LEE COUNTY
DIVISION OF PLANNING

STAFF ANALYSIS AND RECOMMENDATION

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

COMPREHENSIVE PLAN AMENDMENT
CPA 2008-06

Prepared for the
March 3rd 2010
Board Adoption Hearing

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

✓	**Text Amendment**	✓	**Map Amendment**

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

ORIGINAL STAFF REPORT PREPARATION DATE: June 12, 2009
REVISED: September 11, 2009
November 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 was 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*.

Following the release of the *Proposed Lee Plan Amendments for Southeast Lee County* three additional studies have been produced as data and analysis to further support the proposed amendments. These include *Transferable Development Rights in Southeast Lee County, Natural Resource Strategies for Southeast Lee County,* and *Comprehensive Hydrological Study of the Lee County's Southeastern Density Reduction/Groundwater Resource Area*.

Prospects for Southeast Lee County Planning for the Density Reduction/Groundwater Resource Area (DR/GR) 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 study document also includes a brief summary of the relevant previous plans and studies of the southeast DR/GR land use category. The Board of County Commissioners also appointed a 15-member DR/GR Ad Hoc Advisory Committee. The committee generated a 4th recommended scenario.

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 maps 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).

Lee County Truck Impact Evaluation 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.

Transferable Development Rights in Southeast Lee County analyzes the feasibility of a transferable development rights program and provides detailed designs for potential Rural and Mixed-Use Communities. The study also includes a proposed TDR regulatory structure and lists the top ten success factors of leading TDR programs nationwide.

Natural Resource Strategies for Southeast Lee County addresses best farming practices, land acquisition, land restoration, mine reclamation standards, and innovative mining approaches. The study also includes recommended amendment to the county's land development code regulating mining activities.

Comprehensive Hydrological Study of the Lee County Southeastern Density Reduction/Groundwater Resource Area documents the creation of an integrated surface and groundwater model and analyzes land-use alternatives for this area from a hydrological perspective.

All of these documents are attached and together these studies 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.

Also attached to this analysis is a document that indicates, in strikethrough/underlined format, a version of the proposed amendment language for the Southeast Lee County DR/GR plan amendment. The document is referred to as the *Composite Recommendations* and is formatted as follows:

- Where Planning Staff and the consultant Dover, Kohl & Partners agree, the proposed language is shown across the entire page;
- Where there were differences of opinion on the proposed language, the page is split into two columns. The left hand column contains the Dover, Kohl & Partners' proposal. The right hand column contains Staff's proposal; and,
- Under the two columns, and sometimes under the agreed-to policies, is a dialog box or boxes that contain a Staff discussion, explanation, modified revision, update, or clarification, often followed by the consultant's concurrence.

As you will see in reviewing the document, there are only a few areas where Staff and the consultant differ on their recommendations. The remaining issues are:

- Policy 1.4.5, how to utilize the historic hydroperiod analysis for new development;
- Policy 1.1.7, Mining in the Industrial Development Future Land Use Category;
- Policy 1.2.2, Inclusion of mining in the Tradeport Future Land Use Category (please see the discussion under sections (b) and (m));
- Policy 30.1.3, The elimination of residential density on land zoned for limerock mining pits;
- Section (h) map amendment of Public Facilities near the County's water plant;
- Section (m) "Future Limerock Mining Areas;" and,
- Section (n), Easterly Rural Communities locations.

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 originally disagreed with this proposal and originally recommended that the proposed phrase not be added to the policy.

Under section(m) you will see a discussion about a property owner in the Tradeport category who may be desirous of mining their property. That tract is bounded on the west by Airport Haul Road and on the east by Area C, which contains an active limerock mine that is currently in the rezoning process to expand its pits to the westerly edge of Area C. Staff sees this proposal as a compromise on this issue and no longer objects to the inclusion of this portion of the Tradeport being included in the Future Limerock Mining overlay on Map 14. Staff is therefor in agreement with the Dover, Kohl language and now recommends that it should be transmitted.

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.

Several changes to Policy 1.4.5, the descriptor policy for the Density Reduction/Groundwater Resource future land use category, are proposed. These changes include breaking the current policy into three numbered paragraphs. The first paragraph utilizes existing language requiring compatibility with maintaining surface and groundwater levels at their historic levels and establishes the proposed Map 24, Historic Surface and Groundwater Levels, as the historic target. The second paragraph refers to permitted uses and includes four lettered sub-paragraphs. Sub-paragraph a. refers to the proposed Objective 30.3, Residential and Mixed-Use Development. The third paragraph includes the existing language for Private Recreational Facilities.

The historic surface groundwater level map is based on interpretation of 1953 aerials and establishes a reference for use when determining compatibility. Staff understands that returning all or even a majority of this area to the actual 1953 conditions is an impossibility. Staff does not interpret the intent of paragraph 1 as requiring the recreation of those conditions. Staff also understands that it is not lawful to cause hydrological changes that may harm upstream downstream or adjacent properties. Rather, the intent is to allow development that, through use of hydrologic models and design elements can mimic natural

water functions. These elements may include such things as increased storage capacity and incorporation of green infrastructure such as wetlands and flowways.

In order to make this intent clear, staff recommends that the language be modified to state:

> 1. ~~Land~~ New land uses in these areas that require rezoning or a development order must ~~be~~ demonstrate compatibility ~~compatible~~ with maintaining surface and groundwater levels at their historic levels (except as provided in Policies 30.1.3 and 30.3.3) 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. Historic wet-season water depths and hydroperiods are depicted on Map 24, based on detailed analyses of 1953 aerial photography. Additional evidence as to historic levels may be submitted during the rezoning or development review processes.

Staff agrees with the proposed changes in paragraph 2 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 inclusion of paragraph 2 and 3 with the provisions of paragraph 2.c. 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 recommends the following specific modification showing additional language in a double underlined fashion and proposed deletions struck-through:

> 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.

Dover, Kohl & Partners have agreed to this revision to the proposed language.

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. Staff concurs with the proposed revision to this portion of the policy. The second revision 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 minor 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. Dover, Kohl & Partners have agreed to this suggested revision.

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, Policy 9.1.2, 9.1.4, 9.1.5, and 9.1.6, and add a new policy, Policy 9.1.7, 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 by Dover, Kohl & Partners.

Proposed Lee Plan Amendments for Southeast Lee County includes numerous changes and additions to Lee Plan GOAL 10: NATURAL RESOURCE EXTRACTION, and its subsequent objectives and policies. Staff agrees with these 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. This proposed Goal number, 30, will be changed if these amendments are eventually incorporated into the Lee Plan. For this review, staff will utilize the numbering as proposed in the *Proposed Lee Plan Amendments for Southeast Lee County.*

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 the planning horizon of 2030. While staff does agree with the concept and proposed language for Objective 30.1 and Policy 30.1.1, staff does not concur with all the lands currently identified by the consultant on the proposed Map 14. Staffs recommended Map 14 is included in the Composite Recommendations document and staff's rational is discussed below in Section (m) of this analysis.

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 30.2.1 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 by utilizing an integrated surface and groundwater model.

In response to public input and to incorporate changes resulting from the staff recommendation in Section (q) below, numerous changes to Policies 30.2.1 through 30.2.6 have been recommended. These changes are contained in the Composite Recommendation document attached. Both staff and Dover, Kohl & Partners concur with these changes.

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 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. Dover, Kohl & Partners concur with the proposed staff revisions. 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 and encouraging clustered development 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. During the public hearing process, staff proposed additional areas to be considered for the Mixed-Use Community designation. If these expanded or additional Mixed-Use Communities are added to Map 17 as proposed by staff, as discussed in Section (n) below, two changes are needed to Policy 30.3.3:

> The opening sentence would state: "Owners of major DR/GR tracts without the ability to ~~provide direct access to SR 82~~ construct a Mixed-Use Community on their own land are encouraged to

transfer their residential development rights to future Mixed-Use Communities ~~along SR82 (see~~ on land so designated ~~areas~~ on Map 17~~)~~."

The second sentence of subparagraph 2 would be reworded to state: "Under this exception, Mixed-Use Communities may be constructed ~~along SR 82~~ on land so designated on Map 17 provided the impacts to natural resources including water levels and wetlands are offset through appropriate mitigation within Southeast Lee County."

Dover, Kohl & Partners concurs with staff's language change and the proposal to expand the Mixed-Use Community between Alico and Corkscrew Roads.

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 deliberately being left open ended. The 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 may 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 impractical. 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 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 refers 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 and renumbering the rest of the sub-paragraphs accordingly.

Staff concurs with the removal of the citation. Misinterpretation of the intent of the revised policy by several members of the public led them to believe the Dover, Kohl & Partners proposal was intended to put Lee County back into the wetland permitting process. This is not the intent, and Dover, Kohl & Partners has submitted the following alternate language for paragraph 1 under Policy 114.1.2. Staff agrees that this proposal should be transmitted and has included this language in the attached Composite Recommendations document.

> 1. 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 isolated wetlands on mining sites.

(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 recommended that a maximum allowable density transfer be added to the footnote. Staff discussed this issue with Dover, Kohl & Partners and we both agree that a maximum density transfer number needs to be included. Dover, Kohl & Partners researched this issue and concluded that a maximum of 6,000 total transfer units be included in the proposed new footnote 11. The additional language is included in the Composite Recommendations document.

(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.

At the LPA public hearing, a concern about the large change in Table 1(b) for Southeast Lee County, increasing the Industrial allocation at the expense of active Agriculture (especially given the plan's statements about the importance of agriculture) was raised. One LPA member suggested a footnote to Table 1(b) that directed readers back to that policy would be a good idea. Staff concurs and proposes adding a new double asterisk immediately after the 7,246-acre industrial figure in the table, linked to this new footnote stating: "** See Policy 30.1.4." Dover, Kohl & Partners concurs with the acreage revisions to Table 1(b) and adding the footnote.

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 has reviewed the proposed change and recommends 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 designation 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 are based on Planning Division interpretation of the National Wetlands Inventory maps in 1987. Adopting this new mapping will have no effect on a property owner's ability to verify the exact location of wetlands on their property 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

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 applies 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

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.

A property owner in the Tradeport category has indicated a desire to mine their property. That tract is bounded on the west by Airport Haul Road and on the east by Area C, which contains an active limerock mine that is currently in the rezoning process to expand its pits to the westerly edge of Area C. Staff sees this proposal as a compromise on this issue and no longer objects to the inclusion of this portion of the Tradeport being included in the Future Limerock Mining overlay on Map 14.

