

**LEE COUNTY ORDINANCE NO. 10-20**  
**(PLANNING FOR THE DENSITY REDUCTION/  
GROUNDWATER RESOURCE AREA (DR/GR))**  
Ordinance 2 of 3  
(CPA2008-06)

**AN ORDINANCE AMENDING THE LEE COUNTY COMPREHENSIVE PLAN, COMMONLY KNOWN AS THE "LEE PLAN," ADOPTED BY ORDINANCE NO. 89-02, AS AMENDED, SO AS TO ADOPT A PORTION OF THE AMENDMENT PROPOSED UNDER CPA2008-06 (PERTAINING TO RESOURCE EXTRACTION IN THE DR/GR) APPROVED DURING THE COUNTY'S 2008/2009 REGULAR COMPREHENSIVE PLAN AMENDMENT CYCLE; PROVIDING FOR PURPOSE, INTENT AND SHORT TITLE; AMENDMENTS TO ADOPTED TEXT, MAPS AND TABLES; LEGAL EFFECT OF "THE LEE PLAN"; GEOGRAPHICAL APPLICABILITY; SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.**

WHEREAS, the Lee County Comprehensive Plan ("Lee Plan") Policy 2.4.1. and Chapter XIII, provides for adoption of amendments to the Plan in compliance with State statutes and in accordance with administrative procedures adopted by the Board of County Commissioners ("Board"); and,

WHEREAS, the Board, in accordance with Section 163.3181, Florida Statutes, and Lee County Administrative Code AC-13-6 provide an opportunity for the public to participate in the plan amendment public hearing process; and,

WHEREAS, the Lee County Local Planning Agency ("LPA") held a public hearing on the proposed amendment in accordance with Florida Statutes and the Lee County Administrative Code on June 3, 2009, June 22, 2009, and July 27, 2009.

WHEREAS, the Board held a public hearing for the transmittal of the proposed amendment on September 24, 2009 and October 28, 2009. At that hearing, the Board approved a motion to send, and did later send, proposed amendment CPA2008-06 pertaining to Planning for the DR/GR, to the Department of Community Affairs ("DCA") for review and comment; and,

WHEREAS, at the October 29, 2009 meeting, the Board announced its intention to hold a public hearing after the receipt of DCA's written comments commonly referred to as the "ORC Report." DCA issued their ORC report on January 15, 2010; and,

WHEREAS, on March 3, 2010, the Board held a public hearing and adopted the proposed amendment to the Lee Plan set forth herein.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, THAT:**

SECTION ONE: PURPOSE, INTENT AND SHORT TITLE

The Board of County Commissioners of Lee County, Florida, in compliance with Chapter 163, Part II, Florida Statutes, and with Lee County Administrative Code AC-13-6, conducted public hearings to review proposed amendments to the Lee Plan. The purpose of this ordinance is to adopt the amendments to the Lee Plan discussed at those meetings and approved by a majority of the Board of County Commissioners. The short title and proper reference for the Lee County Comprehensive Land Use Plan, as hereby amended, will continue to be the "Lee Plan." This amending ordinance may be referred to as the "2008/2009 Regular Comprehensive Plan Amendment Cycle CPA2008-06 Planning for the DR/GR Ordinance."

SECTION TWO: ADOPTION OF LEE COUNTY'S 2008/2009 REGULAR COMPREHENSIVE PLAN AMENDMENT CYCLE

The Lee County Board of County Commissioners amends the existing Lee Plan, adopted by Ordinance Number 89-02, as amended, by adopting an amendment, as revised by the Board on March 3, 2010, known as CPA2008-06. CPA2008-06 amends the Future Land Use Map Series and various Goals, Objectives and Policies.

The corresponding Staff Reports and Analysis, along with all attachments for this amendment are adopted as "Support Documentation" for the Lee Plan.

The Lee County Comprehensive Plan is hereby amended as follows with strike through identifying deleted text and underlining identifying added text.

**I. LEE COUNTY– A VISION FOR 2030**

**10. Gateway/Airport** - This Community is located South of SR 82, generally east of I-75, and north of Alico Road including those portions of the Gateway development that either have not been or are not anticipated to be annexed into the City of Fort Myers, the Southwest Florida International Airport and the properties the airport expects to use for its expansion, the lands designated as Tradeport, and the land designated as Industrial Development west of I-75 north of Alico Road. In addition to these two land use designations, properties in this community are designated New Community (the Gateway development), Airport, ~~Density Reduction/~~Groundwater Resource (primarily the anticipated airport expansion areas), Rural, and General Interchange. The road network in this community is planned to change dramatically over time creating access to and from this community to the north, south, and east without relying on I-75.

There are three distinct areas within this community. The Gateway portion of this

community is the area where residential uses will occur. Gateway will be a thriving, nearly built-out, mixed-use community in 2020. The population of this community is anticipated to grow substantially from today to 2030.

The second area in this community is the Southwest Florida International Airport. The airport will be greatly expanded by 2030. The expanded airport will have a second parallel runway and a new terminal building that will more than double the existing capacity of the airport. Development will be guided by the Airport Layout Plan (as established through the airport master plan process) consistent with the Southwest Florida International Airport Proposed Development Schedule (Table 5(a)) and all other Lee Plan provisions.

The airport expansion and the completion of Florida Gulf Coast University are expected to energize the remaining area in this community, including the commercial and industrial components. This portion of the community is to the south and west of Gateway and the airport and extends west of I-75 along Alico Road. While this segment of the community is not expected to build out during the timeframe of this plan, the area will be much more urbanized with hi-tech/clean industry businesses.

**18. Southeast Lee County** - As the name implies, this Community is located in the southeast area of Lee County: south of SR 82, north of Bonita Beach Road, east of I-75 (excluding areas in the San Carlos Park/Island Park/Estero Corkscrew Road and Gateway/Southwest Florida International Airport Communities), and west of the county line. ~~With the exception of a few Public Facilities, the entire~~ very minor exceptions, this community is designated as Density Reduction/Groundwater Resource, Conservation Lands (both upland and wetlands), and Wetlands on the Future Land Use Map. This "community" consists of regional mining operations, active and passive agricultural uses, public wellfields and water treatment plants, significant contiguous tracts set aside for preservation, a private golf course, and very large lot residential home sites. The one exception is the Citrus Park Community. This community is not expected to change in character through the year 2030. Through the year 2030, Southeast Lee County will change dramatically. Mining pits will double in size as the northwest portion serves as the major supplier of limerock aggregate for southwest Florida, an activity that continues to generate significant truck traffic especially on Alico Road. The remainder of Southeast Lee County will continue as the county's primary agricultural region and home to its largest (and still expanding) natural preserves. Residential and commercial development will not be significantly increased except in very limited areas where development rights are concentrated by this plan. Some existing farmland will be restored to natural conditions to increase the natural storage of water and to improve wildlife habitat.

