

LEE COUNTY ORDINANCE NO. 10-21
**(PLANNING FOR THE DENSITY REDUCTION/
GROUNDWATER RESOURCE AREA (DR/GR))**
Ordinance 3 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 GOLF COURSE DEVELOPMENT 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 AND MAPS; 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.

II. FUTURE LAND USE

POLICY 16.2.3: RESIDENTIAL USES PRECLUDED. Residential uses, other than a single bonafide caretaker's residence, ~~or a resident manager's unit, or those uses as listed in Policy 16.2.6~~ are not permitted in conjunction with a Private Recreational Facility Planned Development. Residential density associated with land zoned as Private Recreational Facility will be extinguished and cannot be transferred, clustered or otherwise assigned to any property.

POLICY 16.2.5: The boundaries of the Private Recreational Facility Planned Development may not be designed to allow out-parcels or enclaves of residential units to be integrated into the golf course perimeter, except as allowed in Policy 16.2.6.

POLICY 16.2.6: Time share, fractional ownership units (meaning any

dwelling unit for which ownership is shared among multiple entities for the primary purpose of creating short-term use or rental units rather than permanent full time residential units), and Bed and Breakfast establishments may be permitted if the property is included on Map 17 as Rural Golf Course Residential Overlay area. These uses must be ancillary to or in conjunction with uses within the Private Recreational Facility, including a Golf Training Center or similar facility and must be located adjacent to, or within 1,000 feet of, the principal use that is being supported. Through the PRFPD process, the applicant must demonstrate that external vehicular trips will be reduced from typical single-family residential units due to the ancillary nature of the use.

POLICY 16.2.7: Time share, fractional ownership units, or Bed and Breakfast establishments will only be permitted in a designated Rural Golf Residential Overlay area as specified on Map 17 and may only be constructed through transferring density in accordance with Policy 33.3.2(1).

[Editorial Note: Renumber existing Policies 16.2.6 through 16.2.10 to 16.2.8 through 16.2.12]

POLICY 16.3.8: The following site requirements, regulating lot size, setbacks and open space must be equaled or exceeded:

1. Principal Uses, other than golf courses, and the ancillary uses listed in Policy 16.2.6, permitted under this subdivision must have a minimum lot size of ten acres.
2. Building Setbacks.
 - a. Fifty (50) feet from an existing right-of-way line or easement.
 - b. Seventy-five (75) feet from any private property line under separate ownership and used for residential dwellings.
 - c. Fifty (50) feet from any adjacent agricultural or mining operation.
 - d. Greater setbacks may be required during the Public Hearing process to address unique site conditions.
3. Setbacks for accessory buildings or structures. All setbacks for accessory buildings or structures must be shown on the Master Concept Plan required as part of the Planned Development application. No maintenance area or outdoor storage area, irrigation pump or delivery area may be located less than 500 feet from any existing or future residential use, as measured from the edge of the above-listed area to the property line of the residential use. For purposes of this policy, any property that is 10 acres or less in size

and is zoned to permit dwelling units will be considered a future residential property. Properties larger than 10 acres may be considered future residential based on the property's size, the ownership pattern of properties in the surrounding area, and the use, zoning and size of surrounding properties. To allow flexibility, the general area of any accessory buildings, structures and maintenance areas must be shown on the site plan with the appropriate setbacks as noted in this subsection listed as criteria for the final placement of these buildings, structures or facilities.

In addition to the other standards outlined in this policy, any maintenance area or outdoor storage area, irrigation pump or delivery area must meet one of the following standards:

- a) be located 500 feet or more from any property line abutting an existing or planned public right-of-way; or
 - b) provide visual screening around such facilities, that provides complete opacity, so that the facilities are not visible from any public right-of-way; or
 - c) be located within a structure that meets or exceeds the current Lee County architectural standards for commercial structures.
4. Open Space. A minimum of 85% open space must be provided. However, natural and man-made bodies of water may contribute 100% to achieving the minimum requirements. To the extent possible, pervious paving and parking areas, and buildings elevated above ground level will exceed the 85% open space requirement.
5. Security. All entrances to Private Recreational Facilities must be restricted from public access during non-use hours.

POLICY 16.3.9: The following uses are the only uses allowed under the PRFPD designation. Density/Intensity Limitations for proposed uses are subject to the following limitations:

Clubhouse/Administrative Area:	20,000 SF/18 hole golf course.
Golf Course Restrooms:	Not to exceed two structures per 18-hole golf course, limited to 150 square feet per structure.
Maintenance Area:	Not to exceed 25,000 SF of enclosed or semi-enclosed building area, on a maximum of 5

acres of land per 18 hole golf course.

Fractional Ownership/Time-share Units: The maximum allowable units will be calculated based on 1 du/10 acres for the entire area of the PRFPD. All timeshare/fractional ownership units must be transferred in accordance with Policy 33.3.3(1).

