, the requested data and analysis is attached (Lee County Utilities memorandum dated June 14, 2010).

The School District of Lee County has reviewed the adopted amendment and provided comments in the attached School District memorandum dated July 21, 2010. The District has concluded that "currently within the School District there are sufficient seats available to serve this need."

In response to DCA's question concerning population distribution, Lee County staff provides the following information for your consideration.

The 4,015 residential acres in Table 1(b) is based on projections for limited additional ranchette development through 2030. Therefore, the acreage figure does not need to be revised. The new plan makes ranchette development more difficult, while concentration and transfer of development rights will be easier. The net impact will likely be FEWER acres developed for residential purposes. This is one of the main concepts of the proposed compact communities. When Table 1(b) is updated to the year 2035 in the EAR based round of amendments, this issue will be examined more fully.

The reference to the 1,270 people in the table will need to be increased at some point in the future. Table 1(b) makes it clear that the population figures are non-regulatory. This issue will be addressed as part of the EAR based amendments in conjunction with the new county-wide population allocations for 2035.

However, in reviewing this table, county staff determined that Table 1(b) does need to be changed. This table includes a regulatory allocation of only 38 acres for commercial development in Southeast Lee County. There are currently 16 acres developed with commercial uses and 22 acres remaining for future commercial uses before the year 2030. Based upon the new policies encouraging commercial development in the Mixed-Use Communities along SR 82, an increase of 29 acres is warranted.

Lee County is assuming that the westerly two communities, comprised of 513 acres, will be constructed by 2030 but the easterly two will not. This equates to 51 commercial acres using the 10% commercial figure that is proposed in Policy 33.3.3.2. Consequently, the simplest change is to increase the 38 acres already in Table 1(b) by 29 acres for a new total of 67 acres. Adding the 29 acres does not create a need to change the county control figure for commercial acreage because the total county-wide commercial acreage figure will not be over allocated.

The County trusts that this response addresses all of the State's concerns. In the event that you have any questions, please do not hesitate to call me.

Sincerely,
DEPT. OF COMMUNITY DEVELOPMENT
Division of Planning



Matthew A. Noble, AICP
Principal Planner

cc: *Scott Rogers, Principal Planner, DCA*
Brenda Winningham, Regional Planning Administrator, DCA
Paul O'Connor, Director, Lee County Planning Division
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1. Credits and Bonuses From TDR Sending Areas

DCA's inconsistency provisions:

The amendments establish a Transfer of Development Rights (TDR) program to transfer development rights from sending lands in the DR/GR area. Although amendment Policy 33.3.4 states that the maximum number of DR/GR TDR credits that may be established may not exceed 9,000 credits, Policy 33.3.4 does not establish meaningful and predictable guidelines and standards to apply and implement the TDR program on individual properties (individual sending areas) addressing:

- (1) a TDR transfer credit generation rate to guide the generation of TDR credits from the TDR sending area; and
- (2) the numerical value of the TDR multipliers that may apply to the TDR sending area and receiving area.

DCA's recommended remedial actions:

Revise the plan policies to establish meaningful and predictable guidelines and standards for the transfer of development rights (TDR) program addressing:

- (1) a TDR transfer credit generation rate to guide the generation of TDR credits from the TDR sending area; and
- (2) the numerical value of the TDR multipliers that may apply to the TDR sending areas and receiving area

Lee County's conceptual solution:

These Lee Plan amendments introduced the term "TDR Credit," which is defined and quantified in the new land development code but was not adequately explained in the Lee Plan amendment. This recommended remedial action requests a base TDR credit generation rate (which is simply one credit per allowable dwelling unit) and numerical multipliers (which are increases that are specified as incentives for certain activities). Policy 33.3.4 can be rewritten to consolidate those details in one location. Policies 33.3.2 should be clarified to indicate that certain of these incentives are available without formal TDR transfers between separate parties.

Lee County's precise solution:

See redraft of Policies 33.3.2.1, 33.3.3.1, and 33.3.4.2-~~5~~ 4-6 (highlighted in red).

2. Transfer Rates to TDR Receiving Areas

DCA's inconsistency provisions:

Amendment Policies 33.3.3 and 33.3.4 do not establish meaningful and predictable guidelines and standards for a TDR transfer rate defining:

- (1) the relationship between a TDR credit and dwelling units of the receiving areas (within and outside of the DR/GR area);
- (2) the relationship between a TDR credit and Fractional Ownership/Timeshare Units and Bed and Breakfast Establishments of the receiving areas within the DR/GR area; and
- (3) the relationship between a TDR credit and nonresidential development of receiving areas outside of the DR/GR area.

Because the transfer rate from a TDR credit to a dwelling unit (and also to "Fractional Ownership/Time-share Units and Bed and Breakfast Establishments") has not been established by the plan policies, the maximum number of dwelling units (and also "Fractional Ownership/Time-share Units and Bed and Breakfast Establishments") that may result from the TDR program (transfers can be made inside and outside the DR/GR area) cannot be determined and has not been demonstrated to be based on a need. Within the DR/GR area, the total number of potential dwelling units is limited by the maximum density standards (5 dwelling units per acre) for the Mixed-Use Communities where the TDR credits can be utilized. But, the transfers to areas outside the DR/GR area could produce an undetermined number of dwelling units because the transfer rate (the number of TDR credits per dwelling unit) has not been established. The amendment is not supported by data and analysis, based upon TDR transfer rates (the rate at which a TDR credit creates a dwelling unit) established in the plan policies, identifying the potential number of dwelling units resulting from the TDR program and demonstrating a need for the dwelling units.

DCA's recommended remedial actions:

Support the amendments with relevant and appropriate data and analysis, based upon TDR transfer rates (the rate at which a TDR credit creates a dwelling unit) established in the plan policies, identifying the potential number of dwelling units resulting from the TDR program and demonstrating a need for the dwelling units.

