

**CPA2007-54
BURNT STORE MARINA
PRIVATELY INITIATED
AMENDMENT
TO THE**

LEE COUNTY COMPREHENSIVE PLAN

THE LEE PLAN

Privately Sponsored Application
and Lee County Staff Analysis

LPA Public Hearing Document
for the
September 29, Public Hearing

*Lee County Planning Division
1500 Monroe Street
P. O. Box 398
(239) 533-8585*

September 25, 2008

**LEE COUNTY
DIVISION OF PLANNING
REVISED STAFF REPORT FOR
COMPREHENSIVE PLAN AMENDMENT
CPA2007-00054**

✓	Text Amendment	✓	Map Amendment
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This Document Contains the Following Reviews:

✓	Staff Review
	Local Planning Agency Review and Recommendation
	Board of County Commissioners Hearing for Transmittal
	Staff Response to the DCA Objections, Recommendations and Comments (ORC) Report
	Board of County Commissioners Hearing for Adoption

STAFF REPORT PREPARATION DATE: September 12, 2008
Revised: September 25, 2008

PART I - BACKGROUND AND STAFF RECOMMENDATION

A. SUMMARY OF APPLICATION

1. APPLICANT/REPRESENTATIVE

Realmark Burnt Store Marina, LLC, Applicant
Matthew D. Uhle, Esq., Knott, Consoer, Ebelini, Hart and Swett PA, Authorized Representative

- 2. REQUEST:** Amend the Lee Plan's Future Land Use Map series, Map 1, for 18.25± acres in Section 1, Township 43, South, Range 22 East and Section 6, Township 43 South, Range 23 East, Lee County, Florida from Rural to Burnt Store Marina Village Future Land Use Category. Amend Table 1(b) to reallocate two acres of residential and one acre of industrial acreage to accommodate the proposed development. (see Attachment 1)

B. STAFF RECOMMENDATION AND FINDINGS OF FACT SUMMARY

1. **RECOMMENDATION:** Planning staff recommends that the Board of County Commissioners transmit the proposed amendment, as modified by Staff. Planning staff recommends that the Future Land Use Map 1 be amended by adding a new category to be known as Burnt Store Marina Village. Staff further recommends that Table 1(b) be amended so that four acres the allocated residential acreage from the Rural be reallocated to the new Marina Village Planning Community.

Staff recommends the Lee Plan be amended to create a new descriptor policy and a new Goal, Objective, and policies as follows:

POLICY 1.2.10: The Burnt Store Marina Village area provides for the redevelopment that enhances the existing character of the Burnt Store Marina project, protects natural resources, and provides continuing public access to the water via boat ramps and docks while managing the location and intensity of future commercial, residential and limited industrial uses by establishing realistic aesthetic requirements designed to allow Burnt Store Marina Village the ability to develop as a community center. The following uses are permitted within the Burnt Store Marina Village category: a maximum of 55,000 square feet of retail uses; a maximum of 525 wet slips; a maximum of 800 dry storage spaces; a maximum of 15,000 square feet of office space; a maximum of 145 hotel units; and a maximum of 160 residential units.

GOAL 25: BURNT STORE MARINA VILLAGE. To promote redevelopment that enhances the existing character of the Burnt Store Marina project, protects natural resources, and provides continuing public access to the water via boat ramps and docks while managing the location and intensity of future commercial, residential and limited industrial uses by establishing realistic aesthetic requirements designed to allow Burnt Store Marina Village the ability to develop as a community center.

OBJECTIVE 25.1: The Burnt Store Marina Village is intended to encourage and facilitate redevelopment of the existing marina and commercial area located internal to the Burnt Store Marina project with an attractive mix of residential, marine, retail, hotel, and office uses designed to enhance and protect the public use of, and access to, the waterfront and marina. Development of commercial retail, hotels, general office and marina related uses will predominate in the Burnt Store Marina Village. Limited residential and light industrial marine uses are also permitted to facilitate the proper development mix to allow integration of the Burnt Store Marina Village into the overall Burnt Store Marina project.

POLICY 25.1.1: The following uses are permitted within the Burnt Store Marina Village category: a maximum of 55,000 square feet of retail uses; a maximum of 525 wet slips; a maximum of 800 dry storage spaces; a maximum of 15,000 square feet of office space; a maximum of 145 hotel units; and a maximum of 160 residential units. The maximum height permitted in this category is 135 feet if the parking is not integrated into the structure. If multiple layers of enclosed parking are placed under the multifamily or hotel use, the height may be increased by an additional 50 feet for a maximum height of 185 feet.

POLICY 25.1.2: Redevelopment of any uses within the Burnt Store Marina Village must be accomplished through the Planned Development rezoning process in order to properly accommodate existing conditions, the proposed redevelopment plan, prevent adverse impacts to the surrounding areas and to ensure that appropriate site development regulations are incorporated into the development plans. Development in this future land use category is not required to comply with the site location criteria provided in Goal 6 if appropriate site development regulations are adopted into the planned development. New development in this category must connect to a potable water and sanitary sewer system.

