

## AGENDA

Lee Plan  
CPA2008-06 Remedial Amendments  
Adoption Hearing

Commission Chambers  
2120 Main Street  
Fort Myers, Florida

November 1, 2010  
9:30 a.m.

1. Call to order
2. Certification of Affidavit of Publication
3. CPA2008-06 Implement DR/GR Study

Adopt a Lee Plan amendment that implements the terms of the Stipulated Settlement Agreement with the Florida Department of Community Affairs.

Amend the Vision Statement, Future Land Use Element, Community Facilities and Services Element, Conservation and Coastal Management Element, Glossary, Tables 1(a) and Table 1(b), and Future Land Use Map Series to reflect recommendations of the Density Reduction/Groundwater Resource Area Studies pertaining to Southeast Lee County.

4. Adopt ordinance implementing Stipulated Settlement Agreement
5. Adjourn

**Lee County Board Of County Commissioners  
Agenda Item Summary**

**Blue Sheet No. 20101022**

**1. ACTION REQUESTED/PURPOSE:**

Approve Ordinance adopting remedial amendments to the Lee Plan to settle issues cited in the Department of Community Affairs' Notice and Statement of Intent Finding the Lee County Comprehensive Plan Amendment Not in Compliance.

**2. FUNDING SOURCE:**

N/A

**3. WHAT ACTION ACCOMPLISHES:**

The ordinance implements terms of Stipulated Settlement Agreement with the Department of Community Affairs (DCA) approved by the Board on October 26, 2010.

**4. MANAGEMENT RECOMMENDATION:** Adopt Ordinance.

**5. Departmental Category:** 9:30 PHI

**6. Meeting Date:** 11/1/2010

**7. Agenda:**

Public

**8. Requirement/Purpose: (specify)**

- Statute 163.3184(16)
- Ordinance
- Admin Code
- Other

**9. Request Initiated**

**Commissioner:**

**Department:** COMMUNITY DEVELOPMENT

**Division:** Planning

**By:** Mary Gibbs

**10. Background:**

In March 2010, the County adopted an amendment to the Lee Plan pertaining to the Density Reduction/Groundwater Resource Future Land Use Category in Southeast Lee County (CPA2008-06). In May 2010, DCA issued a Notice and Statement of Intent contending portions of the amendment were "not in compliance" with Part II of Chapter 163, F.S. DCA initiated a formal Administrative Hearing proceeding challenging the amendment. Thereafter, ten entities sought permission to intervene in the proceeding that was set for hearing before the Division of Administrative Hearings in January.

The County, DCA and the intervenors engaged in settlement discussions. The result was a Stipulated Settlement Agreement (Compliance Agreement) ultimately joined by six of the ten intervenors. The Agreement was approved by the Board on October 26, 2010. Pursuant to the terms of the Agreement, the Board agreed to adopt remedial amendments to the Lee Plan within 60 days.

Thirty (30) days after receipt of the adopted remedial Plan amendments and support documents, DCA will issue a new Notice of Intent. The proposed remedial plan amendments will resolve the County's dispute with DCA. The challenge filed by four intervenors who did not join the settlement will proceed to hearing after a re-alignment of the parties to the lawsuit.

Ordinance will follow under separate cover.

**11. Required Review:**

<i>Mary Gibbs</i>	<i>Thelma Davis</i>	<i>David Harris</i>	<i>Donna-Marie Collins</i>	<i>Peter Winton</i>	
COMMUNITY DEVELOPMENT	Budget Analyst	Budget Services	County Attorney	County Manager	

**12. Commission Action:**

**LEE COUNTY  
DIVISION OF PLANNING**

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**STAFF ANALYSIS AND RECOMMENDATION**

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

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

By: Dover, Kohl & Partners

Dated  
May 2009

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**COMPREHENSIVE PLAN AMENDMENT  
CPA 2008-06 Remedial Amendments**

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Prepared for the  
November 1, 2010  
Board of County Commissioners Adoption Public Hearing

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



Text Amendment



Map Amendment

✓	<b>This Document Contains the Following Reviews:</b>
✓	Staff Review
	<b>Board of County Commissioners Hearing for Adoption</b>

STAFF REPORT PREPARATION DATE: October 25, 2010

**PART I - BACKGROUND**

**A. SUMMARY OF APPLICATION**

**1. APPLICANT/REPRESENTATIVE:**

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

**2. REQUEST:**

Adopt a Lee Plan amendment that implements the terms of the Stipulated Settlement Agreement with the Florida Department of Community Affairs regarding the Division of Administrative Hearings, DOAH case No. 10-2988 GM.

**Original 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:**

On March 3<sup>rd</sup>, 2010, the Lee County Board of County Commissioners adopted several amendments to the Lee Plan pertaining to the Density Reduction/Groundwater Resource (DR/GR) future land use category located in Southeast Lee County (CPA2008-06). On May 11, 2010, the Florida Department of Community Affairs (DCA) issued a letter concerning the March 3<sup>rd</sup> adoption hearing that contained both a Notice of Intent (NOI) and a Statement of Intent (SOI) concerning the adopted DR/GR amendments. The NOI gave notice that the DCA finds CPA2008-06, as adopted by Ordinances 10-19, 10-20, and 10-21, not in compliance with Part II of Chapter 163, Florida Statutes. The SOI provided the specific inconsistencies that DCA had identified and recommended seven remedial actions the County should undertake to address these inconsistencies. The SOI focused on the proposed Transfer of Development Rights (TDR) program and the establishment of Mixed-Use Communities as receiving areas. A formal Administrative Hearing was initiated by the DCA with the State of Florida Division of Administrative Hearings (DOAH). Several parties sought permission and were granted intervenor status in the proceeding.

Following negotiations over the summer and fall, on October 5<sup>th</sup>, 2010 Lee County staff and DCA staff agreed to a set of Lee Plan remedial amendments that address the “Recommended Remedial Actions” of the SOI. These proposed amendments were later presented by DCA staff to the DCA Secretary who has indicated his agreement with the proposed amendments.

A “Stipulated Settlement Agreement” has been generated by the DCA staff and was agreed to by the Board of County Commissioners on October 26, 2010. The Florida Wildlife Federation, Collier County Audubon Society, Conservancy of Southwest Florida, Inc., Estero Council of Community Leaders, Inc., Old Corkscrew Plantation, Inc., Nick Batos, and Alico Land Development, Inc. also agreed to the settlement. Cemex Construction Materials Florida, LLC., Old Corkscrew Plantation V, LLC., and Troyer Brothers Florida, Inc. have not agreed to the settlement.

