

Estero Development Report

Volume 9, Number 3, Issued September 2009
 Edited by the Estero Council of Community Leaders (ECCL)

For More Information about Estero
...see www.esterofl.org

This Report is available on the Estero Community website at:
<http://esterofl.org/eccl/EDR/>

September Opportunities for Citizen Participation In Protecting Estero's Quality of Life

Date	Time	Event	Location
Tuesday, September 1 st	9:30 a.m.	Board of County Commissioners (BOCC) selects the County Manager Candidates to be interviewed	Board Chambers, 2 nd Floor, 2110 Main Street in downtown Ft. Myers
Wednesday, September 9 th	5 p.m.	Estero Design Review Committee meeting. See the full agenda at http://esterofl.org/edrc/agenda.asp .	Estero Community Park
Wednesday, September 9 th	5 p.m.	First Estero Fire Rescue District 2010 Budget and Tax Hearing. For further information see http://esterofire.org/	Estero Fire Rescue Headquarters... Three Oaks Parkway south of Corkscrew
Friday, September 11 th	9 a.m.	US 41 and Estero Parkway Wal-Mart Workshop to Review the Existing Zoning on this Property in Anticipation of Wal-Mart Seeking to Change it.	Estero Community Park
Monday, September 14 th	5 p.m.	Final Estero Fire Rescue District 2010 Budget and Tax Hearing. For further information see http://esterofire.org/	Estero Fire Rescue Headquarters... Three Oaks Parkway south of Corkscrew
Friday, September 18 th	9 a.m.	Lee County Metropolitan Planning Organization (MPO) Meeting...For the agenda see http://www.mpo-swfl.org/agendas.shtml	Regional Planning Building, 1926 Victoria Street in downtown Ft. Myers
Friday, September 18 th	1 p.m.	Estero Council of Community Leaders (ECCL) Meeting...for the agenda see... http://esterofl.org/eccl/agenda.asp	Estero Community Park
Monday, September 21 st	6 p.m.	Estero Community Planning Panel meeting. See the full agenda at http://esterofl.org/ecpp/ecpp_meetings.htm	Estero Community Park
Wednesday, September 23 rd	9 a.m.	BOCC Full Day Hearing on the proposed Comprehensive Plan Changes for the Density Reduction/ Groundwater Resource (DR/GR) area Continued BOCC Hearing on the DR/GR Comprehensive Plan Amendments Joint Meeting of Estero leadership with the City Council and Mayor of the City of Bonita Springs	Board Chambers, 2 nd Floor, 2110 Main Street in downtown Ft. Myers
Thursday, September 24 th	9 a.m.		Board Chambers, 2 nd Floor, 2110 Main Street in downtown Ft. Myers
Friday, September 25 th	9 a.m.		Bonita Springs City Hall on the south side of Bonita Beach Road east of US 41

Index

Page	Subject
1	Calendar
1	Estero Community Website

2	US 41 Widening Progresses during August
2	Estero Parkway...US 41 Traffic Signal
3	Proposed Changes in the Estero Parkway Wal-Mart Zoning
3	Planned Estero/Bonita Springs Meeting
3	Estero Council of Community Leaders (ECCL) Forms County Manager Selection Committee
4	September Is Big Month for the DR/GR Comprehensive Plan
5	Resource Conservation Holdings (RCH) Mine Hearings Continue
8	Estero's Housing Permits Continue Slow Pace
9	Permitted Commercial Building Values Remain Very Slow

Estero Community Website

The community groups sponsoring the site are:

Estero Community Planning Panel (ECP)
 Estero Civic Association (ECA)
 Estero Design Review Committee (EDRC)
 Estero Council of Community Leaders (ECCL)
 Greater Estero Cultural Arts Council (Arts Estero)

www.esterofl.org

US 41 Widening Progresses during August

On August 18th the BOCC approved the sale of 3.1 acres of the former Boomer property (southwest corner of US 41 and Broadway), now owned by the County, to FDOT for the installation of a detention pond necessary for water run-off from the expanded US 41. Acquiring this pond has held up construction of the widening of US 41 between Corkscrew Road and San Carlos Park for almost two years. Completion of this transaction will permit US 41 widening to start as soon as funding becomes available.