Bed and Breakfast Establishments: The maximum number of Bed and Breakfast Establishments will be limited to 1 per every 18 holes of golf. Bedrooms within a Bed and Breakfast Establishment will be limited to a maximum of 7 per unit, with a maximum of two adult occupants per bedroom.

Horse Stable: 40,000 SF of Stable Building/10 acres.

Camping Restrooms: 1 toilet per four (4) camp units, clustered in structures not to exceed 500 square feet per structure. 1 shower per 4 toilets.

Camping Area Office: 1,000 SF per campground.

OBJECTIVE 16.8: GOLF COURSE PERFORMANCE STANDARDS. The location, design and operation of golf courses located within Private Recreational Facilities will minimize their impacts on natural resources, and incorporate Best Management Practices. A maximum of ~~ten (10)~~ five 18-hole golf courses, for a total of ~~180-90~~ golf holes, will be permitted ~~in the next 10 years~~ through 2030.

POLICY 33.3.3: Owners of major DR/GR tracts without the ability to construct a Mixed-Use Community on their own land are encouraged to transfer their residential development rights to appropriate Future Urban Areas, such as the Mixed Use Overlay and the Lehigh Acres Specialized Mixed-Use Nodes, and to future Mixed-Use Communities on land so designated on Map 17. These transfers would avoid unnecessary travel for future residents, increase housing diversity and commercial opportunities for nearby Lehigh Acres, protect existing agricultural or natural lands, and allow

the conservation of larger contiguous tracts of land.

1. To this end Lee County will establish a program that will allow and encourage the transfer of upland and wetland development rights (TDR) to appropriate Future Urban Areas or from one landowner to another who wishes to develop a Mixed-Use Community, or develop in accordance with Policy 16.2.6 and 16.2.7.
2. Within the Mixed-Use Communities shown on Map 17, significant commercial and civic uses are encouraged. Specific requirements for incorporating these uses into Mixed-Use Communities will be found in the Land Development Code.
3. Mixed-Use Communities must be served by central water and wastewater services.
4. Lee County will seek to include the Mixed-Use Communities in a multimodal transportation district to mitigate the effects of SR 82's status as an emerging component of Florida's Strategic Intermodal System.

POLICY 33.3.4: The new TDR program will have the following characteristics:

1. This program will be in addition to the existing wetland TDR program described in Article IV of Chapter 2 of the Land Development Code.
2. The maximum number of DR/GR TDR credits that may be established may not exceed 9,000 credits.
3. The preferred receiving locations for the transfer of TDRs are within appropriate Future Urban Areas such as the Mixed Use Overlay and the Lehigh Acres Specialized Mixed Use Nodes. The only acceptable sites in the DR/GR area for accepting transferred development rights are the Mixed-Use Communities or Rural Golf Course Community shown on Map 17.
4. The transfer rate may include a multiplier that reflects the natural or restoration value of the tract from which development rights are being transferred.
5. Transfer rates may include a multiplier when units are transferred to Future Urban Areas that are proximate to public infrastructure and urban amenities.

6. When severing development rights from a tract of land in anticipation of transfer to another tract, a landowner must execute a perpetual conservation easement on the tract that acknowledges the severance of development rights and explicitly states one of the following options.
 - a. Continued agricultural uses will be permitted, or
 - b. Conservation uses only, or
 - c. Conservation use and restoration of the property, or
 - d. Some combination of the above options.

XII GLOSSARY:

PRIVATE RECREATION FACILITIES - Includes nature trails, tent camping areas, boardwalks, play areas (as defined in "Park Planning Guidelines, 3rd Edition"), horse stables and riding areas, service areas, administrative areas, ancillary uses, and golf courses (private or public use). The location of public wellheads and Aquifer Storage and Recovery facilities may be located in Private Recreational Facilities.

PUBLIC RECREATION FACILITIES - Land and appurtenant facilities that are provided by a governmental agency or charitable conservation organization for recreational use by the general public.

SECTION THREE: LEE PLAN MAP AMENDMENTS

Lee Plan Map 4, Private Recreational Facilities Overlay is hereby amended, as depicted on attached Exhibit A, to eliminate public lands and lands included in the mining overlay.

Lee Plan Map 17, Rural Residential Overlay, is hereby created as depicted in attached Exhibit B.

SECTION FOUR: 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 FIVE: 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 SIX: 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 SEVEN: 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 EIGHT: 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	Nay *
Brian Bigelow	Aye
Ray Judah	Aye
Tammara Hall	Aye
Frank Mann	Aye

*By telephone.