## II. FUTURE LAND USE

**POLICY 1.1.7:** The Industrial Development areas play an important role in strengthening the county's economic base and will become increasingly important as the county grows in size and urban complexity. To a great

extent these are the areas to which Lee County must look for expanded job opportunities, investments and production opportunities, and a balanced and sufficient tax base. These areas have special locational requirements that are more stringent than those for residential areas, including transportation needs (e.g., air, rail, highway); industrial levels of water, sewer, fire protection, and other urban services; and ~~central locations to reduce employee commuting distances. The~~ that are convenient for employees to reach. Whereas, the other Future Urban Areas will include a broad combination of residential, commercial, public and limited industrial land uses, the Industrial Development area is to be reserved mainly for research and development, laboratories, industrial activities, and office, per se, as well as for selective land use mixtures such as the combined uses of industrial, manufacturing, research, and development, laboratories and office uses supporting the preceding uses; and properly buffered recreational uses (except where precluded by airport hazard zone regulations) and office complex (if specifically related to adjoining industrial uses) that constitute a growing part of Florida's economic development sector. New ~~natural resource extraction (mining) activities~~ limerock mining and fill dirt operations must be approved through the Mining Mine Excavation Planned Development rezoning process in accordance with the Lee County Land Development Code. The 14± acre parcel redesignated by CPA2006-14 from the Suburban to the Industrial Development future land use category, located north of Bayshore road and south of ACL Railroad right of way in Section 20, Township 43 South, Range 25 East will have a maximum Floor Area Ratio of 0.3. The 138± acres redesignated by CPA2008-07 from the Central Urban and Urban Community categories to the Industrial Development future land use category, within the Lehigh Acres Planning Community, will have a maximum Floor Area Ratio of 1.0. Retail and commercial service uses supporting neighboring industrial uses are allowed if the following criteria are met:

1. Retailing and/or wholesaling of products manufactured or directly related to that manufactured on the premises; or;
2. Commercial uses are integrated into the primary R&D/Industrial development; or,
3. Commercial service and retail uses may not exceed 20% of the total acreage within the Industrial Development areas per each Planning Community.

**POLICY 1.2.2:** The Tradeport areas are commercial and industrial lands adjacent to the airport needed to accommodate projected growth through the year 2030. These areas will include developments consisting of light manufacturing or assembly, warehousing, and distribution facilities; research and development activities; laboratories; ground transportation and airport-

related terminals or transfer facilities; hotels/motels, meeting facilities; and office uses. Ancillary retail and ~~Corner Store~~ commercial uses, intended to support the surrounding business and industrial land uses, are allowed if they are part of a Planned Development of 10 or more acres in size and are limited to 1,000 square feet per acre of Tradeport land within the Planned Development. ~~Future development in this category is encouraged to include a mixture of land uses as described in Policy 2.12.2.~~ Residential uses, other than bona fide caretaker residences, are not permitted in this category except to the extent provided in Chapter XIII of the Plan. Caretaker residences are not permitted in the Airport Noise Zone B. Limerock mining may be approved through the Mine Excavation Planned Development rezoning process for land designated Tradeport on the Future Limerock Mining map (Map 14.) Because this area is located within the Six Mile Cypress Basin and is also a primary point of entry into Lee County, special environmental and design review guidelines will be applied to its development to maintain the appearance of this area as a primary point of entry into Lee County. Property in Section 1 and the east ½ of Section 2, Township 46 South, Range 25 East, and in Section 6, Township 46 South, Range 26 East, must be rezoned to a planned development zoning category prior to any development other than the construction of essential public services. During the rezoning process, the best environmental management practices identified on pages 43 and 44 of the July 28, 1993 Henigar & Ray study entitled, "Groundwater Resource Protection Study" will be rebuttably presumed to be necessary to protect potential groundwater resources in the area.

**POLICY 1.4.1:** The Rural areas are to remain predominantly rural--that is, low density residential, agricultural uses, and minimal non-residential land uses that are needed to serve the rural community. Natural resource extraction may be permitted in accordance with Policy 10.1.4. These areas are not to be programmed to receive urban-type capital improvements, and they can anticipate a continued level of public services below that of the urban areas. Maximum density in the Rural area is one dwelling unit per acre (1 du/acre).

**POLICY 1.4.5:** The Density Reduction/Groundwater Resource (DR/GR) areas land use category includes upland areas that provide substantial recharge to aquifers most suitable for future wellfield development. These areas also are the most favorable locations for physical withdrawal of water from those aquifers. Only minimal public facilities exist or are programmed.

1. Land ~~New land~~ uses in these areas that require rezoning or a development order ~~must be compatible~~ demonstrate compatibility with maintaining surface and groundwater levels at their historic levels

(except as provided in Policies 33.1.3 and 33.3.3) utilizing hydrologic modeling, the incorporation of increased storage capacity, and inclusion of green infrastructure. The modeling must also show that no adverse impacts will result to upstream, downstream, and adjacent property. Offsite mitigation can be utilized, and may be required, to demonstrate this compatibility. Evidence as to historic levels may be submitted during the rezoning or development review processes.

2. Permitted land uses include agriculture, natural resource extraction and related facilities, conservation uses, ~~publicly-owned gun range facilities~~, and private recreation facilities, and residential uses at a maximum density of one dwelling unit per ten acres (1 du/10 acres). See Policies 33.3.2, 33.3.3 and 33.3.4 for potential density adjustments resulting from concentration or transfer of development rights.
  - a. For residential development, also see Objective 33.3 and following policies. Commercial and civic uses can be incorporated into Mixed-Use Communities to the extent specifically provided in those policies.
  - b. Individual residential parcels may contain up to two acres of Wetlands without losing the right to have a dwelling unit, provided that no alterations are made to those wetland areas.
  - c. The Future Limerock Mining overlay (Map 14) identifies sufficient land near the traditional Alico Road industrial corridor for continued limerock mining to meet regional demands through the Lee Plan's planning horizon (currently 2030). See Objective 33.1 and following policies.
3. Private Recreational Facilities may be permitted in accordance with the site locational requirements and design standards, as further defined in Goal 16. No Private recreational facilities may occur within the DR/GR land use category without a rezoning to an appropriate planned development zoning category, and compliance with the Private Recreation Facilities performance standards, contained in Goal 16 of the Lee Plan.