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

### **A. STAFF DISCUSSION**

#### **1. INTRODUCTION**

The County staff, working in conjunction with one of the consultants, generated a document responding to the issues raised by the DCA. See Attachment #1. This document is organized to correspond with the seven “Recommended Remedial Actions” as stated in the SOI. The response document along with the corresponding proposed Lee Plan remedial amendment language was modified several times as discussions progressed between Lee County staff and the DCA staff.

The first “Recommended Remedial Action” is to revise the plan policies to establish meaningful and predictable guidelines and standards for the transfer of development rights program addressing: (1) a TDR transfer credit generation rate to guide the generation of TDR credits from the TDR sending area; and, (2) the numerical value of the TDR multipliers that may apply to the TDR sending areas and receiving area. Staff recommends that modifications to Policies 33.3.2, 33.3.3, and 33.3.4 be made to address this issue. Proposed modifications to Policy 33.3.2.1 clarify the TDR multipliers. Proposed modifications to Policy 33.3.4 clarify the TDR generation rates and how many of these units can actually be developed within the DR/GR.

The second “Recommended Remedial Action” recommends revising the plan policies to establish meaningful and predictable guidelines and standards for a TDR transfer rate defining: (1) the relationship between a TDR credit and dwelling units of the receiving area (within and outside of the DR/GR area), (2) the relationship between a TDR credit and Fractional Ownership/Timeshare Units and Bed and Breakfast Establishments of the receiving areas within the DR/GR area; and, (3) the relationship between a TDR credit and nonresidential development of receiving areas outside of the DR/GR area. Staff recommends modifications to Policies 33.3.2, 16.2.7, and 33.3.4 to address this concern.

The third “Recommended Remedial Action” is to revise the plan policies to establish meaningful and predictable guidelines and standards defining the location of the TDR receiving areas outside of the DR/GR area. Staff recommends modifications to Policies 33.3.3 and 33.3.4 to address this issue. The proposed modifications specify those Future Urban Areas that allow bonus density, such as the Lehigh Acres Specialized Mixed-Use Nodes, as well as incorporated municipalities that have formally agreed to accept TDR credits.

The fourth remedial action is to revise Policy 33.3.2(1)(c) to establish meaningful and predictable guidelines and standards for the maximum intensity of nonresidential uses based on the transfer of development rights to the Mixed-Use Communities and for the TDR receiving areas outside of the DR/GR area. Staff recommends modifications to Policies 33.3.2 and 33.3.4. The proposed modification to Policy 33.3.2.(1)(c) sets an intensity limit using TDR credits of 300,000 square feet of nonresidential floor area in any Mixed-Use Community.

The fifth remedial action is to revise the plan policies to establish meaningful and predictable guidelines and standards for the mix of land uses (residential, commercial, and civic uses) allowed within the “Mixed-Use Community” in order to ensure that a meaningful amount of non-residential uses will be developed in association with residential uses. Staff recommends modifications to

Policies 33.3.2 and 33.3.3. At a minimum, each Mixed-Use Community adjoining S.R. 82 must designate at least 10% of its developable land into zones for nonresidential uses.

The sixth remedial action is to revise the Future Transportation Map(s) Series to include the Alico Road Extension. No funding has been identified for the Alico Road Extension and the Extension is not included on Map 3A, Lee County 2030 Financially Feasible Highway Plan. Consequently, the proper approach to resolve this inconsistency is to simply delete the Alico Road Extension from Lee Plan Maps 4, 14, 17, 20, and 25.

The seventh remedial action is to support the amendments with relevant and appropriate data and analysis, based upon TDR transfer rates (the rate at which a TDR credit creates a dwelling unit) established in the plan policies, identifying the potential number of dwelling units resulting from the TDR program and demonstrating a need for the dwelling units. Support the amendments for the Mixed-Use Community (MUC) designations on the Map 17 amendment with relevant and appropriate data and analysis demonstrating coordination of the resulting maximum development potential of the land uses of the MUC with 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 analysis should address: (1) identifying the amount of demand for water, sanitary sewer, roads, and schools generated by the Mixed-Use Communities; (2) the impact of the demand upon the operating level of service and adopted level of service of public facilities, and the need for public facilities improvements (scope and timing) in order to maintain the adopted level of service of public facilities; and, (3) coordination of the public facility improvements with the Capital Improvements Element, Transportation Element, Community Facilities and Services Element, and Public School Facilities Element. Revise the appropriate elements of the Lee County Comprehensive Plan to address the public facilities improvements and other planning actions (e.g., revision to service area maps) that are needed to support the Mixed Use Communities. Staff recommends revisions to Policy 33.3.3 to address these issues. Lee County staff has provided additional data and analysis concerning expected potable water, sanitary sewer, and public school impacts associated with development of the Mixed-Use Communities. Lee County Utilities and the School District of Lee County currently have the capacity to meet the anticipated service needs with the exception of sanitary sewer. The proposed modifications acknowledge the deficiency and commits Lee County to address this deficiency in the future.

Planning staff has worked through all of the DCA identified issues and believes that the adoption of this remedial amendment will result in a finding of compliance for CPA2008-06. Staff has worked with the County Attorney's Office to prepare the adoption ordinance for this proposed remedial amendment (see Attachment #2).

## 2. **PROPOSED TEXT AMENDMENTS**

Consistent with the Stipulated Settlement Agreement, staff recommends that the following modifications be adopted by the Board of County Commissioners. The changes are shown in strikethrough and underline based upon the language adopted by the Board in March.

**POLICY 16.2.6:** Time share, fractional ownership units (meaning any dwelling unit for which ownership is shared among multiple entities for the primary purpose of creating short-term use or rental units rather than permanent full time residential units), and Bed and

Breakfast establishments may be permitted if the property is included on Map 17 as Rural Golf Course Residential Overlay area. These uses must be ancillary to or in conjunction with uses within the Private Recreational Facility, including a Golf Training Center or similar facility and must be located adjacent to, or within 1,000 feet of, the principal use that is being supported. Through the PRFPD process, the applicant must demonstrate that external vehicular trips will be reduced from typical single-family residential units due to the ancillary nature of the use.

**POLICY 16.2.7:** Time share, fractional ownership units, or Bed and Breakfast establishments will only be permitted in a designated Rural Golf Residential Overlay area as specified on Map 17 and may only be constructed through transferring density in accordance with Policy 33.3.2(1). Each TDR credit that is eligible to be transferred to a Mixed-Use Community on Map 17 can be redeemed for one timeshare unit, one fractional ownership unit, or two Bed and Breakfast bedrooms.

**OBJECTIVE 33.3: RESIDENTIAL AND MIXED-USE DEVELOPMENT.** Designate on a Future Land Use Map overlay existing rural residential areas acreage subdivision that should be protected from adverse impacts of mining and specific locations for concentrating existing development rights on large tracts.

**POLICY 33.3.1:** Existing acreage subdivisions are shown on Map 17. These subdivisions should be protected from adverse external impacts such as natural resource extraction.

