

**LEE COUNTY  
DIVISION OF PLANNING**

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**STAFF ANALYSIS AND RECOMMENDATION**

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**PROPOSED LEE PLAN AMENDMENTS  
FOR SOUTHEAST LEE COUNTY**

**Planning for the Density Reduction /  
Groundwater Resource Area (DR/GR)**

By: Dover, Kohl & Partners

Dated  
May 2009

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**COMPREHENSIVE PLAN AMENDMENT  
CPA 2008-06**

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Prepared for the  
June 22, 2009  
Local Planning Agency Meeting

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**LEE COUNTY  
DIVISION OF PLANNING  
STAFF ANALYSIS AND RECOMMENDATIONS FOR  
COMPREHENSIVE PLAN AMENDMENT  
CPA 2008-06**

**Text Amendment**

**Map Amendment**

✓	<b>This Document Contains the Following Reviews:</b>
✓	<b>Staff Review</b>
	<b>Local Planning Agency Review and Recommendation</b>
	<b>Board of County Commissioners Hearing for Transmittal</b>
	<b>Staff Response to the DCA Objections, Recommendations, and Comments (ORC) Report</b>
	<b>Board of County Commissioners Hearing for Adoption</b>

STAFF REPORT PREPARATION DATE: June 12, 2009

**PART I - BACKGROUND**

**A. SUMMARY OF APPLICATION**

**1. APPLICANT/REPRESENTATIVE:**

Lee County Board of County Commissioners/Lee County Division of Planning.

**2. REQUEST:**

Amend the Vision Statements for Planning Communities #10 (Gateway/Airport) and #18 (Southeast Lee County) so that these statements accurately reflect all of the following amendments to the Lee Plan. Amend the Future Land Use Element to incorporate the recommendations of the 2008 report entitled *Prospects for Southeast Lee County: Planning for the Density Reduction/Groundwater Resource Area*, including major revisions under Goal 10 (Natural Resource Extraction) and a new Goal 30 with policies applying primarily to Southeast Lee County, including Objective 30.1 (Limerock Mining), Objective 30.2 (Other Natural Resources), and Objective 30.3 (Residential Development). Amend the Groundwater Recharge sub-element of the Community Facilities and Services Element to modify Policy 63.1.2 on development applications near wellfields. Amend the Glossary to add definitions of aggregate, limerock, and public recreation facilities. Add a footnote to Table 1(a) of the Future Land Use Map Series (Summary of Residential Densities) to authorize potential density bonuses for transferring development rights from Southeast Lee County to "Mixed-Use Communities" along SR 82 or to land designated on the "Mixed Use" overlay. Amend Table 1(b) of the Future Land Use Map Series (the acreage allocation table) in Planning Community #18 only so that industrial acreage reflects the acreage

of limerock mining pits needed to meet local and regional demand. Amend Map 1 of the Future Land Use Map Series to adjust the boundaries of the “Public Facilities” designation for the Corkscrew water treatment plant. Amend Map 1 of the Future Land Use Map Series to adjust the boundaries of the “Wetlands” and “Conservation Lands” (both uplands and wetlands) designations. Amend Page 2 of Map 1 of the Future Land Use Map Series to add a boundary and text for Southeast Lee County. Amend Page 4 of Map 1 of the Future Land Use Map Series to update the public acquisition overlay in Planning Community #18 only. Amend Map 4 of the Future Land Use Map Series to eliminate public lands and completed mining pits from the “Private Recreational Facilities” overlay. Amend Map 14 of the Future Land Use Map Series to designate a “Future Limerock Mining” overlay. Add a new Map 17 to the Future Land Use Map Series to designate new “Rural Residential” overlays in Planning Community #18 only. Amend Map 20 of the Future Land Use Map Series, the “Agricultural” overlay, to correctly reflect the current extent of contiguous agricultural parcels in Planning Community #18 only. Add a new Map 24 to the Future Land Use Map Series, the “Historic Surface and Groundwater Levels” overlay (Planning Community #18 only). Add a new Map 25 to the Future Land Use Map Series, the “Priority Restoration” overlay, to suggest potential acquisition patterns in Planning Community #18 only.

### 3. **BACKGROUND DISCUSSION:**

The Density Reduction/Groundwater Resource future land use category was incorporated into the Lee Plan as part of the implementation of the 1990 Stipulated Settlement Agreement between Lee County and the Florida Department of Community Affairs (DCA). The Settlement Agreement required that the Future Land Use Map be amended to lower the allowable density in a new water resource category to one dwelling unit per ten acres in three specified areas of the County. The three areas were described as: most non-urban land east of Interstate 75, southeast of the airport, and south of State Road 82; all non-urban land located north of the City of Cape Coral between Burnt Store road and U.S. 41; and, all non-urban land lying east of U.S. 41 and bounded on the south by a line lying two miles south of the Charlotte County line.

There were two underlying reasons for the inclusion of this new future land use category. The first was a desire to protect the County’s shallow aquifers. The second was part of the response to reduce the carrying capacity of the County’s overall Future Land Use Map.

