

Village of Estero Response to:
Objections, Recommendations and Comments Report for - Amendment 18PLAN

I. CONSISTENCY WITH CHAPTER 163, PART II, F.S.

Proposed Amendment 18PLAN includes a new Comprehensive Plan for the Village of Estero.

A. The Department raises the following objections and comments to proposed Amendment 18PLAN:

1. Objection (Planning Timeframe): Amendment 18PLAN does not establish at least two planning periods (one covering at least the first 5-year period occurring after the plan's adoption and one covering at least a 10-year period) in the adopted portion of the Comprehensive Plan.

The amendment is inconsistent with the following requirement: Section 163.3177(5)(a), F.S.

Recommendation: Revise the adopted portion of the Comprehensive Plan to establish at least two planning periods consistent with the requirements of Section 163.3177(5)(a), F.S. Revise the data and analysis of public facilities to address and support the 5-year and long-term planning timeframes. Revise the Five-Year Schedule of Capital Improvements to include at least five years after adoption of the Comprehensive Plan.

VILLAGE RESPONSE/ACTION

Changes have been made to the Community Profile section of the Comprehensive Plan and the appropriate sections of the Data & Analysis, including the population and housing projections and infrastructure capacity demands.

The base year of Estero's Comprehensive Planning periods has been updated from 2016 to 2018, with the required 5-year planning period ending in 2023 and the long-term planning period ending in 2040.

The 5-year Capital Improvements Schedule has been updated to include the 2022-23 planning period.

The entire Map Series including Future Land Use, Transportation, and Public School Facilities has been updated.

- Future Land Use Map has been designated "Future Land Use Map 2040"
- New Map – "Floodplains"
- Replaced "Alternative Transportation" with "Existing Transportation Facilities"
- New Maps - "Transportation Facilities 2023" and "Transportation Facilities 2040"

2. Objection (Future Land Use Categories): The proposed Future Land Use Element does not include meaningful and predictable standards establishing maximum intensity of use for the following: (1) active recreation and community centers allowed in the "Public Parks and Recreation" future land use category; (2) nonresidential uses (except schools) allowed in the "Public Facilities" and "Village Center" future land use categories; and (3) churches, public and quasi-public uses allowed in the future land use categories of Village Neighborhood 1, Village Neighborhood 2, Urban Commercial, Transitional Mixed Use, and Village Center. The proposed Future Land Use Element allows bonus density for the Transitional Mixed Use future land use category (Objective FLU-1.4 and Policies FLU-1.2.1, 1.2.8 and 1.4.1) and density incentive for the Village Center future land use category (Policies FLU-1.2.1 and 1.2.10). However, the Objective and Policies do not include meaningful and predictable guidelines and standards defining the basis upon which the bonus density and density incentive will be determined in order to implement the bonus and incentive provisions.

The amendment is inconsistent with the following requirements: Sections 163.3177(1); and 163.3177(6)(a)1, F.S.

Recommendation: Revise the Future Land Use Element to include meaningful and predictable standards establishing maximum intensity of use for the following: (1) active recreation and community centers allowed in the "Public Parks and Recreation" future land use category; (2) nonresidential uses (except schools) allowed in the "Public Facilities" and "Village Center" future land use categories; and (3) churches, public and quasi-public uses allowed in the future land use categories of Village Neighborhood 1, Village Neighborhood 2, Urban Commercial, Transitional Mixed Use, and Village Center. Revise the Future Land Use Element to include meaningful and predictable guidelines and standards defining the basis upon which the bonus density and density incentive will be determined.

VILLAGE RESPONSE/ACTION

The Village has revised Future Land Use Element Policies FLU-1.2.1, 1.2.4, 1.2.5, 1.2.6, 1.2.7, 1.2.8, 1.2.9, and 1.2.10 to include FAR standards establishing maximum intensity of use as recommended above. See attached revised Future Land Use Element. The Village has also added a definition for Floor Area Ratio (FAR) to the Definitions section.

FLOOR AREA RATIO (FAR) - A measure of intensity expressing the maximum allowable floor area permitted on a lot. The FAR is equivalent to the total floor area of all commercial buildings divided by the total area of the lot, expressed in square feet. The FAR represents the relationship of the developed square footage of the lot to the square footage of the site.

The Village has revised Future Land Use Element Policies FLU-1.2.1, 1.2.8, and 1.2.10 to include meaningful and predictable guidelines and standards defining the basis upon which the bonus density and density incentive will be determined in the Transitional Mixed Use and Village

Center Future Land Use Categories. See attached revised Future Land Use Element.

3. Objection (Future Transportation Map; Future Land Use Map): The proposed Transportation Element does not include a Future Transportation Map (or map series) for the long-term planning timeframe, based upon relevant and appropriate data and analysis, depicting the general location of proposed transportation system features, including: (1) the functional type and number of through-lanes of roadways/thoroughfares to achieve and maintain the adopted level of service standards; (2) bicycle and pedestrian ways; (3) rail facilities; (4) evacuation routes; and (5) public transportation routes. The proposed Future Land Use Map (or map series) does not show the location of floodplains and wetlands based upon relevant and appropriate data and analysis.

The amendment is inconsistent with the following requirements: Sections 163.3177(1)(f); and 163.3177(6)(a)10.c., F.S.); and 163.3177(6)(b), F.S.

Recommendation: Revise the Transportation Element to include a Future Transportation Map (or map series) titled for the long-term planning timeframe, based upon relevant and appropriate data and analysis, depicting the general location of proposed transportation system features, including: (1) the functional type and number of through-lanes of roadways/thoroughfares need to achieve and maintain the adopted level of service standards; (2) bicycle and pedestrian ways; (3) rail facilities; (4) evacuation routes; and (5) public transportation routes. The map should be coordinated with the plans of the Lee County Metropolitan Planning Organization and the Florida Department of Transportation. Revise the Future Land Use Map series to include maps, based upon relevant and appropriate data and analysis, showing the location of floodplains and wetlands.