**POLICY 33.3.2:** Unsubdivided land is too valuable to be consumed by inefficient land-use patterns. Although additional acreage or ranchette subdivisions may be needed in the future, the preferred pattern for using existing residential development rights from large tracts is to concentrate them as compact internally connected Mixed-Use Communities along existing roads and away from Future Limerock Mining areas. Map 17 identifies future locations for Mixed-Use Communities where development rights can be concentrated from major DR/GR tracts into traditional neighborhood developments (see glossary).

1. Mixed-Use Communities must be concentrated from contiguous property owned under single ownership or control, ~~and, are~~ Allowable residential development without the benefit of TDR credits is limited to the existing allowable residential density based upon dwelling units from the upland and wetland acreage of the entire contiguous DR/GR tract. The only net increases in development potential dwelling units will be through ~~the creation of incentives as specified in the LDC for permanent protection of indigenous native uplands on the contiguous tract (up to one extra dwelling unit allowed for each five acres of preserved or restored indigenous native uplands)~~ and through the acquisition of TDRs credits from TDR sending areas as provided in Policies 33.3.3 and 33.3.4.



- a. When expanded with transferred development rights, the maximum gross density is 5 dwelling units per acre of total land designated as a Mixed-Use Community as shown on Map 17.
  - b. The maximum basic intensity of non-residential development is 75 square feet; per by-right (clustered) dwelling unit.
  - c. The maximum additional intensity of non-residential development is up to 800 square feet per that can be created using TDR credits may not exceed 300,000 square feet of non-residential floor area in any Mixed-Use Community.
  - d. These limits on dwelling units and non-residential floor area do not apply to any land in a Mixed-Use Community that is designated Central Urban rather than DR/GR. Numerical limits for Central Urban land are as provided elsewhere in the Lee Plan.
2. Contiguous property under the same ownership may be developed as part of a Mixed-Use Community provided the property under contiguous ownership does not extend more than 400 feet beyond the perimeter of the Mixed-Use Community as designated on Map 17.
  3. In 2010 an exception was made to the requirement in Policy 1.4.5 that DR/GR land uses must demonstrate compatibility with maintaining surface and groundwater levels at their historic levels. Under this exception, construction may occur on land designated as a Mixed-Use Community on Map 17 provided the impacts to natural resources, including water levels and wetlands, are offset through appropriate mitigation within Southeast Lee County. Appropriate mitigation for water levels will be based upon site-specific data and modeling acceptable to the Division of Natural Resources. Appropriate wetland mitigation may be provided by preservation of high quality indigenous habitat, restoration or reconnection of historic flowways, connectivity to public conservation lands, restoration of historic ecosystems or other mitigation measures as deemed sufficient by the Division of Environmental Sciences. When possible, it is recommended that wetland mitigation be located within Southeast Lee County. The Land Development Code will be revised to include provisions to implement this policy.
  4. To create walkable neighborhoods that reduce automobile usage and minimize the amount of DR/GR land consumed by development, the Land Development Code will specify how each Mixed-Use Community will provide:
    - a. A compact physical form with identifiable centers and edges, with opportunities for shopping and workplaces near residential neighborhoods;
    - b. A highly interconnected street network, to disperse traffic and provide convenient routes for pedestrians and bicyclists;

- c. High-quality public spaces, with building facades having windows and doors facing tree-lined streets, plazas, squares, or parks;
- d. Diversity not homogeneity, with a variety of building types, street types, open spaces, and land uses providing for people of all ages and every form of mobility; and
- e. Resiliency and sustainability, allowing adaptation over time to changing economic conditions and broader transportation options.

**POLICY 33.3.3:** Owners of major DR/GR tracts without the ability to construct a Mixed-Use Community on their own land are encouraged to transfer their residential development rights to appropriate Future Urban Areas (see Objective 1.1), such as specifically the Mixed Use Overlay, and the Lehigh Acres Specialized Mixed-Use Nodes, and any Lee Plan designation that allows bonus density (see Table 1(a)), or 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 these ends, Lee County will establish a program that will allow and encourage the transfer of upland and wetland development rights (TDR) to designated TDR receiving areas, appropriate Future Urban Areas or from one landowner to another who wishes to develop a Mixed-Use Community, wishes to exercise these development rights outside the DR/GR areas. This program will also allow limited development 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 required. Each Mixed-Use Community adjoining S.R. 82 must be designed to include non-residential uses not only to serve its residents but also to begin offsetting the shortage of non-residential uses in adjoining Lehigh Acres. At a minimum, each community adjoining S.R. 82 must designate at least 10% of its developable land into zones for non-residential uses. Specific requirements for incorporating these uses into Mixed-Use Communities will be found are set forth in the Land Development Code.
3. Mixed-Use Communities must be served by central water and wastewater services. All Mixed-Use Communities were added to the future water and sewer service areas for Lee County Utilities (Lee Plan Maps 6 and 7) in 2010. Development approvals for each community are contingent on availability of adequate capacity at the central plants and on developer-provided upgrades to distribution and collection systems to connect to the existing systems. Lee County Utilities has the plant capacity at this time to serve full build-out of all Mixed-Use Communities. Lee County acknowledges that the Three Oaks wastewater treatment plant does not have sufficient capacity to serve all anticipated growth within its future service area through the year 2030. Lee County commits to expand that facility or build an

additional facility to meet wastewater demands. One of these improvements will be included in a future capital improvements program to ensure that sufficient capacity will be available to serve the Mixed-Use Communities and the additional development anticipated through the year 2030.

4. Development approvals for Mixed-Use Communities are contingent on adequate capacity in the public school system (see Goal 67).
  
- 5.4 The state has designated S.R. 82 as an “emerging component” of Florida’s Strategic Intermodal System, a designation that establishes the levels of service Lee County must adopt for S.R. 82. Lee County will seek to include the Mixed-Use Communities and appropriate adjacent urban areas in a multimodal transportation district to mitigate the effects of SR 82’s status as an emerging component of Florida’s Strategic Intermodal System. regulatory barriers these levels of service would impose on Lee County’s ability to accomplish Objective 33.3 and its policies. As an alternative, Lee County may pursue a comparable mechanism, such as a transportation concurrency exception area, transportation concurrency management area, transportation concurrency backlog area/plan, long-term concurrency management system, or FDOT level-of-service variance, that would achieve similar results. Lee County’s planning will include the following steps:
  - a. Actively seek advice, technical assistance, and support from Florida DOT and DCA while formulating the scope of a technical evaluation of a potential multimodal transportation district that includes the four Mixed-Use Communities adjoining S.R. 82 and appropriate adjacent urban areas.
  - b. Conduct the necessary technical studies to determine the potential for substantial trip diversion from Lehigh Acres residents, the viability of transit service to these Mixed-Use Communities and appropriate adjacent urban areas, and the practicality of maintaining the adopted level-of-service standards on S.R. 82.
  - c. Adopt a Lee Plan amendment establishing a multimodal transportation district (or comparable mechanism).
  