Prior to the adoption of the Stipulated Settlement Agreement the Lee County Division of Natural Resources proposed to protect the shallow aquifers, in part, with an amendment to the Future Land Use Map. This amendment, Plan Amendment Map/Text 89-19 (PAM/T 89-19), was initiated by the Board of County Commissioners on May 3, 1989. The staff proposal was for the creation of a new future land use category called “Groundwater Resource.” In order to protect the shallow aquifers, the amendment proposed a reduction in density to one dwelling unit per five acres. The new future land use category was to be applied to “most uplands now designated “Rural” and “Open Lands” that lie north of the future urban areas of Bonita Springs, east of I-75, southeast of the “Airport Commerce”[Tradeport], “Airport,” and “New Community” and south of S. R. 82.” The Local Planning Agency reviewed the proposal on September 14, 1989 and recommended that the Board of County Commissioners adopt the proposed map amendment. This amendment, along with others, was scheduled to go to Board of County Commissioners public transmittal hearings on October 24 and 25, 1989. Prior to those public hearing the terms of the Stipulated Settlement Agreement were reached. The pending round of amendments were put on hold and the County began the process of implementing the agreement.

The portion of the Stipulated Settlement Agreement that addressed this issue was drafted utilizing the substance of PAM/T 89-19. There were, however, several changes to the original proposal included in the settlement. The allowable density was further reduced to one dwelling unit per ten acres. Additional lands were also added, the area north of the City of Cape Coral and the non-urban area east of U.S. 41 within two miles of the Charlotte County line. These changes were included to partially address the carrying capacity problem of the Future Land use Map. These additional changes ultimately lead to the inclusion of the words “Density Reduction” in the title of the Policy. The Board of County Commissioners adopted the Stipulated Settlement Agreement plan amendment in September of 1990. The DCA issued its Notice of Intent to find the amendment in compliance in late October, 1990.

Since that time there have been several studies and analyses of the DR/GR Future Land Use Category. These investigations were documented and verified in the “Review and Summary of Studies Containing Information Relating to Density Reduction / Groundwater Resource (DR/GR) Lands Southeastern Lee County, Florida” prepared for Board of County Commissioners by: McLane Environmental, LLC, Princeton, New Jersey; Amy S. Greene Environmental Consultants, Inc., Flemington, New Jersey; and, Head First, Inc., Jacksonville, Florida, in May of 2007.

Following the McLane Report, in the fall of 2007, the Board of County Commissioners initiated a 14 point Action Plan addressing critical mining, traffic, and land use issues in the DR/GR area. As part of this Action Plan, the Board decided to undertake a comprehensive analysis of the remaining DR/GR area in the southeast portion of the County. A consulting team was established and the first comprehensive planning analysis, entitled “*Prospects for Southeast Lee County, Planning for the Density Reduction/Groundwater Resource Area (DR/GR)*” was completed in July of 2008. This study recommended a balance of uses for the DR/GR’s future.

In May of 2009, the first document intended to implement the “*Prospects for Southeast Lee County*” was released by the consulting team, entitled “*Proposed Lee Plan Amendments For Southeast Lee County, Planning for the Density Reduction /Groundwater Resource Area (DR/GR)*”. This Division of Planning “Staff Analysis and Recommendation” analyzes the proposals contained in this document and provides the staff’s recommendation to the Local Planning Agency and to the Board of County Commissioners.

## **PART II - STAFF ANALYSIS AND RECOMMENDATIONS**

### **A. STAFF DISCUSSION**

#### **1. INTRODUCTION**

The *Proposed Lee Plan Amendments for Southeast Lee County* document was preceded by several studies that provide the data and analysis that supports the proposed amendments. The most recent of these studies include *Prospects for Southeast Lee County Planning for the Density Reduction/Groundwater Resource Area (DR/GR)*, *Ecological Memorandum of The Density Reduction/Groundwater Resource Area (DR/GR)*, and *Lee County Truck Impact Evaluation*.

The *Prospects for Southeast Lee County Planning for the Density Reduction/Groundwater Resource Area (DR/GR)* document contains a discussion concerning the origins of the DR/GR land

use category, as well as describing the process utilized to generate three different scenarios for the future of the DR/GR area. The Board of County Commissioners also appointed a 15 member DR/GR Ad Hoc Advisory Committee appointed by the Board generated a 4<sup>th</sup> recommended scenario. The study document also includes a brief summary of the relevant previous plans and studies of the southeast DR/GR land use category.

The *Ecological Memorandum of The Density Reduction/Groundwater Resource Area (DR/GR)* provides detailed ecological mapping and evaluation of the DR/GR area. The memorandum includes map generated from historic aerials and other sources and provides findings and conclusions to support a proposed restoration plan for the DR/GR area. The restoration plan is based on the potential for restoring impacted natural systems by identifying restorable land and prioritizing restoration activities that would be most beneficial to natural resources, with an emphasis on water resources (surface and groundwater).

The *Lee County Truck Impact Evaluation* study provided an evaluation of the impacts of mining operations' heavy truck traffic on the County's roadways, specifically Alico Road and Corkscrew Road. While mainly used to determine an appropriate maintenance fee, the study provides an overview of existing traffic data as well as the collection of additional data in these corridors.

Together these studied represent the data, analysis, and planning support for the proposed comprehensive plan amendments.

## **2. STAFF REPORT FORMAT**

As noted above, the Dover, Kohl & Partners team submitted proposed plan amendments in the May 2009 document "*Proposed Lee Plan Amendments for Southeast Lee County.*" Division of Planning staff, along with other County staff, has reviewed the recommendations contained in that document and concurs with many of the proposals.

In this report, staff will address the proposed amendments in the order they appear in the Dover, Kohl & Partners document. In that regard, this staff report is a supplement to the Dover, Kohl & Partners document. If staff concurs with a proposed amendment, that concurrence will be stated. If staff has concerns or disagrees with a particular proposal, the proposal will be further discussed and staff's recommended changes will be identified. The Dover, Kohl & Partners recommended amendments begin on page 4 of their report, starting with the text amendment identified as A.3.C.(a), and continuing on to A.3.C.(g). Map amendments follow with the identification A.3.D.(h) through A.3.D.(q).