Revise the plan policies to establish meaningful and predictable guidelines and standards for a TDR transfer rate defining:

- (1) the relationship between a TDR credit and dwelling units of the receiving areas (within and outside of the DR/GR area);
- (2) the relationship between a TDR credit and Fractional Ownership/Timeshare Units and Bed and Breakfast Establishments of the receiving areas within the DR/GR area; and
- (3) the relationship between a TDR credit and nonresidential development of receiving areas outside of the DR/GR area.

Lee County's conceptual solution:

The solution to the previous item was a clearer use of the term "TDR Credit," specifically how TDR credits are *generated*. This item requests clarification of how TDR credits are *redeemed* in TDR receiving areas. This recommended remedial action requests details as to any incentives that might be provided when TDR credits are redeemed under three specific scenarios; Policy 33.3.4 can be rewritten to provide that information immediately after that policy's details about TDR credit generation rates and incentives.

Lee County's precise solution:

See redraft of Policies 33.3.2.1, 16.2.7, ~~33.3.3.1~~, and 33.3.4.5 (highlighted in blue).

3. Location of TDR Receiving Areas Outside DR/GR

DCA's inconsistency provisions:

Amendment Policies 33.3.3 and 33.3.4(3) contemplate the transfer of development rights to areas outside of the DR/GR area. Policy 33.3.3 allows the transfer of development rights "to appropriate Future Urban Areas, such as the Mixed Use Overlay and the Lehigh Acres Specialized Mixed-Use Nodes." Policy 33.3.4(3) states that "The preferred receiving locations for the transfer of TDRs are within appropriate Future Urban Areas such as the Mixed Use Overlay and the Lehigh Acres Specialized Mixed Use Nodes." However, the language "appropriate Future Urban Areas" does not clearly define the location of TDR receiving areas outside of the DR/GR area. Therefore, Policies 33.3.3 and 33.3.4(3) do not establish meaningful and predictable guidelines and standards defining the location of the TDR receiving areas outside of the DR/GR area.

DCA's recommended remedial actions:

Revise the amendments to establish meaningful and predictable guidelines and standards defining the location of the TDR receiving areas outside of the DR/GR area.

Lee County's conceptual solution:

This alleged inconsistency stems from the term "appropriate future urban areas" in Policies 33.3.3 and 33.3.4. This can be clarified in two ways:

- Clarify that "future urban area" has a very specific meaning in the Lee Plan (cite Objective 1.1).
- Change the vague qualifier, "such as..." into definitive language (e.g., "specifically").

Lee County's precise solution:

See redraft of Policies 33.3.3 and 33.3.4.2 **& 6 (highlighted in brown)**.

4. Intensity of Uses Resulting From TDRs

DCA's inconsistency provisions:

For Mixed-Use Communities within the DR/GR area, Amendment Policy 33.3.2 states the following for density and intensity standards:

- (1) residential density is limited to the existing allowable density based on the upland and wetland acreage;
- (1)(a) when expanded with transferred development rights, the maximum gross density is 5 dwelling units per acre of total land designated as a Mixed-Use Community on Map 17; and
- (1)(b)&(c) the maximum intensity of non-residential development is 75 square feet, per by right clustered dwelling unit; and
 - the maximum intensity of non-residential development is 800 square feet per TDR credit.

However, Policy 33.3.2(1)(c) does not establish a limit on the amount of TDR credits associated with the non-residential development intensity of 800 square feet per TDR credit that can be transferred into the Mixed-Use Communities. Therefore, Policy 33.3.2(1)(c) does not establish meaningful and predictable guidelines and standards for the maximum intensity of nonresidential uses based on the transfer of development rights to the Mixed-Use Communities.

- The amendment does not establish meaningful and predictable guidelines and standards for the maximum intensities of nonresidential uses, based on the transfer of TDR credits, for the TDR receiving areas outside of the DR/GR area.
- The amendment does not establish meaningful and predictable guidelines and standards for the maximum densities of residential uses, based on the transfer of TDR credits, for the TDR receiving areas outside of the DR/GR area.

DCA's recommended remedial actions:

- Revise Policy 33.3.2(1)(c) to establish meaningful and predictable guidelines and standards for the maximum intensity of nonresidential uses based on the transfer of development rights to the Mixed-Use Communities.
- Revise the amendments to establish meaningful and predictable guidelines and standards for the maximum densities and intensities of uses, based on the transfer of TDR credits, for the TDR receiving areas outside of the DR/GR area.

Lee County's conceptual solution:

These are two related but essentially different issues, each requiring a different solution:

- DCA is requesting details about the total amount of non-residential uses in the Mixed-Use Communities that could result from the TDR program. The plan amendment can be modified to include a cap on square footage of non-residential uses in each Mixed-Use Community, computed from the designs for each community in the supporting documents for the Lee Plan amendments.
- DCA is also requesting details about the maximum residential density and non-residential intensity OUTSIDE the DR/GR that could result from the TDR program. The plan amendment can be modified to be clearer on this question by stating that the upper limits in the Lee Plan will still apply even when TDRs are redeemed (these upper limits are shown in Table 1(a) of the Lee Plan under the terminology "bonus density").

Lee County's precise solution:

See redraft of Policies 33.3.2.1.c and 33.3.4.6 5 (highlighted in pink).

5. Meaningful Non-Residential Uses in Mixed-Use Communities

DCA's inconsistency provisions:

The amendments to Future Land Use Element Objective 33.3, Policies 1.4.5(2)(a), 1.7.14, 33.3.2, 33.3.3, 33.3.4, and 33.3.5 do not establish meaningful and predictable guidelines and standards for the mix of land uses (residential, commercial, and civic uses) allowed within the "Mixed-Use Community" in order to ensure that an appropriate amount of non-residential uses will be developed in association with the residential uses. The policies allow residential use, commercial use, and civic use within the Mixed-Use Community. Policy 33.3.3 states that *"Within the Mixed-Use Community, significant commercial and civic uses are encouraged. Specific requirements for incorporating these uses into Mixed-Use Communities will be found in the Land Development Code."* Policy 33.3.5 states that *"The Land Development Code will be amended within one year to specify procedures for concentrating existing development rights on large tracts, for transferring development rights between landowners, for seeking approval of additional acreage subdivisions, and for incorporating commercial and civic uses into Mixed Use Communities as designated on Map 17."* The deferral to the land development code does not establish meaningful and predictable guidelines and standards in the comprehensive plan.