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.

Area L is an existing mine, located within the city limits of Bonita Springs. As such, the Lee Plan has no authority over this property. Staff believes that, while it is important to include this property in any data calculating mining capacity, it should not be included in the Lee Plan.

Staff does not concur with the inclusion of areas A, 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, D, and E, staff has included four additional areas, identified as M, N, O, P, Q, R, and S. Staff also recommends including the portion of Area B east of Airport Haul Road.

(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 the 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 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 recommends a modified version of Map 17 that reduces the number of proposed Rural Communities. Please see the attached Composite Recommendations.

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.

In order to address the S.R. 82 problems, staff discussed with Dover, Kohl & Partners amending the Rural Community located midway between Alico Road and Corkscrew Road. The report *Transferable Development Rights in Southeast Lee County* includs an expanded area there and a plan for development as a Mixed-Use Community. Staff recommends that the proposed Mixed-Use Communities be transmitted, as amended.

Staff has also been in discussions with the representative of the owners of the "Fountains" property. The Fountains was an active Development of Regional Impact that proposed a future land use map change along the Daniels parkway extension. A portion of the property was designated Central Urban in the mid 1990's to partly address the shortage of commercial lands in the Lehigh Acres area. Dover, Kohl & Partners is proposing the Mixed-Use Community for this Central Urban area as well as an area to the south. Staff recommends that the extension to the south be eliminated and a new extension be added that follows the Central Urban category line to the west, parallel to S.R. 82, over to the New Community future land use category. This area is shown in the Composite Recommendations document.

(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. *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 historic surface and groundwater levels should be used 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

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;
- Identification of the four additional supporting reports;
- Urban and Rural Clustered Mixed-Uses;
- Preferred Mining area;
- Identification of 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

Dover, Kohl & Partners discussed the proposed plan amendments and staff's recommendations as outlined in the staff report. They also discussed the Mixed-Use and Rural Communities.

The LPA made the following comments/requests of staff:

- Further research is needed for Mixed-Use Communities to see how there could be a balance of commercial, industrial, and residential uses that will be effective for these different properties that we want to take the density off of.

- The County needs to have an adequate TDR program especially because there will be a large number of TDUs that are going to need to be transferred.

- Further research is needed on historical water flows in the DR/GR area as many changes have taken place since 1953. If the County has a goal to restore historic water flows and levels, it might run counter to the fact that we have existing public wellfields in the area drawing that very same water out and pumping it all over the County.

- Provide the LPA with a map that includes the mining, residential, and mixed use areas, as well as the proposed roads on one map instead of several maps. The map should also include staff's proposed exclusions in the mining areas and the number of acres that will be left for mining.

- Provide answers to issues discussed today by the LPA and public in staff's updated staff report for next month's meeting.

A motion was made and passed to take the input from the LPA and public and be prepared at the next meeting to present strike-through and underline recommendations with special emphasis on the historic water levels, transfer of development rights, the tiered preservation, the location of mining, some of the agricultural impacts particularly in light of the IFUS Study, the Mixed-Use Community maps, and any other critical issues that came out of the day's meeting.

DATE OF PUBLIC HEARING: July 27, 2009

A. LOCAL PLANNING AGENCY REVIEW

Dover, Kohl & Associates gave the LPA a PowerPoint presentation. They, along with their sub-consultants, reviewed and discussed the Transfer of Development Rights report. They talked about questions that came up regarding the Comprehensive Plan Amendment language at the last LPA meeting. It was noted that the TDR Report was data and analysis and did not require any LPA action specifically addressing the report. The LPA opened the meeting to public comment and 21 members of the public addressed the LPA. Three LPA members raised concerns about: incentives for intensification of industrial and commercial uses; plan horizon of 2030 for mining activities; binding nature of the historic water levels; concurrency issues on SR 82; assuring a functional TDR program; and, the partial taking of property rights.

B. LOCAL PLANNING AGENCY RECOMMENDATION AND FINDINGS OF FACT SUMMARY

1. RECOMMENDATION: The LPA recommends that the Board of County Commissioner transmit the proposed amendment as recommended by staff with a clarification that the hydroperiod map based on 1953 aerials is informational and non-regulatory.

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

C. VOTE:

NOEL ANDRESS	**NAY**
CINDY BUTLER	**AYE**
CARIE CALL	**AYE**
JIM GREEN	**AYE**
MITCH HUTCHCRAFT	**NAY**
RONALD INGE	**ABSTAIN**
CARLA JOHNSTON	**AYE**

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

DATE OF TRANSMITTAL HEARING: SEPTEMBER 24, 2009

A. BOARD REVIEW:

A continuation of the September 23, 2009 Public Hearing of the Board of Lee County Commissioners to consider transmittal of the proposed 2008/2009 Regular Lee Plan Amendments was held on this date. CPA 2008-06 was included on this Day 2 Agenda.

Community Development Director Mary Gibbs provided opening comments and reviewed the hearing schedule for the DR/GR meetings: 10/26/2009 Workshop, and the 10/28/2009 and 10/29/2009 Continuation of the Comprehensive Plan Public Hearings. Utilizing a PowerPoint Presentation, Dover, Kohl & Partners Project Manager Jason King and Spikowski Planning Associates owner Bill Spikowski reviewed the DR/GR project goal and strategies. The Chairman called for public comment and several members of the public offered comments.

- Attorney Charles Basinait representing the owner of Old Corkscrew Golf Club
- Rick Marini representing the residents of the Bella Terra Subdivision
- Brenda Brooks representing the CREW Trust
- Attorney Matt Uhle representing Lake Lincoln LLC
- Glades Farm Road Resident Jim Lytell
- Estero resident Jack Meeker
- Nichol Ryan on behalf of the Conservancy of Southwest Florida
- John C. Ruehl representing Stoneybrook Community District
- Brad Cornell on behalf of the Audubon of Florida Corkscrew Swamp Sanctuary, Audubon of Southwest Florida, and the Collier County Audubon Society, collectively Audubon, with handout of related legal opinion on the applicability of Bert Harris Act regulations where Federal Protection regulations are also in place (copy of handout on file in Minutes Office)
- Marilyn Edwards representing the Brooks Concerned Citizens and Estero Council of Community Leaders (ECCL)
- Kevin Hill representing the Corkscrew Road Community
- Brooks resident Nick Batos, representing himself and the Brooks Concerned Citizens, reading comments into the record (copy of handout on file in Minutes Office)
- Belle Lago resident and President of the Estero Civic Association Jane McNew
- Don Eslick ECCL member and former member of the DR/GR Advisory Committee
- Attorney Steve Hartsell representing the Bennett Trust; sitting in for Attorney Neale Montgomery on behalf of Miromar Development; and also on his own behalf
- Depew Associates owner Dave Depew on behalf of Troyer Brothers of Florida Inc., reading their position into the record (copy on file in Minutes Office)
- Ray Pavelka on behalf of the Little Pine Island Wetland Mitigation Bank
- Holland and Knight partner Attorney Roger Simms, representing Cemex Construction Materials

B. BOARD ACTION:

Commissioner Hall moved to continue the proposed DR/GR amendments to October 28, 2009 at 9:30 a.m., seconded by Commissioner Mann, called and carried with Commissioner Janes absent.

DATE OF WORKSHOP: OCTOBER 26, 2009

A. BOARD REVIEW:

Community Development Director Mary Gibbs explained the order of proceedings for the Workshop, advising that both Wednesday, October 28 and Thursday, October 29, 2009 had been reserved for continuation and completion of the 2008/2009 Regular Lee Plan Amendments Transmittal Hearings. She responded to Board questions by explaining that County Planning Consultant Bill Spikowski would focus on the remaining items requiring resolution prior to transmittal; noting that detail-level discussions would continue up to adoption.

Planning Consultant Bill Spikowski reviewed the key issues remaining from the September Transmittal Hearings, beginning with a discussion of the two perspectives regarding future mining areas. Following review of the remaining outstanding issues, the consultants and staff responded to Board questions regarding: the structure and incentives of the Transfer of Development Rights (TDR) Program; corresponding zoning and State Road 82 concurrency issues; how to best address assignment of commercial uses; and current mining area designations relative to potential Burt Harris issues. There was input regarding involvement of some of the larger property owners to date and potential adjustment to the County's current processes in order to incentivize use of the TDR program and desired densities. Board comments on the need for a less restrictive structure to allow flexibility and future incentives for property owners.

Consulting Ecologist Kevin Erwin (KLECE) presented an Ecological Evaluation and Analysis of the DR/GR, proposing the ecological vision for the area be composed of a primary focus on water restoration and enhancement, with a secondary focus on wildlife.

Dr. James Nicholas, of the University of South Florida explained the background of TDR programs; reviewed components of several successful programs as well as reasons for program failure; and provided insight on property owner options and program impacts on land values. Consultants and staff responded to Board questions regarding: structuring options; the subject of Burt Harris issues; and the impact of bonus densities and the current by-right densities in cluster development areas. The Board expressed a desire to create additional receiving areas and higher values. The dialog focused on the need to create additional receiving areas externally; impediments created by State Road 82 concurrency issues; adjustment of ratios to increase values; and lack of incentives within rural areas and the possibility of incentivizing cluster development. Closing discussion resulted in Board direction to hold a Management and Planning Meeting to work out details of the program between now and adoption, and agreement from staff that they would continue to analyze adjusting the current proposed maximum TDR figure of 6000 prior to continuation of the Transmittal Hearings on Wednesday, October 28.

SDI Environmental Services representative Phillip R. Davis conveyed the recent evaluation of the hydrological value of two proposed mining concepts, the use of hydraulic barriers and regulatory changes, as a method to limit negative impacts of mines within the DR/GR. Mr. Davis reviewed the methodology used, and noted that their study, derived from the DHI model; was a much more narrow focus. He

explained the scenarios used and their findings, and advised that assessments on a case-by-case basis would still be required.

