

**CPA2007-04**

**MANGO/ROSHAN  
SMALL-SCALE  
AMENDMENT  
TO THE**

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**LEE COUNTY COMPREHENSIVE PLAN**

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**THE LEE PLAN**

**Privately Sponsored Application  
and Staff Analysis**

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**BoCC Public Hearing Document  
for the  
April 14<sup>th</sup> Public Hearing**

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*Lee County Planning Division  
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*March 30, 2009*

**LEE COUNTY  
DIVISION OF PLANNING  
STAFF REPORT FOR  
COMPREHENSIVE PLAN AMENDMENT  
CPA2007-04**

Text Amendment

Map Amendment

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

STAFF REPORT PREPARATION DATE: January 16, 2009

**PART I - BACKGROUND**

**A. SUMMARY OF APPLICATION**

**1. APPLICANT/REPRESENTATIVE:**

Mango Development of SW Florida, LLC & Rowshan Enterprises, Inc.  
Represented by Speath Engineering

**2. REQUEST:**

Amend the Future Land Use Map Series, Map 1, for an approximate 7.35 +/- acre to change the Future Land Use classification from Tradeport and Wetlands to General Interchange and Wetlands. The site is generally located in the southeast quadrant of Daniels Parkway and Treeline Avenue.

**3. SUMMARY DISCUSSION:**

The applicant, Mango Development of SW Florida, LLC & Rowshan Enterprises, Inc., is requesting a small scale change of land use designation on the Future Land Use Map from Tradeport and Wetlands to General Interchange and Wetlands for an approximate 7.35 +/- acre area of land. The site is located in the southeast quadrant of Daniels Parkway and Treeline Avenue in Section 23, Township 45 South, Range 25 East. The site is located within the Gateway/Airport Planning community. Residential uses are not permitted in the Tradeport or General Interchange future land use categories. If the amendment is approved the allowable commercial intensity for the site would increase from approximately 7,350 square feet of floor area to a maximum of 73,500 square feet of floor area. Tradeport uses, such as warehousing and offices, would be reduced from 73,500 square feet to no square feet.

A Current and Proposed Future Land Use Map are attached as Attachments 1 and 2.

## **B. STAFF RECOMMENDATION AND FINDINGS OF FACT SUMMARY**

**1. RECOMMENDATION:** Planning staff recommends that Map 1, the Future Land Use Map, **not** be amended to change the future land use designation of the subject area from the Tradeport and Wetlands future land use categories to the General Interchange and Wetlands future land use categories for the subject 7.35 acres. While the proposed amendment is consistent with the General Interchange category and the majority of the urban services have adequate capacity to provide the necessary services, the proposal will intensify development on a road segment that is projected to fail. Staff is unable to recommend approval of an amendment that would exacerbate the current transportation deficiency.

### **2. BASIS AND RECOMMENDED FINDINGS OF FACT:**

- The site is located in the Tradeport and Wetlands future land use categories.
- The site is located in the southeast quadrant of Daniels Parkway and Treeline Avenue.
- Daniels Parkway from Fiddlesticks Boulevard to just east of Chamberlain Parkway is projected to fail by 2030, with or without the proposed amendment, based on the network contained in the Financially Feasible Plan (Map 3A).
- The proposed land use change will intensify development on a road segment that is projected to fail.
- The site is located along a primary route to and from the Southwest Florida International Airport.
- The proposed development is consistent with Policy 1.3.2, the General Interchange future land use descriptor policy of the Lee Plan.
- The subject parcels are surrounded by properties developed with similar uses and surrounding land use designations.
- The change will not impact the commercial allocations adopted in Table 1(b) of the Lee Plan for the Gateway/Airport Planning Community.
- The change will not impact the population accommodation of the adopted Lee Plan future land use map.
- Lee County Utilities has water and wastewater treatment capacity and infrastructure to support the projected increase in demand.
- Sheriff, Fire, and EMS services have provided no objections to the proposed amendment.
- There are no identified endangered species present on the subject parcel.

## **C. BACKGROUND INFORMATION**

### **1. EXISTING CONDITIONS:**

**SIZE OF PROPERTY:** 7.35 ACRES

**PROPERTY LOCATION:** The subject property is located in the southeast quadrant of Daniels Parkway and Treeline Avenue.

**STRAP#:** 23-45-25-01-00022.0000 and 23-45-25-01-00032.0000

**EXISTING USE OF LAND:** The subject property is currently vacant.

**CURRENT ZONING:** CG, CT

**CURRENT FUTURE LAND USE CLASSIFICATION:** Tradeport and Wetlands

### **2. INFRASTRUCTURE AND SERVICES:**

**WATER & SEWER:** The subject property is located in the Lee County Utilities service area for potable water and sanitary sewer service.