## **3. TEXT AMENDMENTS ANALYSIS AND RECOMMENDATIONS**

### **(a) AMEND VISION STATEMENTS**

The first amendments proposed are text amendments to the Vision Statement for Planning Community #10, the Gateway/Airport Planning Community, and Planning Community #18, the Southeast Lee County Planning Community. Staff concurs with these changes as proposed.

### **(b) AMEND THE FUTURE LAND USE ELEMENT**

Beginning on page 6 of the Dover, Kohl & Partners document there are several proposed amendments to the Future Land Use Element. The first changes are to Policy 1.1.7, the Industrial Development descriptor policy. The change proposes to eliminate the words "natural resource extraction (mining) activities and" from the policy.

Limerock mining is a land use that is already allowed in the Industrial Development category. There are few areas, if any, currently designated Industrial Development that have a real potential for limerock extraction. Only one area of designated Industrial Development, the land north of Alico Road, between Interstate 75 and U.S. 41, has been mined to date and then only for fill dirt. Staff recommends the proposed deletion occur, but that the phrase “limerock mining and” be inserted.

Staff concurs with the second proposed change to the policy, replacing Industrial for Mine Excavation to identify the proper Planned Development process.

The next proposed amendment is to Policy 1.2.2, the Tradeport descriptor policy. The proposed change is to add limerock mining as an allowable use in this future land use category, if identified on the Future Limerock Mining Map. Staff disagrees with the proposal and recommends that the proposed phrase not be added to the policy. Please see the discussion under section (m) later in this report.

On page 9 of the *Proposed Lee Plan Amendments for Southeast Lee County*, the Rural descriptor policy, Policy 1.4.1 is proposed to have a new phrase added to reference policy 10.1.4. Staff concurs with the proposed change.

The Density Reduction/Groundwater Resource descriptor policy, Policy 1.4.5 is slated for several changes. Staff agrees with the proposed changes except for the changes proposed in paragraph 2.c. The text regarding Private Recreational Facilities is unnecessary as residential density is currently not permitted. Post mine residential use is an issue more properly addressed under the provisions of Land Development Code (LDC) Chapter 12. Chapter 12 addresses post mine uses for new and existing mines. The Chapter requires a post mining plan that can be reviewed on a case by case basis. The appropriate post mining uses can be determined through this review. Staff recommends that paragraph 2.c. be deleted.

The next text changes affect Policy 1.7.6, the Planning Communities Map and Acreage Allocations Table policy. Staff concurs with these proposed changes.

Four new policies are proposed under OBJECTIVE 1.7: SPECIAL TREATMENT AREAS. These Policies establish new overlays to the Lee Plan. Staff agrees with the additional overlays, but recommends a modification to proposed Policy 1.7.13 sub-paragraph 1. The Policy should be re-worded to state that the “Existing Acreage Subdivisions” are the rural residential neighborhoods deserving of protection from adverse impacts due to natural resource extraction. Staff recommend the following specific modification showing additional language in a double underlined fashion and proposed deletions struck-thru :

1. “Existing Acreage Subdivisions”: existing rural residential subdivisions that ~~are reasonably distant from~~ should be protected from adverse external impacts such as natural resource extraction.

On page 13 of the *Proposed Lee Plan Amendments for Southeast Lee County*, two changes are proposed to Policy 2.2.2. The first corrects an obsolete and non-factual statement about the growth capacity of Map 1. The second provides a policy reference to a new exception to application of the “acreage allocation table” (Table 1(b)) that is being created by these amendments through Policy 30.1.4. Staff recommends transmittal with a modification to sub-paragraph 3 to make the last sentence read as follows: “Additional provisions related to mining are provided in Policy 30.1.4.

The *Proposed Lee Plan Amendments for Southeast Lee County* proposes some grammatical improvements and a new exception area under Policy 6.1.2. Staff agrees with the proposed changes.

On page 15, the Dover, Kohl & Partners document proposed to revise several agricultural policies to incorporate the conservation of water resources and to emphasize the value of agriculture in providing connectivity for water and wildlife resources. Staff concurs and recommends transmittal of the language as presented.

The Dover, Kohl & Partners document includes numerous changes to Lee Plan GOAL 10: NATURAL RESOURCE EXTRACTION, and its subsequent objectives and policies. Staff agrees with the proposed amendments and recommends transmittal.

Consistent with existing Lee Plan formatting, the Dover, Kohl & Partners document is proposing a new GOAL 30: SOUTHEAST LEE COUNTY, which will contain objectives and policies that are specific to the Southeast Lee County Planning Community. These additions to the Lee Plan contain much of the substance of the proposed text changes to the plan.

Objective 30.1 and Policy 30.1.1 set forth the concept of a “Future Limerock Mining” overlay map. This map, Map 14, proposes to designate more than sufficient land near the traditional Alico Road industrial corridor for continued limerock mining to meet regional demands through 2030. Staff does not concur with all the lands currently identified on the proposed Map 14, staff does agree with the concept and proposed language for Objective 30.1 and Policy 30.1.1. Staff has included as an attachment to the analysis a modified Map 14 that staff recommends be transmitted.