VILLAGE RESPONSE/ACTION

The alternative transportation map has been revised to depict only existing rail, public transit, and bicycle and pedestrian facilities.

The Transportation Map series has been enhanced to include maps reflecting proposed transportation projects for the 2023 short term planning period and the 2040 long term planning period.

A floodplains and wetlands map, based on relevant and appropriate data and analysis, has been placed in the Future Land Use Map Series for adoption. The Wetland Future Land Use Category on the Future Land Use Map designates the locations of wetland areas subject to ground truthing.

4. Objection (Stormwater Master Plan): Proposed Policies INF-1.1.1 and CIE-1.2.7 state, in part, that "New development must be designed to avoid increased flooding of surrounding areas and be consistent with the adopted recommendations of the Village Stormwater Master Plan." The Village has not yet approved/adopted the recommendations of the Stormwater Master Plan, and the amendment data and analysis state that the Stormwater Master Plan is anticipated for completion in Spring 2018. Proposed Policies INF-1.1.1 and CIE-1.2.7 are not based upon relevant and appropriate data and analysis of the adopted recommendations of the Village Stormwater Master Plan, and the policy does not identify the adoption date of the subject Village Stormwater Master Plan in order to properly reference the specific document that contains the recommendations. Proposed Policies INF-1.1.1 and CIE-1.2.7 do not include meaningful and predictable guidelines and standards identifying the content of the adopted recommendations of the Village Stormwater Master Plan in order to guide implementation of the policy and protect drainage features.

The amendment is inconsistent with the following requirements: Sections 163.3177(1); 163.3177(1)(b) and (f); 163.3177(3)(a); and 163.3177(6)(c)1. and 2.; F.S.

Recommendation: Prior to adopting Amendment 18PLAN, the Village should complete and approve the Stormwater Master Plan, including approval (adoption) of any appropriate recommendations, and revise Policies INF-1.1.1 and CIE-1.2.7 to identify the title and approval/adoption date of the Stormwater Master Plan. Alternatively, revise Policies INF-1.1.1 and CIE-1.2.7 to remove the requirement that new development must be consistent with the adopted recommendations of the Village Stormwater Master Plan and include language stating a future intent to consider a Comprehensive Plan amendment to address the recommendations of the Village Stormwater Master Plan once the Stormwater Master Plan is completed.

VILLAGE RESPONSE/ACTION

The Village Stormwater Master Plan will not be completed at the time of Comprehensive Plan adoption. The Village has revised INF-1.1.1 and CIE-1.2.7 (policies are identical) to remove the requirements related to the Village Stormwater Master Plan.

INF-1.1.1 and CIE 1.2.7

The following surface water management standards are adopted as minimum acceptable levels of service:

B. Regulation of Private and Public Development

New developments must be designed to avoid increased flooding of surrounding areas. ~~and be consistent with the adopted recommendations of the Village Stormwater Master Plan.~~ Development must be designed to minimize increases of discharge to public water management infrastructure (or to evapotranspiration) that

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exceed historic rates, to approximate the natural surface water systems in terms of rate, hydroperiod, basin and quality, and to eliminate the disruption of wetlands and flow-ways, whose preservation is deemed in the public interest.

5. Objection (flood risk): The Conservation and Coastal Management Element does not include meaningful and predictable guidelines and standards, based upon relevant and appropriate data and analysis, for a redevelopment component that outlines the principles that must be used to eliminate inappropriate and unsafe development in the coastal areas consistent with the requirements of Section 163.3178(2)(f)1., 2., 3., 4., 5., and 6., F.S. Proposed Policy CCM-1.3.9 (*"Implement development and redevelopment engineering solutions and standards that reduce the flood risk in coastal areas and along waterways such as the Estero River and Halfway Creek."*) does not include meaningful and predictable guidelines and standards identifying the "engineering solutions and standards that reduce the flood risk" as required by Section 163.3178(2)(f)1., F.S.

The amendment is inconsistent with the following requirements: Sections 163.3177(1); and 163.3178(2)(f), F.S.

Recommendation: Revise the Conservation and Coastal Management Element to include meaningful and predictable guidelines and standards, based upon relevant and appropriate data and analysis, for a redevelopment component that outlines the principles that must be used to eliminate inappropriate and unsafe development in the coastal areas consistent with the requirements of Section 163.3178(2)(f)1., 2., 3., 4., 5., and 6., F.S. Revise Policy CCM-1.3.9 to include meaningful and predictable guidelines and standards identifying the engineering solutions and standards that reduce flood risk in coastal areas.

VILLAGE RESPONSE/ACTION

Conservation & Coastal Management Policy CCM-1.3.5 outlines the Village's strategy to assess risks associated with potential sea level rise.

CCM-1.3.5 The Village shall review the Florida Department of Economic Opportunity's "Community Resiliency Initiative: Planning for Adaptation to Sea Level Rise," and the "Lee County Climate Change Resiliency Strategy" (CCRS) as well as other state and federal planning resources, as part of its efforts to establish effective strategies to plan for and adapt to sea level rise. In examining the statewide planning framework, the Village can better determine how best to integrate sea level rise adaptation policies into existing processes.

The Village has revised the Conservation & Coastal Management Element to be compliant with the requirements of Florida Statute 163.3178(2)(f)1-6, and standards are included to eliminate flood risk along waterways such as the Estero River and Halfway Creek. Policy CCM-1.3.9 is renumbered and revised to include the proper tools to use within those vulnerable areas. New

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Policy CCM-1.3.11 was added to ensure that the Village is approaching the reduction of flood risk strategically. Policies CCM-1.3.12, 1.3.13, and 1.3.14 have been added to demonstrate the engineering solutions and standards that reduce flood risk in the Village's vulnerable areas.