DCA's recommended remedial actions:

Revise the amendments to establish meaningful and predictable guidelines and standards for the mix of land uses (residential, commercial, and civic uses) allowed within the "Mixed-Use Community" in order to ensure that a meaningful amount of non-residential uses will be developed in association with the residential uses.

Lee County's conceptual solution:

Many TND developers build their residential areas before the commercial component (and some do the opposite); it would be counterproductive to propose some ratio between residential and nonresidential that must be met every month or every year while development progresses.

A better solution would ensure that meaningful amounts of non-residential uses are provided during the original approvals for each Mixed-Use Community. The plan can also provide explicit guidelines as to the nature of these communities (in addition to the glossary definition of "traditional neighborhood development" as referenced in Policy 33.3.2).

A measurable standard can be provided through "transect zone" assignments that are an essential part of the approval process (as detailed in the land development code). Two transect zones are oriented to intense commercial development, the "Center" and "Core" transect zones. An easy-to-track approach would be to specify a minimum percentage of those two zones (such as 10%) in each of the four Mixed-Use Communities along SR 82. (There is no reason for this requirement to apply to the Western Corkscrew community, given the very large commercial developments nearby.)

Lee County's precise solution:

See redraft of Policies 33.3.2.1.d & .4 and 33.3.3.2 (highlighted-in-purple).

To accommodate the additional non-residential uses in Mixed-Use Communities, amend Table 1(b) to increase the number of commercial acres that can be developed in Southeast Lee County by the year 2030 from 38 acres to 68 acres.

6. Alico Road Extension Maps

DCA's inconsistency provisions:

The amendments to Lee Plan Maps 4, 14, 17, 20, and 25 show the Alico Road Extension from Alico Road to State Road 82. The Alico Road Extension is not shown on the County Comprehensive Plan Future Transportation Map(s) series; and therefore, Lee Plan Maps 4, 14, 17, 20, and 25 are internally inconsistent with the Future Transportation Maps(s) series regarding the Alico Road Extension.

DCA's recommended remedial actions:

Revise the Future Transportation Map(s) Series to include the Alico Road Extension.

Lee County's conceptual solution:

Without any funding source for the Alico Road Extension, Lee County cannot legally follow DCA's recommended remedial action to add the Alico Road Extension to the Future Transportation Map. However, the alleged inconsistency can be resolved by simply deleting the display of the Alico Extension wherever it appears; it had been shown on various Lee Plan maps only for informational purposes.

Lee County's precise solution:

Delete the Alico Road Extension from Lee Plan Maps 4, 14, 17, 20, and 25.

7. Public Facilities Planning Need for Dwelling Units Created By TDR Program

DCA's inconsistency provisions:

The Mixed-Use Community designations on the Map 17 amendment are not supported by relevant and appropriate data and analysis demonstrating coordination of the resulting maximum development potential of the land uses with the short-term and long-term planning and provision of public facilities (central potable water, central sanitary sewer, adequate water supply, roads, and schools) in order to achieve and maintain the adopted level of service standards for public facilities. The amendment is not supported by relevant and appropriate data and analysis for the short-term and long-term planning timeframes based on the maximum development potential of the land uses for the Mixed-Use Communities addressing:

- (1) identifying the amount of demand for water, sanitary sewer, roads, and schools generated by the Mixed-Use Communities;
- (2) the impact of the demand upon the operating level of service and adopted level of service standards of public facilities, and the need for public facilities improvements (scope and timing) in order to maintain the adopted level of service of public facilities; and
- (3) coordination of the public facility improvements with the Capital Improvements Element, Transportation Element, Community Facilities and Services Element, and Public School Facilities Element.

The public facilities improvements that would be needed to support the Mixed-Use Community designations on Map 17 are not coordinated with the elements of the Lee County Comprehensive Plan. The amendment does not coordinate land use planning with the planning and provision of public facilities for the short-term and long-term planning timeframes. The plan policies require that the Mixed-Use Community be developed with central water and sewer, and the TDR program could intensify the development beyond the clustering of existing density. The amendment designates Mixed-Use Communities adjacent to State Road 82, which according to the analysis submitted with the adopted amendment currently operates in a manner that does not meet the adopted level of service standards from Colonial Boulevard to the Hendry County boundary.

DCA's recommended remedial actions:

~~Support the amendments with relevant and appropriate data and analysis, based upon TDR transfer rates (the rate at which a TDR credit creates a dwelling unit) established in the plan policies, identifying the potential number of dwelling units resulting from the TDR program and demonstrating a need for the dwelling units:~~ Support the amendments for the Mixed-Use Community (MUC) designations on the Map 17 amendment with relevant and appropriate data and analysis demonstrating coordination of the resulting maximum development potential of the land uses of the MUC with the short-term and long-term planning and provision of public facilities (central potable water, central sanitary sewer, adequate water supply, roads, and schools) in order to achieve and maintain the adopted level of service standards for public facilities. The analysis should address:

- (1) identifying the amount of demand for water, sanitary sewer, roads, and schools generated by the Mixed-Use Communities;
- (2) the impact of the demand upon the operating level of service and adopted level of service of public facilities, and the need for public facilities improvements (scope and timing) in order to maintain the adopted level of service of public facilities; and
- (3) coordination of the public facility improvements with the Capital Improvements Element, Transportation Element, Community Facilities and Services Element, and Public School Facilities Element.

Revise the appropriate elements of the Lee County Comprehensive Plan to address the public facilities improvements and other planning actions (e.g., revision to service area maps) that are needed to support the Mixed Use Communities.

Lee County's conceptual solution:

During several conversations, DCA officials have asked about potential concurrency issues on SR 82 and Lee County's preferred solution, which is a multimodal transportation district. As is customary, DCA officials asked for a clear plan of action with measurable milestones. This can be provided by adding policy language to the Lee Plan. (NOTE: it is definitely not correct that SR 82 currently operates below the adopted levels of service to the Hendry County line; construction to correct one failing link near I-75 is underway at this time.)