**POLICY 1.7.6:** The Planning Communities Map and Acreage Allocation Table (see Map 16 and Table 1(b) and Policies 1.1.1 and 2.2.2) depicts the proposed distribution, extent, and location of generalized land uses for the year 2030. Acreage totals are provided for land in each Planning Community in unincorporated Lee County. No final-development orders or extensions to final-development orders will be issued or approved by Lee County ~~which~~ that would allow the acreage totals for residential, commercial or industrial uses contained in Table 1(b) to be exceeded. This policy will be

implemented as follows:

1. For each Planning Community the County will maintain a parcel based database of existing land use. The database will be periodically updated at least twice every year, in September and March, for each Planning Community.
2. Project reviews for development orders must include a review of the capacity, in acres, that will be consumed by buildout of the development order. No development order, or extension of a development order, will be issued or approved if the project acreage, when added to the acreage contained in the updated existing land use database, exceeds the limitation established by Table 1(b), Acreage Allocation Table regardless of other project approvals in that Planning Community. For limerock mining in Planning Community #18, see special requirements in Policy 33.1.4 regarding industrial acreages in Table 1(b).
3. ~~No later than the~~ At each regularly-scheduled date for submission of the Lee Plan Evaluation and Appraisal Report, ~~and every five years thereafter,~~ the County must conduct a comprehensive evaluation of Planning Community Map and the Acreage Allocation Table system, including but not limited to, the appropriateness of land use distribution, problems with administrative implementations, if any, and areas where the Planning Community Map and the Acreage Allocation Table system might be improved.

*[Editorial note: due to amendments adopted in May 2009, proposed policies 1.7.12 and 1.7.14 have been renumbered.]*

**POLICY 1.7.13:** The Future Limerock Mining overlay (Map 14) identifies sufficient land near the traditional Alico Road industrial corridor for continued limerock mining to meet regional demands through the Lee Plan's planning horizon (currently 2030). See Objective 33.1 and following policies.

**POLICY 1.7.15:** The Historic Surface and Groundwater Levels overlay (Map 25) depicts the best available analysis of historic wet-season water depths and hydroperiods for Southeast Lee County as of March 2010. This depiction is based on detailed ecological analyses of 1953 aerial photography as described in the 2008 report, *Ecological Memorandum of the Density Reduction/Groundwater Resource Area*, by Kevin L. Erwin Consulting Ecologist, Inc. For purposes of determining compliance with Policy 1.4.5, additional evidence as to historic water levels and hydroperiods may be submitted during the rezoning or development review processes as a basis for site-specific hydrological analysis for project design.

**POLICY 2.2.2:** Map 1 of the Future Land Use Map series indicates the uses and density ranges that will ultimately be permitted on a given parcel. However, it is not a guarantee that such densities or uses are immediately appropriate, as the map provides for the county's growth ~~over the coming 26 years~~ beyond the Lee Plan's planning horizon of 2030. During the rezoning process the Board of County Commissioners will balance the overall standards and policies of this plan with three additional factors:

1. Whether a given proposal would further burden already overwhelmed existing and committed public facilities such that the approval should be delayed until the facilities can be constructed; and
2. Whether a given proposal is for land so far beyond existing development or adequate public facilities that approval should be delayed in an effort to encourage compact and efficient growth patterns; and
3. Whether a given proposal would result in unreasonable development expectations which that may not be achievable because of acreage limitations contained in the Acreage Allocation Table (see Policy 1.7.6, Map 16 and Table 1(b)). Additional provisions related to mining are provided in Policy 33.1.4.

In all cases where rezoning is approved, such approval does not constitute a determination that the minimum acceptable levels of service (see Policy 95.1.3) will be available concurrent with the impacts of the proposed development. Such a determination must be made prior to the issuance of additional development permits, based on conditions which exist at that time, as required by Lee County's concurrency management system.

**POLICY 9.1.4:** Protect agricultural activities on lands designated as Agricultural on the agricultural overlay (see Map 20) from the impacts of new natural resource extraction operations, recreational uses, and residential developments. However, in Future Limerock Mining areas (see Map 14), agricultural activities may be limited to the interim period prior to mining or may need to coexist with adjoining mining activities and mining pits.

**GOAL 10: NATURAL RESOURCE EXTRACTION.** To protect areas containing identified commercially valuable natural resources from incompatible urban development, while insuring that natural resource extraction operations minimize or eliminate adverse effects on surrounding land uses and on other natural resources.

**OBJECTIVE 10.1:** Designate through the rezoning process sufficient lands suitable for providing fill material, limerock, and other commercially valuable natural



resources ~~extraction materials~~ to meet the county's needs and to export to other communities, while providing adequate protection for the county's other natural resources.

**POLICY 10.1.1:** The sale of overburden from approved limerock mines is encouraged because converting overburden into fill material avoids additional mining at other locations. However, shallow mines that produce primarily fill dirt should be sited as close as possible to locations of high demand to minimize the distance fill material must be trucked to likely destinations (see also Policy 33.1.5).

**POLICY 10.1.2:** The future uses of any new or existing natural resource extraction operation must be evaluated at the time the property undergoes planned development zoning review. Site plans should be designed to incorporate proposed future uses, including open space, and to ensure the protection of surface and ground water resources, wildlife, and native plant communities.

**POLICY 10.1.3:** Reclamation is intended to replace or offset ecological benefits lost during extraction, including the creation of conditions that will support a healthy water body to the extent practicable. Applications for natural resource extraction permits for new or expanding sites, or for future use of such sites, must include a reclamation plan which ~~that~~ provides assurance of implementation. This plan must address the reclamation and sustainable management of all existing and future mining pits, preserves, and buffer areas that are or may in the future be related to the mining operation. Reclamation plans in Future Limerock Mining areas (see Map 14) must include littoral shelves suitable for native wetland plants, revegetation of disturbed land, allowance for wildlife movement, and minimization of long-term effects on surrounding surface and groundwater levels. Reclamation plans for mines providing primarily fill material should provide more extensive littoral shelves and describe how shorelines will be configured and managed and how disturbed uplands will be restored or converted to other acceptable land uses. Reclamation plans in or near important surface and groundwater resource areas must also be designed to minimize the possibility of contamination of the surface and groundwater during mining and after completion of the reclamation.

**POLICY 10.1.4:** Limerock mining may be permitted only in accordance with Objective 33.1 and its policies. Other ~~N~~natural resource extraction activities such as fill dirt operations (and ancillary industrial uses which are ancillary to natural resource extraction) may be permitted as follows:

1. in areas indicated on the Future Land Use Map as Rural, Open Lands, and Density Reduction/Groundwater Resources, provided they

have adequate fire protection, transportation facilities, wastewater treatment and water supply, and provided further that they have no significant adverse effects such as dust and noise on surrounding land uses and natural resources. In the Density Reduction/Groundwater Resource category, fill dirt operations are further restricted in accordance with Policy 33.1.5.

2. In order to reduce transport costs and minimize wear on the county's roadways, the extraction and transport of fill material may also be permitted as an interim use in the Future Urban Areas provided that the above requirements are met; however, special restrictions may also be applied to protect other land uses. These determinations will be made during the rezoning process. Ancillary crushing of limerock strata embedded within fill material may be permitted for use on-site.