CCM-1.3.10 Implement development and redevelopment engineering solutions and standards that reduce the flood risk in coastal areas and along waterways such as the Estero River and Halfway Creek. Tools to be considered, but not limited to, are:

- Public infrastructure planning, siting, construction, replacement, operation and maintenance
- Stormwater Management
- Green Streets
- Rain Gardens/Bioswales
- Vernacular Streetscapes and Plant Placement (Water-Dependent Species)
- Grass Pavers (Driveways, Main Streets, Ponding Areas)
- Ecological Asset Preservation (Natural Areas, Mangroves, Plants, Animals)
- Land Development Regulations
- Comprehensive Planning

CCM-1.3.11 The Village shall develop a stormwater master plan to readdress recurring flood issues which takes into account an anticipated increase in flooding from rainfall, and storm surge.

CCM-1.3.12 All development and major redevelopment in the CHHA shall be consistent with the flood-resistant construction requirement in the Florida Building Code and applicable flood plain management regulations set forth in 44 CFR part 60.

CCM-1.3.13 Development in coastal areas shall consider site development techniques to reduce losses due to flooding and claims made under flood insurance policies issued in the state. These may include accommodation strategies, such as elevating structures, drainage improvements, or green infrastructure techniques that function to absorb or store water.

CCM-1.3.14 The Village shall limit public expenditures that subsidize development in the CHHA.

6. Objection (Wildlife Habitat): Proposed Policies CCM-1.5.1, CCM-1.5.2, CCM-1.5.3 and CCM1.7.1 do not include meaningful and predictable guidelines and standards to address the protection of wildlife habitat.

Proposed Policy CCM-1.5.1 does not establish meaningful and predictable guidelines and standards to protect upland wildlife habitat. Proposed Policy CCM-1.5.1 states *"Develop and maintain an inventory of upland habitats that, due to their presence or importance to the Village, should be retained in their natural state and incorporated as amenities into the design of new developments."* Proposed Policy CCM-1.5.1 does not include meaningful and predictable guidelines and standards that: (1) define the upland habitat(s) (e.g., define the type of upland habitat, character and quality of upland habitat, and geographic extent or presence of upland habitat) intended to be addressed by the policy; (2) define "importance to the Village"; (3) identify the process, action, or entity/body of the Village that will "develop and maintain" or otherwise approve the inventory; and (4) establish a standard of protection that shall be implemented to protect upland wildlife habitat. Proposed Policy CCM-1.5.1 directs that an inventory be developed and maintained; however, proposed Policy CCM-1.5.1 does not establish a meaningful and predictable standard of protection for upland wildlife habitat and include meaningful and predictable guidelines and standards that ensure/require implementation of the standard of protection.

Proposed Policy CCM-1.5.2 states *"Encourage the retention and preservation of high-value upland and wetland habitat types that are unique, rare, or otherwise important to the Village."* Proposed Policy CCM-1.5.2 does not establish meaningful and predictable guidelines and standards that: (1) define "high-value upland and wetland habitat types that are unique, rare, or otherwise important to the Village."; and (2) ensure/require implementation of the standard of protection (retention and preservation of the habitat) rather than "encourage" implementation of the standard of protection. "Encourage" does not establish meaningful and predictable implementation of the standard of protection.

Proposed Policy CCM-1.5.3 states *"Encourage the preservation of wetland and upland habitats that are contiguous to other public or private natural areas along with the hydrologic interconnection between such preserve areas."* Proposed Policy CCM-1.5.3 does not establish meaningful and predictable guidelines and standards that ensure/require implementation of the standard of protection ("... preservation of wetland and upland habitats that are contiguous ...") rather than "encourage" implementation of the standard of protection. "Encourage" does not establish meaningful and predictable implementation of the standard of protection.

Proposed Policy CCM-1.7.1 does not establish meaningful and predictable guidelines and standards to protect the habitat of threatened and endangered species and species of special concern. Proposed Policy CCM-1.7.1 states *"Support protecting habitats of endangered and threatened species and species of special concern including but not limited to southern bald eagles, west Indian manatees, gopher tortoises, red-cockaded woodpecker, woodstork, Florida panther and black bear, smalltooth sawfish, bonneted bat in order to maintain or enhance*

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existing population numbers and distributions of those species." Proposed Policy CCM-1.7.1 does not establish meaningful and predictable guidelines and standards that ensure/require implementation of the standard of protection (to maintain or enhance existing population numbers and distributions of those species) rather than "support" implementation of the standard of protection. "Support" does not establish meaningful and predictable implementation of the standard of protection.

The amendment is inconsistent with the following requirements: Sections 163.3177(6)(d)2.e., j., and k.; 163.3177(6)(g)(3) and (5); 163.3177(1), F.S.

Recommendation: Revise Policies CCM-1.5.1, 1.5.2, 1.5.3 and 1.7.1 to include meaningful and predictable guidelines and standards. Policy CCM-1.7.1 could be revised to replace "Support protecting ..." with "Protect ..." The Conservation and Coastal Management Element could be revised to include a unified policy that establishes meaningful and predictable guidelines and standards for the protection of wildlife habitat. For example, the policy could comprehensively address protection by incorporating various components/concepts as follows: (1) Wildlife habitat located within areas designated as "Wetlands" on the FLUM shall be protected consistent with the requirements of the "Wetland" future land use category and Objective CCM-1.8 and Policies CCM-1.8.1, CCM-1.8.2 and CCM-1.8.3; (2) Wildlife habitat located within areas designated as "Conservation" on the FLUM shall be protected consistent with the requirements of the "Conservation" future land use category; (3) Wetland wildlife habitat located in areas outside of the areas designated as "Wetlands" or "Conservation" on the FLUM shall be protected consistent with the wetland protection requirements of Objective CCM-1.8 and Policies CCM-1.8.1, CCM-1.8.2 and CCM-1.8.3; (4) Upland habitat of threatened and endangered species and species of special concern located in areas outside of the areas designated as "Wetlands" or "Conservation" on the FLUM shall be protected consistent with Objective CCM-1.7 and Policies CCM-1.7.1 and CCM-1.7.2; and (5) For all other upland wildlife habitat (habitat not addressed by 1, 2 and 4 above), development impacts to this habitat are allowable, except that upland buffers (that maintain the natural habitat function of the buffer area) adjacent to preserved wetlands shall be utilized to provide habitat diversity and protect wildlife habitat.