DONE AND ADOPTED this 3rd day of March, 2010

ATTEST:
CHARLIE GREEN, CLERK

LEE COUNTY
BOARD OF COUNTY COMMISSIONERS

BY: *Insa S. Pierce*
Deputy Clerk

BY: *Ray Judah*
Tammara Hall, Chairwoman

DATE: 3/3/2010

Approved as to form by

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

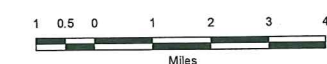
Exhibit
Exhibit A: Map 4
Exhibit B: Map 17

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PRIVATE RECREATIONAL FACILITIES OVERLAY MAP

LEGEND

- County Line
- ⬢ City Limits
- Section Lines
- Major Roads
- Minor Roads
- Alico Road Extension
- ⬢ DR/GR perimeter
- ▨ Private Recreational Facilities

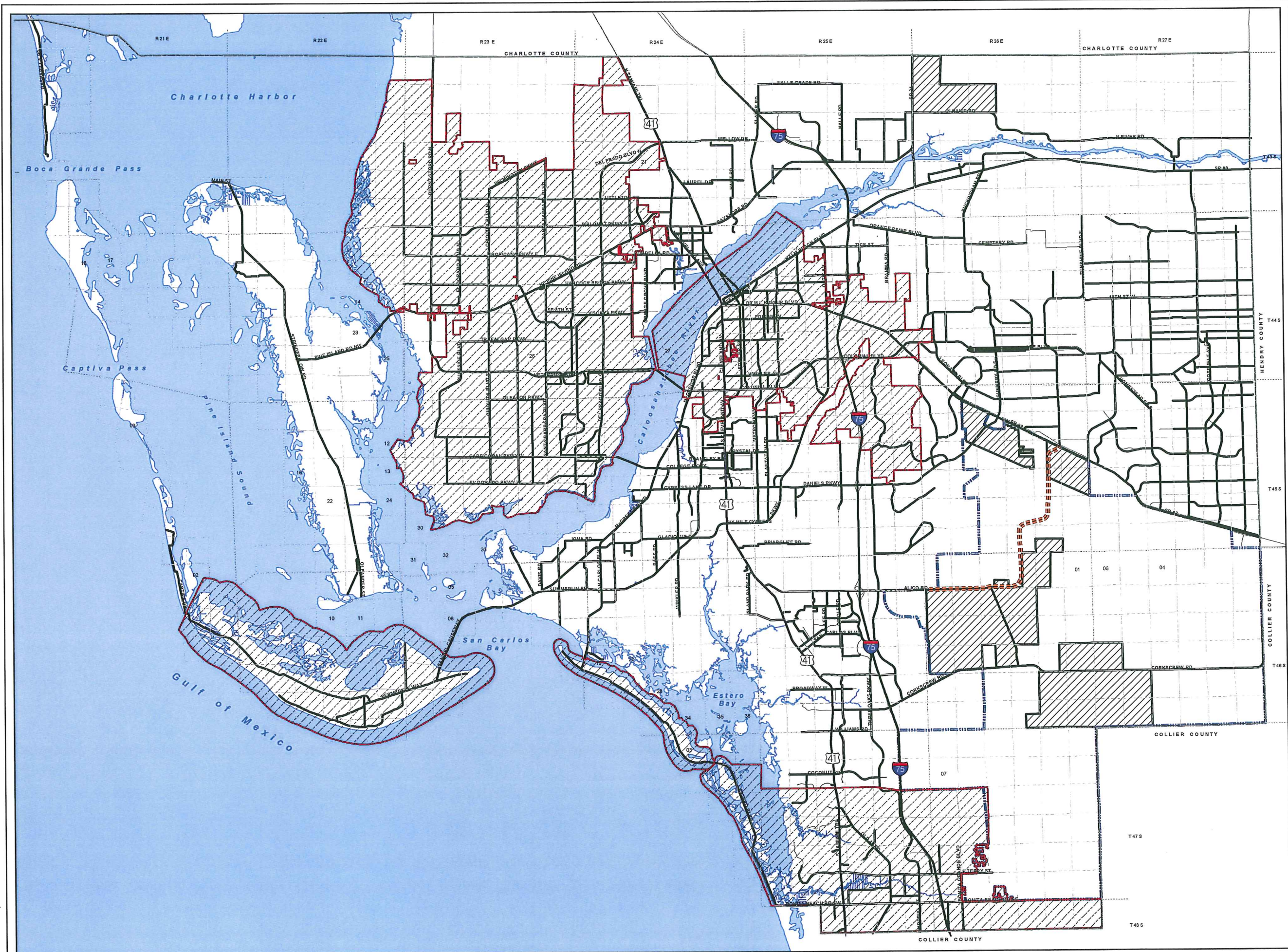


Map Generated: March 2010
 City Limits current to date of map generation
 Adopted January 1, 2000