DHI Water & Environment consultant Vice President Dr. Tim Hazlett detailed DHI's integrated modeling study. He reviewed the data which formed the basis of the two models; the process and simulations employed and their advantages; and acknowledged study findings of several anticipated impacts from the introduction of new wetlands, urban areas, mines and lakes. Dr. Hazlett also conveyed suggestions for areas of potential improvement to future studies; emphasized the need for continued focus and enhancement in quality, quantity and frequency of the data collected; and pointed out that affects of land use changes will vary from location to location and year-to-year depending on other variables. Staff and Dr. Hazlett responded to Board comments and questions.

B. BOARD ACTION

No actions are taken at Workshops. It was understood that action would wait for the continued Transmittal Hearings.

DATE OF TRANSMITTAL HEARING: OCTOBER 28, 2009

A. BOARD REVIEW:

Planning Division Director Paul O'Connor opened the item explaining that the consultants and staff has made detailed presentations on October 26th and suggested that the Board go straight to public input. The Chairman called for public comment and several members of the public offered comments.

- Responsible Growth Management Coalition lifetime member Dave Urich
- Conservancy of Southwest Florida spokesperson Nicole Ryan
- Attorney Matt Uhle, of the Knott, Consoer law firm, on behalf of Lake Lincoln, LLC
- Attorney Beverly Grady, of the Roetzel & Andress law firm, on behalf of PDJW II, LLC, (handout on file in Minutes Office)
- Attorney Steve Hartsell, of the Pavese law firm, on behalf of the Fountains (handout on file in Minutes Office)
- Attorney Neale Montgomery, of the Pavese law firm, on behalf of Miromar Development
- Professional Engineer David Depew, on behalf of Troyer Brothers
- Local resident and Brooks Concerned Citizens spokesperson Nick Batos, (handout of comments on file in the Minutes Office)
- Marilyn Edwards, on behalf of the Estero Council of Community Leaders/ Brooks Concerned Citizens Estero Council of Community Leaders representative Don Eslick
- Estero Council of Community Leaders and Wildcat Run spokesperson James Dodge
- Attorney Neale Montgomery, of the Pavese law firm, on behalf of Cemex
- Cemex Community Relations Manager Tracy Bryant
- The Colinas Group, Inc. President (Professional Engineer and Geologist) Mark Stephens, on behalf of Cemex
- Hole Montes Vice President and Professional Engineer Tom Mclean, on behalf of Cemex
- Environmental Consulting & Technology, Inc.'s Principal Scientist Darren Stowe, AICP, on behalf of Cemex
- RWA Consultant's Senior Vice President Bob Mulhere, AICP, on behalf of Cemex

- Holland & Knight Senior Partner Roger Sims, on behalf of Cemex, submitting written comments from each of the industry professionals speaking on behalf of Cemex (written comments on file in the Minutes Office)
- Attorney Russell Schropp, of the Henderson Franklin law firm, representing property owner FFD (written comments on file in Minutes Office)
- Florida Wildlife Federation spokesperson Nancy Payton (handout on file in Minutes Office)
- Attorney Charles Basinait, of the Henderson Franklin law firm, on behalf of: Premier Airport Park, LLC-Principal Financial Group; Alico Agri, Ltd; and Old Corkscrew Plantation Golf Club, LLC and Old Corkscrew Plantation, LLC
- Audubon of Florida and Collier County Audubon Society, (Audubon of Southwest Florida, collectively) spokesperson Brad Cornell
- Corkscrew Rural Community representative and resident Kevin Hill
- Ron Inge, on behalf of Florida Rock, with proposed language addition pertaining to Map 14 (copy on file in Minutes Office)
- Morris-Depew representative Jodi Joseph, reading for the record Brigham Moore, LLP's comments on behalf of Resource Conservation Holdings, (RCH) LLC (copy of comments on file in Minutes Office)
- Alico Land Development Corporation President Donald Schrotenboer
- Fort Myers resident Mike Roeder

Many of these speakers submitted or previously submitted correspondence addressing the proposed amendment. Correspondence received concerning this amendment was considered by the staff as well as the consultants during the review of this proposed amendment, and the amendment was modified as a result of some of this correspondence. All of the correspondence has been attached to this staff report.

B. BOARD ACTION

Following the public comment the Chairman suggested that the meeting be recessed until October 29, 2009 at 9:30 A.M., in Chambers. He believed that this would give staff time to organize their thoughts and present a better response to the issues raised by the public. Commissioner Mann so moved, seconded by Commissioner Hall, called and carried with Commissioner Janes absent.

DATE OF TRANSMITTAL HEARING: OCTOBER 29, 2009

A. BOARD REVIEW:

The Chairman called the meeting to order at 9:33 a.m.; announced that public comment was concluded on October 28, 2009 for the current round of transmittal hearings; and noted that additional opportunity for comments would be held during the adoption hearings, tentatively scheduled for March 2010.

Community Development Planning Director Paul O'Connor provided a handout (copy on file in the Minutes Office) which enumerated the remaining Plan Amendment issues requiring Board discussion and action, and indicated he would speak to each item separately.

POLICY 114.1.2

Policy 114.1.2 proposed to eliminate a reference to a statutory citation, remove language prohibiting staff from assessing wetland impacts of property that had obtained either a DEP or SFWMD permit, and add new language supporting a more lenient wetland protection standard for limerock mines within the Future

Limerock Mining overlay. Board comments indicated overall concurrence with staff's additional suggested language; with opinions divided on the language staff proposed to remove. Board dialog focused on the benefits of retaining the County's option for additional reviews, the need for clear-cut guidelines and criteria for those reviews; and the current oversight process performed on applicants during outside agency permitting processes. Staff proposed retaining the language staff showed as deleted, with the addition of the following language "at the Development Order Stage" to be inserted immediately after the word "review", as a compromise. During continued dialog Mr. O'Connor pointed out how the proposed change maintains the County's current latitude, yet provides a measure of guidance for applicants; and confirmed that further review of the issue could be combined with pending wetlands amendments. The Board concurred with staff's proposal to add language to existing Paragraph 1, with the initial reference to F.S. 163.3184(6)(c) removed; and to create an additional Paragraph 6, consisting of the additional language proposed by staff. Commissioner Mann moved approval of staff's recommendation, seconded by Commissioner Bigelow, called and carried with Commissioner Janes absent.

TRANSFER OF DEVELOPMENT RIGHTS

At the Workshop the Board discussed ways to have the TDR program give additional value to the sending properties. One idea that was put forward was the possibility of utilizing multipliers depending on the property's inclusion in the tier system identifying the most important and valuable lands for preservation and conservation. In order to accomplis this on increase of the cap on the number of dwelling units imposed by footnote 11 under Table 1(a) should be considered. Staff's current consideration of increasing the maximum number of allowable TDR's to 9000 (currently recommended at 6000). Staff provided details of staff's reasoning and input to the subsequent discussion. The Assistant County Attorney discussed the necessity of including identified receiving areas in the transmittal. Dialog focused on the absolute need to balance values given and rights removed with extended discussion of various methods to achieve that goal; the current flexibility allowed for commercial uses within various designations; and State Road 82 concurrency impacts on receiving area values. Following staff verification that the 9000 TDR ceiling could be adjusted later if necessary, and staff assurance to work with the appropriate parties to devise language for inclusion with Map 17 at time of adoption, with the intent to allow flexibility for designation changes and/or future shifts in the Map. The conversation resulted in Board concurrence with the following: the proposed ceiling of 9000 TDRs for purposes of transmittal, staff's recommendation for areas to be transmitted, and the development and addition before adoption of language to allow flexibility. The Board provided direction to staff to hold a Management and Planning Meeting for further discussion, including adjustment of the TDR ceiling figure if necessary; the use of incentives and outstanding LDC issues. Commissioner Hall moved approval of the 9000 initial TDR figure, seconded by Commissioner Bigelow, called and carried with Commissioner Janes absent.

MAP 14, FUTURE LIMEROCK MINING OVERLAY

Utilizing an overhead, staff conveyed their recommendation for removal from Map 14 of: Area A; the western portion of Area B (a change from their initial recommendation); and Areas D and E; along with retention of Area L. Staff provided details of their decision, and responded to Board questions. Commissioner Hall's comments focused on concern over a determination to add mining as a tradeport use for a specific parcel, outside of the DR/GR, due to proximity to existing mines. Commissioner Mann moved approval of staff recommendation, seconded by Commissioner Bigelow, called and carried with Commissioner Hall voting nay and Commissioner Janes absent.

Staff advised the board that they had received two requests for areas to be added to the Limerock Mining overlay map; Bell Road Dirt Mine and Troyer Brothers Property, and stated that staff recommended they

not be added. Staff provided details of the properties' locations, current uses, and ramifications of enhancing the uses allowed. Commissioner Mann moved approval of staff's recommendation to deny the request, seconded by Commissioner Bigelow, called and carried with Commissioner Janes absent.

Staff conveyed their reluctance to including dirt mines in the Future Limerock Mining overlay. Staff noted how dirt mines often led to an easier evolution to limerock mining. The County Attorney's Office advised that additional consideration was warranted before moving forward. Commissioner Hall moved to approve staff's recommendation not to include dirt mines at this time, to look at it comprehensively at a later point in time, seconded by Commissioner Mann. Board discussion ensued. The motion was called and carried, with Commissioner Janes absent.

MAP 17, RURAL RESIDENTIAL OVERLAYS

Staff advised the Board that there were several requests for expansion of footprints or additions to the Mixed-Use Community Overlay Map:

1) Lake Lincoln, LLC and Bell Road Dirt Mine Property:

Staff clarified the Map 17 area under discussion and responded to Board questions. The Lake Lincoln, LLC property is partially contained in one of the Mixed-Use Community overlays. Planning Consultant Bill Spikowski confirmed that there was a need for additional area in that overlay and stated that a map showing a more exact representation of the Lake Lincoln, LLC request would be provided prior to adoption, and the Board agreed. Additional brief discussion ensued with Staff explaining the reasons for staff's recommendation to deny the Bell Road Dirt Mine Property request; with no Board action taken.

2) The Fountains Property:

Utilizing visual aids, Staff explained the original Mixed-Use Community footprint, the nature of the recent request, and staff's compromised recommendation for expansion of the property to the west and north; in order to avoid over-flight (air traffic) issues existing in other areas of the property. Board discussion ensued with responses from staff regarding other aspects of the Fountains DRI. Commissioner Hall moved approval of staff's recommendation to revise the Mixed-Use Community footprint to the west and north, along with the additional area to the far west, seconded by Commissioner Mann, called and carried with Commissioner Janes absent.