VILLAGE RESPONSE/ACTION

Policy CCM-1.5.1 has been deleted; Policies CCM-1.5.2, 1.5.3, and 1.7.1 have been revised to include meaningful and predictable guidelines and standards; and Policies CCM-1.7.3, 1.7.4, 1.7.5, 1.7.6 and 1.7.7 have been added as follows.

~~CCM-1.5.1 Develop and maintain an inventory of upland habitats that, due to their presence or importance to the Village, should be retained in their natural state and incorporated as amenities into the design of new developments.~~

~~CCM-1.5.12 Encourage~~ Establish standards in the Land Development Code for the retention and preservation of ~~high-value upland and wetland habitat types that are unique, rare, or otherwise important to the Village~~ environmentally critical areas

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including wetlands and Rare and Unique upland habitats. Rare and Unique upland habitats include, but are not limited to: sand scrub (320); coastal scrub (322); those pine flatwoods (411) which can be categorized as "mature" due to the absence of severe impacts caused by logging, drainage, and exotic infestation; slash pine/midstory oak (412); tropical hardwood (426); live oak hammock (427); and cabbage palm hammock (428). The numbered references are to the Florida Land Use Cover and Forms Classification System (FLUCFCS) Level III (FDOT, 1985).

CCM-1.5.23 ~~Encourage~~ Establish standards in the Land Development Code for the preservation of wetland and upland habitats that are contiguous to other public or private natural areas along with the hydrologic interconnection between such preserve areas.

CCM-1.7.1 ~~Support protecting~~ ~~Protect~~ habitats of endangered and threatened species and species of special concern including but not limited to southern bald eagles, west Indian manatees, gopher tortoises, red-cockaded woodpecker, woodstork, Florida panther and black bear, smalltooth sawfish, bonneted bat in order to maintain or enhance existing population numbers and distributions of those species.

CCM-1.7.3 Protect wildlife habitat located within areas designated as Wetlands on the Future Land Use Map consistent with the requirements of the Wetland future land use category and Objective CCM-1.8 and Policies CCM-1.8.1, 1.8.2, and 1.8.3.

CCM-1.7.4 Protect wildlife habitat located within areas designated as Conservation on the Future Land Use Map consistent with the requirements of the Conservation future land use category.

CCM-1.7.5 Protect wetland wildlife habitat located outside areas designated as Wetlands or Conservation on the Future Land Use Map consistent with the wetland protection requirements of Objective CCM-1.8 and Policies CCM-1.8.1, 1.8.2, and 1.8.3.

CCM-1.7.6 Protect upland habitat of threatened and endangered species and species of special concern located outside areas designated as Wetlands or Conservation on the Future Land Use Map consistent with Objective CCM-1.7 and Policies CCM-1.7.1 and CCM-1.7.2.

CCM-1.7.7 Establish standards in the Land Development Code that will provide for upland buffers (that maintain the natural habitat function of the buffer area) adjacent to preserved wetlands to provide habitat diversity and protection of wildlife.

7. Objection (Coastal High Hazard Area): The proposed Conservation and Coastal Management Element does not include meaningful and predictable guidelines and standards addressing mitigation for a comprehensive plan amendment in a coastal high-hazard area pursuant to the criteria of Section 163.3178(8), F.S.

The amendment is inconsistent with the following requirements: Sections 163.3177(1); and 163.3178(2)(h) and (8), F.S.

Recommendation: Revise the Conservation and Coastal Management Element to include meaningful and predictable guidelines and standards addressing mitigation for a comprehensive plan amendment in a coastal high-hazard area pursuant to the criteria of Section 163.3178(8), F.S.

VILLAGE RESPONSE/ACTION

The Village has revised the Conservation and Coastal Management Element to reflect standards of mitigation for a Comprehensive Plan Amendment in a Coastal High Hazard Area (CHHA). See new policy:

CCM-1.3.7 Comprehensive plan amendments within the CHHA must meet one of the following criteria in accordance with state statutory requirements in Florida Statute 163.3178(8)(a):

- A. The proposed amendment shall demonstrate that a 16-hour out of county hurricane evacuation time for a category 5 storm event, as measured on the Saffir-Simpson scale, is maintained; or
- B. The proposed amendment shall demonstrate that a 12-hour evacuation time to shelter for a category 5 storm event is maintained, and ensure adequate shelter space is available to accommodate the additional residents of the development allowed by the proposed amendment; or
- C. The proposed amendment shall provide mitigation to satisfy the provisions of evacuation time and shelter space, which may include payment of money, contribution of land, and/or construction of hurricane shelters and/or transportation facilities. The required mitigation shall be addressed in a binding agreement and shall not exceed the amount required to accommodate the impacts reasonably attributable to the development.

8. Objection (Concurrency): Proposed Policy CIE-1.3.7 states *"Decisions regarding land use planning and the issuance of development orders and permits consider the availability of public facilities and services necessary to support such development at the adopted LOS standards concurrent with the associated impacts."* Proposed Policy CIE-1.3.7 does not include a meaningful and predictable guideline and standard to assure that development orders and permits are not issued unless the necessary public facilities and services to maintain the adopted level of service standards are available concurrent with the impacts of development. "Consider" does not establish meaningful and predictable implementation of concurrency.

The amendment is inconsistent with the following requirements: Sections 163.3180(1), (2), and (5); 163.3177(1); 163.3177(5)(b); and 163.3177(3)(a)3., F.S.