Policy 30.1.2 through Policy 30.1.7:

- Provides references to other plan requirements that also apply to limerock mining;
- Allows mitigation in place of the strict standard of “maintaining surface and groundwater levels at their historic levels;”
- Describes the integration with the Year 2030 Allocations;
- Clarifies that mines producing only fill dirt should be sited as close as possible to locations of high demand;
- Commits Lee County to supporting the use and processing of recycled aggregate; and,
- Notes the impracticality of protecting many agricultural activities from mining impacts.

Staff concurs with the proposed language and recommends transmittal of the policies with the deletion of the word “or extinguishing” in the last sentence of proposed Policy 30.1.3 in order to be consistent with the staff recommendation concerning Policy 1.4.5.2.c.

Objective 30.2 and its associated policies propose guidance on how to protect and restore water resources and native ecosystems within the Planning Community.

Policy 30.2.2 through Policy 30.2.7:

- Emphasizes the importance of large-scale ecosystem protection and maintenance;
- Adopts Map 25, a “Priority Restoration” overlay into the Lee Plan ;
- Explains how to interpret the land acquisition tiers;
- Explains the phasing of the physical restoration of land;
- Recognizes agricultural operations as an important component of managing water resources; and,

- Emphasizes the necessity of evaluating the impacts of proposed land uses on surface and groundwater utilizing an integrated surface and groundwater model.

Staff concurs with the proposed language and recommends transmittal of the policies.

Proposed Objective 30.3 and its associated policies establish a new “Rural Residential” overlay map, Map 17, that would designate three different types of residential land uses in the DR/GR area. Staff concurs with this proposed objective and recommends transmittal.

Policy 30.3.1 proposes to establish an “Existing Acreage Subdivisions” overlay on proposed map 17. The policy states that these areas “are not in or near Future Limerock Mining areas are shown on Map 17.” Staff is proposing to add Willowbrook Farms/Sunnybrook Farms and Timber Trails to the “Existing Acreage Subdivisions” overlay. Staff agrees with this concept, but recommends transmittal of a modified Policy 30.3.1 as shown in the paragraph below to be consistent with the staff proposed modifications to Policy 1.7.13 sub-paragraph 1. In addition, please see further discussion of this concept under the discussion in section (n) below.

POLICY 30.3.1: Existing acreage subdivisions that are not in or near Future Limerock Mining areas are shown on Map 17. These subdivisions should be protected are reasonably distant from adverse external impacts such as natural resource extraction.

Policy 30.3.2 discourages the creation of additional acreage (ranchette) subdivisions. Staff generally agrees that discouraging ranchettes is a preferred development pattern. The policy also encourages the clustering of development in Rural Communities and Mixed Use Communities. Staff does have concerns with the proposed number of Rural Communities, please see the discussion in section (n) later in this analysis. The current location for the Mixed-Use Communities, adjacent to S.R. 82, is problematic. S.R. 82 has level of service issues that may prevent the actual development of these properties in the short term planning horizon of five years. Please see the discussion of this and other issues in the discussion of proposed Map 17 in section (n) of this analysis.

Proposed Policy 30.3.3 described a new program for transferable development rights (TDR). These right can be transferred into the newly established Mixed Use Communities. Staff recommends transmittal of this proposed policy.

Proposed policy 30.3.4 and policy 30.3.5 require changes to the LDC to establish the TDR program and establish a “TDR bank” for the new DR/GR TDR program. The parameters and function of this program are purposely being left open ended. A companion study analyzing TDR’s should help in establishing the proper regulations in the Land Development Code.

Staff notes that an important part of this program will be the conversion of TDR dwelling units into non-residential uses in the Mixed Use Communities. The commercial floor area needed to make the Mixed Use Communities satisfy both their own need and the needs of the adjacent Lehigh Acres community should not just be created. The DR/GR TDR’s should be used as a means to attain the non-residential floor area in the Mixed Use Communities. This conversion program will give considerable additional market value to the TDR’s, helping to assure a successful TDR program.

**(c) AMEND THE GROUNDWATER RECHARGE SUB-ELEMENT OF THE COMMUNITY FACILITIES AND SERVICES ELEMENT**

The Dover, Kohl & Partners document proposed a new Policy 63.1.3 under OBJECTIVE 63.1: WELLFIELD PROTECTION. The new policy requires a hydrologic review of all development applications in the Density Reduction /Groundwater Resource area by the County's hydrogeologist. Staff concurs with the new language.

**(d) AMEND THE CONSERVATION AND COASTAL MANAGEMENT ELEMENT**

*Proposed Lee Plan Amendments for Southeast Lee County* proposes modifications to policies under OBJECTIVE 114.1. The modifications to Policy 114.1.1 allow impacts to wetlands that are located in the Future Limerock Mining Area, provided proper mitigation occurs in the Southeast Lee County Planning Community. This proposal realizes that the protection of isolated wetlands in and immediately adjacent to large mine pits is impracticable. Staff concurs with the proposal which allows Lee County to relax the current Lee Plan policies protecting wetlands. To achieve this outcome, cooperation from the wetland permitting agencies will be required.

As referenced in proposed Policy 30.1.3 and the last sentence of the proposed modifications to Policy 114.1.1, the wetland impacts must be offset through appropriate mitigation within the Southeast Lee County. The appropriate mitigation efforts required from the mines and the criteria to provide the proper amount of mitigation is not sufficiently delineated in the policy. Appropriate standards and criteria will be established through subsequent LDC amendments.