On August 21st the Lee County Metropolitan Planning Organization (MPO) approved an amendment to the 2010-2014 Transportation Improvement Plan (TIP) that provides for a \$1.3 million Cape Coral intersection improvement ahead of the \$26 million needed to widen US 41 from Corkscrew Road to San Carlos Boulevard starting in the fall of 2010. FDOT officials have informed us that they expect the contract for the widening of this segment of US 41 to be bid one year from now, in August 2010.

Once the widening of US 41 gets underway Wal-Mart is authorized by its zoning to commence construction of its store on the northeast corner of Estero Parkway and US 41.

Estero Parkway...US 41 Traffic Signal

In early August the temporary traffic signal at the corner of Estero Parkway and US 41 began its test period. Ten days later it commenced full time operation. This is considerably sooner than promised by Lee County DOT several months ago. Our thanks to Harry Campbell, Lee County's Traffic Engineer, and all Lee County DOT and FDOT staff who worked so hard to complete this project prior to the opening of the Estero Flyover, now estimated for November.

Proposed Changes in the Estero Parkway Wal-Mart Zoning

On August 26th several representatives of Wal-Mart met with members of the Estero Community Planning Panel (ECPP), the Estero Council of Community Leaders and residents of The Vines and Breckenridge to discuss their proposed plans for rezoning their property on the northeast corner of US 41 and Estero Parkway. The major elements in their proposal would:

- Reduce the size of the Wal-Mart store by about 40,000 square feet
- Add three outlots along US 41 for stores that would offset the reduced size of the Wal-Mart store,
- Substitute a new standard Wal-Mart design for their store for the existing “Estero” unique design that was negotiated by the community over a period of two years in 2003 and 2004, and
- Amend the “super-concurrency” provision in the existing zoning that requires construction of the store to begin only after the widening of US 41 in this area has been finally approved and funded.

Inasmuch as it has been 5 years since this store was zoned, the ECCL has scheduled a workshop to review the existing zoning on this site for all interested Estero residents at 9 a.m. on Friday, September 11th at the Estero Community Park. To learn about the history of this major Estero zoning negotiation see

http://www.esterofl.org/eccl/EDR/estero_development_report_October_2004.htm#Estero_Parkway_Wal-Mart_Progress_Report and http://www.esterofl.org/Issues/wal-mart_estero_pkwy.htm

Planned Estero/Bonita Springs Meeting

On Friday, September 25th the combined Estero community leadership will meet in a workshop with the Mayor and Council members of the City of Bonita Springs. Estero will be represented by leaders from the following organizations: the Estero Council of Community Leaders (ECCL); the Estero Civic Association (ECA) and the Estero Community Planning Panel (ECPP).

This will be the sixth in a series of periodic meetings between these two south Lee County communities to discuss issues of common concern. The meeting is scheduled for 9 a. m. to noon in the Bonita Springs City Council Chambers and is open to the public.

Estero Council of Community Leaders (ECCL) Forms County Manager Selection Committee

On August 21st the ECCL voted to form a County Manager Selection Committee to monitor the County’s efforts to recruit a new County Manager to replace departed Manager Don Stillwell. John Goodrich of Pelican Sound will chair the committee.

Nearly 80 candidates have applied for the position. The County’s consultant has screened this list and narrowed it down to 12 preferred candidates that they have recommended to the BOCC for their consideration. On August 31st the Consultant will review these candidates with the BOCC. On the following day, September 1st the BOCC

will select the candidates that the consultants should interview for their final recommendations.

On September 10th the BOCC will conduct one on one interviews of each of the finalists. On the following day the BOCC will hold a special Board meeting to interview the final candidates and select the one with whom they want to negotiate a contract. Finally the BOCC will finalize hiring the new manager on September 22nd.