Recommendation: Revise Policy CIE-1.3.7 to further state that development orders and permits shall not be issued unless the necessary public facilities and services to maintain the adopted level of service standards are available concurrent with the impacts of development.

VILLAGE RESPONSE/ACTION

The Village has revised Policy CIE-1.3.7 to indicate that development orders and permits will not be issued unless the required public facilities and services (schools, water, sewer, drainage, and solid waste) to maintain the adopted level of service standards are available concurrent with the impacts of development.

~~CIE-1.3.7 Decisions regarding land use planning and the issuance of~~ Development orders and permits ~~consider the availability of~~ will not be issued unless the required public facilities and services (transportation, schools, water, sewer, drainage, and solid waste) necessary to support such development at the adopted LOS standards are available concurrent with the associated impacts.

The Village has also revised Policy TRA1.8.1 to clarify transportation concurrency procedures.

TRA-1.8.1 Minimum acceptable motorized vehicle Level of Service (LOS) Standards for roadways as established by the state of Florida and Lee County are recognized as shown below:

I-75	D
Arterials	E
Collectors	E

A. ~~For general planning purposes roadway LOS may be evaluated using average annual daily traffic (AADT) counts~~ For minimum acceptable levels of service determination, the peak season, peak hour, peak direction condition will be defined as the 100th highest volume hour of the year in the predominant traffic flow direction. The 100th highest hour approximates the typical peak hour during the peak season. Peak

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season, peak hour, peak direction conditions will be calculated using K-100 factors and "D" factors from the nearest, most appropriate county permanent traffic count station.

B. ~~For purposes of concurrency determinations and issuing development orders the LOS shall be determined using P.M. peak hour traffic counts.~~

C. Local Roads will be maintained in good order and repair.

9. Objection (School Concurrency): The Public School Facilities Element does not include principles and guidelines to implement school concurrency. The Element does not address coordination with the School Board for the evaluation of land development applications for compliance with school concurrency requirements. This includes information provided by the School Board on affected schools, impact on levels of service, and programmed improvements for affected schools and any options to provide sufficient capacity.

The amendment is inconsistent with the following requirements: Sections 163.3177(1); 163.3180(1)(a) and (b); 163.3180(6)(a) and (i)4., F.S.

Recommendation: Revise the Public School Facilities Element to include principles and guidelines to implement school concurrency. Coordination with the School Board needs to be included for the evaluation of land development applications for compliance with school concurrency requirements, including information provided by the School Board on affected schools, impact on levels of service, and programmed improvements for affected schools and any options to provide sufficient capacity.

VILLAGE RESPONSE/ACTION

Public School Facilities Policies PSF-1.4.3 and 1.4.4 already contain guidelines for the implementation of school concurrency and both policies have been revised to demonstrate coordination with the School Board for the evaluation of development applications for school concurrency.

PSF-1.4.3 All proposed residential development activity (including all local development order requests such as applications for rezoning, comprehensive plan amendments and site plans) will be sent to the School Board for its school concurrency review. Such requests will be reviewed against the available total capacity by school type as identified in the annual concurrency report for the specific CSA in which the proposed development is located. If capacity is available or appropriate mitigation has been agreed to by the Village and the School District, a concurrency certificate may be issued, valid for three years. If capacity is not available in the CSA where the development is proposed, then the Village will examine if the contiguous CSAs have capacity. If capacity is not available in the CSA in which the proposed development is located or in a contiguous CSA and appropriate mitigation cannot be agreed to, no

concurrency certificate will be issued. A concurrency certificate may be renewed for an additional 3-year period and may be extended according to provisions of the Land Development Code applicable to Development Orders).

PSF-1.4.4 The LDC will enumerate mitigation options for proposed developments that cannot meet school concurrency. Mitigation options may include, but are not limited to:

- A. The donation of land or funding of land acquisition or construction of a public school facility sufficient to offset the demand for public school facilities created by the proposed development; and
- B. Establishment of a Charter School with facilities constructed in accordance with the State Requirements for Educational Facilities (SREF) on a site that meets the minimum acreage provided in SREF and subject to guarantees that the facility will be conveyed to the School District at no cost to the District if the Charter School ceases to operate.

Proposed mitigation must be directed towards a permanent school capacity improvement identified in the School District's financially feasible work program, which satisfies the demands created by the proposed development. If mitigation can be agreed upon, the ~~County~~ Village and the School District must enter into an enforceable binding developer agreement with the developer. If mitigation cannot be agreed upon, the Village must deny the application based upon inadequate school capacity.

Relocatable classrooms will not be accepted as mitigation.

10. Comment (Parks and Recreational Facilities): Consider revising the Recreation and Open Space Element to adopt a level of service standard for parks and recreational facilities, and revise the data/analysis (of the current and projected operating level of service of parks and recreational facilities and park/recreational facilities needs) to be based on the adopted level of service standard. For planning purposes, the Village may want to coordinate any park and recreational facilities needs with the Capital Improvements Element. The adopted level of service standard for parks and recreational facilities will assist for planning purposes even if the Village does not intend that parks and recreational facilities are subject to concurrency.

Sections 163.3177 and 163.3180, Florida Statutes, do not require that parks and recreational facilities be subject to concurrency (concurrency is optional for parks and recreational facilities). If the Village is seeking to implement concurrency for these types of facilities and resources, the Capital Improvements Element policies should clarify that the parks and recreational facilities are subject to concurrency. If the Village intends that parks and recreational facilities are subject to concurrency, then Policy CIE-1.3.4 (timing requirements for concurrency) should include timing requirements for the availability of parks and recreational facilities.

VILLAGE RESPONSE/ACTION

The Village is deferring action until adoption of its Parks & Recreation Master Plan, which will include recommendations on whether or not to adopt level of service standards for parks and recreation facilities.