**POLICY 10.1.5:** Lee County will support efforts by government, community leaders, and the extractive industry owners and businesses to ~~seek incentives that will help to facilitate the connection of natural resource extraction borrow lake excavations~~ incorporate reclaimed mining pits into a system of interconnected lakes and flowways that will comprehensive and coordinated effort of county and regional agencies to enhance wildlife habitat values, minimize or repair the long-term impacts to adjoining natural systems, provide for human recreation, educational, and other appropriate uses, and/or strengthen community environmental benefits.

**OBJECTIVE 10.2:** Coordinate mining activities, including evaluation, monitoring, reclamation, and redevelopment, with water supply planning, surface and groundwater management activities, wetland protection, wildlife conservation, and future residential activities. Consider the cumulative and watershed-wide impacts of mining activities, not just the direct impacts of each individual mine in isolation.

**POLICY 10.1.1 10.2.1:** Natural resource extraction operations intending to withdraw groundwater for any purpose must provide a monitoring system to measure surface and groundwater impacts: levels and quality to assess any degradation of surface and groundwater resources. Particular attention will be given to potential travel time to wellfields and residential wells. Mining applications are strongly encouraged to include a minimum of three years baseline monitoring and assessments of the likely change in flow, timing of travel, and direction of surface and groundwater systems on-site and in the impacted area.

**POLICY 10.1.2 10.2.2:** Applications for natural resource extraction permits for new or expanding areas must include an environmental assessment. The assessment will include (but not be limited to) consideration of air emissions,

impact on environmental and natural resources, effect on nearby land uses, degradation of water quality, depletion of water quantity, drainage, fire and safety, noise, odor, visual impacts, transportation including access roads, sewage disposal, and solid waste disposal. Assessments will also include:

1. Potential impacts on the aquatic ecology and water quality of mining pits that will result from mining pit design.
2. Likely post-mining impacts such as runoff or surface and groundwater flow on land uses surrounding the site.
3. Consideration of the primary and secondary impacts at the local and watershed levels.

**POLICY 10.2.3:** The depth of mining for a proposed excavation will be limited as necessary to prevent any breach of an aquaclude or confining layer.

**POLICY 10.2.4:** Other limitations on mining pit size, setbacks, and depths will be determined on a case-by-case basis depending on existing neighboring uses, specific hydrogeologic conditions, wetlands and watershed protection, wildlife conservation, and transportation routes including anticipated traffic to and from the mine.

**POLICY 10.2.5:** Areas that are designated as preserve areas (e.g., buffers, indigenous preservation, and reclaimed littoral shelves) during the mining rezoning process must be protected by the execution of perpetual conservation easements so that these areas will be maintained during mine operation and in perpetuity regardless of future land uses. A timetable for all environmental remediation including the construction of buffers and reclamation of littoral shelves must be included as part of the mine rezoning application. Lee County must be named in the easement as a grantee with the power and authority, but not obligation, to enforce the terms of the easement. An entity, other than Lee County, should be identified and obligated to maintain the easement in perpetuity. However, Lee County may agree to be primarily responsible for maintenance.

**POLICY 10.2.6:** The Land Development Code will establish the contents and frequency of monitoring reports from authorized mines. These reports may include surface and groundwater monitoring of water quality and quantity, the areas under active mining, the depths being mined, the quantity and type of mined materials, estimated reserves left for mining, and the annual volume, direction, and destination of the material being transported. Reporting will include the active mining and processing area; the areas where reclamation has been completed; and the areas where invasive exotic

removal is underway or completed.

**POLICY 10.2.7:** Zoning or development order approvals may require that significant adverse impacts identified during mining or post-mining will be subject to adaptive resource management acceptable to Natural Resources whereby corrective measures can be guaranteed through conditions on the next phase's approval.

**OBJECTIVE 10.2. 10.3:** Determine and maintain a balance between the County's petroleum resources and the health, safety and welfare of the residents of its Future Urban Areas.

**GOAL 33: SOUTHEAST LEE COUNTY.** To protect natural resources in accordance with the County's 1990 designation of Southeast Lee County as a groundwater resource area, augmented through a comprehensive planning process that culminated in the 2008 report, *Prospects for Southeast Lee County*. To achieve this goal, it is necessary to address the inherent conflict between retaining shallow aquifers for long-term water storage and extracting the aquifer's limestone for processing into construction aggregate. The best overall balance between these demands will be achieved through a pair of complementary strategies: consolidating future mining in the traditional Alico Road industrial corridor while initiating a long-term restoration program to the east and south to benefit water resources and protect natural habitat. Residential and commercial development will not be significantly increased except where development rights are being explicitly concentrated by this plan. Agriculture uses may continue, and environmental restoration may begin. This goal and subsequent objectives and policies apply to Southeast Lee County as depicted on Map 1, Page 2.

**OBJECTIVE 33.1: LIMEROCK MINING.** Designate on a Future Land Use Map overlay sufficient land near the traditional Alico Road industrial corridor for continued limerock mining to meet regional demands through this plan's horizon (currently 2030).

**POLICY 33.1.1:** Limerock mining is a high-disturbance activity whose effects on the surrounding area cannot be completely mitigated. To minimize the impacts of mining on valuable water resources, natural systems, residential areas, and the road system, Map 14 identifies Future Limerock Mining areas that will concentrate limerock mining activity in the traditional Alico Road industrial corridor east of I-75. By formally identifying such areas in this plan and allowing rezonings for new and expanded limerock mines only in the areas identified in Map 14, limerock resources in or near existing disturbed areas will be more fully utilized and the spread of limerock mining impacts into less disturbed environments will be precluded until such time as there is a clear necessity to do so (and Map 14 is amended accordingly). Inclusion of land on Map 14 does not restrict the rights of landowners to use their land for other allowable purposes.

**POLICY 33.1.2:** Most land identified on Map 14 is in the Density Reduction/Groundwater Resource land use category (see Policy 1.4.5) and will also be subject to those special requirements. Future Limerock Mining land outside the DR/GR area will also be subject to requirements of the appropriate designation on Map 14. Goal 10 and its objectives and policies contain additional guidance on mining. The Land Development Code will continue to provide additional details on mining approvals and operations.

**POLICY 33.1.3:** Concurrent with the update of Map 14 in 2010, the Lee Plan was amended to improve the ability to efficiently mine in Future Limerock Mining areas. An exception was made to the requirement in Policy 1.4.5 that DR/GR land uses must demonstrate compatibility with maintaining surface and groundwater levels at their historic levels. Under this exception, land in Future Limerock Mining areas may be rezoned for mining when the impacts to natural resources including water levels and wetlands are offset through appropriate mitigation within Southeast Lee County. The Land Development Code will be amended and maintained to include provisions for assessing and mitigating mining impacts and for transferring residential development rights from land zoned for limerock mining pits. Appropriate mitigation for water levels will be based upon site-specific data and modeling acceptable to the Division of Natural Resources. Appropriate wetland mitigation may be provided by preservation of high quality indigenous habitat, restoration or reconnection of historic flowways, connectivity to public conservation lands, restoration of historic ecosystems or other mitigation measures as deemed sufficient by the Division of Environmental Sciences. It is recommended that, whenever possible, wetland mitigation be located within Southeast Lee County. The Land Development Code will be revised to include provisions to implement this policy.