Other public facility issues were cited in this objection even though it has already been ascertained that existing elements of the Lee Plan can accommodate the extra increment of development that would be enabled by this plan amendment. Public school needs are governed by the recent adoption of Goal 67 into the education sub-element of the Lee Plan. A July 21 letter from the Lee County School District is being forwarded to DCA; the letter indicates that there is already sufficient capacity in existing Lee County schools for all students expected from the Mixed-Use Communities through their build-out, even using the most conservative methodology for estimating student generation. The recent water and wastewater analysis by Lee County Utilities has been should-be expanded to include non-residential demands and is being then resubmitted to DCA for their review. Lee Plan Maps 6 and 7 which show future water and wastewater service should be amended at this time to add all five Mixed-Use Communities. Three subsections of Policy 33.3.3 should be amendment at this time to more clearly address public facility demands.

The need for the Mixed-Use Communities does not arise from any shortage of developable land in the unincorporated area; rather, the addition of a small amount of newly developable land in the five Mixed-Use Communities (less than 1,200 gross acres in total, with about 300 acres in developable blocks) will help resolve several much greater needs, particularly the need to protect farmland and environmentally sensitive lands at increasing distances from existing services and amenities. The DR/GR area is about 82,560 acres; the gross acreage of newly developable land is only 1.5% percent of the DR/GR area, in service of protecting vastly more land in its undeveloped state. These factors have been discussed in detail in the support documents for these amendments (particularly in *Prospects for Southeast Lee County*, *Transferable Development Rights in Southeast Lee County*, and *Natural Resource Strategies for Southeast Lee County*).

Lee County's precise solution:

See redraft of Policies 33.3.3.3–5 (highlighted in green).

Add all five Mixed-Use Communities to Lee Plan Maps 6 and 7.

EXHIBIT B

OBJECTIVE 33.3: RESIDENTIAL AND MIXED-USE DEVELOPMENT. Designate on a Future Land Use Map overlay existing rural residential areas that should be protected from adverse impacts of mining and specific locations for concentrating existing development rights on large tracts.

POLICY 33.3.1: Existing acreage subdivisions are shown on Map 17. These subdivisions should be protected from adverse external impacts such as natural resource extraction.

POLICY 33.3.2: Unsubdivided land is too valuable to be consumed by inefficient land-use patterns. Although additional acreage or ranchette subdivisions may be needed in the future, the preferred pattern for using existing residential development rights from large tracts is to concentrate them as compact internally connected Mixed-Use Communities along existing roads and away from Future Limerock Mining areas. Map 17 identifies future locations for Mixed-Use Communities where development rights can be concentrated from major DR/GR tracts into traditional neighborhood developments (see glossary).

1. Mixed-Use Communities must be concentrated from contiguous property owned under single ownership or control, ~~and, are~~ The basic density is Allowable residential development without the benefit of TDR credits is limited to the existing allowable dwelling units from residential density-based upon the upland and wetland acreage of the entire contiguous DR/GR tract. The only net increases in dwelling units development potential will be through the creation of incentives as specified in the LDC for permanent protection of indigenous native uplands on the contiguous tract (up to one extra dwelling unit allowed for each five acres of preserved or restored indigenous native uplands) and through the acquisition of TDRs credits from TDR sending areas as provided in Policies 33.3.3 and 33.3.4.
 - a. When expanded with transferred development rights, the maximum gross density is 5 dwelling units per acre of total land designated as a Mixed-Use Community as shown on Map 17.
 - b. The maximum basic intensity of non-residential development is 75 square feet; per by-right (clustered) dwelling unit.
 - c. ~~The maximum intensity of non-residential development is up to 800 square feet per TDR credit. The additional intensity that can be created~~ using by the conversion of TDR credits to non-residential development may not exceed 300,000 square feet of non-residential floor area in any Mixed-Use Community.
 - d. These limits on dwelling units and non-residential floor area do not apply to any land in a Mixed-Use Community that is designated Central Urban rather than DR/GR. Numerical limits for Central Urban land are as provided elsewhere in the Lee Plan.
2. Contiguous property under the same ownership may be developed as part of a Mixed-Use Community provided the property under contiguous ownership does not extend more than 400 feet beyond the perimeter of the Mixed-Use Community as designated on Map 17.
3. In 2010 an exception was made to the requirement in Policy 1.4.5 that DR/GR land uses must demonstrate compatibility with maintaining surface

and groundwater levels at their historic levels. Under this exception, construction may occur on land designated as a Mixed-Use Community on Map 17 provided the impacts to natural resources, including water levels and wetlands, are offset through appropriate mitigation within Southeast Lee County. Appropriate mitigation for water levels will be based upon site-specific data and modeling acceptable to the Division of Natural Resources. Appropriate wetland mitigation may be provided by preservation of high quality indigenous habitat, restoration or reconnection of historic flowways, connectivity to public conservation lands, restoration of historic ecosystems, or other mitigation measures as deemed sufficient by the Division of Environmental Sciences. When possible, it is recommended that wetland mitigation be located within Southeast Lee County. The Land Development Code will be revised to include provisions to implement this policy.

4. To create walkable neighborhoods that reduce automobile usage and minimize the amount of DR/GR land consumed by development, the Land Development Code will specify how each Mixed-Use Community will provide:
 - a. A compact physical form with identifiable centers and edges, with opportunities for shopping and workplaces near residential neighborhoods;
 - b. A highly interconnected street network, to disperse traffic and provide convenient routes for pedestrians and bicyclists;
 - c. High-quality public spaces, with building facades having windows and doors facing tree-lined streets, plazas, squares, or parks;
 - d. Diversity not homogeneity, with a variety of building types, street types, open spaces, and land uses providing for people of all ages and every form of mobility; and
 - e. Resiliency and sustainability, allowing adaptation over time to changing economic conditions and broader transportation options.