6. Lee County will complete these three steps by 2016. Until step 5.c is adopted, TDR credits may not be redeemed in the Mixed-Use Communities located along S.R. 82. No redemption of TDR credits that will increase dwelling units or non-residential floor area will be permitted, if these increases would cause the adopted level of service for S.R. 82 to be exceeded (see Goal 37). This restriction applies unless a Mixed-Use Community addresses its transportation impacts through the DRI process consistent with F.S. 163.3180(12).
  - a. This temporary restriction does not prohibit landowners from concentrating development rights from contiguous DR/GR property under common ownership or control.

- b. Lee County encourages the creation of TDR credits from Southeast DR/GR lands and the transfer of those credits to all other designated receiving areas, including:
- (1) Other Mixed-Use Communities;
  - (2) Rural Golf Course Communities;
  - (3) Future Urban Area (see Objective 1.1);
  - (4) Mixed-Use Overlay;
  - (5) Lehigh Acres Specialized Mixed-Use Nodes;
  - (6) Lee Plan designation that allow bonus density (see Table 1(a)); and,
  - (7) Incorporated municipalities that have formally agreed to accept TDR credits.

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

1. This program will be in addition to the existing wetland TDR program described in Article IV of Chapter 2 of the Land Development Code.
- ~~2. The maximum number of DR/GR TDR credits that may be established may not exceed 9,000 credits.~~
3. ~~The preferred receiving locations for the transfer of TDRs are within appropriate designated Future Urban Areas such as due to their proximity to public infrastructure and urban amenities (see Objective 1.1), specifically the Mixed Use Overlay, and the Lehigh Acres Specialized Mixed Use Nodes, and the future urban land use categories that allow bonus density (see Table 1(a)). The only acceptable sites in the DR/GR area for accepting permitted to receive transferred development rights are Mixed-Use Communities or Rural Golf Course Communities as 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 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.~~
3. TDR credits will be available from sending areas as follows:
  - a. One TDR credit may be created for each allowable dwelling unit attributable to sending parcels within the Southeast DR/GR area. As an incentive for permanently protecting indigenous native uplands, one extra dwelling unit will be allowed for each five acres of preserved or restored indigenous native uplands.
  - b. As an additional incentive for protecting certain priority restoration lands (see Policy 33.2.3.2), each TDR credit created pursuant to the preceding

subsection will qualify for up to two additional TDR credits if the credits are created from land in Tiers 1, 2, 3 or the southern two miles of Tiers 5, 6 or 7, as shown on the DR/GR Priority Restoration overlay.

4. The maximum number of TDR credits that can be created from the Southeast DR/GR lands is 9,000.
5. No more than 2,000 dwelling units can be placed on receiving parcels within the Southeast DR/GR Mixed-Use Communities through the TDR credit program.
6. TDR Credits may be redeemed in designated TDR receiving areas as follows:
  - a. In Mixed-Use Communities in DR/GR areas, each TDR credit may be redeemed for a maximum of one dwelling unit plus a maximum of 800 square feet of non-residential floor area.
  - b. In Rural Golf Course Communities, see Policy 16.2.7.
  - c. In the Future Urban Areas described in paragraph 2. above, each TDR credit may be redeemed for a maximum of two dwelling units. In these Future Urban Areas, the redemption of TDR credits cannot allow densities to exceed the maximum bonus density specified in Table 1(a). TDR credits may not be redeemed for non-residential floor area in these Future Urban Areas.
  - d. Redemption of TDR credits within incorporated municipalities may be allowed where interlocal agreements set forth the specific terms of any allowable transfers and where the redemption allows development that is consistent with the municipality's comprehensive plan. As in the County's Future Urban Areas, each TDR credit may be redeemed for a maximum of two dwelling units.
67. 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;
  - b. Conservation uses only;
  - c. Conservation use and restoration of the property; or
  - d. some combination of the above options.

## XII. GLOSSARY

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 as identified on Map 17 where development rights are concentrated or transferred using the process described under Objective 33.3. 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.

### **3. PROPOSED MAP AMENDMENTS**

Staff, consistent with the Stipulated Settlement Agreement, recommends that the Lee County Comprehensive Plan Future Land Use Map Series be amended as indicated below. Exhibits depicting the areas amended are attached to the proposed ordinance.

- a. Map 4: Deleted reference to the proposed Alico Road Extension.
- b. Map 6: Add depictions of all five Mixed Use Communities.
- c. Map 7: Add depictions of all five Mixed Use Communities.
- d. Map 14: Deleted reference to the proposed Alico Road Extension.
- e. Map 17: Deleted reference to the proposed Alico Road Extension.
- f. Map 20: Deleted reference to the proposed Alico Road Extension.
- g. Map 25: Deleted reference to the proposed Alico Road Extension.

### **4. PROPOSED LEE PLAN TABLE AMENDMENTS**

Amend Table 1(b) to increase the number of commercial acres that can be developed in Southeast Lee County by the year 2030 from 38 acres to 68 acres. Table 1(b) as amended is attached to the proposed ordinance.

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

DATE OF ADOPTION HEARING: November 1, 2010

- 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**  
**RAY JUDAH**  
**FRANK MANN**  
**JOHN MANNING**

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# ATTACHMENT 1

## 1. Credits and Bonuses From TDR Sending Areas

### DCA's inconsistency provisions:

The amendments establish a Transfer of Development Rights (TDR) program to transfer development rights from sending lands in the DR/GR area. Although amendment Policy 33.3.4 states that the maximum number of DR/GR TDR credits that may be established may not exceed 9,000 credits, Policy 33.3.4 does not establish meaningful and predictable guidelines and standards to apply and implement the TDR program on individual properties (individual sending areas) addressing:

- (1) a TDR transfer credit generation rate to guide the generation of TDR credits from the TDR sending area; and
- (2) the numerical value of the TDR multipliers that may apply to the TDR sending area and receiving area.

### DCA's recommended remedial actions:

Revise the plan policies to establish meaningful and predictable guidelines and standards for the transfer of development rights (TDR) program addressing:

- (1) a TDR transfer credit generation rate to guide the generation of TDR credits from the TDR sending area; and
- (2) the numerical value of the TDR multipliers that may apply to the TDR sending areas and receiving area

### Lee County's conceptual solution:

These Lee Plan amendments introduced the term "TDR Credit," which is defined and quantified in the new land development code but was not adequately explained in the Lee Plan amendment. This recommended remedial action requests a base TDR credit generation rate (which is simply one credit per allowable dwelling unit) and numerical multipliers (which are increases that are specified as incentives for certain activities). Policy 33.3.4 can be rewritten to consolidate those details in one location. Policies 33.3.2 should be clarified to indicate that certain of these incentives are available without formal TDR transfers between separate parties.