Lee Plan Map 4

AS AMENDED
 By Board of County Commissioners
 March 3, 2010

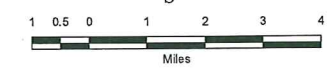
EXHIBIT A



SOUTHEAST DR/GR RESIDENTIAL OVERLAY

Legend

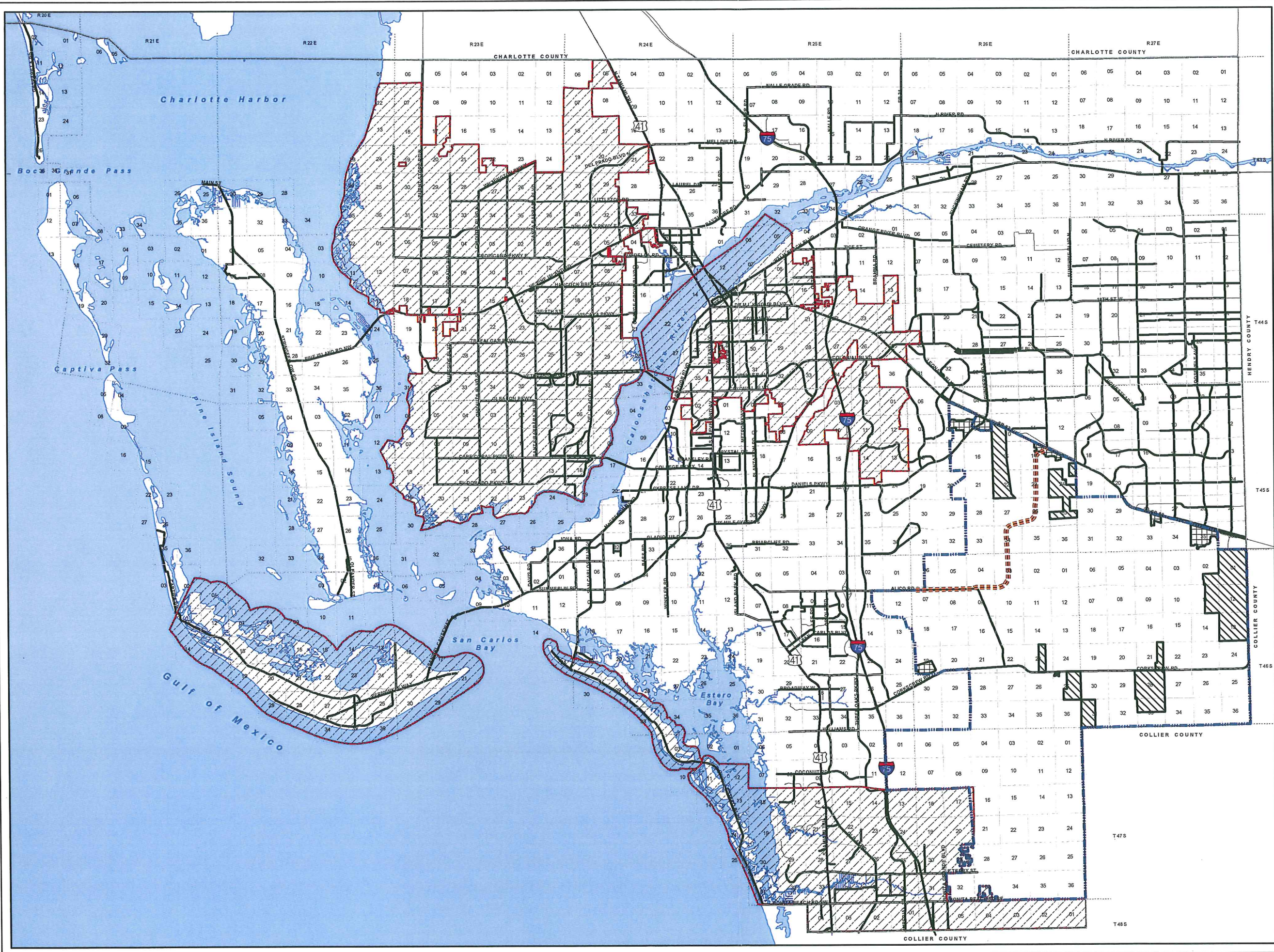
-  Southeast Lee County
-  Existing Acreage Subd.
-  Mixed-Use Community
-  Rural Golf Course Community
-  County Line
-  City Limits
-  Section Lines
-  Major Roads
-  Minor Roads
-  Alico Road Extension



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

Lee Plan Map 17

AS ADOPTED
By Board of County Commissioners
March 3, 2010



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 10-21, 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 12th day of March, 2010.

CHARLIE GREEN,
Clerk of Circuit Court
Lee County, Florida

By: *Lisa S. Peice*
Deputy Clerk