3) Ginn East Property:

Staff described the area under discussion, and stated staff's recommendation to approve the requested conversion from Rural Community to Mixed- Use, based on existing State Road 82 concurrency issues as well as the property currently having urban category on two sides. In other words, staff had already enlarged and expanded the proposed community from that of a "Rural" Community to a "Mixed-use" Community. Staff did not anticipate a great deal of additional acreage would be needed to reflect the recommended use change, due to other methods of achieving densities. Staff did not recommend expanding the proposed community footprint as it had already been expanded once. Commissioner Hall moved approval of the staff recommendation, seconded by Commissioner Bigelow, called and carried with Commissioner Janes absent.

4) Edison Farms Rural Community or Mixed-Use Community or Floating:

The Assistant County Attorney participated in Board discussion resulting in reiteration of one Board member's desire to allow the rural community portion of the Edison Farms property to be floating

(allowing future shift in location on the site, at adoption). Commissioner Hall moved approval of allowing the location to float, followed by clarification from staff on the Board's prior agreement with a suggestion to add language at time of adoption to allow such flexibility within the existing footprint. The Board concurred with staff's recommendation, with confirmation that no notation or language indicative of floating or alignment would be transmitted at this time, only staff's original amended recommendation to include the Rural Community area on the property. Following brief Board discussion, the motion was deemed unnecessary and was withdrawn.

The Board concurred on the following actions:

- The Lake Lincoln LLC request would come back to the Board prior to adoption;
- The Bell Road Dirt Mine would have no action taken at this time due to the lack of sufficient information;
- Approval of staff's recommendation to respond to the Fountain's request for expansion of their property, with approval to expand to the north and west; and,
- That Edison Farms would reflect no changes for purposes of transmittal, in that it would be included with the remainder of the red-hatched rural community designations.

MAP 24, HISTORIC SURFACE AND GROUNDWATER LEVELS OVERLAY (1953 AERIAL ISSUE)

Staff noted that Map 24 was tied to Policy 1.4.5, and explained staff's efforts to date. Staff conveyed staff's agreement that additional focus was needed, proposed the Board accept staff's proposed policy language and the adoption of Map 24 as the Historic Surface and Groundwater Levels Overlay for purposes of transmittal; and explained that it would allow additional time for staff to work with the appropriate parties to clarify policy to a much greater level of detail with respect to regulatory applicability prior to adoption. Commissioner Mann moved approval of staff's recommendation, seconded by Commissioner Bigelow, called and carried with Commissioner Hall voting nay and Commissioner Janes absent.

OTHER ISSUES

1) Old Corkscrew Golf Course:

Staff explained specifics of the request to have a portion of the golf course depicted as a receiving area, reviewed two additional wildlife/greenspace issues staff intended to pursue with the owner; and conveyed why staff was confident that the property owner had sufficient and appropriate sending area acreage which the County would be interested in considering. Following Board comments regarding the environmental benefits and the possibility of this becoming the first implementation of a TDR, Commissioner Hall moved approval of staff's recommendation, seconded by Commissioner Mann, called and carried with Commissioner Janes absent.

2) Florida Rock Mine II Settlement Proposal:

Referring to a proposed language change submitted on behalf of Florida Rock representative Ron Inge (copy of language on file in Minutes Office), staff described how the area referenced was not currently part of the Future Limerock Mining overlay and how settlement of current litigation may result in changes to the overlay, and noted that the language would essentially be providing the Department of Community Affairs (DCA) advance notice of the possibility of such an addition. Following Board discussion with input from County Attorney's Office, Commissioner Hall moved approval, seconded for discussion by Commissioner Judah. The Attorney provided additional legal guidance and assurance in response to concerns raised by Commissioner Mann that Board approval represented no obligation; and staff clarified

timing issues. The motion was called and carried with Commissioner Janes absent. The Board voted to include the following note to the proposed Future Limerock Mining Overlay (Map 14):

> Area may be added to Future Limerock Mining Overlay (Map 14) in portions of Sections 28, 31, 32 and 33, T45S, R27E, if the Board of County Commissioners adopts a potential settlement of litigation with Florida Rock Industries, Inc.

3) The Fountains, add Tradeport Use:
Commissioner Hall moved approval of the request, seconded for discussion by Commissioner Bigelow. Staff responded to Board questions, explaining the requested addition and justification for staff's recommendation. The motion was called and carried with Commissioner Janes absent. The Board voted to redesignate a 120 acre portion of the Fountains site from DR/GR to the Tradeport Future Land Use category.

B. BOARD ACTION:

Commissioner Hall moved transmittal of CPA2008-06-Implementation of the DR/GR Study, as amended by Board action, seconded by Commissioner Mann. The motion was called and carried with Commissioner Janes absent.

C. BASIS AND RECOMMENDED FINDINGS OF FACT:

As per the support documents and staff analysis.

C. VOTE:

BRIAN BIGELOW	**AYE**
TAMMARA HALL	**AYE**
ROBERT P. JANES	**ABSENT**
RAY JUDAH	**AYE**
FRANK MANN	**AYE**

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

DATE OF ORC REPORT: January 15, 2010

A. DCA OBJECTIONS, RECOMMENDATIONS AND COMMENTS

The Florida Department of Community Affairs (DCA) Objections, Recommendation, and Comments (ORC) Report contained the following concerning this proposed amendment:

The proposed amendment pertains to 82,560 acres commonly known as the Density Reduction/Groundwater Resource (DR/GR) area located in the southeastern portion of Lee County, east of Interstate-75, south of State Road 82, south and east of the Southwest Florida International Airport, and extending all the way to the county lines of Collier and Hendry Counties. The Department raises the following objections and comments to the proposed amendments:

1. Objection (Transfer of Development Rights): This objection applies to the proposed amendments to Future Land Use Element Policies 1.4.5, 1.7.13, 9.1.6, 16.2.6, 16.2.7, 16.3.9, 30.1.3, 30.3.3, 30.3.4, and 30.3.5; FLUM Series Map 17; and Table 1(a) Summary of Residential Densities. The proposed amendments establish the opportunity to transfer development rights from within the DR/GR area to specified areas located within the DR/GR area and areas located outside of the DR/GR area. The proposed amendments for the transfer of development rights (TDR) program do not establish meaningful and predictable guidelines and standards for the transfer rate (the rate at which development units are transferred), the rate at which nonresidential development credits are created and transferred, requirements to appropriately restrict the development potential on the sending parcels in relation to the development rights which are transferred, and the maximum gross density and intensity of development in the receiving area. The proposed amendment to Table 1(a) allows an increase in allowable dwelling units that can be transferred to a cumulative total of 9,000 dwelling units; however, the amendment is not supported by data and analysis supporting the land use need for an additional 9,000 dwelling units to serve as an effective incentive to transfer development rights from DR/GR lands into the Mixed-Use Communities.

Rules 9J-5.005(2), (5) and (6); 9J-5.006(1) and (2); and 9J-5.006(3)(b) and (c), Florida Administrative Code (F.A.C.); and Section 163.3177(6)(a), Florida Statutes (F.S.).

Recommendation: Revise the plan policies to establish meaningful and predictable guidelines/standards for the TDR program in order to guide the more specific land development regulations. The guidelines/standards need to address the transfer rate (the rate at which development units are transferred), the rate at which nonresidential development credits are created and transferred, requirements to appropriately restrict the development potential on the sending parcels in relation to the development rights which are transferred, and the maximum gross density and intensity of development in the receiving area. Revise the data and analysis to demonstrate the appropriateness of an additional 9,000 dwelling units for the TDR program to be feasible.

2. Objection (Residential Overlay): The proposed amendment to Lee Plan Map 17 (Rural Residential Overlay) and Future Land Use Element Objective 30.3 and Policies 1.4.5(2)(a), 1.7.13, 30.3.2, 30.3.3, and 30.3.4 establish three residential overlays (Existing Acreage Subdivision; Mixed-Use Community; and

Rural Community) and an overlay for Rural Golf Course Community all within the DR/GR area. These amendments do not establish meaningful and predictable guidelines and standards to ensure: (1) the appropriate mix of land uses within the Mixed-Use Community and Rural Community; (2) appropriate density and intensity of land use; and (3) appropriate urban form of development occurs as recommended by the supporting data and analysis studies addressing the overlay areas. These proposed amendments are not supported by quantitative data and analysis demonstrating the coordination of the resulting maximum development potential of the land uses with the short-term and long-term planning and provision of public facilities (central potable water, central sanitary sewer, adequate water supply, roads, and schools) in order to achieve and maintain the adopted level of service standards for public facilities. The proposed Mixed-Use Community designation (referred to as Western Corkscrew Road location) along the western boundary of the DR/GR area near Corkscrew Road and the Rural Community designations on the proposed locations on Map 17 are not supported by data and analysis demonstrating that the proposed locations and land uses are consistent with maintaining the rural character of the area. The proposed Mixed-Use Community designation (Western Corkscrew Road location) and the Rural Community designations on the proposed locations on Map 17 are not environmentally suitable in order to protect natural resources (wetlands, wildlife habitat, wildlife, panther movement, and hydrological resources). The Mixed-Use Community designation (Western Corkscrew Road location) and the proposed Rural Community designations on the proposed locations on Map 17 are not supported by data and analysis demonstrating that the locations of the proposed designations are environmentally suitable for the proposed land use types and densities and intensities of land use that would be allowed by the Mixed-Use Community and Rural Community designations.

Rules 9J-5.005(2), (5) and (6); 9J-5.006(1) and (2); 9J-5.006(3)(b)1., and 10.; 9J-5.006(3)(c)1., (3)(c)3., (3)(c)5., and (3)(c)7.; 9J-5.006(4)(c); 9J-5.011(1) and (2); 9J-5.013(1), (2), and (3); 9J-5.016(1), (2), (3), and (4); 9J-5.019(2), (3), (4), and (5); 9J-5.025(1), (2), (3), and (4), F.A.C.; and Sections 163.3177(2), (3), (4), (8), (10), and (12); 163.3177(6)(a), (c), (d), and (j), F.S.