### Lee County's precise solution:

See redraft of Policies 33.3.2.1, 33.3.3.1, and 33.3.4.2-5.



## 2. Transfer Rates to TDR Receiving Areas

### DCA's inconsistency provisions:

Amendment Policies 33.3.3 and 33.3.4 do not establish meaningful and predictable guidelines and standards for a TDR transfer rate defining:

- (1) the relationship between a TDR credit and dwelling units of the receiving areas (within and outside of the DR/GR area);
- (2) the relationship between a TDR credit and Fractional Ownership/Timeshare Units and Bed and Breakfast Establishments of the receiving areas within the DR/GR area; and
- (3) the relationship between a TDR credit and nonresidential development of receiving areas outside of the DR/GR area.

Because the transfer rate from a TDR credit to a dwelling unit (and also to "Fractional Ownership/Time-share Units and Bed and Breakfast Establishments") has not been established by the plan policies, the maximum number of dwelling units (and also "Fractional Ownership/Time-share Units and Bed and Breakfast Establishments") that may result from the TDR program (transfers can be made inside and outside the DR/GR area) cannot be determined and has not been demonstrated to be based on a need. Within the DR/GR area, the total number of potential dwelling units is limited by the maximum density standards (5 dwelling units per acre) for the Mixed-Use Communities where the TDR credits can be utilized. But, the transfers to areas outside the DR/GR area could produce an undetermined number of dwelling units because the transfer rate (the number of TDR credits per dwelling unit) has not been established. The amendment is not supported by data and analysis, based upon TDR transfer rates (the rate at which a TDR credit creates a dwelling unit) established in the plan policies, identifying the potential number of dwelling units resulting from the TDR program and demonstrating a need for the dwelling units.

### DCA's recommended remedial actions:

Support the amendments with relevant and appropriate data and analysis, based upon TDR transfer rates (the rate at which a TDR credit creates a dwelling unit) established in the plan policies, identifying the potential number of dwelling units resulting from the TDR program and demonstrating a need for the dwelling units.

Revise the plan policies to establish meaningful and predictable guidelines and standards for a TDR transfer rate defining:

- (1) the relationship between a TDR credit and dwelling units of the receiving areas (within and outside of the DR/GR area);
- (2) the relationship between a TDR credit and Fractional Ownership/Timeshare Units and Bed and Breakfast Establishments of the receiving areas within the DR/GR area; and
- (3) the relationship between a TDR credit and nonresidential development of receiving areas outside of the DR/GR area.

### Lee County's conceptual solution:

The solution to the previous item was a clearer use of the term "TDR Credit," specifically how TDR credits are *generated*. This item requests clarification of how TDR credits are *redeemed* in TDR receiving areas. This recommended remedial action requests details as to any incentives that might be provided when TDR credits are redeemed under three specific scenarios; Policy 33.3.4 can be rewritten to provide that information immediately after that policy's details about TDR credit generation rates and incentives.

### Lee County's precise solution:

See redraft of Policies 33.3.2.1, 16.2.7, and 33.3.4.5.

### 3. Location of TDR Receiving Areas Outside DR/GR

#### **DCA's inconsistency provisions:**

Amendment Policies 33.3.3 and 33.3.4(3) contemplate the transfer of development rights to areas outside of the DR/GR area. Policy 33.3.3 allows the transfer of development rights "to appropriate Future Urban Areas, such as the Mixed Use Overlay and the Lehigh Acres Specialized Mixed-Use Nodes." Policy 33.3.4(3) states that "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." However, the language "appropriate Future Urban Areas" does not clearly define the location of TDR receiving areas outside of the DR/GR area. Therefore, Policies 33.3.3 and 33.3.4(3) do not establish meaningful and predictable guidelines and standards defining the location of the TDR receiving areas outside of the DR/GR area.

#### **DCA's recommended remedial actions:**

Revise the amendments to establish meaningful and predictable guidelines and standards defining the location of the TDR receiving areas outside of the DR/GR area.

#### **Lee County's conceptual solution:**

This alleged inconsistency stems from the term "appropriate future urban areas" in Policies 33.3.3 and 33.3.4. This can be clarified in two ways:

- Clarify that "future urban area" has a very specific meaning in the Lee Plan (cite Objective 1.1).
- Change the vague qualifier, "such as..." into definitive language (e.g., "specifically").

#### **Lee County's precise solution:**

See redraft of Policies 33.3.3 and 33.3.4.2 & 6.

## 4. Intensity of Uses Resulting From TDRs

### DCA's inconsistency provisions:

For Mixed-Use Communities within the DR/GR area, Amendment Policy 33.3.2 states the following for density and intensity standards:

- (1) residential density is limited to the existing allowable density based on the upland and wetland acreage;
- (1)(a) when expanded with transferred development rights, the maximum gross density is 5 dwelling units per acre of total land designated as a Mixed-Use Community on Map 17; and
- (1)(b)&(c) the maximum intensity of non-residential development is 75 square feet, per by right clustered dwelling unit; and
  - the maximum intensity of non-residential development is 800 square feet per TDR credit.

However, Policy 33.3.2(1)(c) does not establish a limit on the amount of TDR credits associated with the non-residential development intensity of 800 square feet per TDR credit that can be transferred into the Mixed-Use Communities. Therefore, Policy 33.3.2(1)(c) does not establish meaningful and predictable guidelines and standards for the maximum intensity of nonresidential uses based on the transfer of development rights to the Mixed-Use Communities.

- The amendment does not establish meaningful and predictable guidelines and standards for the maximum intensities of nonresidential uses, based on the transfer of TDR credits, for the TDR receiving areas outside of the DR/GR area.
- The amendment does not establish meaningful and predictable guidelines and standards for the maximum densities of residential uses, based on the transfer of TDR credits, for the TDR receiving areas outside of the DR/GR area.

### DCA's recommended remedial actions:

- Revise Policy 33.3.2(1)(c) to establish meaningful and predictable guidelines and standards for the maximum intensity of nonresidential uses based on the transfer of development rights to the Mixed-Use Communities.
- Revise the amendments to establish meaningful and predictable guidelines and standards for the maximum densities and intensities of uses, based on the transfer of TDR credits, for the TDR receiving areas outside of the DR/GR area.