POLICY 16.2.6: Time share, fractional ownership units (meaning any dwelling unit for which ownership is shared among multiple entities for the primary purpose of creating short-term use or rental units rather than permanent full time residential units), and Bed and Breakfast establishments may be permitted if the property is included on Map 17 as Rural Golf Course Residential Overlay area. These uses must be ancillary to or in conjunction with uses within the Private Recreational Facility, including a Golf Training Center or similar facility and must be located adjacent to, or within 1,000 feet of, the principal use that is being supported. Through the PRFPD process, the applicant must demonstrate that external vehicular trips will be reduced from typical single-family residential units due to the ancillary nature of the use.

POLICY 16.2.7: Time share, fractional ownership units, or Bed and Breakfast establishments will only be permitted in a designated Rural Golf Residential Overlay area as specified on Map 17 and may only be constructed through transferring density in accordance with Policy 33.3.2(1). Each TDR credit dwelling unit that is otherwise eligible to be transferred to a Mixed-Use Community on Map 17 can instead be redeemed for one timeshare unit, one fractional ownership unit, or two Bed and Breakfast bedrooms.

POLICY 33.3.3: Owners of major DR/GR tracts without the ability to construct a Mixed-Use Community on their own land are encouraged to transfer their residential development rights to appropriate Future Urban Areas (see Objective 1.1), such as specifically the Mixed-Use Overlay, and the Lehigh Acres Specialized Mixed-Use Nodes, and any Lee Plan designation that allows bonus density (see Table 1(a)), or to future Mixed-Use Communities on land so designated on Map 17. These transfers would avoid unnecessary travel for future residents, increase housing diversity and commercial opportunities for nearby Lehigh Acres, protect existing agricultural or natural lands, and allow the conservation of larger contiguous tracts of land.

1. To ~~these~~ this ends, Lee County will establish a program that will allow and encourage the transfer of upland and wetland development rights (TDR) to designated **TDR receiving** areas, ~~appropriate Future Urban Areas or from one landowner to another who wishes to develop a Mixed-Use Community, wishes to exercise these development rights outside the DR/GR area. This program will also allow limited, or development~~ in accordance with Policy 16.2.6 and 16.2.7.
2. Within the Mixed-Use Communities shown on Map 17, significant commercial and civic uses are **required, encouraged**. Each Mixed-Use Community adjoining S.R. 82 must be designed to include non-residential uses not only to serve its residents but also to begin offsetting the shortage of non-residential uses in adjoining Lehigh Acres. At a minimum, each community adjoining S.R. 82 must designate at least 10% of its developable land into zones where for non-residential uses are encouraged. Specific requirements for incorporating these uses into Mixed-Use Communities are set forth ~~will be found~~ in the Land Development Code.
3. Mixed-Use Communities must be served by central water and wastewater services. All Mixed-Use Communities were added to the future water and sewer service areas for Lee County Utilities (Lee Plan Maps 6 and 7) in 2010. Development approvals for each community are contingent on availability of adequate capacity at the central plants and on developer-provided upgrades to distribution and collection systems to connect to the existing systems.
4. Development approvals for Mixed-Use Communities are contingent on adequate capacity in the public school system (see Goal 67).
5. ~~4. The state has designated SR 82 as an "emerging component" of Florida's Strategic Intermodal System, a designation that establishes the levels of service Lee County must adopt for SR 82. Lee County will seek to include the Mixed-Use Communities in a multimodal transportation district to mitigate regulatory barriers these levels of service would impose on Lee County's ability to accomplish Objective 33.3 and its policies, the effects of SR-82's status as an emerging component of Florida's Strategic Intermodal System. (or the As an alternative, Lee County may will pursue a comparable mechanism, such as a transportation concurrency exception or management area, that would achieve similar results). The Lee County's planning will include the following steps:~~
 - a. Actively seek advice, technical assistance, and support from Florida DOT and DCA, beginning in 2010, while formulating the scope of a technical evaluation of a potential multimodal transportation district that includes the four Mixed-Use Communities adjoining S.R. 82.
 - b. Conduct the necessary technical studies in 2011 to determine the potential for substantial trip diversions from Lehigh Acres residents, the

viability of transit service to these Mixed-Use Communities, and the practicality of the maintaining the adopted level-of-service standards on S.R. 82.

- c. Adopt a Lee Plan amendment establishing a multimodal transportation district (or comparable mechanism) no later than 2012.

POLICY 33.3.4: The new TDR program will have the following characteristics:

1. This program will be in addition to the existing wetland TDR program described in Article IV of Chapter 2 of the Land Development Code.
2. ~~The maximum number of DR/GR TDR credits that may be established may not exceed 9,000 credits.~~
2. ~~3-~~ The preferred receiving locations for the transfer of TDRs are within appropriate designated Future Urban Areas due to their proximity to public infrastructure and urban amenities (see Objective 1.1), specifically such as the Mixed-Use Overlay, and the Lehigh Acres Specialized Mixed Use Nodes, and the future urban land use categories that allow bonus density (see Table 1(a)). The only acceptable sites in the DR/GR area permitted to receive for accepting transferred development rights are Mixed-Use Communities or Rural Golf Course Communities as shown on Map 17.
4. ~~The transfer rate may include a multiplier that reflects the natural or restoration value of the tract from which development rights are transferred.~~
5. ~~Transfer rates may include a multiplier when units are transferred to Future Urban Areas that are proximate to public infrastructure and urban amenities.~~
3. TDR credits will be available from sending areas as follows:
 - a. One TDR credit may be created for each allowable dwelling unit attributable to sending parcels within the Southeast DR/GR area. As an incentives for permanently protecting indigenous native uplands, allowing up to one extra dwelling unit will be allowed for each five acres of preserved or restored indigenous native uplands.
 - b. 4- As an additional incentive for protecting certain priority restoration lands (see Policy 33.2.3.2), each TDR credit created pursuant to the preceding subsection will qualify for up to two additional TDR credits if the credits are created from land in Tiers 1, 2, 3, or the southern two miles of Tiers 5, 6, or 7, as shown on the DR/GR Priority Restoration overlay.
4. ~~5-~~ The maximum number of TDR credits that can be created from Southeast DR/GR lands is 9,000.
5. ~~6-~~ No more than 2,000 dwelling units can be placed on receiving parcels within the Southeast DR/GR Mixed-Use Communities through the TDR credit program.
6. ~~7-~~ TDR credits may be redeemed in designated TDR receiving areas as follows:
 - a. In Mixed-Use Communities in DR/GR areas, each TDR credit may be redeemed for a maximum of one dwelling unit plus and a maximum of 800 square feet of non-residential floor area.
 - b. In Rural Golf Course Communities, see Policy 16.2.7.
 - c. In the Future Urban Areas described in paragraph 2. above, each TDR credit may be redeemed for a maximum of two dwelling units. In these Future Urban Areas, the redemption of TDR credits cannot allow densities to exceed the maximum bonus density specified in Table 1(a). TDR credits may not be redeemed for non-residential floor area in these Future Urban Areas.