Background

On June 21st the ECCL sent a letter to the County Commissioners and Karen Hawes, Interim County Manager, stating in part:

“The selection of a County Manager is of the utmost importance to ensure that Lee County meets the challenges of creating and implementing a county-wide strategic plan for sustainable development incorporating land use policies that reduce traffic congestion, expand mass transit and discourage urban sprawl. The selected Manager needs to be knowledgeable about and have experience with the major issues confronting Lee County including growth management; water supply preservation; water quality enhancement; smart growth; urban redevelopment; natural resource protection; habitat and environmental protection.”

September Is Big Month for the DR/GR Comprehensive Plan

On August 21st Mary Gibbs, Lee County Director of Community Development, Paul O’Connor, Lee County Director of Planning and Nicole Ryan of the Conservancy of Southwest Florida discussed the status and forthcoming schedule for BOCC consideration of the proposed Comprehensive (Comp) Plan changes for the DR/GR with the members of the ECCL. Nicole Ryan used an outstanding Power Point presentation to summarize the staff’s proposed plans, as approved by the County Land Planning Agency, for the DR/GR. It can be found on the Estero community website at <http://esterofl.org/EsterofLife/environment.htm#DRGR>

After Nicole’s presentation the ECCL members discussed the outstanding issues with the Lee County staff leaders. Ms. Gibbs indicated that the BOCC would conduct its hearing on the DR/GR Comp Plan on either September 23rd or 24th. At the Hearing staff and their consultants will make a presentation followed by an opportunity for public input. They expect that at this or a subsequent meeting the BOCC will vote to transmit the Comp Plan as amended to the State Department of Community Affairs (DCA). If all the various plans included in this round of Comp Plan changes are approved in September they expect to conclude their discussions with DCA by January 2010. The entire process leading up to State approval is expected to be completed by the summer of 2010, at which time it could be challenged in the courts by opponents of the plan. We urge everyone concerned about our future water supply and the impact that widespread mining in the DR/GR will have on the future viability of our community to plan to attend the BOCC hearing on the 23rd of 24th of September...no vote is more vital to the long run livability of Estero and south Lee County.

Background

On May 20th Lee County released the “Proposed Lee Plan Amendments for Southeast Lee County...Planning for the Density Reduction/ Groundwater Resource Area

(DR/GR)” and posted it on their website at http://www3.leegov.com/dcd/CommunityPlans/SELCDRGR/CPA2008-06/Proposed-Lee-Plan-Amendments-for-Southeast-Lee-County_May2009.pdf . This 72 page document details Dover Kohl & Partners, the County DR/GR planning consultants, recommendations for updating the County’s Comprehensive Plan for the DR/GR. This extensive document, if approved by the BOCC and the Florida Department of Community Affairs (DCA), would provide the legal framework for concentrating mining in the Alico Road industrial corridor; DR/GR locations where residential development should be clustered; locations where agriculture should be encouraged and where and how the natural resources and ecology of the DR/GR should be preserved.

June 22nd Land Planning Agency (LPA) Meeting

On June 15th Lee County staff released their “Staff Analysis and Recommendation” in response to the Dover Kohl Comprehensive Plan recommendations. This analysis was presented to the LPA at their June 22nd meeting. To review the Staff Analysis please click the following link... <http://www3.leegov.com/dcd/PlanAmendments/PA2008-2009/CPA200806.pdf> .

This presentation was followed by about four hours of public input nearly equally divided between landowner and mining representatives and comments from Lee County residents, civic groups and environmental and growth management organizations. Sixteen persons testified in support of the Dover Kohl/staff recommendations. Once again The Conservancy, the Brooks Concerned Citizens, the ECCL, the Corkscrew Rural Community and other groups prepared detailed analysis and recommendations generally in support of the Dover Kohl and County staff recommended Plan Changes. You may review this analysis by clicking the following link ... <http://esterofl.org/images/DRGR%20Joint%20Position%20Statement%20for%206-22-09%20LPA.pdf> .

July 27th Land Planning Agency (LPA) Meeting

On July 17th once again the LPA heard many hours of testimony from supporters and opponents of the staff proposed DR/GR recommendations. After listening to all the testimony and reviewing the new staff report that responded to many of the concerns raised at the prior to Hearings the LPA vote 4 to2 with one abstention in favor of the staff recommendations with minor amendments.