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

**TRANSPORTATION:** Access to the property is from Halter Lane to the south and Saddle Road to the east.

**SOLID WASTE:** District 3 Franchise Area serviced by Waste Pro

## **PART II - STAFF ANALYSIS**

### **A. STAFF DISCUSSION**

#### **INTRODUCTION**

The applicant is requesting a small scale change of land use designation on the Future Land Use Map from Tradeport and Wetlands to General Interchange and Wetlands for an approximate 7.35 acres of land. The site is located in the southeast quadrant of Daniels Parkway and Treeline Avenue just over a quarter mile from the I-75 interchange. If the amendment is approved the allowable commercial retail intensity for the site would increase from approximately 7,350 square feet of floor area or more within a hotel/motel use to a maximum of 73,500 square feet of stand alone retail use. Residential uses are not permitted in the Tradeport or General Interchange future land use categories.

The original Comprehensive Plan Amendment Application, Staff Insufficiency Letters, and Applicant Supplementary Information are attached.

#### **PROJECT SUMMARY**

The 7.35 acre area is composed of two parcels fronting Daniels Parkway in the Tradeport future land use category. The subject area is currently vacant and is surrounded by commercial, industrial, and

vacant land. The site is a little over a quarter mile east of the I-75 and Daniels Parkway interchange area and is adjacent to the General Interchange future land use category. The parcels are zoned CT and CG. The applicant's representatives have indicated that retail/restaurant/hotel type uses will be constructed on the property.

### **COMPREHENSIVE PLAN BACKGROUND**

In 1984, Lee County adopted its first official Future Land Use Map (FLUM) as an integral part of its comprehensive plan. On that map, the subject property was part of the "Airport Commerce" land use category. In 2004 the land use category "Airport Commerce" was renamed to "Tradeport" in order to eliminate confusion during airport master planning and permitting processes. "Tradeport" remains the future land use designation for the parcel today. The Tradeport areas are described by Policy 1.2.2.

Based on the existing Tradeport future land use category retail uses are only permitted if they are located within a hotel or motel. Ancillary retail uses are permitted in support of the surrounding business and industrial land uses as part of a planned development of 10 or more acres and are limited to 1,000 square feet of floor area per acre. A pending change to the Tradeport category proposes to remove this 10 acre minimum. The current land use category would allow 7,350 square feet or more of retail type uses within a hotel/motel use, depending on the size of the hotel/motel use.

Approximately 3.5 acres of the western portion of the subject area are Pine Flatwood Wetlands. The Wetland areas are described by Policy 1.5.1.

During correspondence between the applicant and staff, the applicant has stated that "Due to the location and low quality of the on-site wetlands it is anticipated that all wetlands on this site will be mitigated during South Florida Water Management District ERP processing." Environmental Sciences staff has provided comments regarding the subject area in the Endangered Species section of this report below.

### **ADJACENT ZONING AND USES**

The site is zoned CG and CT. The surrounding properties are zoned CG to the north across Daniels Parkway, CG and AG-2 to the east, CT to the west across Treeline Avenue, and AG-2 zoning to the south. The property is surrounded by vacant land with a gas station to the west across Treeline Avenue. The southeast quadrant of the interchange, which encompasses the General Interchange land use category is immediately to the west of the property, west of Treeline Avenue. There are a mix of uses in this quadrant of the interchange which include two hotels, two restaurants, an office building, and a car rental service.

### **POPULATION ACCOMMODATION CAPACITY DISCUSSION**

The request is to change the Future Land Use Map (FLUM) category of approximately 7.35 acres from Tradeport and Wetlands to General Interchange and Wetlands. Residential uses are not permitted in the Tradeport or General Interchange future land use categories. Staff concludes that there will be no increase or decrease in the population accommodation capacity of the FLUM as a result of the proposed amendment.

### **CONSISTENCY WITH THE "GENERAL INTERCHANGE" LAND USE CATEGORY**

The applicant is proposing that the subject area be amended to the General Interchange future land use category to increase the possible retail square footage of the site. The General Interchange areas are described by Policy 1.3.2.