d. Redemption of TDR credits within incorporated municipalities may be allowed where interlocal agreements set forth the specific terms of any allowable transfers and where the redemption allows development that is consistent with the municipality's comprehensive plan. As in the County's Future Urban Areas, each TDR credit may be redeemed **as for a maximum of two dwelling units.**

7. 6- When severing development rights from a tract of land in anticipation of transfer to another tract, a landowner must execute a perpetual conservation easement on the tract that acknowledges the severance of development rights and explicitly states one of the following options:
- a. Continued agricultural uses will be permitted;
 - b. Conservation uses only;
 - c. Conservation use and restoration of the property; or
 - d. Some combination of the above options.

POLICY 33.3.5: The Land Development Code will be amended within one year to specify procedures for concentrating existing development rights on large tracts, for transferring development rights between landowners, for seeking approval of additional acreage subdivisions, and for incorporating commercial and civic uses into Mixed-Use Communities as designated on Map 17.

POLICY 33.3.6: By 2012 Lee County will evaluate the establishment and funding of a DR/GR TDR bank that will offer to purchase development rights for resale in the TDR system. The purpose of this program is to give potential sellers the opportunity to sell rights even if no developer is ready to use them and to give potential development applicants the opportunity to obtain the necessary rights without seeking them on the open market.

XII. GLOSSARY

DENSITY - The number of residential dwelling or housing units per gross acre (du/acre). Densities specified in this plan are gross residential densities. For the purpose of calculating gross residential density, the total acreage of a development includes those lands to be used for residential uses, and includes land within the development proposed to be used for streets and street rights of way, utility rights-of-way, public and private parks, recreation and open space, schools, community centers, and facilities such as police, fire and emergency services, sewage and water, drainage, and existing man-made waterbodies contained within the residential development. Lands for commercial, office, industrial uses, natural water bodies, and other non-residential uses must not be included, except within areas identified on the Mixed Use Overlay Map (Future Land Use Map Series Map 1 page 6 of 6) that have elected to use the process described in Objective 4.2 and except within areas identified as Rural or Mixed-Use Communities as identified on Map 17 where development rights are concentrated or transferred using the process described under Objective 33.3. Within the Captiva community in the areas identified by Policy 13.2.1, commercial development that includes commercial and residential uses within the same project or the same building do not have to exclude the commercial lands from the density calculation. For true mixed use developments located on the mainland areas of the County, the density lost to commercial, office and industrial acreage can be regained through the utilization of TDRs that are either created from Greater Pine Island Coastal Rural future land use category or previously created TDRs. True mixed use developments must be primarily multi-use structures as defined in this Glossary as a mixed use building. If development

is proposed in accordance with Policy 2.12.3, residential densities are calculated using the total land area included in the mixed use portion of the development.



**INTEROFFICE MEMORANDUM
FROM
PUBLIC WORKS
UTILITIES**

Date: June 14, 2010

TO: Matt Noble
Lee County Planning Department

From: Howard S. Wegis *HSW*
Staff Engineer

**SUBJECT: Proposed Mixed Use Communities in DRGR
Analysis of LCU's Ability to Serve**

The Lee County Planning Department has requested LCU to revise the analysis of the ability to provide water and wastewater service to the Mixed Use Communities being proposed as part of the transfer of development rights (TDR) program for the DRGR Comprehensive Plan Amendment that was provided in a memorandum to Matt Noble on May 5, 2010.

According to the Lee County Planning Department the following revisions to the analysis is required. Sites A, C, D, E, F, and G are to be removed from the analysis, as they are no longer proposed. In addition, Sites H, I, J, and K are to have their retail square footage increased by 300,000 sq. ft. Attached is a revised map titled "Rural Communities & Mixed-Use Communities without TDR's" depicting the location of the five remaining communities proposed for increased density as a result of the TDR program (see Attachment 1). Each of the five remaining sites are labeled on this map. LCU has also revised the table titled "Maximum Development Capacity for DR/GR Communities (see Attachment 2) to reflect the revised retail square footages and the remaining Mixed-Use Developments. The table provides the maximum retail square footage, maximum office square footage, and number of dwelling units for each community. These square footages and number of dwelling units were utilized to develop the gallons per day demand for potable water and determine the amount of wastewater that would be generated for each community to determine the potential impact of each community on the water and wastewater systems that would be serving these communities.

For the purpose of this analysis, the following assumptions were made with respect to which LCU facility would provide water and wastewater service to these communities.

- Site B would be provided water service by LCU's Pinewoods WTP and wastewater service would be provided by LCU's Three Oaks WWTP
- Site H would be provided water service by LCU's Corkscrew WTP and wastewater service would be provided by LCU's Gateway WWTP.
- Sites I, J, and K would be provided water service by LCU's Green Meadows WTP and wastewater service by LCU's Gateway WWTP.