Resource Conservation Holdings (RCH) Mine Hearings Continue

On August 19th the hearing was loaded with controversy surrounding last minute changes by the applicant - RCH Mine. This has resulted in substantial changes to the hearing schedule going forward.

Since the applicant had previously concluded their testimony on the 5th day of the hearing in early June, today was scheduled to begin with presentations by county staff. However, the applicant asked the Hearing Examiner to allow further testimony from their lead planner along with a new hydro geologist Tom Missimer - which the HEX allowed.

After his testimony Depew was cross examined by county staff and our attorney Tom Hart. Dawn Lehnert – County Attorney expressed concern about substantial changes related to the previously proposed “grout curtain”. She indicated that the county staff was

prepared to testify about issues related to the grout curtain but was not prepared to offer rebuttal on this 11th hour change to a “hydraulic barrier”.

Applicant presented expert witness Tom Missimer – Hydro geologist:

- Explains that a “grout curtain” doesn’t work in sandy soil, so upper 20 feet of the project will need an alternative “hydraulic barrier” such as a slurry wall.
- Such a barrier will not be installed unless monitoring and modeling indicates a need to correct a problem with offsite groundwater levels.
- This change was based in part on a new model prepared and run by Missimer. The summary report was delivered just the day before the hearing.

The introduction of this new model generated a great deal of concern by county staff as well as by the HEX. The concern is that the county is blindsided by this new information. There has been no opportunity to review the new model by county staff & consultants. Their testimony is based on the previous model by CDM, not the Missimer model. County wants 4-6 weeks to review. At this point the HEX directed Missimer to testify about the model with no cross examination by staff until a decision is made.

Missimer continued testimony about the new MODFLOW 2000 based model. The controversy continued after a break, and the county attorney indicated that based on the 11th hour submittal of the substantial change in the application, the DCD director could revoke the finding of sufficiency – even though it was by order of the court. She indicated that the only alternative is a continuance in order to allow 5-6 weeks for adequate review.

At this point the HEX laid out changes to the planned dates for this hearing as follows:

1. Hearing will continue this week, Aug 20 & 21. Testimony to be limited to subjects unrelated to water modeling (i.e., traffic, blasting)
2. Hearing next week will be limited to Wednesday, Aug 26th for expert witnesses for the public (if needed).
3. Hearing continuance dates are set for September 25, 29, 30, and October 6 and 7.

County Staff began their testimony with lead planner Chip Block. Block described the applicant’s submittal history for this project spanning over two years. In each of more than 5 submittals, the proposals for acreage, depths, and materials to be excavated were different. The applicant never satisfied the county’s sufficiency requirements.

On behalf of the public, Kim Trebatowski with Kevin Erwin Consulting Ecologists and representing Earthmark Southwest Mitigation Bank LLC was admitted as an expert in environmental planning and wetland ecology. Trebatowski testified that:

- Mine project could adversely affect hydric pine plant communities on the adjacent mitigation bank. Success of these restored communities is required under their permits with SFWMD and DEP.
- Monitoring wells are prone to errors and breakdowns which could ultimately result in adverse impacts to hydrology.

On behalf of the Responsible Growth Management Coalition, Dave Urich spoke:

- In opposition to new mines on Corkscrew Road
- In favor of Dover Kohl recommendations agreed to in principle by the BOCC

County staff continued its rebuttal on August 20, 21 and the 26th. This effort concluded with the following:

County Traffic Engineer, Harry Campbell, testified that the addition of 2400 dump truck trips on Corkscrew Road will make the road less safe and cause it to have more operational problems. His presentation centered on the evidence that the addition of large trucks to traffic stream on rural roads results in more fatal crashes and that the limitations inherent in large trucks, such as slow acceleration and slow deceleration, would result in problems with the proper functioning of the traffic, notwithstanding that the commonly used Level of Service standards showed the road to function at acceptable levels under County development regulations. He said trucks slowing at intersections and to enter turn lanes would cause segments of the road to function at less than desirable levels. He said safety is a critical factor when adding a large number of trucks to any road and that the national data shows fatal truck crashes to occur more often on rural roads and where speeds are higher as they are on Corkscrew in the area of concern. He also said that the narrow shoulders on Corkscrew Road were a significant distinguishing factor between Corkscrew and Alico which made Corkscrew less safe for truck traffic than is Alico. He also believes adding truck traffic of this magnitude to Corkscrew will result in more rear-ending and sideswipe accidents on that road. His ultimate conclusion was that the increase of trucks proposed by this applicant will very likely increase traffic operational and safety problems on Corkscrew Road.