The proposed amendment is consistent with the General Interchange designation for the following reasons: it is located adjacent to the General Interchange future land use category and is consistent with the concept of small scale development amendments; it is located in an area where residential uses are not expected or compatible due to the nature of the surrounding land uses and its location along a major travel corridor; its location at a major intersection; the allowable uses in the General Interchange category serve the traveling public; the site is located along a primary route to and from the Southwest Florida International Airport; and the urban services, as noted, have adequate capacity to provide the necessary services to accommodate the proposed small scale amendment with the exception of the transportation issues discussed below. The retail uses that are contemplated by the applicant are consistent with the General Interchange land use category.

#### **MAP 16 - PLANNING COMMUNITIES AND TABLE 1(b)**

The subject area is located within the Gateway/Airport Planning Community. In this community there are 1,100 acres allocated for commercial uses. Recent data indicates that 168 of these acres are currently developed with commercial uses, leaving a surplus of 932 acres that could be developed with commercial uses in the Gateway/Airport Planning Community before the year 2030.

Planning staff has concluded that the proposed amendment does not require an amendment to Table 1(b) in light of the current data, however, staff notes that the allocations in Table 1(b) are utilized on a first come first serve basis so this project will be "competing" community wide for a portion of this allocation.

#### **TRANSPORTATION ISSUES**

The Lee County Department of Transportation (DOT) has reviewed the request and provided the following written comments dated March 25, 2008:

*The Department of Transportation has reviewed the above referenced privately-initiated future land use map plan amendment, to change the land use designation of approximately 7.35 acres at the southeast corner of Daniels Parkway and Treeline Boulevard from "Tradeport" to "General Interchange". Your staff indicates that the proposed change would allow approximately 73,500 square feet of retail use on the site. Under that scenario, there would be approximately 276 trips (including pass-by trips) generated by this property on a p.m. peak hour basis. Plugging that impact into the Lee County MPO's 2030 Financially Feasible Plan FSUTMS travel demand model and examining the three-mile radius around the project, the only identified level of service problem is on the section of Daniels Parkway from Fiddlesticks Boulevard to just east of Chamberlain Parkway. This road segment is identified as failing in 2030 with and without the proposed land use change.*

*Despite the fact that a portion of the impacted roadway (from Fiddlesticks Boulevard to I-75) is designated in the Lee Plan as "constrained", the MPO's 2030 Needs Plan does identify a potential improvement to address the impacted portion of Daniles Parkway in the form of an 8-lane section that includes 4 express lanes. The MPO Plan suggests testing the improvement as a toll-funded project, to potentially make it financially feasible. However, absent an identified means of paying for such an improvement and subsequent inclusion in the Financially Feasible Plan, DOT staff cannot recommend approval of a land use change that intensifies development on a road segment that is projected to fail.*

Under the current Tradeport designation office type uses would generate the largest traffic volume, whereas under the proposed General Interchange designation retail type uses would generate the largest traffic volume. The proposed amendment would increase the allowable commercial retail intensity for the site from the possibility of retail uses within a hotel/motel to a maximum of 73,500

square feet of stand alone retail use. Retail uses create a higher trip generation than office uses and therefore the proposed amendment would result in an increase in traffic.

Based on the memo provided, DOT staff has rerun the FSUTMS travel demand model and concluded that the road segment noted above is projected to fail in the year 2030, with and without the proposed land use change. DOT staff has concluded that absent an identified means of paying for improvements and without such improvements identified in the Financially Feasible Plan, DOT staff cannot recommend approval of the subject land use change as it intensifies development on a road segment that is projected to fail.

## **PUBLIC SAFETY ISSUES**

The applicant has provided letters from the public safety and service providers. The purpose of these letters is to determine the adequacy of existing or proposed support facilities. Planning staff has also provided some additional analysis.

### Coastal Issues

The parcel is located in the Category 4/5 Evacuation Zone and the Category 4/5 Storm Surge. The parcel is not part of the County's defined Coastal High Hazard Area.

### Sheriff's Office Impact

The Lee County Office of the Sheriff has provided that the amendment would not affect the ability to provide core services at this time.

### Fire Service Impact

The District has provided a letter to the applicant stating that they do not see any issues or raise any objections to the proposed change. The letter states that the anticipated capital improvements needs of the District will be covered by the applicable fire/rescue impact fees.

### Emergency Medical Services (EMS) Impact

EMS staff has indicated that they have no concerns with the ability to provide services to this area.

## **SCHOOL IMPACTS**

Lee County School District staff has provided a letter to the applicant stating this land use change does not generate students and the district only considers residential land use in determining impact calculations.