The amendment to Policy 114.1.2 is more controversial, although staff does not agree with the criticisms that have been raised against this proposed change. Paragraph 1 Under Policy 114.1.2 makes a reference to a specific citation in the Florida Statutes, Section 163.3184 (6) c. This particular citation instructs the State Land Planning Agency, the Department of Community Affairs, to establish by rule a schedule for receipt of comments from the various government agencies. The citation has nothing to do with the context of the subject Lee Plan Policy. Dover, Kohl & Partners recommends removing sub-paragraph 1 all together and renumbering the rest of the sub-paragraphs accordingly.

Staff concurs with the removal of the citation, but recommends leaving the rest of the paragraph in the policy and leaving the existing numbering alone.

**(e) AMEND THE GLOSSARY**

The Dover, Kohl & Partners document proposed three new definitions for the Lee Plan Glossary. The new terms are, AGGREGATE, LIMEROCK, AND PUBLIC RECREATION FACILITIES. Staff agrees with the proposed definitions and recommends that they be transmitted.

**(f) ADD A FOOTNOTE TO TABLE 1(a) OF THE FUTURE LAND USE MAP SERIES**

In order to implement the proposed TDR concept additional density needs to be given to DR/GR lands that opt to participate in the program. Dover, Kohl & Partners propose a new footnote to Table 1(a) that allows an increase in density for DR/GR, in accordance with the TDR program described in new Policy 30.3.3.

Staff agrees with the establishment of the TDR program, with the density being transferred to the proposed Mixed Use Communities. Staff recommends that a maximum allowable density transfer be added to the footnote. Staff will look to the TDR study and consultation with Dover, Kohl & Partners prior to transmittal.

**(g) AMEND TABLE 1(b) OF THE FUTURE LAND USE MAP SERIES**

The *Proposed Lee Plan Amendments for Southeast Lee County* proposes changing the way Table 1(b), the Year 2030 Allocations Table, regulates mining activities in Planning Community #18, the Southeast Lee County Planning Community. Policies 1.1.1, 1.7.6, and 2.2.2 outline the purpose and functionality of the Year 2030 Allocation Table. Currently, the allocations do not specifically address mining. Mining acreage has been evaluated under the non-regulatory acreage allocation for Active Agriculture.

The Dover, Kohl & Partners document proposes to correct this oversight. Text amendments to Policy 1.7.6 and 2.2.2 and the addition of the new Policy 30.1.4.1 specifically require that mining acreage be calculated and included in the review of Development Orders for limerock operations. Staff has, previously in this analysis, agreed to the proposed text changes. This section of the *Proposed Lee Plan Amendments for Southeast Lee County* proposes to change the acreage figures currently included in Table 1(b). The change increases the current Industrial acreage figure in Planning Community #18, a regulatory number, from 65 acres to 7,246 acres. This is an addition of 7,184 acres. In order to keep the table balanced, 7,181 acres needs to be removed from the Active Agriculture allocation for this community. The current allocation of 15,104 acres should then become 7,920 acres. These changes will also affect that portion of the table that contains County Totals for these uses, increasing the Industrial acreage total and decreasing the Agricultural total. Staff has attached a revised table for the transmittal of this proposed amendment.

**4. MAP AMENDMENTS ANALYSIS AND RECOMMENDATIONS**

**(h) AMEND MAP 1 OF THE FUTURE LAND USE MAP SERIES TO ADJUST THE BOUNDARIES OF THE “PUBLIC FACILITIES”**

The first proposed Lee Plan Map amendment affects the current Public Facilities designation of the Corkscrew Water Treatment Plant, located near the intersection of Alico Road and Corkscrew Road. The Dover, Kohl & Partners document proposes to reduce the Public Facilities designation to more closely match the actual footprint of the water plant. The portion of the Public Facilities proposed for removal is replaced with Conservation Lands - Uplands. This Future Land Use map change also includes the proposed new Conservation Lands - Wetlands as described in the following section of the Dover, Kohl & Partners document as well as this analysis.

Lee County Utility’s staff have reviewed the proposed change and are recommending that it not be transmitted. In an e-mail dated June 9, 2009 utility’s staff state:

After reviewing the proposed amendments to the DR/GR as it relates to LCU’s Corkscrew Water Treatment Plant and surrounding well fields, LCU desires to keep the land use designation as depicted in figure 4 on page 41. The future growth needs of Lee County Utilities, technologies available, regionalization concepts & strategies lead to preserving the current available options both now and in the future. Facility expansion pressures & footprint are unknown and flexibility is paramount as LCU looks into a 30 year planning horizon.

Given this information, staff recommends that the proposed map amendment not be transmitted.

**(i) AMEND MAP 1 OF THE FUTURE LAND USE MAP SERIES TO ADJUST THE BOUNDARIES OF THE “WETLANDS” AND “CONSERVATION LANDS”**

The Dover, Kohl & Partners document is proposing to replace the current Wetlands designations on the Future Land Use Map with the new wetland mapping that was created for Southeast Lee County. The new mapping is based on 2007 color aerial photos, interpreted by trained ecologists with extensive field experience in Southeast Lee County.

Staff concurs with utilizing this new data to map wetlands on the Future Land Use Map. Staff notes that this is the best available data and this data should be used to replace the current wetland designations, which were based on Planning Division interpretation of the National Wetlands Inventory maps, in 1987. Adopting this new mapping will have no effect on any property owners ability to verify the exact location of wetlands on their property, and have the land use category lines amended in accordance with the existing provisions of Chapter XIII.

Staff notes that the designation of Conservation Lands, both Wetland and Upland, will be identified through the concurrently proposed comprehensive plan amendment CPA 2008-22.