POLICY 25.1.3: Lee County will cooperate with private developer efforts to create an identity for the Burnt Store Marina Village through unified architectural quality and creative site design that enhances the waterfront community and consists of scenic views, buildings with varying roof lines, open space, a pedestrian and neighborhood oriented activity center and enhanced buffering requirements.

POLICY 25.1.4: Lee County will work in conjunction with private developers to preserve existing marina facilities with on or off-site public parking spaces for vehicles and trailers and access for the benefit of the public.

POLICY 25.1.5: The residential and hotel development portions of this redevelopment project must be located outside of the Tropical Storm Surge Zone as depicted in the 1991 Hurricane Storm Tide Atlas for Lee County.

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

- The subject property and existing uses are not consistent with the description and definition of the Rural future land use category. The existing

development of Burnt Store Marina consists of high-intensity residential and commercial uses with a provision of urban services such as Fire and Police protection and utilities.

- Since 1973 the Department of Community Affairs has reviewed Burnt Store Marina, an existing development consisting of 626 acres ,with respect to its Development of Regional Impact (DRI) status. Each time, the Department of Community Affairs has determined that Burnt Store Marina is vested from DRI review.
- On July 31, 2008, the Department of Community Affairs issued a Binding Letter of Modification (BLIM) to a Development with Vested Rights and a Binding Letter of Determination of Development of Regional Impact Status (BLID) for Punta Gorda Isles Section 22 (also known as Burnt Store Marina). Thus, finding that the proposed development in Section 22 and Tract C is below 100 percent of the applicable DRI thresholds as provided in Section 380.0651(2)(d)1.a., F.S. Therefore, the project would not be required to undergo DRI review. However, this determination does not preclude the compliance with all other applicable federal, state or local government procedures such as zoning and development regulations.
- The proposed land use category will permit the redevelopment and expansion of the existing marina and related services. The project will be compatible with the surrounding community and will be served by adequate public facilities.
- No additional commercial acreage is being requested for the project, as the property is currently being utilized for commercial purposes. The applicant is seeking to improve an existing commercial development including water-dependent recreational uses.
- The creation and application of the land use category does not encourage urban sprawl, rather, the amendment represents redevelopment of an already urbanized portion of the Burnt Store Marina development. The proposed category contemplates multi-use development to complement the existing high density residential development within Burnt Store Marina.
- The amendment will create an exception to the commercial site location standards similar to those inherent to the County's new "Commercial" future land use category. The exception is justified in light of the amount of development that currently exists and is vested for Burnt Store Marina.

- The Hurricane Storm Tide Atlas depicts the location of the subject property within the Tropical Storm and Category 2 Storm Surge Zones. The applicant is requesting an additional 160 dwelling units. These new dwelling units will be restricted from locating in the Tropical Storm Surge Zone.

C. BACKGROUND INFORMATION

1. EXISTING CONDITIONS:

SIZE OF PROPERTY: 18.25± acres; Total Uplands: 18.25± acres; Total Wetlands: None (See Attachment 3)

PROPERTY LOCATION: The Burnt Store development is located in the extreme northwest portion of the County. It is bounded by Charlotte County to the north, Burnt Store Road to the east, Cape Coral to the south and Charlotte Harbor to the north. Burnt Store Marina encompasses a total of 626 acres originally platted in 1973 as Punta Gorda Isles, Section 22 in Plat Book 28, Page 118.

The subject property, consisting of 18.25 ± acres is generally located on the west side of Burnt Store Road, specifically within the Burnt Store Marina development at 3150, 3090 and 3140-3200 Matecumbe Key Road, Punta Gorda

EXISTING USE OF LAND: Marina, Hotel, Restaurant, Residential, Wet and Dry boat slips and vacant. (See Attachment 4)

CURRENT ZONING: The property is currently zoned Marine Commercial (CM), Residential Multiple-Family (RM-2) and RM-10.

There was a pending zoning case (Z-08-037; REZ2007-00020) to permit the rezoning of 1.33 acres of the subject property from RM-2 and RM-10 to Commercial Parking (CP). This case was scheduled before the Board of County Commissioners on Monday, September 15, 2008. The Board voted to deny the application without prejudice.

The RM-10 zoned parcel is currently vested for a maximum of 10 dwelling units per acre. Approval of the requested rezoning would limit future residential development of the subject property to a maximum of one dwelling unit per acre (Rural land use category). Approval of the requested Lee Plan amendment will supercede this vesting and the proposed policy will set forth maximum land use regulations.

CURRENT FUTURE LAND USE CATEGORY: The subject property is designated Rural (See Attachment 5)