<u>Recommendation:</u> Remove the Mixed-Use Community designation at the "Western Corkscrew Road location" and remove the Rural Communities from the proposed designations from Map 17. Use the TDR program to transfer development from properties along Corkscrew Road and the Edison Farms tract to more appropriate locations in the Mixed-Use Communities along State Road 82. Revise the text amendments to establish meaningful and predictable guidelines and standards to ensure: (1) the appropriate mix of land uses within the Mixed-Use Community and Rural Community; (2) appropriate density and intensity of land use; and (3) appropriate urban form of development occurs as recommended by the supporting data and analysis studies addressing the overlay areas. Support the amendments with data and analysis demonstrating the coordination of the resulting maximum development potential of the land uses with the planning and provision of public facilities (central potable water, central sanitary sewer, adequate water supply, roads, and schools) in order to achieve and maintain the adopted level of service standards for public facilities.

<u>3. Objection (Limerock Mining):</u> The proposed Map 14 (Future Limerock Mining Overlay) contains a self-amending provision which states that "Area may be added to Future Mining Overlay (Map 14) in portions of Sections 28, 31, 32, and 33, T45S, R27E, if the Board of County Commissioners adopts a potential settlement of litigation with Florida Rock Industries, Inc." This provision potentially allows additions to the area designated as Future Limerock Mining overlay to occur without undergoing the plan amendment process pursuant to Chapter 163, Part II, F.S. This provision does not ensure that any

additions of area designated as Future Limerock Mining overlay are designated through the plan amendment process.

Sections 163.3177(6)(a); 163.3184; 163.3187; and 163.3189, F.S.

Recommendation: Revise Map 14 to delete the self-amending provision.

4. Objection (Surface Water and Groundwater): The proposed amendment to Future Land Use Element Policy 30.1.3 states that "An exception was made to the requirement in Policy 1.4.5 that all DR/GR land uses must be compatible 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 impacts to natural resources including water levels and wetlands are offset through appropriate mitigation within Southeast Lee County." The proposed amendment to Policy 30.1.3 does not establish meaningful and predictable guidelines/standards defining "appropriate mitigation" in order to implement the policy in a meaningful and predictable manner to ensure that impacts are offset. Similarly, the proposed amendment to Future Land Use Element Policy 30.3.3 states that "In 2009 an exception was made to the requirement in Policy 1.4.5 that all DR/GR land uses must be compatible with maintaining surface and groundwater levels at their historic levels. Under this exception, construction may occur on land so designated on Map 17 provided the impacts to natural resources including water levels and wetlands are offset through appropriate mitigation within Southeast Lee County." The proposed amendment to Policy 30.3.3 does not establish meaningful and predictable guidelines and standards defining "appropriate mitigation" in order to implement the policy in a meaningful and predictable manner to ensure that impacts are offset. Finally, the proposed amendment to Conservation and Coastal Management Element Policy 114.1.1 (development in wetlands) states that "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 within Southeast Lee County (see also Policy 30.1.3)." The proposed amendment to Policy 114.1.1 does not establish meaningful and predictable guidelines and standards defining "appropriate mitigation" in order to implement the policy in a meaningful and predictable manner to ensure that impacts are offset.

Rules 9J-5.005(2), (5), and (6); 9J-5.006(1) and (2); 9J-5.006(3)(b)1., and 4.; 9J-5.006(3)(c); 9J-5.011(1); 9J-5.013(1); 9J-5.013(2)(b) and (c); 9J-5.013(3)(a) and (b), F.A.C.; and Sections 163.3177(6)(a), (c), and (d), F.S.

Recommendation: Revise the proposed plan policies to establish to establish meaningful and predictable guidelines/standards defining "appropriate mitigation" in order to implement the policy in a meaningful and predictable manner to ensure that impacts are offset.

5. Objection (Natural Resource Strategies): The proposed amendment to Objective 30.2 and its implementing policies (Policies 30.2.1 through 30.2.7) do not establish meaningful and predictable guidelines and standards and do not adequately describe how programs and activities are to be implemented to protect water, habitat, and other natural resources. The proposed policies include language that is tentative, conditional, and aspirational (e.g., should be; can; would be; would provide; will consider; may also occur; can be carried out; would include; should consider; should be analyzed) and do not adequately describe how programs, activities, and land development regulations will be initiated, modified, or continued to achieve the stated objective and establish meaningful and predictable guidelines and standards.

Rules 9J-5.005(6); 9J-5.006(3)(b) and (c); 9J-5.011(2); 9J-5.013(2)(b) and (c); 9J-5.013(3), F.A.C.; and Sections 163.3177(6)(a, c, and d); 163.3177(2), F.S.

Recommendation: Revise the policies to establish meaningful and predictable guidelines and standards that adequately describe how programs and activities are to be implemented to protect water, habitat, and other natural resources as intended by Objective 30.2.

6. Objection (Limerock Mining): The proposed Policy 30.1.4(1) limits the amount of limerock mining acreage to the amount established in Table 1(b); however the proposed Policy 30.1.4(2) allows the amount of limerock mining acreage to exceed the amount established in Table 1(b). Therefore, the proposed amendments to Policies 30.1.4(1 and 2) are internally inconsistent and do not establish meaningful and predictable guidelines and standards regarding limits on the amount of limerock mining acreage.

Rules 9J-5.005(2), (5), and (6); 9J-5.006(3)(c), F.A.C.; and Section 163.3177(6)(a), F.S.

Recommendation: Revise the proposed amendments to ensure that the acreage amounts established in Table 1(b) control.

7. Objection (Private Recreational Facilities): The proposed amendments to Policies 16.2.6, 16.2.7, and 16.3.9 allow "Fractional Ownership/Time-share Units" and "Bed and Breakfast Establishments" in the DR/GR area if the property for such use is included on Map 17 as a Rural Golf Course Community Residential Overlay. These uses must be ancillary to or in conjunction with uses within the Private Recreational Facilities Overlay Map 4. These uses may only be constructed through transferring density in accordance with Policy 30.3.2(1). For fractional ownership/time-share units, the maximum allowable units will be calculated based on 1 dwelling unit per 10 acres for the entire area of the Private Recreational Facility. For bed and breakfast establishments, the maximum number of establishments will be limited to one per 18 holes of golf, and 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. The proposed amendment to Map 17 (Rural Residential Overlay map) proposes to designate a Rural Golf Course Community Residential Overlay on a small area in Section 25, Range 26E, Township 46S, and this proposed area is located within a larger area that is currently designated as Private Recreational Facilities Overlay on Map 4 (Private Recreational Facilities Overlay Map). The currently adopted Comprehensive Plan extinguishes the residential density on Private Recreational Facilities property in the DR/GR area once the property is zoned as Private Recreational Facilities. Overlay Map 4 currently designates 5 large areas where private recreational facilities and fractional ownership/time-share units and bed and breakfast establishments could be allowed in the future. The proposed amendments to Policies 16.2.6, 16.2.7 and 16.3.9 and Map 17 would result in additional urban development within the DR/GR area, and this additional urban development would be located in areas that are not environmentally suitable in order to protect natural resources (wetlands, wildlife habitat, wildlife, panther movement, and hydrological resources) and would be inconsistent with maintaining the rural character of the area. The proposed amendments are not supported by data and analysis demonstrating that the locations of the proposed designations are environmentally suitable for the proposed land use types and densities and intensities of land use that would be allowed by the amendments and demonstrating the planning of public facilities that would be needed to support such land uses. The proposed amendments to Policies 16.2.6, 16.2.7, and 16.3.9 do not establish meaningful and predictable guidelines and standards to ensure that the Fractional Ownership/Time-share Units are for transient use only.

Rules 9J-5.005(2), (5), and (6); 9J-5.006(1), (2), and (3)(b) and (c); 9J-5.011(1) and (2); and 9J-5.013(1), (2), and (3), F.A.C.; and Sections 163.3177(2), (8), and (10); and 163.3177(6)(a), (c), and (d), F.S.

Recommendation: Do not adopt the amendments.

B. STAFF RESPONSE

OBJECTION #1. TRANSFER OF DEVELOPMENT RIGHTS

This Florida Department of Community Affairs objection states that the proposed amendment does not establish meaningful and predictable guidelines and standards for: the rate at which development units are transferred; the rate at which nonresidential development credits are created and transferred; requirements to appropriately restrict the development potential on the sending parcels in relation to the development rights which are transferred; and, the maximum gross density and intensity of development in the receiving area. The objection also provides that the proposed amendment to Table 1(a) allows an increase in allowable dwelling units that can be transferred to a cumulative total of 9,000 dwelling units. The objection then states that the amendment is not supported by data and analysis supporting the land use need for an additional 9,000 dwelling units to serve as an effective incentive to transfer development rights from DR/GR lands into the Mixed-Use Communities.

The DCA Report recommends that the County revise the plan policies to establish meaningful and predictable guidelines/standards for the TDR program in order to guide the more specific land development regulations. The recommendation further states that the guidelines/standards need to address: the transfer rate (the rate at which development units are transferred); the rate at which nonresidential development credits are created and transferred; requirements to appropriately restrict the development potential on the sending parcels in relation to the development rights which are transferred; and, the maximum gross density and intensity of development in the receiving area. The recommendation also asks the County to revise the data and analysis to demonstrate the appropriateness of an additional 9,000 dwelling units for the TDR program to be feasible.

Guidelines and Standards

Lee County staff and the consulting team are recommending that the Goals, Objectives, and Policies of the proposed amendment be revised to provide meaningful and predictable guidelines and standards for the proposed TDR program.

For Rural Communities, Table 1 provides summary data on dwelling units and maximum allowable non-residential intensity for each community as allowed in *Transferable Development Rights in Southeast Lee County* by Dover, Kohl & Partners in July 2009. The maximum gross density for Rural Communities is proposed to be limited to a maximum of 3 dwelling units per acre, which will accommodate the densest community. The maximum non-residential intensity equates to 150 square feet per residential unit. Staff and the consultants are recommending that an allowable 75 square feet per dwelling unit be incorporated into Policy 30.3.2. This is one-half the average level shown in Table 1, a rate which was selected to avoid allowing more non-residential uses than could be supported by rural residents and travelers passing through that area.