**POLICY 33.1.4:** Table 1(b) contains industrial acreage in Southeast Lee County that reflects the acreage of limerock mining pits needed to meet local and regional demand through the year 2030. The parcel-based database of existing land uses described in Policy 1.7.6 will be updated at least every seven years to reflect additional data about limerock mining in Southeast Lee County, including mining acreage zoned (project acres and mining pit acreage), pit acreage with active mine operation permits, acreage actually mined, and acreage remaining to be mined. Current totals are based on data compiled in *Prospects for Southeast Lee County* for the year 2006. Future amendments will reflect any additional data that becomes available through routine monitoring reports and bathymetric surveys or other credible sources. The industrial acreage totals for Southeast Lee County that are found in Table 1(b) for Planning Community #18 will be used for the following purposes:

1. In accordance with Policies 1.1.1 and 1.7.6, new mine development

orders and mine development order amendments may be issued provided that the industrial acreage totals in Table 1(b) are not exceeded. For purposes of this computation, the proposed additional limerock pit acreage, when added to the acreage of limerock pits already dug, cannot exceed the acreage limitation established in Table 1(b) for Planning Community #18.

2. By monitoring the remaining acreage of land rezoned for mining but not yet mined, Lee County will have critical information to use in determining whether and to what extent the Future Limerock Mining areas in Map 14 may need to be expanded in the future to meet local and regional demands.

**POLICY 33.1.5:** The sale of overburden from approved limerock mines is encouraged because converting overburden into fill material avoids additional mining at other locations. However, shallow mines that produce primarily fill dirt should be sited as close as possible to locations of high demand to minimize the distance that fill material must be trucked to likely destinations (see also Policy 10.1.1). In Southeast Lee County shallow mines are generally unnecessary because fill dirt is available as a byproduct of limerock mines; however, shallow mines may be permitted on sites immediately adjoining areas of high demand for fill dirt such as Lehigh Acres.

**POLICY 33.1.6:** Asphalt and concrete can be recycled to produce aggregate that is comparable to the products of limerock mines. Lee County should be a leader in using recycled aggregate in its construction projects and in encouraging privately operated recycling facilities in appropriate locations to minimize the need to mine or import additional aggregate.

**POLICY 33.1.7:** Protect agricultural activities on lands designated as Agricultural on the agricultural overlay (see Map 20) from the impacts of new natural resource extraction operations, recreational uses, and residential developments. However, in Future Limerock Mining areas (see Map 14), agricultural activities may be limited to the interim period prior to mining or may need to coexist with adjoining mining activities and mining pits.

## **VII. CONSERVATION AND COASTAL MANAGEMENT**

**POLICY 114.1.1:** Development in wetlands is limited to very low density residential uses and uses of a recreational, open space, or conservation nature that are compatible with wetland functions. The maximum density in the Wetlands category is one unit per 20 acres, except that one single family residence will be permitted on lots meeting the standards in Chapter XIII of this plan, and except that owners of wetlands adjacent to Intensive

Development, Central Urban, Urban Community, Suburban, and Outlying Suburban areas may transfer densities to developable contiguous uplands under common ownership in accordance with Footnotes 9b and 9c of Table 1(a), Summary of Residential Densities. In Future Limerock Mining areas only (see Map 14), impacts to wetlands resulting from mining will be allowed by Lee County when those impacts are offset through appropriate mitigation, preferably within Southeast Lee County (see also Policy 33.1.3). Appropriate wetland mitigation may be provided by preservation of high quality indigenous habitat, restoration or reconnection of historic flowways, connectivity to public conservation lands, restoration of historic ecosystems or other mitigation measures as deemed sufficient by the Division of Environmental Sciences. It is recommended that, whenever possible, wetland mitigation be located within Southeast Lee County. The Land Development Code will be revised to include provisions to implement this policy.

**POLICY 114.1.2:** The county's wetlands protection regulations will be consistent with the following:

1. ~~In accordance with F.S. 163.3184(6)(c),~~ The county will not undertake an independent review, at the Development Order stage, of the impacts to wetlands resulting from development in wetlands that is specifically authorized by a DEP or SFWMD dredge and fill permit or exemption.
2. No development in wetlands regulated by the State of Florida will be permitted by Lee County without the appropriate state agency permit or authorization.
3. Lee County will incorporate the terms and conditions of state permits into county permits and will prosecute violations of state regulations and permit conditions through its code enforcement procedures.
4. Every reasonable effort will be required to avoid or minimize adverse impacts on wetlands through the clustering of development and other site planning techniques. On- or off-site mitigation will only be permitted in accordance with applicable state standards.
5. Mitigation banks and the issuance and use of mitigation bank credits will be permitted to the extent authorized by applicable state agencies.
6. Lee County supports a more lenient wetland protection standard for limerock mines within the Future Limerock Mining overlay (Map 14). Lee County's overall wetland protection goals are better served by concentrating mining activity than by preserving small isolated

wetlands on mining sites.

## **XII. GLOSSARY**

AGGREGATE - Aggregate is an industry term for rock particles that vary in size from sand to several inches in diameter. The term "crushed stone" is often used interchangeably. In construction applications, aggregates are mixed with Portland cement or asphalt materials to form Portland cement concrete or hot mix asphalt.

LIMEROCK - Limerock is a common name for construction products made from naturally occurring limestone. In Lee County, most of the commercially valuable limestone comes from the Ochopee geological unit. Limerock mines typically produce rip-rap and the base rock that is used for road beds, as well as selling overburden as fill dirt. Larger limerock mines also produce aggregate (crushed stone) of various sizes.

### SECTION THREE: MAP AMENDMENTS

The Lee County Comprehensive Plan Future Land Use Map Series is amended as indicated below. Exhibits depicting the areas amended are attached.

- (a) Lee Plan Map 14, Future Limerock Mining Overlay, is repealed and replaced to establish a regulatory map identifying those locations in which limerock mining will be permitted, as depicted on attached Exhibit A.
- (b) Lee Plan Map 20, Contiguous Agricultural Parcels Over 100 Acres in Non-Urban Future Land Use Categories, is hereby amended, as depicted on attached Exhibit B, to eliminate reference to lands under public ownership and areas included in the Limerock Mine Overlay.

### SECTION FOUR: AMENDMENTS TO LEE PLAN TABLE 1(b)

Lee Plan Table 1(b) is hereby amended as identified on attached Exhibit C to decrease Active Agricultural acreage and increase Industrial acreage to accommodate resource excavation.

### SECTION FIVE: LEGAL EFFECT OF THE "LEE PLAN"

No public or private development will be permitted except in conformity with the Lee Plan. All land development regulations and land development orders must be consistent with the Lee Plan as amended.