### Lee County's conceptual solution:

These are two related but essentially different issues, each requiring a different solution:

- DCA is requesting details about the total amount of non-residential uses in the Mixed-Use Communities that could result from the TDR program. The plan amendment can be modified to include a cap on square footage of non-residential uses in each Mixed-Use Community, computed from the designs for each community in the supporting documents for the Lee Plan amendments.
- DCA is also requesting details about the maximum residential density and non-residential intensity OUTSIDE the DR/GR that could result from the TDR program. The plan amendment can be modified to be clearer on this question by stating that the upper limits in the Lee Plan will still apply even when TDRs are redeemed (these upper limits are shown in Table 1(a) of the Lee Plan under the terminology "bonus density").

### Lee County's precise solution:

See redraft of Policies 33.3.2.1.c and 33.3.4.6.

## 5. Meaningful Non-Residential Uses in Mixed-Use Communities

### DCA's inconsistency provisions:

The amendments to Future Land Use Element Objective 33.3, Policies 1.4.5(2)(a), 1.7.14, 33.3.2, 33.3.3, 33.3.4, and 33.3.5 do not establish meaningful and predictable guidelines and standards for the mix of land uses (residential, commercial, and civic uses) allowed within the "Mixed-Use Community" in order to ensure that an appropriate amount of non-residential uses will be developed in association with the residential uses. The policies allow residential use, commercial use, and civic use within the Mixed-Use Community. Policy 33.3.3 states that *"Within the Mixed-Use Community, 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."* Policy 33.3.5 states that *"The Land Development Code will be amended within one year to specify procedures for concentrating existing development rights on large tracts, for transferring development rights between landowners, for seeking approval of additional acreage subdivisions, and for incorporating commercial and civic uses into Mixed Use Communities as designated on Map 17."* The deferral to the land development code does not establish meaningful and predictable guidelines and standards in the comprehensive plan.

### DCA's recommended remedial actions:

Revise the amendments to establish meaningful and predictable guidelines and standards for the mix of land uses (residential, commercial, and civic uses) allowed within the "Mixed-Use Community" in order to ensure that a meaningful amount of non-residential uses will be developed in association with the residential uses.

### Lee County's conceptual solution:

Many TND developers build their residential areas before the commercial component (and some do the opposite); it would be counterproductive to propose some ratio between residential and nonresidential that must be met every month or every year while development progresses.

A better solution would ensure that meaningful amounts of non-residential uses are provided during the original approvals for each Mixed-Use Community. The plan can also provide explicit guidelines as to the nature of these communities (in addition to the glossary definition of "traditional neighborhood development" as referenced in Policy 33.3.2).

A measurable standard can be provided through "transect zone" assignments that are an essential part of the approval process (as detailed in the land development code). Two transect zones are oriented to intense commercial development, the "Center" and "Core" transect zones. An easy-to-track approach would be to specify a minimum percentage of those two zones (such as 10%) in each of the four Mixed-Use Communities along SR 82. (There is no reason for this requirement to apply to the Western Corkscrew community, given the very large commercial developments nearby.)

### Lee County's precise solution:

See redraft of Policies 33.3.2.1.d & .4 and 33.3.3.2.

To accommodate the additional non-residential uses in Mixed-Use Communities, amend Table 1(b) to increase the number of commercial acres that can be developed in Southeast Lee County by the year 2030 from 38 acres to 68 acres.

## 6. Alico Road Extension Maps

### **DCA's inconsistency provisions:**

The amendments to Lee Plan Maps 4, 14, 17, 20, and 25 show the Alico Road Extension from Alico Road to State Road 82. The Alico Road Extension is not shown on the County Comprehensive Plan Future Transportation Map(s) series; and therefore, Lee Plan Maps 4, 14, 17, 20, and 25 are internally inconsistent with the Future Transportation Maps(s) series regarding the Alico Road Extension.

### **DCA's recommended remedial actions:**

Revise the Future Transportation Map(s) Series to include the Alico Road Extension.

### **Lee County's conceptual solution:**

Without any funding source for the Alico Road Extension, Lee County cannot legally follow DCA's recommended remedial action to add the Alico Road Extension to the Future Transportation Map. However, the alleged inconsistency can be resolved by simply deleting the display of the Alico Extension wherever it appears; it had been shown on various Lee Plan maps only for informational purposes.

### **Lee County's precise solution:**

Delete the Alico Road Extension from Lee Plan Maps 4, 14, 17, 20, and 25.

## 7. Public Facilities Planning

### DCA's inconsistency provisions:

The Mixed-Use Community designations on the Map 17 amendment are not supported by relevant and appropriate data and analysis demonstrating 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 amendment is not supported by relevant and appropriate data and analysis for the short-term and long-term planning timeframes based on the maximum development potential of the land uses for the Mixed-Use Communities addressing:

- (1) identifying the amount of demand for water, sanitary sewer, roads, and schools generated by the Mixed-Use Communities;
- (2) the impact of the demand upon the operating level of service and adopted level of service standards of public facilities, and the need for public facilities improvements (scope and timing) in order to maintain the adopted level of service of public facilities; and
- (3) coordination of the public facility improvements with the Capital Improvements Element, Transportation Element, Community Facilities and Services Element, and Public School Facilities Element.

The public facilities improvements that would be needed to support the Mixed-Use Community designations on Map 17 are not coordinated with the elements of the Lee County Comprehensive Plan. The amendment does not coordinate land use planning with the planning and provision of public facilities for the short-term and long-term planning timeframes. The plan policies require that the Mixed-Use Community be developed with central water and sewer, and the TDR program could intensify the development beyond the clustering of existing density. The amendment designates Mixed-Use Communities adjacent to State Road 82, which according to the analysis submitted with the adopted amendment currently operates in a manner that does not meet the adopted level of service standards from Colonial Boulevard to the Hendry County boundary.

### DCA's recommended remedial actions:

Support the amendments for the Mixed-Use Community (MUC) designations on the Map 17 amendment with relevant and appropriate data and analysis demonstrating coordination of the resulting maximum development potential of the land uses of the MUC 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 analysis should address:

- (1) identifying the amount of demand for water, sanitary sewer, roads, and schools generated by the Mixed-Use Communities;
- (2) the impact of the demand upon the operating level of service and adopted level of service of public facilities, and the need for public facilities improvements (scope and timing) in order to maintain the adopted level of service of public facilities; and
- (3) coordination of the public facility improvements with the Capital Improvements Element, Transportation Element, Community Facilities and Services Element, and Public School Facilities Element.

Revise the appropriate elements of the Lee County Comprehensive Plan to address the public facilities improvements and other planning actions (e.g., revision to service area maps) that are needed to support the Mixed Use Communities.

### **Lee County's conceptual solution:**

During several conversations, DCA officials have asked about potential concurrency issues on SR 82 and Lee County's preferred solution, which is a multimodal transportation district. As is customary, DCA officials asked for a clear plan of action with measurable milestones. This can be provided by adding policy language to the Lee Plan. (NOTE: it is definitely not correct that SR 82 currently operates below the adopted levels of service to the Hendry County line; construction to correct one failing link near I-75 is underway at this time.)