TABLE 1 - MAXIMUM CAPACITY OF RURAL COMMUNITIES

Rural Community:	Max. commercial square footage	Dwelling units (from internal concentration)	Total acres in Rural Community	Net acres (developed blocks only)	Net density	Gross density	Commercial intensity, SF per /DU
Alico Road	0	33	19	7	4.7	1.7	0
Edison Farms	44,312	243	91	34	7.1	2.7	182
Six L's Farms	113,182	576	201	56	10.3	2.9	196
Corkscrew Airstrip	1,184	165	69	27	6.1	2.4	7
Carter Road	13,344	100	38	15	6.7	2.6	133
Wildcat Farms	7,684	85	34	15	5.7	2.5	90
TOTAL:	**179,706**	**1,202**	**452**	**154**	**8.0**	**2.7**	**150**

The Mixed-Use Communities are intended to be more dense and intense than the Rural Communities. The Mixed Use Communities are proposed to have a maximum gross density of 5 dwelling units per acre. The maximum gross density and intensity of development rights are now stated in Policy 30.3.2 for both the Rural and Mixed-Use Communities.

TDR Non-Residential Floor Area, Buy or By Right

Staff and the consultants have a difference of opinion concerning the method for acquiring non-residential floor area. There are two different ways to achieve the non-residential floor area. The first method is to grant the non-residential floor area by right, that is to grant a certain amount or level of floor area with each TDR credit, in addition to the dwelling unit right. The second method is to establish a conversion factor for a TDR credit. This method assigns an amount of non-residential floor area that can be utilized instead of the dwelling unit right.

Staff and the consultants agree that the clustered units have a non-residential floor area by right along with the dwelling unit right. This is in place to allow the Rural Communities to provide a minimal amount of convenience commercial and civic uses, uses that are not currently allowed in the DR/GR. As proposed, the non-residential floor area is 75 square feet per clustered dwelling unit.

Where staff and the consultants differ is in the Mixed-Use Communities where TDR credits are allowed. Both agree that the clustered units in the Mixed-Use Communities should still have the 75 square foot allowance. The area of disagreement is in the application of the TDR credits. Staff believes that the TDR credits that are needed to increase the dwelling units to complete the expanded Traditional Neighborhood Development (TND) area, should have a non-residential floor area by right. Staff is proposing that 800 square feet of non-residential floor area be attached to each TDR credit that is transferred to a Mixed-Use Community.

The following two Tables were produced by the consultants in response to issues raised by the DCA ORC Report. Table 2 shows the potential for the creation of TDR credits, including multipliers for the most important lands for preservation and for preservation restoration. Table 3 shows the potential absorption of TDR credits.

TABLE 2 – POTENTIAL CREATION OF TDR CREDITS

	Tier	Total Acres	Potential DUs at standard DR/GR rates	Potential extra DUs if preserve/restore option is chosen	Proposed TDR multiplier based on tier	If preserve/restore option is NEVER chosen: Maximum TDR credits	If preserve/restore option is NEVER chosen: Maximum Add't DUs	If preserve/restore option is ALWAYS chosen: Maximum TDR credits	If preserve/restore option is ALWAYS chosen: Maximum Add't DUs
Restoration Tiers:	**1**	8,860	886	886	3	2,658	1,772	5,316	4,430
	2	5,295	530	530	2	1,059	530	2,118	1,589
	3	3,895	390	390	2	779	390	1,558	1,169
	4	1,805	181	181					181
(southerly two miles)	**5**	1,292	129	129	2	258	129	517	388
(remainder of Tier 5)	**5**	1,479	148	148					148
(southerly two miles)	**6**	650	65	65	2	130	65	260	195
(remainder of Tier 6)	**6**	1,441	144	144					144
(southerly two miles)	**7**	727	73	73	2	145	73	291	218
(remainder of Tier 7)	**7**	2,856	286	286					286
TOTAL:		**28,300**	**2,830**	**2,830**		**5,030**	**2,958**	**10,060**	**8,746**

TABLE 3 – POTENTIAL ABSORPTION OF TDR CREDITS

M-U Community:	Commercial square footage	Total Potential DUs	DUs from internal concentration	Add't DUs if TDR credits are acquired	Add't TDR credits for commercial @7/1000 >75 sf/DU	Maximum TDR credit Absorption	Total acres in M-U Community	Net acres (developed blocks only)	Net density	Gross density	Commercial intensity, SF per /DU
West Corkscrew	146,094	520	177	343	750	**1,093**	144	54	9.6	3.6	281
Daniels Parkway	327,624	916	210	706	1,812	**2,518**	353	76	12.1	2.6	358
Sunshine Blvd	84,056	449	82	367	353	**720**	109	32	14.0	4.1	187
Homestead Rd	216,214	660	298	362	1,167	**1,529**	204	42	15.7	3.2	328
Eisenhower Blvd	87,150	1,185	607	578	0	**578**	333	94	12.6	3.6	74
TOTAL:	**861,138**	**3,730**	**1,374**	**2,356**	**4,082**	**6,438**	**1,144**	**298**	**12.5**	**3.3**	**231**

The consultants maintain that the non-residential floor area should be achieved by converting additional TDR credits, above the credits needed to complete the residential component of the TND. The current proposal is to require 7 TDR credits for every 1,000 square feet of non-residential floor area.

Following is a discussion on how each methodology would work using the proposed Homestead Road Mixed-Use Community development scenario as shown in Table 3.. The Homestead community proposes 660 total dwelling units, of which 298 are achieved through clustering. The remaining 362 dwelling units are achieved by acquiring 362 TDR credits. The non-residential floor area is 216,214 square feet.

Utilizing the consultant's methodology, the clustered component of 298 dwelling units at 75 square feet of non-residential floor area equates to 22,350 square feet. In order to achieve the maximum allowable density, 362 TDR credits would have to be acquired. To reach the maximum non-residential intensity of 216,214 square feet, an additional 193,864 square feet would need to be converted from additional TDR credits. This would require the developer to purchase an additional 1,167 TDR credits. This equates to a total of 1,529 TDR credits. If the cost of a TDR credit is $16,000, as estimated in the *Transfer of Development Rights In Southeast Lee County* document, dated July 2009, this equates a cost to the developer of $24,464,000.

Under staff's proposal, the clustered dwelling units and non-residential floor area would be the same as discussed above. To complete the development, the additional 362 dwelling units would require 362 TDR credits. These credits would have 800 square feet of non-residential floor area each, equaling 289,600 square feet by right. This totals to 311,950 square feet, exceeding the community's design estimate. The

use of this additional floor area can be justified by the needs of the Lehigh Acres Community. If the cost of a TDR credit is $16,000, this equals $5,792,000.

There are good arguments to support both methodologies. The conversion factor methodology adds a balance between the potential amount of TDR credits and the amount of credits needed to develop the Mixed-Use Communities. This methodology would have the potential of utilizing a total of 6,438 TDR credits. This number exceeds the number of TDR credits generated if all properties eligible for TDR credits opt for creation without the preservation multiplier. This concept of maintaining a balance between the available credits was recommended by the economic consultant who authored the economic analysis in the *Transfer of Development Rights In Southeast Lee County*. He also stated that TDR credits are most valuable in the DR/GR area as opposed to the County's urban areas, where higher densities are allowed.

Staff supports the by right methodology for other good reasons. In our meeting with the parties interested in the TDR concept, a recurring theme was that the TDR credits needed to have considerably more value through higher multipliers. The County Attorney has also requested that the TDR program give as much value as possible to each TDR credit. This methodology is also consistent with the economic consultants direction to keep the TDR program as simple as possible. Staff believes this method provides an incentive for the receiving site to actually develop the Mixed-Use Community.

While staff's recommenced methodology only has the potential of utilizing a total of 2,356 DR/GR TDR credits, staff notes, as discussed below, there is the potential to utilize thousands of additional transfer of development rights in the already designated Future Urban Areas (Intensive Development, Central Urban, and Urban Community Future Land Use categories) as well as within the proposed Lehigh Acres Specialized Mixed-Use Nodes.

Although already required by other plan provisions, the proposed revisions specify that Mixed-Use Communities must be served by central water and wastewater services. This is also true for the Rural Communities. The proposed revisions also specify for Rural Communities that the residential development rights must be concentrated from contiguous property owned under single ownership or control.

The Definition of Density in the Glossary is also proposed to be modified to acknowledge the mixed use nature of this proposed transfer program. The specific modification to that definition is provided below:

> DENSITY - The number of residential dwelling or housing units per gross acre (du/acre). Densities specified in this plan are gross residential densities. For the purpose of calculating gross residential density, the total acreage of a development includes those lands to be used for residential uses, and includes land within the development proposed to be used for streets and street rights of way, utility rights-of-way, public and private parks, recreation and open space, schools, community centers, and facilities such as police, fire and emergency services, sewage and water, drainage, and existing man-made waterbodies contained within the residential development. Lands for commercial, office, industrial uses, natural water bodies, and other non-residential uses must not be included, except within areas identified on the Mixed Use Overlay Map (Future Land Use Map Series Map 1 page 6 of 6) that have elected to use the process described in Objective 4.2, and except within areas identified as Rural or Mixed-Use Communities (Map 17) where development rights are being concentrated or transferred using the processed described under Objective 30.3. Within the Captiva community in the areas identified by Policy 13.2.1, commercial development that includes commercial and residential uses within the same project or the same building do not have to exclude

the commercial lands from the density calculation. For true mixed use developments located on the mainland areas of the County, the density lost to commercial, office and industrial acreage can be regained through the utilization of TDRs that are either created from Greater Pine Island Coastal Rural future land use category or previously created TDRs. True mixed use developments must be primarily multi-use structures as defined in this Glossary as a mixed use building. If development is proposed in accordance with Policy 2.12.3, residential densities are calculated using the total land area included in the mixed use portion of the development.

9,000 Dwelling Unit Cap

The consultant has provided a memorandum that summarizes the relationship of potential TDR credits that might be created in Lee County's DR/GR area to the number of TDR credits that could be absorbed in the five designated Mixed-Use Communities. The memorandum provides a table that presents this data. The assumptions utilized in generating this table include the generation of base densities at a rate of 1 dwelling unit per ten acres. Density multipliers were also assumed for the various restoration Tiers. The analysis provides that the maximum number of TDR credits that could be created would range from 5,030, assuming no preservation or restoration, to 10,060, assuming all land would be preserved or restored. Staff and the consultants believe the latter assumption is highly unlikely as one of the planning goals is continuation of agriculture. Under this assumption the analysis provides that a total of 8,746 additional dwelling units would be created as a result of this TDR program. Staff notes that this is just less than the proposed cap of an increase of 9,000 dwelling units over the number of dwelling units that are allowed in the Density Reduction/Groundwater Resource land use category.