**(j) AMEND PAGE 2 OF MAP 1 OF THE FUTURE LAND USE MAP SERIES TO ADD A BOUNDARY FOR SOUTHEAST LEE COUNTY**

The *Proposed Lee Plan Amendments for Southeast Lee County* proposes to amend the Future Land Use Map Series to add the boundary of the Southeast Lee County Planning Community to denote that there is a specific Goal, with subsequent Objectives and Policies, that apply to this Planning Community. This is the common way that this issue is addressed by the Lee Plan and staff concurs and recommends transmittal of this amendment.

**(k) AMEND PAGE 4 OF MAP 1 OF THE FUTURE LAND USE MAP SERIES TO UPDATE THE PUBLIC ACQUISITION OVERLAY**

The *Proposed Lee Plan Amendments for Southeast Lee County* proposes to amend the Future Land Use Map Series within the Southeast Lee County Planning Community to identify a “Priority Restoration” overlay. The proposal would remove the currently identified Public Acquisition Overlay land located in the Southeast Lee County Planning Community on page 4 of Map 1 and add a note that refers to a new map, Map 25, which contains the proposed 7 tier Priority Restoration overlay.

Staff concurs with the proposal to eliminate the current outdated Public Acquisition Overlay lands in the Southeast Lee County Planning Community. Staff also concurs with the addition of the 7 tiers contained within the proposed Priority Restoration overlay to the plan. Staff would prefer not adding another map to the plan and recommends that the 7 tier Priority Restoration overlay simply be added to Page 4 of Map 1, instead of the note proposed by Dover, Kohl & Partners.

**(l) AMEND MAP 4 OF THE FUTURE LAND USE MAP SERIES TO ELIMINATE PUBLIC LANDS AND COMPLETED MINING PITS FROM THE “PRIVATE RECREATIONAL FACILITIES” OVERLAY**

The Dover, Kohl & Partners document is proposing to eliminate some lands from Map 4, Private Recreation Facilities Overlay Map. There are several reasons for the proposed deletions: now conservation lands; otherwise developed; unsuitably shaped for a golf course; and, no longer DR/GR land. Staff concurs with the proposal and recommends transmittal of the map change.

**(m) AMEND MAP 14 OF THE FUTURE LAND USE MAP SERIES TO DESIGNATE A “FUTURE LIMEROCK MINING” OVERLAY**

This proposed amendment by Dover, Kohl & Partners changes an existing non-regulatory map, Map 14 Approved Limerock Mining Areas, into a new regulatory map, Future Limerock Mining overlay. This map, along with the provisions under the proposed Objective 30.1, would identify the areas within the Southeast Lee County Planning Community that are formally identified for limerock mining.

The concept of a preferred limerock mining area was one of the planning principles established early on in the planning process that generated the planning document, *Prospects for Southeast Lee County*. That document is the basis for these proposed amendments. In addition, clear direction was given by the Lee County Board of County Commissioners that mining activities should be limited to the historic Alico Road mining corridor.

Staff agrees with the concept of a regulatory Future Limerock Mining overlay map. At issue here are the lands identified by the proposed map. The proposed new Map 14 identifies 11 areas within Planning Community 18. These are identified with the letters A through K, with an additional area L located within the jurisdiction of the City of Bonita Springs.

Area A is located to the northeast of the runway at Southwest Florida International Airport. The property has access to Daniels Parkway and quick access to urban designated land, where some of the aggregate will eventually end up. Access to Alico Road is impractical, and using this property to further the stated Board goal of keeping mining in the traditional Alico Road Corridor is problematic. There are also concerns with the location of this property near the International Airport's runway. Mining lakes, especially upon reclamation, tend to attract wading birds, a definite hazard to airplanes taking off and landing. Special reclamation standards could be adopted for these lands to minimize their attractiveness for wading birds.

Area B is located outside of Planning Community #18, north of Alico Road and south of Southwest Florida International Airport, approximately one half mile to three miles east of Interstate 75. The property is not designated DR/GR and has a Tradeport Future Land Use designation. The Tradeport category is an important component in the County's goal to diversify its economic base. There has been a loss of a considerable amount of land designated Tradeport in the past few years. Over two sections of the land originally designated Tradeport has been annexed into the city of Fort Myers. The Future Land Use has been changed by the city and much of the property is now developed or slated for development as gated golf course communities. Additionally, much of the property that is identified as area B has already been approved for tradeport type development, some of it with Development Orders in place.

The land identified as area C is also located north of Alico Road and south of Southwest Florida International Airport, approximately three miles to four and one half miles east of Interstate 75. The property is designated DR/GR and portions of it have mining approvals in place. The western portion of the property has applied and is currently seeking approval for expanded mining activities.

Area D is located south of Alico Road, approximately one and one half to two and one half miles east of Interstate 75. Area D consists of an area of a now closed out mining operation that was not mined.

Area E is a remaining upland "island" in what is locally known as the Ginn property. The mining operations on this property have closed down and there is a Development Order on the property for a residential subdivision meeting DR/GR density.

Areas F through K are located further to the east and are either currently approved mines or are in close proximity to approved or existing limerock mining activities. These areas are clearly appropriate for whatever additional mining activities can be approved on the land.

Staff does not concur with the inclusion of areas A, B, D, E and L. Staff has attached a revised proposal for Map 14, which staff is recommending for transmittal. In addition to deleting areas A, B, D, and E, staff has included four additional areas, identified as M, N, O, P, Q, R, and S.