Much of Mr. Campbell's testimony relied on information from the David Douglas & Associates "Lee County Truck Impact Evaluation" Report prepared by David Douglas & Associates as part of the Dover Kohl studies. Specifically, that study evaluated the impacts of heavy trucks from mining operations on Alico Road and Corkscrew Road (east of Ben Hill Griffin Parkway). The study evaluated both existing and additional truck traffic from mines, including the RCH proposed mine. A significant statement in that report says in reference to Alico and Corkscrew roads: "both roadways' peak hour volume Level of Service is degraded by the cumulative effect of heavy truck traffic from existing and proposed mines." The study calculated a cost of road improvements necessary to deal with these truck impacts on those roads and recommended a truck "road maintenance fee" of \$.30 per truck per one-way trip. The money would be used to maintain and improve those two roads.

In the afternoon of the 26th Jason Lauritsen was qualified as an expert in Wood Stork ecology. His testimony included both general and site-specific data about Wood Stork foraging in the area and on the applicant's site. He expressed concerns about the proposed berm around the mine, about the removal of existing ag ditches from the site (because as his photos showed, they are presently used for wood Stork foraging), and about the potential for the mine project to reduce annual groundwater flow in the immediate vicinity of the mine site (which will further reduce available Wood Stork foraging lands). He also testified that the proposed site mitigation plans were not sufficient to offset the actual impact of the project on the Wood Stork foraging areas. Although Jason is clearly very knowledgeable about the subjects of groundwater flow and the geology of the Corkscrew area, his testimony on those subjects and the potential for harm to Wood Storks from poor analysis of the mine's impacts on the groundwater was ruled inadmissible because he was not an "expert" in those subjects. Jason's presentation was very well done and much appreciated. As many of you know the Lee Comp Plan requires regulatory measures to protect Wood Stork feeding and roosting areas and habitat, which makes his testimony quite significant.

Looking Ahead

The next hearing date is September 25. Hearing Examiner said that he will open the hearing at 4 p.m. to any members of the public wishing to speak at that time. Thus far we have had about 45 people testify in opposition to the RCH mine. **We need many more residents to take the time to testify, especially those who are directly affected by the truck traffic on Corkscrew Road or who live near this proposed mine.** If anyone would like assistance in preparing to testify please contact our attorney, Tom Hart, by email at THart@knott-law.com.

There are additional hearing dates scheduled (Sep 29 and 30) but those are for the County staff to make its case and the Hearing Examiner has said that as soon as the County Staff is finished, whenever that may be, he will immediately open the hearing up one last time for public input and after that no more public input will be allowed. **Thus, we need to be sure to get all of our witnesses there on September 25 and September 29. Otherwise they might not get to testify.**

Background

A recent court decision has ordered Lee County to schedule a public hearing to consider rezoning and mining permits for the proposed Resource Conservation Holdings Mine. The request is to rezone 1,365 acres on Corkscrew Road to mine lime rock to a depth of 110 feet with blasting. Because of the court order, the application must be reviewed under the old mining rules rather than the more stringent Chapter 12 rules adopted by the County last September.

The site is located on Corkscrew Road east of Flint Pen Strand and is immediately adjacent to the Southwest Florida International Airport Mitigation Park, the South Florida Water Management District Corkscrew mitigation bank, and an established rural residential cluster on Burgundy Farms Road. The recent County initiated DR/GR planning study identified the project site as environmentally sensitive and categorized it as a Priority 1 and Priority 2 Restoration area. The site is outside of the Primary and Secondary Preferred Mining Area as identified by the Dover Kohl and the DR/GR Steering Committee.