Bonus Density:

The Lee Plan currently has three future land use categories that allow "bonus density," Urban Community, Central Urban, and Intensive Development. Bonus density is established as a range of allowable density increases above the "standard" density range of each of these three future land use categories. The descriptor policies for these categories follows, emphasis added to the bonus density language:

> ***POLICY 1.1.2:*** *The Intensive Development areas are located along major arterial roads in Fort Myers, North Fort Myers, and Cape Coral. By virtue of their location, the county's current development patterns, and the available and potential levels of public services, they are well suited to accommodate high densities and intensities. Planned mixed-use centers of high-density residential, commercial, limited light industrial (see Policy 7.1.6), and office uses are encouraged to be developed as described in Policy 2.12.3., where appropriate. As Lee County moves toward becoming a metropolitan complex of a half-million people, these centrally located urban nodes can offer a diversity of lifestyles, cosmopolitan shopping opportunities, and specialized professional services that befit such a region.* ***The standard density range is from seven dwelling units per acre (7 du/acre) to fourteen dwelling units per acre (14 du/acre). Maximum density is twenty-two dwelling units per acre (22 du/acre).***
>
> ***POLICY 1.1.3:*** *The Central Urban areas can best be characterized as the "urban core" of the county. These consist mainly of portions of the city of Fort Myers, the southerly portion of the city of Cape Coral, and other close-in areas near these cities; and also the central portions of the city of Bonita Springs, Iona/McGregor, Lehigh Acres, and North Fort Myers. This is the part of the county that is already most heavily settled and which has or will have the greatest range and highest levels of urban service--water, sewer, roads, schools, etc. Residential, commercial, public and quasi-public, and limited light industrial land uses (see Policy 7.1.6) will continue to*

predominate in the Central Urban area with future development in this category encouraged to be developed as a mixed-use, as described in Policy 2.12.3., where appropriate. ***This category has a standard density range from four dwelling units per acre (4 du/acre) to ten dwelling units per acre (10 du/acre) and a maximum density of fifteen dwelling units per acre (15 du/acre).***

POLICY 1.1.4: *The Urban Community areas are areas outside of Fort Myers and Cape Coral that are characterized by a mixture of relatively intense commercial and residential uses. Included among them, for example, are parts of Lehigh Acres, San Carlos Park, Fort Myers Beach, South Fort Myers, the city of Bonita Springs, Pine Island, and Gasparilla Island. Although the Urban Communities have a distinctly urban character, they should be developed at slightly lower densities. As the vacant portions of these communities are urbanized, they will need to maintain their existing bases of urban services and expand and strengthen them accordingly. As in the Central Urban area, predominant land uses in the Urban Communities will be residential, commercial, public and quasi-public, and limited light industry (see Policy 7.1.6) with future development in this category encouraged to be developed as a mixed-use, as described in Policy 2.12.3., where appropriate.* ***Standard density ranges from one dwelling unit per acre (1 du/acre) to six dwelling units per acre (6 du/acre), with a maximum of ten dwelling units per acre (10 du/acre).***

Using Bonus Density:

Lee County currently has three ways in which to utilize bonus density. The first way is through the current Transfer of Development Rights program that has been codified in the Land Development under Chapter 2, Article IV. This program has been in effect since the mid 1980's and includes the following stated purpose:

The purpose and intent of this article is to recognize that there are environmentally sensitive lands categorized as wetlands by the county comprehensive plan that warrant protection in their undeveloped, natural state. Further it is the purpose and intent of this article to provide an alternative to development on these environmentally sensitive lands by providing an economic relief mechanism that encourages private property owners to utilize the transfer of development rights (TDR) concept. The transfer of development rights concept is designed to direct future growth in a logical. economical and efficient manner toward those areas of the county best suited to providing the public services and facilities necessary for the protection of the health, safety and welfare of the general public.

While this program has had some success over the years, it has not produced a substantial number of sending TDRs. This is due in part to the ongoing efforts by the County, State and Federal Government to acquire both coastal wetlands and large areas of the intact inland wetlands, which when added up comprise a majority of the County's wetland areas. These wetlands have been placed in the Lee Plan's Conservation Wetland Future Land Use category.

The second and third method to utilize bonus density is through the County's Affordable Housing Density program, codified in the LDC under Chapter 34, Article VII, Division 12. The first program, Option1, Site-specific density bonus, allows bonus density when the development agrees to build and make the bonus density units available for eligible households. The second program, Option 2, Cash-contribution density bonus, allows the utilization of bonus density for market rate units when the development agrees to contribute a fee into the County's Affordable Housing Trust Fund for each market rate unit above the

standard density range of the future land use category. The fee is established in Administrative Code 13-12. The current contribution is $20,000 for each market rate unit above the standard density range.

These programs have been more successful that the Wetland TDR program. To date there has been approximately 1,000 units approved through both options. While the Option 2 program has been somewhat successful in the past, under today's market conditions paying $20,000 for an additional market rate unit is not economically feasible. Staff is proposing, as part of the LDC implementation language, that the Option 2 program be suspended for a five year period, to assist the new DR/GR TDR program in succeeding.

Estimating Potential Bonus Density Units:
To assume that all of the potential bonus density units from the three Future Land Use categories will someday be utilized is not an acceptable assumption. However, the recent addition of the "Mixed Use Overlay" for Mixed Use, Traditional Neighborhood, and Transit Oriented development patterns in specific areas of the County's urban service area and the proposal in the Lehigh Acres Planning Community to require the transfer of development rights in the Specialized Mixed Use Nodes affords an opportunity to identify areas of the County where bonus density can be expected to occur.

Planning staff has utilized the County's Geographic Information System to calculate the total number of available bonus density units in both the three Future Land Use categories in those areas specifically included in the Mixed Use Overlay and within the proposed Lehigh Acres Specialized Mixed Use Nodes.

Within the Mixed Use Overlay there are 1,410.59 acres within the Intensive Development category. Multiplying this acreage figure by the allowable bonus density, the units between the top of the standard density range at 14 units per acre and the 22 units per acre allowed as the maximum density, or 8 units per acre, produces a potential for 11,285 bonus units. Performing the same kind of calculation for the 1,981.31 acres in the Central Urban and the 3,983.72 acres in the Urban Community categories yields an additional 9,907 and 15,935 potential bonus units respectively. Totaling all three unit counts equates to 37,126 bonus units.

Within the proposed Lehigh Acres Specialized Mixed Use Nodes there are 23 acres of Intensive Development, 2,185 acres of Central Urban, and 566 acres of Urban Community. Utilizing the same formulas to calculate bonus units yields 185 for Intensive development, 10,919 units in Central Urban and 2,262 units in Urban Community. The sum of these units equals 13,366 potential bonus density units.

9,000 TDR Credits Conclusion:
Adding all of these bonus units together sums to 50,492 potential bonus units within these specifically designated areas. When looked at with the 6,438 TDR units that can be developed in the Mixed-Use Communities in the DR/GR category, staff believes there is sufficient justification for the proposed cap of 9,000 available TDR's in the DR/GR proposal.

Requirements to Restrict the Development Potential on Sending Parcels
Staff and the consultants are recommending additional Policy language to make it clear that a landowner must execute a perpetual conservation easement on the tract that is being used in the creation of the transfer rights. This easement will specify whether continued agricultural uses will be permitted. In order to transfer development rights, Policy 30.3.4.6 now specifies that a perpetual conservation easement will be required to acknowledge the severance of development rights from the sending parcel.

OBJECTION #2. RESIDENTIAL OVERLAY:

The Department of Community Affairs has recommended that all of the Mixed-Use Community and all of the Rural Communities along and south of Corkscrew Road be removed from proposed Map 17. However, Lee County Planning staff believes that these "Rural Communities" are an important component of the proposed Southeast Lee County Comprehensive Plan Amendment. It is important to understand that these communities can virtually be permitted within the provisions of the existing Lee Plan. Clustering of units is currently allowed and encouraged by the Lee Plan, Objective 2.1 states:

> ***OBJECTIVE 2.1: DEVELOPMENT LOCATION.*** *Contiguous and compact growth patterns will be promoted through the rezoning process to contain urban sprawl, minimize energy costs, conserve land, water, and natural resources, minimize the cost of services, prevent development patterns where large tracts of land are by-passed in favor of development more distant from services and existing communities.*

The Lee Plan also defines Clustering as:

> ***CLUSTERING -*** *A development design technique that concentrates a group of buildings or uses in specific areas to allow the remaining area to be used for open space, buffering, joint-parking, recreation, water management, or protection of environmentally sensitive areas.*

Under these current Lee Plan provisions, owners of tracts in the DR/GR can apply for and receive a Development Order under their current AG-2 zoning category. The AG-2 zoning category is the default zoning category for land that has not undergone a rezoning process. Development Orders that propose to cluster their one dwelling unit per ten acres in one acre lots on a portion of their property with a suitable instrument that assures preservation of the remaining portion of the tract can be administratively approved. In fact, if the proposed Development Order meets all requirements of the Land Development Code, the Development Order must be approved. For example, a 2,000 acre tract with 200 acres of wetlands would be permitted one dwelling unit per ten acres from the 1,800 upland acres, or 180 units. The 200 acres of wetlands would be allowed one dwelling unit per twenty acres, or 10 dwelling units. Using the administrative Development Order procedure, these 190 dwelling units could be clustered on somewhat less than 190 acres while preserving the remaining 1,810 acres with a proper easement. This easement could be in the form of a conservation or agricultural easement. The developed portion of the site can be smaller than 190 acres because the minimum lot size in the AG-2 zoning district is established as 39,500 square feet for an interior lot and 33,600 square feet for a corner lot.

In addition, the same property owner could request a public hearing rezoning on the subject property to the Residential Planned Development (RPD) zoning category. Under this scenario, the development foot print could be substantially reduced from the 190 acres. The proposal could resemble the Rural Communities being proposed by this amendment. This clustering would be favorably looked upon by staff reviewing the proposal and the proposal would in all likelihood gain approval.

The only real difference between the RPD process and the proposed Rural Community would be the inability of the RPD to include the convenience commercial component. This should be looked at as a negative omission because the lack of the convenience commercial component would preclude a future homeowner from satisfying convenience commercial needs without driving several miles to the urban area and back again to satisfy that need.