11. Comment (Transportation Policies): Revise Transportation Element Policy TRA-1.3.4 (*"Discourage further development of increased density along East Corkscrew Road in the DR/GR area."*) to establish meaningful and predictable guidelines and standards defining the location of the "DR/GR area" and to correctly reference "Corkscrew Road." Revise Transportation Element Policy TRA-1.9.6 to establish meaningful and predictable guidelines and standards defining the location of "Density Reduction Groundwater Resource areas."

Revise Transportation Element Policy TRA-1.6.2 (*"Encourage appropriate landscaping within and along the rights of way of collectors, arterials and local roads to maintain and contribute to the attractiveness and high quality of the community."*) to include meaningful and predictable guidelines and standards defining: (1) how (by what actions) the Village will encourage appropriate landscaping within and along the rights of way; and (2) what constitutes "appropriate landscaping." The Village should consider coordinating with Lee County and the Florida Department of Transportation (FDOT) regarding landscape guidelines and standards within Lee County and FDOT maintained rights of way.

VILLAGE RESPONSE/ACTION

The Village will coordinate with Lee County and FDOT regarding landscape guidelines and standards within Lee County and FDOT maintained rights-of-way. The Village has modified Policies TRA-1.3.4, 1.6.2, and 1.9.6 to better define the location of the DR/GR area.

TRA-1.3.4 Discourage further development of increased density along ~~East~~Corkscrew Road in the DR/GR area as designated in the Lee County Future Land Use Map series.

TRA-1.6.2 Coordinate with state and county transportation agencies with jurisdiction and with property owners to identify opportunities to ~~Encourage~~ appropriate landscaping within and along the rights of way of collectors, arterials and local roads to maintain and contribute to the attractiveness and high quality of the community.

TRA-1.9.6 Oppose new roads or expansion of existing facilities through wetland areas or the Density Reduction Groundwater Resource areas, as designated in the Lee County Future Land Use Map series, including the northward extension of CR951.

12. Comment (Housing Policies): Revise Policies HOU-1.1.2, 1.1.5, 1.2.4, 1.4.1, 1.4.2, 1.4.3, 1.4.4, 1.5.2, 1.5.3, and 1.5.6 to include meaningful and predictable guidelines and standards addressing how (by what actions) the Village will "encourage" and "promote" the implementation and accomplishment of the policies. Revise the following policies to include meaningful and predictable guidelines and standards: (1) Policy HOU-1.1.2 to define the public/private programs and activities that will be used to strengthen, stabilize, improve and enhance neighborhoods; (2) Policy HOU-1.1.5 to define the programs that will be used to enhance neighborhood safety; and (3) Policy HOU-1.2.4 to define the home features that will help elderly and disabled persons to live independently. Revise Policy HOU-1.2.3 to include meaningful and predictable guidelines and standards identifying the "appropriate agencies" that are the subject of the policy. Revise Policy HOU-1.5.7 to clarify that the Village will evaluate ways to streamline the permitting process and then streamline the permitting process where reasonable based upon the evaluation.

VILLAGE RESPONSE/ACTION

The Village is not prepared at this time to make all of DEO's recommended changes on this comment, which appear more appropriate for larger jurisdictions with substantial housing issues, programs and staff; not for a small Village like Estero, which has a healthy housing stock.

The Village has revised Policy HOU-1.2.3 to more broadly describe the Village's cooperation with other entities to meet the housing needs of persons with special needs.

HOU-1.2.3 Cooperate with [appropriate agencies](#) [public and/or private housing providers](#) in order to provide adequate sites for group homes, foster care facilities and similar facilities to meet the requirements of persons with special needs.

13. Comment (Water Resource and Supply Planning): The Village's Ten-Year Water Supply Facilities Work Plan needs to be adopted by June 2019 in response to the South Florida Water Management District Governing Board's December 2017 approval of the 2017 Lower West Coast Water Supply Plan Update. The Village could consider revising the proposed Infrastructure Element to: (1) update references to the updated regional water supply plan in Policies INF-1.3.2 and INF-1.3.3; (2) include a policy addressing the preparation and adoption of the Village's Water Supply Facilities Work Plan by June 14, 2019; (3) identify in Policy INF-1.3.4 the water suppliers the Village will coordinate with during the Water Supply Facilities Work Plan development process; and (4) update the data and analysis in the Water Section of the Infrastructure Element. Revision to proposed Policy ICE-1.3.1 should also be considered to reference the 2017 Lower West Coast Water Supply Plan Update. Policy CIE-1.3.2 could also be revised to reference Bonita Springs Utilities.

The Village could consider revising the proposed Conservation and Coastal Management Element to: (1) identify in proposed Policy CCM-1.4.4 the watershed of the Estero Bay Aquatic Preserve and protect the tributaries and interconnected natural areas within the Village that are

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in the watershed, to ensure needed freshwater inflows to the preserve; (2) include policies addressing the conservation and protection of the quality and quantity of current and projected water sources and waters that flow into estuarine waters; (3) include a policy addressing Mandatory Year-Round Landscape Irrigation Conservation Measures; (4) revise references from "xeriscaping" to "Florida-friendly landscaping"; (5) include policies describing the Village's water conservation program; and (6) update the Conservation and Coastal Management Element data and analysis regarding: conservation/protection of water sources; water conservation; and analysis of current and projected needs and sources of demands for industrial, agricultural and potable water and the availability of water to meet the demands.

VILLAGE RESPONSE/ACTION

The Village has deleted Policy CCM-1.4.4 and revised Policies CCM-1.10.2 and 1.10.4 regarding mandatory irrigation, xeriscape and Florida friendly landscaping.

CCM-1.10.2 Comply with the Mandatory Year Round Landscape Irrigation Conservation Measures as detailed in the Florida Administrative Code and cooperate with emergency water conservation measures of the South Florida Water Management District.