## **ENDANGERED SPECIES**

Lee County Division of Environmental Sciences staff have reviewed the request and conducted a site review confirming the applicant's findings in the application back-up materials. Environmental Sciences staff has provided written comments dated January 8, 2009 stating "*The onsite wetlands hydrology has been previously disturbed with the drainage and ditching associated with the construction of Daniels Parkway and Treeline Ave. The applicant proposes to mitigate these disturbed wetlands through SFWMD for impacts associated with the project. ES Staff has determined that the restoration of hydrology to onsite wetlands is not feasible considering the historic, existing, and ongoing impacts associated with Daniels Parkway and Treeline Ave.*" With regard to the protected species, Environmental Sciences staff state that "*No listed species was observed and due to the nature of the site, surrounded by disturbed lands and isolated by major roadways, no listed species is likely to occur.*"

In conclusion the Environmental Sciences staff report notes *“One environmental discrepancy between Tradeport and General Interchange is the requirement in Tradeport for special environmental and design guidelines in association with Six Mile Cypress Slough.”* The applicant has indicated that they will follow the environmental guidelines set forth in Policy 1.2.2.

### **PARKS, RECREATION AND OPEN SPACE**

Residential uses are not permitted in the subject land use categories. Therefore there will be no associated population increase and the proposed amendment will not impact community and regional parks needs.

### **DRAINAGE/SURFACE WATER MANAGEMENT**

The application provides the following concerning this issue:

*“The property is located in the Six Mile Cypress Watershed as indicated in the Lee County Surface Water Management Master Plan. Any development will be in compliance with South Florida Water Management District and the Lee County Development Code with regard to surface water management.”*

Any development would need to be in compliance with South Florida Water Management District and Lee County Land Development Code regulations with regard to surface water management. Natural Resources staff has offered no comments in objection to the proposed amendment.

### **MASS TRANSIT**

Lee County Transit Division staff have reviewed the request and provided that Lee County currently provides transit services to this area. There is one route providing hourly bus service during the non tourist season and 45 minute service during tourist season. Transit staff stated *“The Lee County Transit Development Plan (TDP) is the strategic transit service plan with a horizon out to the year 2017. The plan identifies the need for 30 minute service during the entire year on this route however additional service improvements are unfunded at this time.”*

### **UTILITIES**

The subject property is located in the Lee County Utilities water service area. Utilities staff have indicated that Lee County Utilities has excess treatment capacity through the Corkscrew water treatment plant to support the proposed amendment. There is an existing 12” water main on the west side of Treeline Avenue and there is a 12” water main stubbed out of this line to the east crossing Treeline Avenue and terminating at the northwest corner of the subject property. The developer will be required to perform hydraulic calculations to determine any required off-site improvements to support an increase in demand. If offsite improvements are required, the developer will be responsible for those improvements.

The subject property is located in the Lee County Utilities sewer service area. Utilities staff have provided that both treatment and collection system capacity in this area are currently served by the City of Fort Myers South Treatment Facility. This facility has excess treatment capacity to serve the subject development, however the current wastewater collection transmission system infrastructure is at capacity. Lee County Utilities is currently in the process of expanding the Gateway Wastewater Treatment Facility and are planning modifications to the wastewater collection system with the intention of the Gateway facility accepting flows from this area. Upon completion the system should

have sufficient treatment and collection capacity to serve the subject area. The expansion and improvements are planned for completion by August 2010. There is an existing 10" force main on the east side of Treeline Avenue south of the subject area that is available for connection. Utility staff adds that the developer will be required to perform hydraulic calculations determining sufficient infrastructure capacity. If offsite improvements are required, the developer will be responsible for those improvements.

## **HISTORIC RESOURCES**

There are no known historical or archeological areas on the site.

## **B. CONCLUSIONS**

The proposed amendment is consistent with Policy 1.3.2, the General Interchange future land use descriptor policy. The applicant's intent is to develop retail type uses. As proposed the development will be compatible with the surrounding uses and surrounding land use designations. The subject area is located adjacent to the General Interchange future land use category. If adopted, the proposed amendment would extend interchange type uses at a major intersection utilized by the traveling public. Adequate infrastructure is in place to provide the necessary services to accommodate the requested land use change with the exception of transportation planning. As discussed above, the Lee County Department of Transportation (DOT) concluded that the proposed land use change intensifies development on a road segment that is projected to fail. The road segment identified by DOT is projected to fail with or without the proposed land use change. At this time there are no identified means of paying for improvements identified in the Financially Feasible Plan. This fact makes recommending approval of an increase in intensity for the subject property unfeasible.

## **C. STAFF RECOMMENDATION**

Planning staff recommends that Map 1, the Future Land Use Map, **not** be amended to re-designate the subject area from "Rural" to "Suburban." and "Commercial." This recommendation is based upon the previously discussed issues and conclusions set forth above.