Each of the Rural Communities has been designed to be limited to the current allowable density from the parent parcel. These designs include a small non-residential component, now limited to 75 square feet per clustered unit.

The rural communities on proposed Map 17 would allow the clustering of these units through an administrative process with reduced development footprints. This would remove the need for the lengthy and expensive rezoning process required to cluster development in a similar manner under the existing Lee Plan. This provides an incentive to the property owners who could otherwise subdivide the land into ranchettes under the existing Lee Plan. This incentive could entice the property owner to set aside large tracts of land for preserve areas, other open space areas or continued agricultural uses. The inclusion of this provision within the Lee Plan will discourage sprawling development in environmentally sensitive areas of the county.

Lee County staff believes that the rural community designations as proposed on Map 17 are environmentally suitable and will protect natural resources. Rule 9J-5.006(5)(l) allows the Florida Department of Community Affairs to encourage innovative and flexible planning and development strategies and creative land use planning techniques in local plans. This rule provides for several planning strategies and techniques such as urban villages, new towns, satellite communities, clustering and open space provisions, and mixed-use development that will be recognized as methods of discouraging urban sprawl and will be determined consistent with the provisions of the state's comprehensive plan, regional policy plans, and Chapter 163, Part II, F.S. The Southeast Lee County amendment provides a comprehensive strategy to discourage sprawling development, preserve the ecological function of environmentally sensitive areas, and preserve agricultural uses within Lee County.

The Florida Department of Community Affairs also recommended that Lee County provide data and analysis to demonstrate that Lee County can achieve and maintain the required level of service for public facilities assuming the maximum development potential of the rural communities. Because the rural communities represent a reorganization of the permitted density to a more efficient pattern and not an increase in density within the Southeast Lee County planning community, it is not anticipated that the rural communities identified on proposed Map 17 will create additional demand on the public facilities mentioned in the ORC. The allowance of accessory commercial uses for day to day needs within the rural communities will lessen the daily trips on Corkscrew Road as residents are able to secure their daily needs within their community. Centralized sewer and water service is required for all of these communities.

Residential Overlay Conclusion:
Staff believes that Map 17 is important to the comprehensive approach taken to address the Southeast Lee County Planning Community. The clustering of development into rural communities and Mixed-Use Communities will discourage urban sprawl and encourage the protection of agricultural and environmentally sensitive lands that provide recharge areas for Lee County's drinking water supply. Lee County Planning staff recommends that the Board of County Commissioners adopt Map 17, as transmitted.

OBJECTION #3. LIMEROCK MINING:
The Florida Department of Community Affairs objected to the inclusion of the note proposed on Map 14 that states: "Area may be added to Future Mining Overlay (Map 14) in portions of Sections 28, 31, 32, and 33, T45S, R27E, if the Board of County Commissioners adopts a potential settlement of litigation with Florida Rock Industries, Inc." The Department of Community Affairs states that this statement creates a "self-amending provision" within the Lee Plan.

Lee County Planning staff recommends that the Board of County Commissioners adopt Map 14 without the statement that was objected to by the Department of Community Affairs. Consequently, staff recommends that the Board of County Commissioners determine whether or not the areas mentioned in that statement are or are not included in the Future Limerock Mining Overlay, and adjust Map 14 accordingly.

OBJECTION #4. SURFACE WATER AND GROUNDWATER:

In response to the objection raised to policy 30.1.3 for a lack of meaningful and predictable guidelines/standards defining "appropriate mitigation", staff has expanded the language to include examples of mitigation measures. The examples include preservation of high quality indigenous habitat, restoration or reconnection of historic flow-ways, connectivity to public conservation lands, restoration of historic ecosystems or other mitigation measures deemed sufficient by the Division of Environmental Sciences. The Land Development Code will be revised to include these mitigation measures and a process to implement the mitigation measures.

To address these concerns, staff has proposed new and revised language for Policy 30.1.3, Policy 30.3.2.4, and Policy 114.1.1.

OBJECTION #5. NATURAL RESOURCE STRATEGIES:

The Florida Department of Community Affairs fifth objection within the ORC Report provides that proposed Objective 30.2 and its implementing policies (Policies 30.2.1 through 30.2.7) do not establish meaningful and predictable guidelines and standards and do not adequately describe how programs, activities, and land development regulations will be initiated, modified, or continued to achieve the stated objective and establish meaningful and predictable guidelines and standards. The Objection noted the use of "language that is tentative, conditional, and aspirational." The DCA Report recommends that the County revise the policies to establish meaningful and predictable guidelines and standards that adequately describe how programs and activities are to be implemented to protect water, habitat, and other natural resources as intended by Objective 30.2.

Staff and the consultants have proposed revisions to Objective 30.2 and subsequent policies to provide meaningful and predictable guidelines and standards to describe the programs and activities that will be implemented to protect natural resources as intended by Objective 30.2. Staff has also proposed revisions to Objective 30.2 and its implementing policies that will remove language that is tentative, conditional or aspirational and replace these words or phrases with ones that are explicit and unambiguous to the greatest extent possible. Specific proposed language may be found in the Staff Recommendation section of this report.

OBJECTION #6. LIMEROCK MINING:

Lee County agrees with the objection to the inconsistency within Policy 30.1.4. The proposed policy is also inconsistent with existing Lee Plan Policy 1.7.6, which describes the proper usage of Table 1(b). Policy 1.7.6 states that "*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.*" It should be noted that this policy is specifically silent on the ability of Lee County to permit or approve requests for changes to a property's zoning category.

To remove the internal inconsistency within proposed Policy 30.1.4, and make the proposed policy consistent with the formatting of Policy 1.7.6 of the Lee Plan, Planning staff recommends that the second numbered paragraph of Policy 30.1.4. be removed. Lee County Planning staff recommends that the Board of County Commissioners **adopt** Policy 30.1.4 as revised below:

> **POLICY 30.1.4:** 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 that is 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. ~~Notwithstanding the limitations in Policy 2.2.2(3), the lack of available industrial acreage as provided in Table 1(b) will not preclude rezoning approvals to support new or expanded mines within the Future Limerock Mining areas (Map 14).~~
> 3. 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.

OBJECTION #7. PRIVATE RECREATIONAL FACILITIES:

This proposed addition to the DR/GR amendments was added, at the property owners request. The proposal is to identify a specific portion of the existing Old Corkscrew Golf course as a receiving area for a specified number and type of units, fractional ownership/time-share units and bed and breakfast establishments. The Lee Plan language changes to accommodate this proposal occur mostly to policies under Goal 16, Private Recreation Facilities in the DR/GR. This receiving area is proposed to be added to Map 17, identified as a Rural Golf Course Community.

For fractional ownership/time-share units, the maximum allowable units will be calculated based on 1 dwelling unit per 10 acres for the upland portion of the Private Recreation Facilities Planned Development and 1 dwelling unit per 20 acres of the PRFPD. For bed and breakfast establishments, the maximum number of establishments will be limited to one per 18 holes of golf, and 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.

Following the issuance of the ORC Report, the owners representatives met with the DCA staff and supplemented their proposal with additional support information. A cover memo from the applicants representative to the DCA and the support information is attached.

The applicants representatives have indicated to staff that the DCA concerns that were raised in Objection 7 have been resolved by the submission of the additional support information.

If a majority of the Board concurs with the property owner's request, staff recommends that this proposal be adopted by a separate ordinance. That ordinance should incorporate the minor revisions to enable this proposal under new and revised Policy 30.3.3 and Policy 30.3.4 along with the revisions under Goal 16 and a separate Map 17 showing the Rural Golf Course Community. Doing this with a separate ordinance will assure that if the DCA decides to find this proposal not in compliance, that decision will not affect the balance of the Southeast DR/GR amendments.

Staff recommended language for this separate ordinance, with new text underlined, text for deletion struck through and additional text to otherwise proposed new text doubled underlined, follows:

GOAL 16: PRIVATE RECREATIONAL FACILITIES IN THE DR/GR. To ensure that the development of Private Recreational Facilities in the DR/GR areas is compatible with the intent of this Future Land Use category, including recharge to aquifers, development of future wellfields and the reduction of density. *[no proposed change]*

OBJECTIVE 16.2: GROWTH MANAGEMENT. Development of Private Recreation Facilities in the DR/GR areas must be consistent with the growth management principles and practices as provided in the following policies. *[no proposed change]*

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.

[insert 2 new policies]

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, Rural Golf Residential Overlay of the Lee County Future Land Use Map Series. 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 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 30.3.2(1).

[renumber the subsequent Policies under Objective 16.2]

OBJECTIVE 16.3: GENERAL DEVELOPMENT REGULATIONS. The protection of water quality, quantity, natural resources, and compatibility will be addressed by additional development controls that regulate the permitted uses, parcel size, density, intensity and design of Private Recreational Facilities. *[no proposed change]*

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

1. Principal ~~U~~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 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 time-share/fractional ownership units must be transferred in accordance with Policy 30.3.3(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~~ five (~~10~~5) 18-hole golf courses, for a total of ~~180~~ 90 golf holes, will be permitted ~~in the next 10 years~~ through 2030.

[revision to proposed Policy 30.3.3 and Policy30.3.4 under Objective 30.3]

POLICY 30.3.3: 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 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) from one landowner to another who wishes to develop a Mixed-Use Community, develop in accordance with Policy 16.2.6 and 16.2.7, or wishes to exercise these development rights outside the DR/GR area.

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. When expanded with transferred development rights, the maximum net density is 16 dwelling units per acre of land developed in a Mixed-Use Community as shown on Map 17; the maximum intensity of non-residential development is 400 square feet per approved dwelling unit.

POLICY 30.3.3: 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 30.3.4: 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.

Lee Plan Definitions:

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.

C. STAFF RECOMMENDATION:

Staff has compiled all of the recommended modifications to address the ORC Report along with additional modifications in an attached document entitled "Staff Recommended Language and Map Amendments." This document includes recommended Lee Plan text and map modifications. This document includes all of the recommended changes to policy language and maps to address the proposed amendment.

Staff recommends that the Board of County Commissioners adopt the language and map modifications contained in this document.

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	_____
TAMMARA HALL	_____
ROBERT P. JANES	_____
RAY JUDAH	_____
FRANK MANN	_____