CCM-1.10.4 Promote Florida-friendly ~~and xeriscape~~ landscaping techniques in the land development code and ~~will~~ provide education on water conservation through creative landscaping, and promote the conservation and use of native plant species through ~~xeriscape~~ Florida-friendly landscaping techniques on Village projects.

The Village has added a definition for Florida Friendly Landscaping and deleted the definition for xeriscape.

FLORIDA FRIENDLY LANDSCAPING - Quality landscapes that conserve water, protect the environment, are adaptable to local conditions, and are drought tolerant. The principles of such landscaping include planting the right plant in the right place, efficient watering, appropriate fertilization, mulching, attraction of wildlife, responsible management of yard pests, recycling yard waste, reduction of stormwater runoff, and waterfront protection. Additional components include practices such as landscape planning and design, soil analysis, the appropriate use of solid waste compost, minimizing the use of irrigation, and proper maintenance

The Village has updated the Infrastructure section of the Data & Analysis. Please refer to the ~~strikeout~~ and underline in the section for all changes.

14. Comment (Principal Flow-Way System): Consider revising Policy INF-1.1.4 to include meaningful and predictable guidelines and standards defining the term "principal flow-way system."

VILLAGE RESPONSE/ACTION

The Village has revised Policy INF-1.1.4 to include meaningful and predictable guidelines.

~~INF-1.1.4 Protect and restore principal flow-way systems, if feasible, to assure the continued environmental function, value, and use of natural surface water flow ways and associated wetland systems.~~
The Village shall endeavor to protect, secure and restore, where feasible, natural flowway systems including, without limitation, the Main, South and North Branches of the Estero River and the Halfway Creek flowway, through regulations or incentives to assure their continued environmental function.

15. Comment (Water Access): Proposed Policy CCM-1.2.4 could be revised to include meaningful and predictable guidelines and standards addressing how the Village will "encourage" private landowners along the Estero River to provide some form of water access to the public. Proposed Policy CCM-1.2.1 could be revised to include meaningful and predictable guidelines and standards addressing how the Village will "discourage" and "encourage" new public access to the Estero River. Proposed Policy CCM-1.3.4 could be revised to identify the specific "efforts" that the Village intends to support in order to maintain the ecosystem referenced in the policy.

Proposed Policy CCM-1.4.3 could be revised to include meaningful and predictable guidelines and standards that: (1) define "environmentally sensitive lands" (e.g., identify the natural resource characteristics or locations of environmentally sensitive lands); and (2) identify/describe the regulations and incentives that will be used to implement the policy. Proposed Policy CCM-1.4.4 could be revised to include meaningful and predictable guidelines and standards that define "significant natural systems." Proposed Policy CCM-1.4.5 could be revised to establish meaningful and predictable guidelines and standards defining the location of "Density Reduction Groundwater Resource Area (DR/GR)" as referenced in the policy.

Proposed Objective CCM-1.6 or its implementing policies could be revised to include meaningful and predictable guidelines and standards defining "heritage, historic, and champion trees." Policy CCM-1.6.1 could be revised to include meaningful and predictable guidelines and standards defining what constitutes "uniqueness or importance to the Village." Policy CCM1.7.1 could be revised to include meaningful and predictable guidelines and standards addressing how the Village will "support protecting habitats of endangered and threatened species and species of special concern." Proposed Policy CCM-1.9.2 could be revised to include meaningful and predictable guidelines and standards that define "maximize stormwater retention and treatment."

VILLAGE RESPONSE/ACTION

The Village has revised Policy CCM-1.2.4 to clarify that the Village will seek public-private partnerships to encourage private landowners to provide water access to the public; and

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added Policy CCM-1.2.5 to create an inventory of existing water access sites, with the intent of developing strategies for increasing public water access.

CCM-1.2.4 Encourage Seek public private partnerships to encourage private landowners along the Estero River to provide some form of water access to the public.

CCM-1.2.5 The Village will develop strategies for increasing public water access which may include development review, regulation, incentives, and acquisition. The first step in this process will be to develop and maintain an inventory of existing public and private water access sites in the Village.

The Village has narrowed the focus of Policy CCM-1.4.3 to environmentally sensitive lands.

CCM-1.4.3 Continue implementing regulations and incentives to prevent incompatible development in and around environmentally sensitive lands; which are rare and unique uplands as described in Policy CCM-1.5.1 and wetlands, as defined in the definition section of this Plan.

The Village has revised Policy CCM-1.6.1 to clarify that the Village will be creating an inventory of heritage, historic, and champion trees. Definitions for each were also added to the definitions section.

CCM-1.6.1 The Village shall develop and maintain an inventory of specimen trees heritage, historic, and champion trees that, due to their uniqueness or importance to the Village, should be retained in their natural state and incorporated as amenities into the design of new developments.

The Village has added definitions for heritage, historic, and champion trees to the definitions section.

CHAMPION TREE – Trees designated through the State of Florida Forest Service Champion Tree Program.

HERITAGE TREE – Any native species with at least a 20 inch caliper diameter at breast height.

HISTORIC RESOURCE - Any prehistoric or historic district, site, building, object, or other real or personal property of historical, architectural, or archaeological value. These properties or resources may include, but are not limited to trees, monuments, memorials, Indian habitations, ceremonial sites, abandoned settlements, sunken or abandoned ships, engineering works, treasure trove, artifacts, or other objects with intrinsic historical or archaeological value, or any part thereof, relating to the history, government, and culture of the Village, Lee County, the state of Florida, or the United States (s.267.021 (3), F.S. 1986).

HISTORIC TREE – (see definition of historic resource).

The Village has deleted Policies CCM-1.4.4 and 1.9.2.