Other public facility issues were cited in this objection even though it has already been ascertained that existing elements of the Lee Plan can accommodate the extra increment of development that would be enabled by this plan amendment. Public school needs are governed by the recent adoption of Goal 67 into the education sub-element of the Lee Plan. A July 21 letter from the Lee County School District ~~is being forwarded to DCA; the letter~~ indicates that there is already sufficient capacity in existing Lee County schools for all students expected from the Mixed-Use Communities through their build-out, even using the most conservative methodology for estimating student generation. The recent water and wastewater analysis by Lee County Utilities has been expanded to include non-residential demands ~~and is being resubmitted to DCA for their review~~. Lee Plan Maps 6 and 7 which show future water and wastewater service should be amended at this time to add all five Mixed-Use Communities. Three subsections of Policy 33.3.3 should be amendment at this time to more clearly address public facility demands.

The need for the Mixed-Use Communities does not arise from any shortage of developable land in the unincorporated area; rather, the addition of a small amount of newly developable land in the five Mixed-Use Communities (less than 1,200 gross acres in total, with about 300 acres in developable blocks) will help resolve several much greater needs, particularly the need to protect farmland and environmentally sensitive lands at increasing distances from existing services and amenities. The DR/GR area is about 82,560 acres; the gross acreage of newly developable land is only 1.5% percent of the DR/GR area, in service of protecting vastly more land in its undeveloped state. These factors have been discussed in detail in the support documents for these amendments (particularly in *Prospects for Southeast Lee County*, *Transferable Development Rights in Southeast Lee County*, and *Natural Resource Strategies for Southeast Lee County*).

### **Lee County's precise solution:**

See redraft of Policies 33.3.3.3-~~65~~.

Add all five Mixed-Use Communities to Lee Plan Maps 6 and 7.

# ATTACHMENT 2

## LEE COUNTY ORDINANCE NO. 10-\_\_

[Compliance with Settlement Agreement for  
DOAH Case No. 10-2988GM]  
(CPA2008-06)

AN ORDINANCE AMENDING THE LEE COUNTY COMPREHENSIVE PLAN, COMMONLY KNOWN AS THE "LEE PLAN," ADOPTED BY ORDINANCE NO. 89-02, AS AMENDED, TO ADOPT THE AMENDMENT PROPOSED UNDER CPA2008-06 (PERTAINING TO TRANSFER OF DEVELOPMENT RIGHTS, RESOURCE EXTRACTION IN THE DENSITY REDUCTION/GROUNDWATER RESOURCE (DR/GR) AREA AND GOLF COURSE DEVELOPMENT IN DR/GR) APPROVED DURING THE COUNTY'S 2008/2009 REGULAR COMPREHENSIVE PLAN AMENDMENT CYCLE AND AS PART OF THE 2010 STIPULATED SETTLEMENT AGREEMENT WITH THE DEPARTMENT OF COMMUNITY AFFAIRS; PROVIDING FOR PURPOSE, INTENT AND SHORT TITLE; AMENDMENTS TO ADOPTED TEXT, MAPS AND TABLES; LEGAL EFFECT OF "THE LEE PLAN"; GEOGRAPHICAL APPLICABILITY; SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.

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

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

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

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

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



WHEREAS, on March 3, 2010, the Board held a public hearing and adopted Comprehensive Plan Amendment 10-1 pertaining to the Southeast DR/GR area through Lee County Ordinance Numbers 10-19, 10-20 and 10-21; and,

WHEREAS, DCA issued a Statement of Intent on May 11, 2010, published May 12, 2010, contending that certain provisions of Amendment 10-1 were not "in compliance" with Local Government Comprehensive Planning and Land Development Regulation Act, Chapter 163, Part II, Florida Statutes; and,

WHEREAS, pursuant to §163.3184(10), Florida Statutes, DCA initiated formal administrative proceedings before the State of Florida, Division of Administrative Hearings (DOAH Case NO. 10-2998GM) challenging certain provisions in Amendment 10-1; and,

WHEREAS, Lee County disputes DCA's allegations regarding Comprehensive Plan Amendment 10-1 as contained in the Statement of Intent; and,

WHEREAS, a number of parties requested and were granted intervenor status in the administrative proceeding, including Florida Wildlife Federation, Collier County Audubon Society, Conservancy of Southwest Florida, Inc., Estero Council of Community Leaders, Inc., Old Corkscrew Plantation, Inc., Nick Batos, Alico Land Development, Inc., Cemex Construction Materials Florida, LLC., Old Corkscrew Plantation V, LLC., and Troyer Brothers Florida, Inc.; and,

WHEREAS, wishing to avoid the expense, delay and uncertainty of lengthy litigation, Lee County and DCA successfully worked to resolve the proceeding through a Stipulated Settlement Agreement, which was joined by the following intervenors Florida Wildlife Federation, Collier County Audubon Society, Conservancy of Southwest Florida, Inc., Estero Council of Community Leaders, Inc., Old Corkscrew Plantation, Inc., Nick Batos, and Alico Land Development, Inc.; and

WHEREAS, on October 26, 2010, the Board approved the Stipulated Settlement Agreement, attached as Exhibit I, during a duly noticed public hearing in accordance with Florida Statutes §163.3184(16); and,

WHEREAS, the terms of the Stipulated Settlement Agreement require the County to take remedial action consisting of formal adoption of a comprehensive plan amendment consistent with the text changes identified in the Settlement Agreement; and,

WHEREAS, the Board of County Commissioner finds it appropriate to adopt the remedial amendments set forth herein.

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

**SECTION ONE: PURPOSE, INTENT AND EFFECT**

The Board of County Commissioners of Lee County, Florida, in compliance with Chapter 163, Part II, Florida Statutes, Lee County Administrative Code 13-6, and the Stipulated Settlement Agreement attached as Exhibit I, conducted public hearings to review proposed remedial amendments to the Lee Plan.

The provisions of Lee County Ordinances 10-19, 10-20 and 10-21 [also known and referred to as Comprehensive Plan Amendment 10-1, CPA2008-06], not otherwise amended by adoption of this ordinance remain unchanged.

**SECTION TWO: ADOPTION OF CPA 2008-06 (PLAN AMENDMENT 10-1) AND REMEDIAL AMENDMENTS**

The Lee County Board of County Commissioners amends the existing Lee Plan, adopted by Ordinance Number 89-02, as amended, by adopting an amendment, as revised by the Board on March 3, 2010, known as CPA2008-06 and further revised and amended as agreed in the 2010 Stipulated Settlement Agreement resolving the Southeast Lee County DR/GR Amendment litigation: DCA *et. al v. Lee County*, Case No. DOAH 10-2988GM.