### SECTION SIX: GEOGRAPHIC APPLICABILITY

The Lee Plan is applicable throughout the unincorporated area of Lee County, Florida, except in those unincorporated areas included in joint or interlocal agreements with



other local governments that specifically provide otherwise.

SECTION SEVEN: SEVERABILITY

The provisions of this ordinance are severable and it is the intention of the Board of County Commissioners of Lee County, Florida, to confer the whole or any part of the powers herein provided. If any of the provisions of this ordinance are held unconstitutional by a court of competent jurisdiction, the decision of that court will not affect or impair the remaining provisions of this ordinance. It is hereby declared to be the legislative intent of the Board that this ordinance would have been adopted had the unconstitutional provisions not been included therein.

SECTION EIGHT: INCLUSION IN CODE, CODIFICATION, SCRIVENERS' ERROR

It is the intention of the Board of County Commissioners that the provisions of this ordinance will become and be made a part of the Lee County Comprehensive Plan. Sections of this ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section," "article," or other appropriate word or phrase in order to accomplish this intention; and regardless of whether inclusion in the code is accomplished, sections of this ordinance may be renumbered or relettered. The correction of typographical errors that do not affect the intent, may be authorized by the County Manager, or his or her designee, without need of public hearing, by filing a corrected or recodified copy with the Clerk of the Circuit Court.

SECTION NINE: EFFECTIVE DATE

The plan amendments adopted herein are not effective until a final order is issued by the DCA or Administrative Commission finding the amendment in compliance with Section 163.3184(9), Florida Statutes, or until the Administrative Commission issues a final order determining the adopted amendment to be in compliance in accordance with 163.3184(10), Florida Statutes, whichever occurs earlier. No development orders, development permits, or land uses dependent on this amendment may be issued or commence before the amendment has become effective. If a final order of noncompliance is issued by the Administration Commission, this amendment may nevertheless be made effective by adoption of a resolution affirming its effective status. A copy of such resolution will be sent to the DCA, Bureau of Local Planning, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

Commissioner Judah made a motion to adopt the foregoing ordinance, seconded by Commissioners Mann. The vote was as follows:

Robert P. Janes	Aye *
Brian Bigelow	Aye
Ray Judah	Aye
Tammara Hall	Aye
Frank Mann	Aye

\*By telephone.

DONE AND ADOPTED this 3<sup>rd</sup> day of March, 2010

ATTEST:  
CHARLIE GREEN, CLERK

LEE COUNTY  
BOARD OF COUNTY COMMISSIONERS

BY: *Insa R. Perce*  
Deputy Clerk

BY: *Tammara Hall*  
Tammara Hall, Chairwoman

DATE: 3/3/10

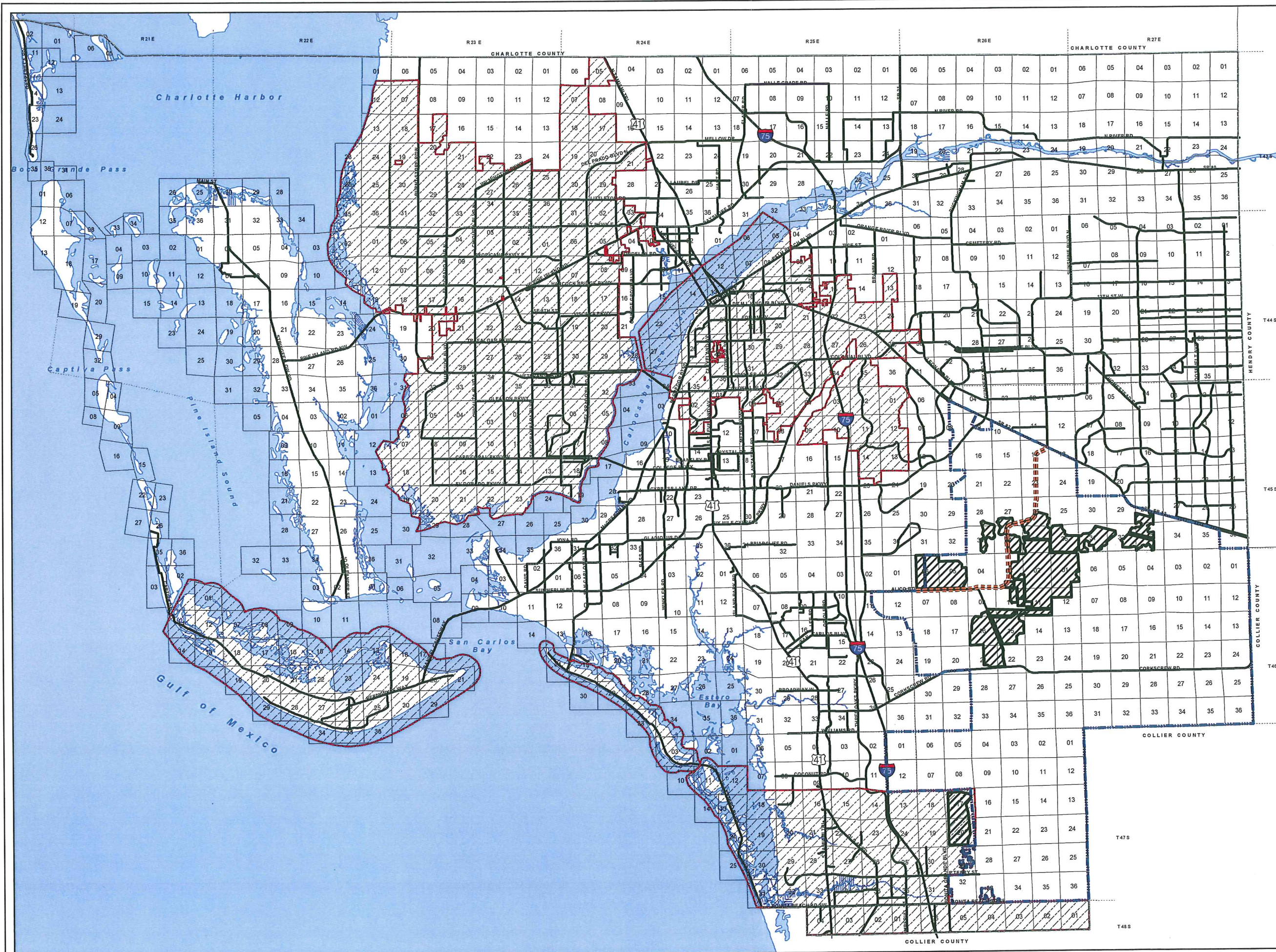
Approved as to form by:

*Dawn E. Perry-Lehnert*  
Dawn E. Perry-Lehnert  
County Attorney's Office

- EXHIBITS:  
Exhibit A: Map 14  
Exhibit B: Map 20  
Exhibit C: Table 1(b) - Year 2030 Allocations