Regarding the means with which the projected potable water demands and wastewater

flows were calculated, Florida Administrative Code (FAC), Chapter 64E-6, was utilized to derive the projected flows for commercial development. The following assumptions were made based on FAC 64E-6: Flows for office space flow were assumed to be 15 gallons per day per 100 square foot of area and flows for retail was assumed to be 0.1 gallon per day per square foot. For Dwelling Units the adopted level of service for Lee County, 250 gallons per day per dwelling unit was utilized as a projected flow.

Utilizing the assumptions discussed above a projected water demand and wastewater flow was determined for each community. These flows were then assigned to the various LCU facilities discussed above. A spreadsheet showing the results of the analysis is shown in Attachment 3 titled, "DRGR TDR Projected Flows".

Given the assumptions described above and the analysis shown on Attachment 3, the following summarizes the potential impact to LCU's treatment facilities.

Corkscrew Water Treatment Plant

- An increase in demand for potable water from the Corkscrew WTP of 299,953 gallons per day on annual average (0.30 MGD) is projected as a result of the proposed amendment.
- The Corkscrew WTP is currently producing and annual average of 8.2 MGD with a permitted treatment capacity of 15.0 MGD.
- The committed capacity to developments that are proposed to be served by the facility total 1.85 MGD.
- Increases in demand at the Corkscrew WTP are being met with a combination of permitted fresh and brackish groundwater.

Three Oaks Wastewater Treatment Plant

- An increase in wastewater flow to the Three Oaks WWTP of 148,262 gallons per day on annual average (0.148 MGD) as a result of the proposed amendment.
- The Three Oaks WWTP current annual average flow is 2.3 MGD and the permitted treatment capacity of the facility is 6.0 MGD.
- The committed capacity to developments that are proposed to be served by the facility total 2.5 MGD.
- The demand for reclaimed water in the Three Oaks WWTP regional reuse service area far exceeds the supply. Therefore, the additional reclaimed water generated as a result of this amendment will be utilized to meet the high demand for reclaimed water in this area.

Gateway Wastewater Treatment Plant

- An increase in wastewater flow to the Gateway WWTP of 1,011,881 gallons per day on annual average (1.012 MGD) as a result of the proposed amendment.
- The Gateway WWTP current annual average flow is 0.62 MGD and the facility is currently permitted at 1.0 MGD.
- The committed capacity to developments that are proposed to be served by the facility total 0.078 MGD.
- The facility is currently being expanded to a capacity of 3.0 MGD. Construction of the expansion to 3.0 MGD is 95% complete.
- The demand for reclaimed water in the Gateway community far exceeds the supply. Therefore, the additional reclaimed water generated as a result of this

amendment will be utilized to meet the high demand for reclaimed water in this area.

Pinewoods Water Treatment Plant

- An increase in demand for potable water from the Pinewoods WTP of 148,262 gallons per day on annual average (0.148 MGD) as a result of the proposed amendment.
- The committed capacity to developments that are proposed to be served by the facility total 0.964 MGD.
- The Pinewoods WTP current annual average flow is 3.99 MGD and the facility is currently permitted at 5.3 MGD.
- Increases in demand at the Pinewoods WTP are being met with brackish groundwater from the Lower Hawthorn Aquifer.

Green Meadows Water Treatment Plant

- An increase in demand for potable water from the Green Meadows WTP of 711,928 gallons per day on annual average (0.712 MGD) as a result of the proposed amendment.
- The committed capacity to developments that are proposed to be served by the facility total 1.849 MGD.
- The Green Meadows WTP current annual average flow is 5.62 MGD and the facility is currently permitted at 9.0 MGD.
- A design of an expansion of the Green Meadows WTP to a capacity of 10.0 MGD is currently underway. The proposed source of the increased capacity is brackish groundwater from the Lower Hawthorn Aquifer.

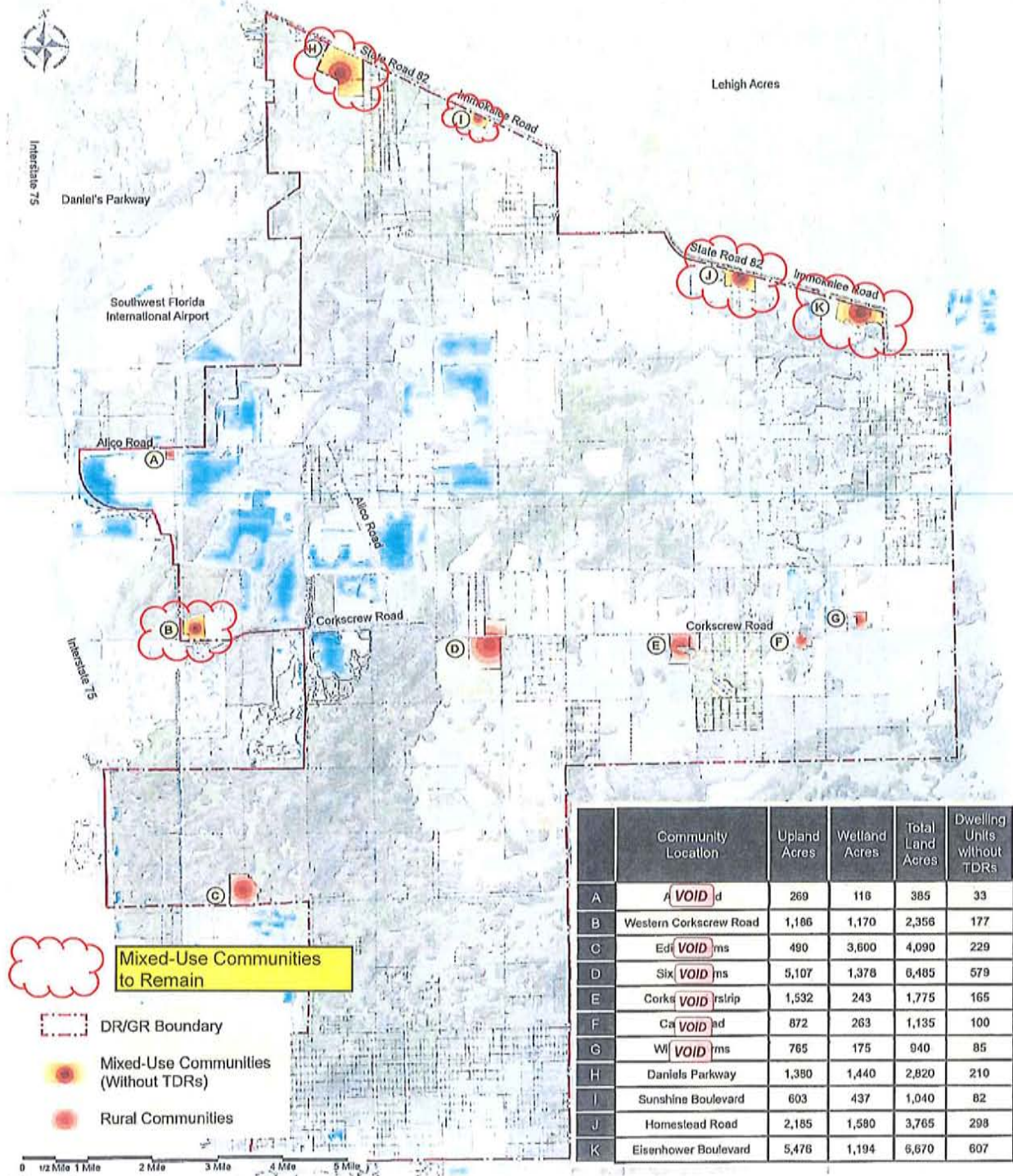
It should be noted that LCU's water transmission and distribution system is configured in such a way that potable water produced at the various points of entry (treatment facilities) can travel through interconnections between the various systems. To a limited extent, these interconnections allows for flexibility with respect to managing deficits and surpluses that may arise at one particular treatment facility.