**(n) ADD A NEW MAP 17 TO THE FUTURE LAND USE MAP SERIES TO DESIGNATE NEW “RURAL RESIDENTIAL” OVERLAYS**

Along with identifying areas that are preferred for mining activities, the Dover, Kohl & Partners document is recommending the creation of three residential overlays:

- “Existing Acreage Subdivisions”: existing residential subdivisions that are reasonably distant from adverse external impacts from activities such as natural resource extraction.
- “Rural Communities”: locations for the concentration of development rights from large contiguous tracts.
- “Mixed-Use Communities”: locations where this concentration of development rights may be supplemented by transfer of development rights from non-contiguous tracts.

**Existing Acreage Subdivisions**

This proposed map amendment ties back to the policies under proposed Objective 30.3. Staff agrees with the concept of the Existing Acreage Subdivisions. Identification of existing residential neighborhoods that deserve protection from encroaching mining activities with the Existing Acreage Subdivisions overlay is an important step. This aspect of the overlays can add certainty not only for the residents but also to the land owners who may consider seeking mining approvals on their property.

Willowbrook Farms/Sunnybrook Farms and Timber Trails are existing large lot subdivisions. Both of these subdivisions consist mainly of large residential lots. The lots in Timber Trails vary from 1.25 acres in size to 5 acres. Willowbrook Farms/Sunnybrook Farms consists mainly of 5 acre homesites.

Timber Trails is substantially north of the traditional limerock mining area centered on Alico Road. The subdivision is separated from this traditional mining corridor by the Wild Turkey Strand Preserve. This preserve provides a large setback to the existing and proposed mines in the traditional limerock mining area. The subdivision is also accessed directly from S.R. 82, not from Alico Road or Corkscrew Road. The subdivision’s residential traffic does not directly mix with the Alico corridor’s heavy truck traffic.

Willowbrook Farms/Sunnybrook Farms is also located north of the traditional Limerock mining area centered on Alico Road. One corner of the subdivision does abut a corner of the Future Limerock Mining Overlay (Proposed Map 14). A Lee County owned preserve is located directly south of the subdivision. The subdivision is residentially developed and deserves the protection of the proposed Residential Overlay.

Staff recommends transmittal of the proposed Existing Acreage Subdivisions overlay, with the addition of the Willowbrook Farms/Sunnybrook Farms and Timber Trails large acre subdivisions.

**Rural Communities**

The Rural Communities overlay concept (Map 17) keeps the residential density for the larger tracts of land intact by allowing the concentration of those rights onto identified portions of the property. In this way the preservation of more of the rural ambiance of the Southeast Lee County Planning Community can be maintained.

However, staff is concerned that these spots of urban bring more challenges than they do benefits. The locations are generally far removed from all services such as police, fire protection, and emergency medical services. Local utility package plants are the only alternative for providing potable water and sewer service to these sites. The physical distance for opportunities to satisfy daily living needs, such as employment, shopping, and medical services, is substantial. The number of proposed Rural Communities also concerns staff. Staff is concerned these Rural Communities will hamper the implementation of the TDR program that is such a necessary element for a successful Mixed Use Communities program. Therefore, staff is recommend a modified version of Map 17 that reduces the number of proposed Rural Communities, see attached.

### **Mixed-Use Communities**

The Mixed-Use Communities, which allow the clustering of density from contiguous land as well as the transfer of density from other DR/GR lands, is an important tool to obtain the goal of maintaining and restoring the large-scale ecosystem, one of the planning principles established early on in this planning process.

This concept can also aid in the county's efforts to make Lehigh Acres a more self contained community by providing some of the necessary non-residential uses so badly needed in the pre-platted community. The large population that will one day occupy Lehigh Acres will help to support a much greater concentration of commercial uses in these Mixed-Use Communities.

One of the challenges facing these Mixed-Use Communities is the concurrency issues that exist along the length of S.R. 82. The newest draft concurrency tables indicate the following LOS status based on existing conditions (2008 counts):

Colonial Blvd. to Commerce Lakes Dr.	F (standard is D)
Commerce Lakes Dr. to Gunnery Rd.	D (standard is C)
Gunnery Rd. to Alabama Rd.	F (standard is C)
Alabama Rd. to Bell Blvd.	D (standard is C)
Bell Blvd. to Hendry Co. Line.	D (standard is C)

There are currently no improvements programmed beyond the design phase for the segment from Colonial Boulevard to Gunnery Road. Given these circumstances it could be a long time before improvements are scheduled and in place. This apparent ability to attain the adopted level of service is a problem for the four proposed Mixed-Use Communities. Although concurrency is a current issue along S.R. 82, staff believes that issue can and will certainly be addressed over time. As noted in the Vision Statement of The Lee Plan, the plan is designed to depict Lee County as it will appear in the year 2030. The plan represents the community's vision of what it will or should look like by the end of the planning horizon. These identified concurrency deficiencies will have to be addressed to allow the development of the proposed Mixed Use Communities.

There are potential opportunities that may allow S.R. 82 to be improved. The State or Federal Government may allocate funds. Developers of the proposed mixed use communities could also be part of the solution. In addition, new projects, such as the widening of portions of Daniels Parkway and the Alico Road Extension will reduce traffic on several segments of S.R. 82. Portions of the Daniels Parkway widening have recently been moved up and the County has tentatively programmed \$1.5 million to acquire part of the proposed right of way for the Alico Road extension.