S:\LUDPL\Lee Plan\ord 10-20 - CPA2008-06 - Mining\_DRGR 2 of 3.wpd



# FUTURE LIMEROCK MINING OVERLAY

## Legend

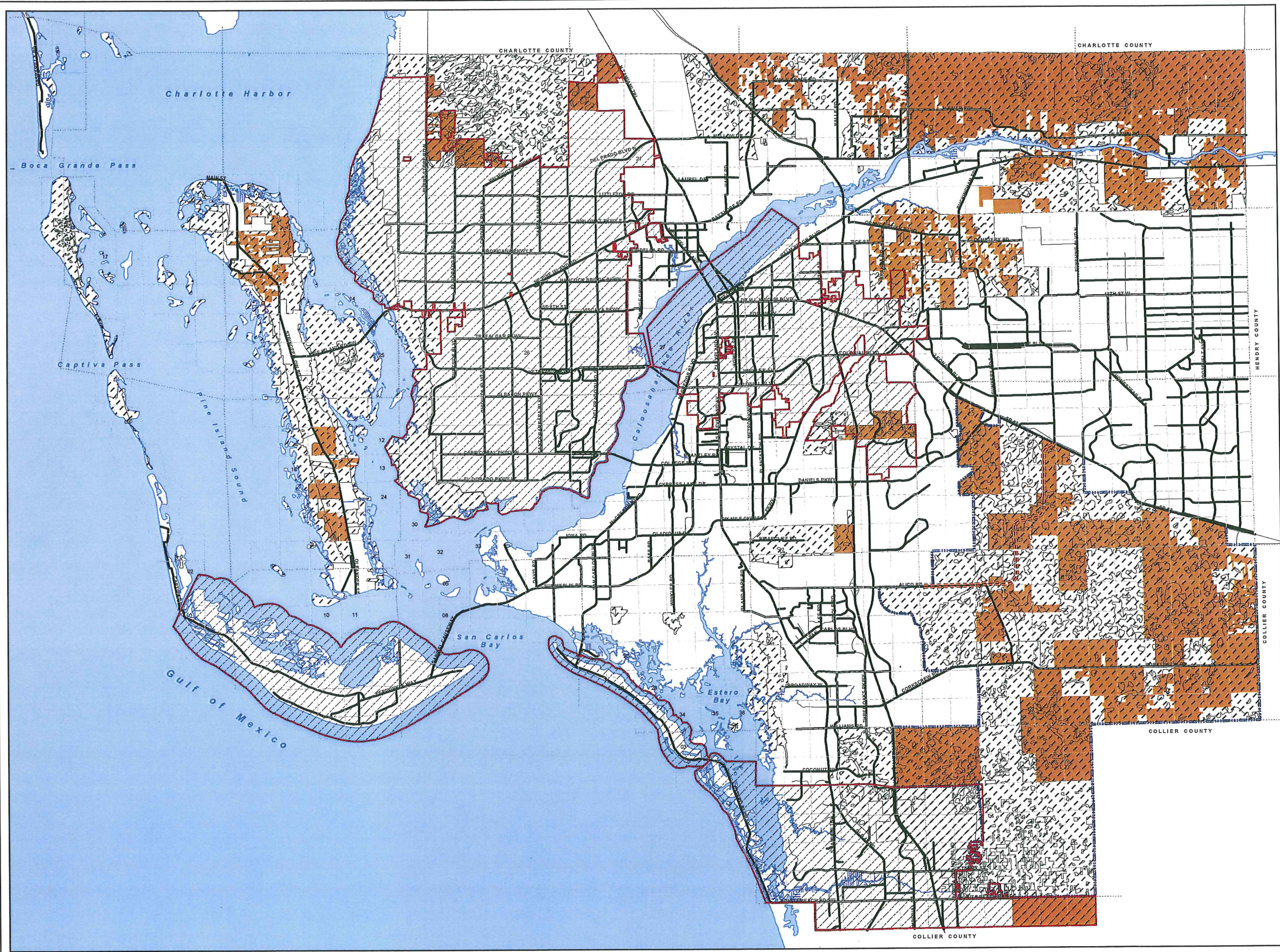
-  Southeast Lee County
-  Future Limerock Mining
-  County Line
-  City Limits
-  Major Roads
-  Alico Road Extension



Map Generated: March 2010  
 City Limits current to date of map generation.

**Lee Plan Map 14**

**AS AMENDED**  
 By Board of County Commissioners  
 March 3, 2010



# CONTIGUOUS AGRICULTURAL PARCELS OVER 100 ACRES IN NON-URBAN FUTURE LAND USE CATEGORIES

## LEGEND

- City Limits
- Section Lines
- Major Roads
- Minor Roads
- Alico Road Extension
- Southeast Lee County Agricultural Overlay
- Agricultural Areas
- Non-Urban Area



Map Generated: March 2010  
 City Limits current to date of map generation.