ATTACHMENT 1

TRANSFERABLE DEVELOPMENT RIGHTS IN SOUTHEAST LEE COUNTY

RURAL COMMUNITIES & MIXED-USE COMMUNITIES WITHOUT TDRs

One strategy involves clustering the development rights of the largest, single-owner, tracts on major roads*.



* See Chapter 4 for tract outlines.

ATTACHMENT 2

Maximum Development Capacity for DR/GR Mixed-Use Communities

		Retail SF	Office SF	# Dus
B	West Corkscrew	73047	73047	520
H	Daniels Parkway	463812	163812	916
I	Sunshine Blvd	342028	42028	449
J	Homestead Road	408107	108107	660
K	Eisenhower Blvd	343575	43575	1185
	Total	1630569	430569	3730

**ATTACHMENT 3
DRGR TDR MIXED COMMUNITY PROJECTED FLOWS**

Site	Site Name	Retail SF	Office SF	# of DU's	Flow (gpd)		# of DU's	Total Flow (gpd)	Proposed Utility Water Service	Proposed Utility Sewer Service
					Retail SF	Office SF				
B	West Corkscrew	73,047	73,047	520	7,305	10,957	130,000	148,262	LCU Pinewoods	LCU Three Oaks
H	Daniels Parkway	463,812	163,812	916	46,381	24,572	229,000	299,953	LCU Corkscrew	LCU Gateway
I	Sunshine Blvd	342,028	42,028	449	34,203	6,304	112,250	152,757	LCU Green Meadows	LCU Gateway
J	Homestead Road	408,107	108,107	660	40,811	16,216	165,000	222,027	LCU Green Meadows	LCU Gateway
K	Eisenhower Blvd	343,575	43,575	1,185	34,358	6,536	296,250	337,144	LCU Green Meadows	LCU Gateway

Notes: 1. Flow Calculations: 15 gpd per 100 sq.ft of office space
Per FAC 64E-6 0.1gpd per sq. ft. of retail space

2. DU flows based on Lee County LOS = 250 gpd/du

Facility	Flow (gpd) (AADF)
LCU Corkscrew WTP TTL	299,953
LCU Three Oaks WWTP TTL	148,262
LCU Gateway WWTP TTL	1,011,881
LCU Pinewoods WTP TTL	148,262
LCU Green Meadows WTP TTL	711,928



THE SCHOOL DISTRICT OF LEE COUNTY

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

STEVEN K. TEUBER, J.D.
CHAIRMAN, DISTRICT 4
ELINOR C. SCRICCA, PH.D.
VICE CHAIRMAN, DISTRICT 5

July 21, 2010

Matt Noble Principal Planner
Lee County Division of Planning
P.O. Box 398
Fort Myers, FL 33902-0398

DISTRICT 1
JEANNE S. DOZIER
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JANE E. KUCKEL, PH.D.
DISTRICT 3
JAMES W. BROWDER, ED.D.
SUPERINTENDENT
KEITH B. MARTIN, ESQ.
BOARD ATTORNEY

RE: Review of proposed Future Plan Amendment for Public School Concurrency

Dear Mr. Noble:

This letter is in response to your request dated July 21, 2010 for comments on the review of the Future Plan Amendments with regard to educational impact. The proposed site(s) are located in the South Zone Sub Zone S3 and the East Zone Sub Zones E2 and E3.

After reviewing the amendments there is an increase of dwelling units within each of the above mentioned sub zones. The request does not clarify as to which type of dwelling unit, therefore single family calculations will be utilized for this response. With regard to the inter-local agreement for school concurrency the generation rates are created from the type of dwelling unit and further broken down by grade level.

For single family the generation rate is .299 and broken down into the following, .150 for elementary, .072 for middle and .077 for high. The increase of units within sub zone S3 generates *51 elementary* school students, 25 middle school students and 103 high school students. The increase of units within sub zone E2 generates *161 elementary* school students, 77 middle school students and 82 high school students. The increase of units within sub zone E3 generates *141 elementary* school students, 68 middle school students and 281 high school students. These numbers are utilized for the purpose of determining sufficient capacity. Currently within the School District there are sufficient seats available to serve this need.

Please be advised that this is not a concurrency determination and such a determination will be required later in the development process.

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

Sincerely,

Dawn Gordon, Community Development Planner
Planning Department