If this latest attempt to industrialize Corkscrew Road is approved, the decision would:

- establish a new development pattern and set a precedent for seven other rock mine applications pending on Corkscrew Road
- result in permanent adverse impacts to hydrology, surface water flow, and natural systems function of wetland and aquatic resources of regional importance
- adversely impact endangered and threatened species including the Florida Panther and Woodstork
- result in unacceptable impacts to community character and public safety by potentially adding as many as 2,000 dump truck trips per day to Corkscrew Road

Lee County staff recommended that this rezoning application be DENIED.

In a parallel but separate action, the County has begun a legal challenge of the proposed mine's consumptive water use permit on grounds that it would adversely affect the recent Corkscrew municipal well field expansion. This wellfield, along with the others in the DR/GR, supplies about 80% of all the water consumed in Lee County. Several

wells installed as part of that expansion last year are immediately adjacent to the RCH Mine project site.

Ownership of the RCH Mine project includes Ascot Development which is also developing Midtown Estero, as well as Youngquist Brothers Excavating which operates an active rock mine on Alico Road.

Estero's Housing Permits Continue Slow Pace

During July 11 single family homes and 6 duplex units with a building value of \$4.9 million were permitted in Estero. This slowdown in construction of new homes should continue to help reduce the inventory of unsold new homes constructed in Estero during 2005 when 2,833 units were permitted.

[Housing units permitted](http://www.lee-county.com/dcd/Reports/EsteroReports.htm) during the first seven months of 2009 are slightly less than 2008 and far lower than all other years during the 10 years that the County has tracked Estero permits. The number of housing units permitted in Estero remains at rock bottom. The County permit information used in this report may be found at <http://www.lee-county.com/dcd/Reports/EsteroReports.htm>

The following table shows how the first seven months of 2009 compares with the same period of the prior nine years:

Year	Annual Total Housing Units	Building Value of Units	Average Building Value Per Unit	Percentage of Single Family Units
2000	1122	\$154,418,848	\$137,628	41%
2001	1399	213,746,261	152,785	45
2002	905	153,144,578	169,221	57
2003	1033	155,939,745	150,958	37
2004	1049	226,031,691	215,473	65
2005	1645	340,070,708	206,730	51
2006	969	236,835,506	244,412	31
2007	384	108,303,686	282,041	38
2008	107	36,466,055	340,804	83
2009	86	31,457,481	365,785	77

Not only are the 2009 total housing units far below all prior years, they equal only 9.5% of the quantity during 2002, the season immediately following the tragedy of 9/11/2001.

On the other hand the average building value, excluding the land beneath it, continues to increase, up substantially from all prior years and over 2.5 times (166% above) the average in 2000. Some of this increase is due to the increase in the single family share of the permitted units.

Permitted Commercial Building Values Remain Very Slow

The first seven months of Estero building permits of all types continued at a very slow pace. The value of [commercial buildings](#) permitted in Estero during these seven months totaled \$7.8 million.

Year	Year to Date	Annual Total
2000	\$71,541,520	\$77,250,835
2001	22,496,652	44,116,526
2002	15,288,582	23,135,139
2003	11,842,650	23,234,725
2004	13,548,400	60,859,820
2005	44,789,557	111,037,977
2006	150,602,944	184,709,240
2007	138,368,161	157,614,045
2008	35,018,481	39,261,677
2009	7,781,212	?

As the above table indicates Estero's commercial development started to expand rapidly in 2004 and peaked in 2006 with a total of \$184.7 million. (All figures are exclusive of the underlying land). Nonetheless, 2007 was still Estero's second highest commercial development year, far ahead of the third place year, 2005, with \$111 million.

From January through July the major projects that contributed to the 2009 year to date total are:

- \$2,500,000 in the [Coconut Point Town Center](#);
- \$1,200,000 for improvements to the Lee County Corkscrew Road Wellfield
- \$1,033,950 for [Miromar Outlets](#) expansion
- \$800,000 for a new bank in the Coconut Trace Center
- \$619,000 for Villages of Country Creek Water Storage System
- \$104,800 for Estero Park Commons

REMINDER: The building values understate the cost of each residence or commercial building because it excludes the value of the underlying land.