The provision of utilities also presents challenges for the Mixed-Use Communities, especially potable water and sewer. However, there are alternatives that can be explored. Local on site facilities could be utilized. Another alternative is to tie these areas into the Lehigh Acres Florida Governmental Utility Association, or FGUA. The ultimate fate of FGUA is not known at this time, but the utility was created as a holding company, with the ultimate responsibility falling to local government. Over the planning horizon this utility could come under Lee County, or perhaps under a future Lehigh Acres municipality.

Given the challenges discussed above, the adoption of the Mixed Use Communities may appear premature. In the short term planning horizon of five years it is highly unlikely that these communities will be designed or developed. Ultimately, these proposed Mixed Use Communities represent a long term vision for land uses for S.R. 82, Lehigh Acres, and the DR/GR lands to the south. The proposal is an attempt to balance land uses in the DR/GR by moving future residential development away from future Limerock Mining areas and into areas adjacent to identified urban lands. Staff recommends that the proposed Mixed Use Communities be transmitted.

**(o) AMEND MAP 20 OF THE FUTURE LAND USE MAP SERIES, THE “AGRICULTURAL” OVERLAY**

The Lee Plan contains a map, Map 20, that currently identifies Contiguous Agricultural Parcels Over 100 Acres in Non Urban Future Land Use Areas. The *Proposed Lee Plan Amendments for Southeast Lee County* proposes to update the portion of this map, within the Southeast Lee County Planning Community, utilizing the same mapping conventions that Lee County used to update Map 20 in 2003, as reported in detail in the staff report for CPA 2001-23. Staff recommends transmitting the updated Map 20.

**(p) ADD A NEW MAP 24 TO THE FUTURE LAND USE MAP SERIES, THE “HISTORIC SURFACE AND GROUNDWATER LEVELS” OVERLAY**

The *Proposed Lee Plan Amendments for Southeast Lee County* is proposing a new map, Map 24 Historic Surface and groundwater Levels, which is a compilation of the results of the Kevin L. Erwin Consulting Ecologist, Inc. interpretation of 1953 aerials that defines the historic wet-season water levels by water depth and hydroperiod. KLECE is a sub-consultant of this entire comprehensive planning study. The map is intended to be a valuable tool for implementing revised Policy 1.4.5. Inclusion of this map in the Lee Plan fills a void and answers the question, what are the historic surface and groundwater levels to use when implementing policy 1.4.5. Staff recommends transmittal of the proposed new map.

**(q) ADD A NEW MAP 25 TO THE FUTURE LAND USE MAP SERIES, THE “PRIORITY RESTORATION” OVERLAY**

The *Proposed Lee Plan Amendments for Southeast Lee County* proposes to amend the Future Land Use Map Series within the Southeast Lee County Planning Community to identify a “Priority Restoration” overlay. The proposal would remove the currently identified Public Acquisition Overlay land located in the Southeast Lee County Planning Community on page 4 of Map 1 and add a note that refers to a new map, Map 25, which contains the proposed 7 tier Priority Restoration overlay.

Staff concurs with the proposal to eliminate the current outdated Public Acquisition Overlay lands in the Southeast Lee County Planning Community and to add the 7 tier Priority Restoration overlay to the plan. Staff would prefer not adding another map to the plan and recommends that the 7 tier Priority Restoration overlay simply be added to Page 4 of Map 1, instead of the proposed note.

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

**DATE OF PUBLIC HEARING: June 3, 2009**

**A. LOCAL PLANNING AGENCY REVIEW**

The proposed plan amendment was brought forward at this time for presentation and discussion purposes only. The consultant's representatives gave a PowerPoint presentation that provided the following:

- Proposed time line for the amendments;
- Location of existing mines;
- The planning process that developed the proposed amendments;
- The principles that were the basis for the amendments;
- Demand projections for aggregate;
- Identified the four additional supporting reports;
- Urban and Rural Clustered Mixed Uses;
- Preferred Mining area;
- Identified the headwaters of the Estero basin;
- Map of historic hydroperiods;
- Map of existing hydroperiods; and,
- Priority restoration areas.

**DATE OF PUBLIC HEARING: June 22, 2009**

**A. LOCAL PLANNING AGENCY REVIEW**

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

**1. RECOMMENDATION:**

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

**C. VOTE:**

<b>NOEL ANDRESS</b>	_____
<b>CINDY BUTLER</b>	_____
<b>CARIE CALL</b>	_____
<b>JIM GREEN</b>	_____
<b>MITCH HUTCHCRAFT</b>	_____
<b>RONALD INGE</b>	_____
<b>CARLA JOHNSTON</b>	_____

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

DATE OF TRANSMITTAL HEARING: September 23, 2009

**A. BOARD REVIEW:**

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

**1. BOARD ACTION:**

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

**C. VOTE:**

**BRIAN BIGELOW**

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**TAMMARA HALL**

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**ROBERT P. JANES**

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**RAY JUDAH**

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**FRANK MANN**

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**PART V - DEPARTMENT OF COMMUNITY AFFAIRS OBJECTIONS,  
RECOMMENDATIONS, AND COMMENTS (ORC) REPORT**

DATE OF ORC REPORT: \_

- A. DCA OBJECTIONS, RECOMMENDATIONS AND COMMENTS**
  
- B. STAFF RESPONSE**

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

DATE OF ADOPTION HEARING: \_\_

**A. BOARD REVIEW:**

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

**1. BOARD ACTION:**

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

**C. VOTE:**

**BRIAN BIGELOW**

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**TAMMARA HALL**

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**ROBERT P. JANES**

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**RAY JUDAH**

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**FRANK MANN**

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