~~CCM-1.4.4 Prevent water management and development projects from altering or disrupting the natural function of significant natural systems.~~

~~CCM-1.9.2 The Village will work to ensure new development will maximize stormwater retention and treatment.~~

16. Comment (Joint Planning Areas): The Village should consider revising the Intergovernmental Coordination Element to include a policy (perhaps expand Policy ICE-1.1.6) that establishes an intergovernmental coordination procedure for identifying and implementing joint planning areas for the purpose of annexation as required by Section 163.3177(6)(h)1.a, F.S. The procedure should address how the Village "will coordinate" with Lee County to: (1) identify for consideration potential joint planning areas for the purpose of annexation; and (2) implement joint planning areas for the purpose of annexation for such areas that either currently exist or that the Village and County eventually (if ever) determine should be formally established. Effective intergovernmental coordination procedures could involve: (1) an annual meeting between the Village planning staff and County planning staff to consider potential joint planning areas for the purpose of annexation; and (2) for implementation, the execution of a joint planning agreement between the Village and County to formally establish such joint planning area and direct administration of the area regarding annexation. Please note, Section 163.3177(6)(h)1.a, F.S., does not require a local government to establish a joint planning area for the purpose of annexation if the local government does not want to use a joint planning area. However, the Intergovernmental Coordination Element is required to include an intergovernmental coordination procedure for identifying and implementing joint planning areas, especially for the purpose of annexation.

VILLAGE RESPONSE/ACTION

The Village has added Policy ICE-1.1.8 to create joint planning areas according to Florida Statute 163.3177(6)(h)(1)(a).

ICE-1.1.8 The Village will work with the county and adjacent jurisdictions to develop joint planning areas as needed, per Section 163.3177(6)(h)(1)(a) of the Florida Statutes.

17. Comment (Airport Compatibility): The Village should consider revising the Intergovernmental Coordination Element to include a policy that directs the Village to coordinate with Lee County Port Authority regarding the potential of an interlocal agreement pursuant to Section 333.03(1)(b), Florida Statutes, regarding airport zoning regulations relative to the Southwest Florida International Airport. Please see the comments from Lee County regarding coordination on airport land use compatibility.

VILLAGE RESPONSE/ACTION

A new policy has been added to indicate that the Village will coordinate with the Lee County Port Authority to assure compliance with Florida Statute Section 333.03(1)(b).

[ICE-1.5.3 The Village will coordinate with the Lee County Port Authority, by way of an interlocal agreement or other means to assure consistency with airport zoning regulations, consistent with Florida Statute Section 333.03\(1\)\(b\).](#)

18. Comment (School Mitigation): CIE Policy CIE-1.4.3 states *"For public school facilities, a proportionate share mitigation agreement is subject to approval by Lee County School District and the Village and shall be included in an interlocal agreement between the School District and the Village."* It could be interpreted from this policy implies that the proportionate share mitigation agreement (for each development) shall be included in the general overall master school interlocal agreement (between the School District and the Village). This might result in an unnecessarily lengthy process to continually amend the overall interlocal agreement for each new proportionate share mitigation agreement. The Village should consider revising Policy CIE-1.4.3 to clarify that a proportionate share mitigation agreement (for public school facilities) is subject to approval by the Village, Lee County School District, and the developer and shall be executed as authorized by an interlocal school agreement between the School District and Village.

VILLAGE RESPONSE/ACTION

The Village has revised Policy CIE-1.4.3 to indicate that a proportionate fair share mitigation agreement (for public school facilities) is subject to approval by the Village and the School District and shall be executed as authorized by the overall master school interlocal agreement.

CIE-1.4.3 For public school facilities, a proportionate share mitigation agreement is subject to approval by Lee County School District and the Village and shall be [\(for each development\) executed as authorized by the overall master school interlocal agreement.](#)~~included in an interlocal agreement between the School District and the Village.~~

19. Comment (Coordination with Lee County MPO): Proposed Policy CIE-1.3.2 (public facility improvements) states *"Coordinate planning for the Village improvements with the plans of state agencies, the South Florida Water Management District (SFWMD), Lee County, and adjacent municipalities when applicable."* The Village should consider revising Policy CIE-1.3.2 to include the Lee County Metropolitan Planning Organization (MPO) adopted five-year transportation improvement program and adopted long-range transportation plan (LRTP). Pursuant to Section 163.3177(3)(a)5., F.S., the Capital Improvements Element Five-Year Schedule of Capital Improvements *"must include transportation improvements included in the applicable metropolitan planning organization's transportation improvement program adopted pursuant*

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to s. 339.175 (8) to the extent that such improvements are relied upon to ensure concurrency and financial feasibility. The schedule must be coordinated with the applicable metropolitan planning organization's long-range transportation plan adopted pursuant to s. 339.175 (7)."

VILLAGE RESPONSE/ACTION

The Village has revised Policy CIE-1.3.2 to reflect coordination with the Lee County MPO.

CIE-1.3.2 Coordinate planning for the Village improvements with the plans of state agencies, the South Florida Water Management District (SFWMD), Lee County, [Lee County Metropolitan Planning Organization \(MPO\)](#) and adjacent municipalities when applicable.

20. Comment (Data and Analysis): The Village should consider revising the proposed Capital Improvements Element to include data and analysis addressing: (1) capital improvement needs by year to correct projected deficiencies and replace obsolete facilities; (2) facility costs, timing, location and projected revenue sources;(3) identification if projects are funded or unfunded; (4) identify all publicly and privately funded projects, including projects the Village is not fiscally responsible for, but will ensure adopted level of service standards are achieved and maintained.

VILLAGE RESPONSE/ACTION

Data and Analysis of Capital Improvements Element includes Capital Improvements Schedule for Lee County Utilities and Bonita Springs Utilities including future capital improvements projects that would possibly impact the Village.

21. Comment (School Interlocal Agreement): The Village should consider executing a public school interlocal agreement with the district school board and applicable local governments as required by Sections 163.31777 and 163.3180(6)(i), F.S.

VILLAGE RESPONSE/ACTION

Interlocal agreements consistent with Florida Statute Sections 163.31777 and 163.3180(6)(i) are already addressed in Policies PSF-1.5.2 and 1.5.3.