**AS AMENDED**  
 By Board of County Commissioners  
 March 3, 2010

Lee Plan Map 20

EXHIBIT C

PROPOSED  
TABLE 1(b)  
Year 2030 Allocations

Proposed Changes per CPA2007-49, CPA2008-06 and CPA2008-07

Future Land Use Classification	Lee County Totals		Alva	Boca Grande	Bonita Springs	Fort Myers Shores	Burnt Store	Cape Coral	Captiva	Fort Myers	Fort Myers Beach	Gateway/ Airport	Daniels Parkway	Iona/ McGregor
	Existing	Proposed												
Intensive Development	1,325	1,367	0	0	0	20	0	27	0	250	0	0	0	0
Central Urban	14,787	14,787	0	0	0	225	0	0	0	230	0	0	0	375
Urban Community	18,622	18,425	520	485	0	637	0	0	0	0	0	0	0	850
Suburban	16,623	16,623	0	0	0	1,810	0	0	0	85	0	0	0	2,488
Outlying Suburban	4,105	4,105	30	0	0	40	20	2	500	0	0	0	1,700	377
Sub-Outlying Suburban	4,534	1,548	0	0	0	367	0	0	0	0	0	0	0	0
Industrial Development	79	79	0	0	0	0	0	0	0	39	0	20	0	5
Public Facilities	4	1	0	0	0	0	0	0	1	0	0	0	0	0
University Community	850	850	0	0	0	0	0	0	0	0	0	0	0	0
Destination Resort Mixed Use Water Dependent	8	8	0	0	0	0	0	0	0	0	0	0	0	8
Burnt Store Marina Village	4	4	0	0	0	0	4	0	0	0	0	0	0	0
Industrial Interchange	0	0	0	0	0	0	0	0	0	0	0	0	0	0
General Interchange	42	42	0	0	0	0	0	0	0	0	0	0	0	0
General/Commercial Interchange	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Industrial/Commercial Interchange	0	0	0	0	0	0	0	0	0	0	0	0	0	0
University Village Interchange	0	0	0	0	0	0	0	0	0	0	0	0	0	0
New Community	900	900	0	0	0	0	0	0	0	0	0	900	0	0
Airport	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Tradeport	9	9	0	0	0	0	0	0	0	0	0	9	0	0
Rural	8,320	8,313	1,948	0	0	1,400	636	0	0	0	0	1,500	0	0
Rural Community Preserve	3,046	3,100	0	0	0	0	0	0	0	0	0	0	0	0
Coastal Rural	4,300	4,300	0	0	0	0	0	0	0	0	0	0	0	0
Outer Islands	202	202	5	0	0	1	0	0	150	0	0	0	0	1
Open Lands	2,805	2,805	250	0	0	0	590	0	0	0	0	0	120	0
Density Reduction/Groundwater Resource	6,905	6,905	711	0	0	0	0	0	0	0	0	94	0	0
Conservation Lands Uplands	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Wetlands	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Conservation Lands Wetlands	0	0	0	0	0	0	0	0	0	0	0	0	0	0
<b>Total Residential</b>	81,484	81,373	3,464	485	0	4,500	1,250	29	651	604	0	1,023	3,322	4,104
<b>Commercial</b>	12,763	12,763	57	52	0	400	50	17	125	150	0	1,100	440	1,100
<b>Industrial **</b>	6,620	13,801	26	3	0	400	5	26	0	300	0	3,100	10	320
<b>Non Regulatory Allocations</b>														
Public	82,192	81,853	7,100	421	0	2,000	7,000	20	1,961	350	0	7,500	2,416	3,550
Active Agriculture	24,957	17,776	5,100	0	0	550	150	0	0	0	0	0	0	20
Passive Agriculture	45,869	45,859	13,549	0	0	2,500	109	0	0	0	0	1,491	20	0
Conservation (Wetlands)	81,948	81,948	2,214	611	0	1,142	3,236	133	1,603	748	0	2,809	1,719	9,306
Vacant	24,342	21,802	1,953	0	0	226	931	34	0	45	0	300	20	975
<b>Total</b>	357,176	357,175	33,463	1,572	0	11,718	12,731	259	4,340	2,197	0	17,323	7,967	19,355
<b>Population Distribution*</b>	495,000	495,000	5,090	1,531	0	30,861	3,270	225	530	5,744	0	11,582	16,488	34,538

\* Population for Unincorporated Area of Lee County

\*\* See Policy 33.1.4

EXHIBIT C

PROPOSED  
TABLE 1(b)

Year 2030 Allocations

Proposed Changes per CPA2007-49, CPA2008-06 and CPA2008-07

Future Land Use Classification	San Carlos		Samibel		South Fort Myers		Pine Island		Lehigh Acres CPA2008-07		Southeast Lee County CPA2008-06		North Fort Myers		Buckingham CPA2007-49		Bayshore		
	Existing	Proposed	Existing	Proposed	Existing	Proposed	Existing	Proposed	Existing	Proposed	Existing	Proposed	Existing	Proposed	Existing	Proposed			
Intensive Development	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Central Urban	17	0	0	0	3,140	0	0	0	8,200	8,200	0	0	2,600	0	0	0	0	0	
Urban Community	1,000	0	0	0	860	500	500	43,268	13,013	0	0	0	0	54	110	450	0	0	
Suburban	1,975	0	0	0	1,200	675	675	0	0	0	0	0	6,690	0	0	1,700	0	0	
Outlying Suburban	0	0	0	0	0	600	600	0	0	0	0	0	382	0	0	454	0	0	
Sub-Outlying Suburban	25	0	0	0	0	0	0	0	0	0	0	0	140	49	66	0	950	0	
Industrial Development	5	0	0	0	10	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Public Facilities	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
University Community	850	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Destination Resort Mixed Use Water Dependent	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Burnt Store Marina Village	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Industrial Interchange	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
General Interchange	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
General/Commercial Interchange	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Industrial/Commercial Interchange	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
University Village Interchange	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
New Community	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Airport	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Tradeport	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Rural	90	0	0	0	5,870	190	190	14	21,269	4,015	0	0	500	57	50	635	1,350	0	
Rural Community Preserve	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Coastal Rural	0	0	0	0	0	1,300	0	0	0	0	0	0	0	0	0	0	0	0	0
Outer Islands	0	0	0	0	0	45	0	0	0	0	0	0	0	0	0	0	0	0	0
Open Lands	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Density Reduction/Groundwater Resource	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Conservation Lands Uplands	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Wetlands	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Conservation Lands Wetlands	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
<b>Total Residential</b>	3,962	0	0	0	5,870	3,313	24,483	21,269	4,015	4,015	4,015	10,729	3,263	3,326	3,245	6,212	0	0	
<b>Commercial</b>	1,944	0	0	0	2,100	226	4,420	1,420	38	38	1,687	18	18	1,700	139	0	0	0	
<b>Industrial **</b>	450	0	0	0	900	64	300	300	65	7,246	554	5	5	87	5	0	0	0	
<b>Non Regulatory Allocations</b>																			
Public	2,660	0	0	0	3,500	2,100	15,000	15,289	12,000	12,000	4,000	2,144	1,486	7,000	1,500	0	0	0	
Active Agriculture	0	0	0	0	0	2,400	0	0	15,404	7,920	200	411	411	125	900	0	0	0	
Passive Agriculture	0	0	0	0	0	815	0	0	18,000	18,000	1,556	3,649	3,649	200	4,000	0	0	0	
Conservation (wetlands)	2,798	0	0	0	188	14,767	4,496	1,541	34,630	31,550	1,317	394	336	5,068	882	0	0	0	
Vacant	244	0	0	0	309	3,781	7,377	8,085	500	500	2,060	4,276	1,000	809	530	0	0	0	
<b>Total</b>	12,058	0	0	0	12,867	27,466	47,076	47,904	81,249	81,249	22,103	44,028	10,201	18,234	14,168	0	0	0	
Population Distribution*	36,963	0	0	0	58,363	13,265	164,699	164,699	1,270	1,270	70,659	6,114	6,117	25,395	8,410	0	0	0	

\* Population for Unincorporated Area of Lee County

\*\* See Policy 33.1.4

STATE OF FLORIDA

COUNTY OF LEE

I Charlie Green, Clerk of Circuit Court, Lee County, Florida, and ex-Officio Clerk of the Board of County Commissioners, Lee County, Florida, do hereby certify that the above and foregoing is a true and correct copy of Ordinance 10-20, as approved by the Board of Lee County Commissioners in the Regular Meeting of March 03, 2010, and same filed in the Clerk of the Court's Office.

Given under my hand and seal, at Fort Myers, Florida, this 12<sup>th</sup> day of March, 2010.



CHARLIE GREEN,  
Clerk of Circuit Court  
Lee County, Florida

By: Lisa S. Pierce  
Deputy Clerk