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

**DATE OF PUBLIC HEARING:** February 23, 2009

#### **A. LOCAL PLANNING AGENCY REVIEW:**

Planning staff gave a brief presentation concerning the proposed amendment. One member of the LPA noted the 2030 level of service deficiency and inquired what the current level of service is. DOT staff responded that the segment immediately adjacent to the subject property is adequate according to the latest concurrency report but there is a level of service problem not far from the subject site between Chamberlain Parkway and Gateway Boulevard. DOT staff indicated that 6-laning here is tentative and the improvements will most likely not remain programmed in the CIP.

Another member of the LPA asked how concurrency would be handled when the owner applied for a development order. DOT staff explained that concurrency is an immediate issue and would be dependent on the road conditions at that time. Currently portions of Treeline Avenue and Daniels Parkway immediately adjacent to the subject property are not failing based on the latest concurrency report. However, when reviewing a comprehensive plan amendment we look at the 2030 planning horizon. With or without the proposed amendment an intensification could be problematic because the roadway is projected to fail. DOT staff explained that the LPA needs to consider if there are other benefits to this amendment that outweigh this negative.

LPA members discussed the impact of the current possible square footage development of the site and the possible square footage development with the amendment. DOT staff stated that the small scale amendment was not a big impact adding a lot of extra trips.

The applicant's representative addressed the LPA and noted that the concurrency manual shows this segment of Daniels currently operating at a level-of-service A. The applicant's representative described the engineer's analysis and concluded that there is an increase in 168 trips when comparing the peak hour traffic with the existing future land use category and the peak hour traffic with the proposed category. The applicant added three reasons to support their request for approval: the roadway is projected to fail with or without the proposal, the analysis was based on the 2030 population figures prior to the downturn, and there is precedent for the subject request where the Board has previously approved two other plan amendments with similar traffic concerns.

DOT staff stated that the worst case would be a community shopping center which would equate to 5,000 trips with 466 pm peak hour trips. DOT staff indicated that while we are in a downturn it is viewed as temporary and this does not change the population forecast for long term growth forecasts.

Another member of the LPA asked staff if this is an appropriate use of the site. Planning staff stated no objection to the change of use for the property. Staff indicated that it is important to keep in mind that the Tradeport designation is an important category where we hope to expand our economic base and retail is not the kind of jobs we are looking for in this category. Staff noted that a small scale amendment is less than 10 acres without a great impact on the plan but these can add up and erode a land use category. Staff concluded there is no objection to the change yet in being consistent we do not want to exacerbate a traffic problem that already exists.

One member of the LPA made a motion stating that based on the existing zoning, existing roadway capacity, mass transit availability, and surrounding uses the request is appropriate and compatible. The LPA member stated that all other infrastructure is in place and if the LPA denied the request they would be sending the wrong message because this use would go somewhere further out where possibly infrastructure would not exist. This member stated that development should be encouraged to occur where infrastructure exists and found the amendment consistent with the Lee Plan. This member recommended approval of the amendment and the motion passed 6-0.

**B. LOCAL PLANNING AGENCY RECOMMENDATION AND FINDINGS OF FACT SUMMARY:**

- 1. RECOMMENDATION:** The LPA recommends that the Board of County Commissioners adopt the proposed amendment.
  
- 2. BASIS AND RECOMMENDED FINDINGS OF FACT:** The LPA did not accept the findings of fact as advanced by the staff regarding traffic and recommended adoption of the amendment based on several factors discussed above.

**C. VOTE:**

<b>NOEL ANDRESS</b>	<u>          <b>AYE</b>          </u>
<b>CINDY BUTLER</b>	<u>          <b>ABSTAIN</b>          </u>
<b>CARIE CALL</b>	<u>          <b>AYE</b>          </u>
<b>JIM GREEN</b>	<u>          <b>AYE</b>          </u>
<b>MITCH HUTCHCRAFT</b>	<u>          <b>AYE</b>          </u>
<b>RON INGE</b>	<u>          <b>AYE</b>          </u>
<b>CARLA JOHNSTON</b>	<u>          <b>AYE</b>          </u>

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

**DATE OF ADOPTION HEARING:** April 14, 2009

**A. BOARD REVIEW:**

**B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:**

**1. BOARD ACTION:**

**2. BASIS AND RECOMMENDED FINDINGS OF FACT:**

**C. VOTE:**

**A. BRIAN BIGELOW**

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**TAMMARA HALL**

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**ROBERT P. JANES**

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**RAY JUDAH**

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**FRANKLIN B. MANN**

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