The corresponding Staff Reports and Analysis, along with all attachments for Comprehensive Plan Amendment 10-1 and the 2010 Stipulated Settlement Agreement are adopted as "Support Documentation" for the Lee Plan.

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

*Editorial note: The base document used to reflect the identified amendments is the corresponding text, maps and tables as adopted by the Board of County Commissioners on March 3, 2010 (Lee County Comprehensive Plan Amendment 10-1), and set forth in Lee County Ordinances 10-19, 10-20 and 10-21. Strike through identifies deleted text and underlining identifies added text.*

**POLICY 16.2.6:** Time share, fractional ownership units (meaning any dwelling unit for which ownership is shared among multiple entities for the primary purpose of creating short-term use or rental units rather than permanent full time residential units), and Bed and Breakfast establishments may be permitted if the property is included on Map 17 as Rural Golf Course Residential Overlay area. These uses must be ancillary to or in conjunction with uses within the Private Recreational Facility, including a Golf Training Center or similar facility and must be located adjacent to, or within 1,000 feet of, the principal use that is being supported. Through the PRFPD process, the applicant must demonstrate that external vehicular trips will be reduced

from typical single-family residential units due to the ancillary nature of the use.

**POLICY 16.2.7:** Time share, fractional ownership units, or Bed and Breakfast establishments will only be permitted in a designated Rural Golf Residential Overlay area as specified on Map 17 and may only be constructed through transferring density in accordance with Policy 33.3.2(1). Each TDR credit that is eligible to be transferred to a Mixed-Use Community on Map 17 can be redeemed for one timeshare unit, one fractional ownership unit, or two Bed and Breakfast bedrooms.

**OBJECTIVE 33.3: RESIDENTIAL AND MIXED-USE DEVELOPMENT.** Designate on a Future Land Use Map overlay existing rural residential areas acreage subdivision that should be protected from adverse impacts of mining and specific locations for concentrating existing development rights on large tracts.

**POLICY 33.3.1:** Existing acreage subdivisions are shown on Map 17. These subdivisions should be protected from adverse external impacts such as natural resource extraction.

**POLICY 33.3.2:** Unsubdivided land is too valuable to be consumed by inefficient land-use patterns. Although additional acreage or ranchette subdivisions may be needed in the future, the preferred pattern for using existing residential development rights from large tracts is to concentrate them as compact internally connected Mixed-Use Communities along existing roads and away from Future Limerock Mining areas. Map 17 identifies future locations for Mixed-Use Communities where development rights can be concentrated from major DR/GR tracts into traditional neighborhood developments (see glossary).

1. Mixed-Use Communities must be concentrated from contiguous property owned under single ownership or control, ~~and, are~~ Allowable residential development without the benefit of TDR credits is limited to the existing allowable residential density based upon dwelling units from the upland and wetland acreage of the entire contiguous DR/GR tract. The only net increases in development potential dwelling units will be through the creation of incentives as specified in the LDC for permanent protection of indigenous native uplands on the contiguous tract (up to one extra dwelling unit allowed for each five acres of preserved or restored indigenous native uplands) and through the acquisition of TDRs credits from TDR sending areas as provided in Policies 33.3.3 and 33.3.4.
  - a. When expanded with transferred development rights, the

maximum gross density is 5 dwelling units per acre of total land designated as a Mixed-Use Community as shown on Map 17.

- b. The maximum basic intensity of non-residential development is 75 square feet; per by-right (clustered) dwelling unit.
  - c. The maximum additional intensity of non-residential development is up to 800 square feet per that can be created using TDR credits may not exceed 300,000 square feet of non-residential floor area in any Mixed-Use Community.
  - d. These limits on dwelling units and non-residential floor area do not apply to any land in a Mixed-Use Community that is designated Central Urban rather than DR/GR. Numerical limits for Central Urban land are as provided elsewhere in the Lee Plan.
2. Contiguous property under the same ownership may be developed as part of a Mixed-Use Community provided the property under contiguous ownership does not extend more than 400 feet beyond the perimeter of the Mixed-Use Community as designated on Map 17.
  3. In 2010 an exception was made to the requirement in Policy 1.4.5 that DR/GR land uses must demonstrate compatibility with maintaining surface and groundwater levels at their historic levels. Under this exception, construction may occur on land designated as a Mixed-Use Community on Map 17 provided the impacts to natural resources, including water levels and wetlands, are offset through appropriate mitigation within Southeast Lee County. Appropriate mitigation for water levels will be based upon site-specific data and modeling acceptable to the Division of Natural Resources. Appropriate wetland mitigation may be provided by preservation of high quality indigenous habitat, restoration or reconnection of historic flowways, connectivity to public conservation lands, restoration of historic ecosystems or other mitigation measures as deemed sufficient by the Division of Environmental Sciences. When possible, it is recommended that wetland mitigation be located within Southeast Lee County. The Land Development Code will be revised to include provisions to implement this policy.
  4. To create walkable neighborhoods that reduce automobile usage and minimize the amount of DR/GR land consumed by development, the Land Development Code will specify how each Mixed-Use Community will provide:

- a. A compact physical form with identifiable centers and edges, with opportunities for shopping and workplaces near residential neighborhoods;
- b. A highly interconnected street network, to disperse traffic and provide convenient routes for pedestrians and bicyclists;
- c. High-quality public spaces, with building facades having windows and doors facing tree-lined streets, plazas, squares, or parks;
- d. Diversity not homogeneity, with a variety of building types, street types, open spaces, and land uses providing for people of all ages and every form of mobility; and
- e. Resiliency and sustainability, allowing adaptation over time to changing economic conditions and broader transportation options.

**POLICY 33.3.3:** Owners of major DR/GR tracts without the ability to construct a Mixed-Use Community on their own land are encouraged to transfer their residential development rights to appropriate Future Urban Areas (see Objective 1.1), such as specifically the Mixed Use Overlay, and the Lehigh Acres Specialized Mixed-Use Nodes, and any Lee Plan designation that allows bonus density (see Table 1(a)), or 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 these ends, Lee County will establish a program that will allow and encourage the transfer of upland and wetland development rights (TDR) to designated TDR receiving areas, appropriate Future Urban Areas or from one landowner to another who wishes to develop a Mixed-Use Community, wishes to exercise these development rights outside the DR/GR areas. This program will also allow limited development 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 required. Each Mixed-Use Community adjoining S.R. 82 must be designed to include non-residential uses not only to serve its residents but also to begin offsetting the shortage of non-residential uses in adjoining Lehigh Acres. At a minimum, each community adjoining S.R. 82 must

designate at least 10% of its developable land into zones for non-residential uses. Specific requirements for incorporating these uses into Mixed-Use Communities will be found are set forth in the Land Development Code.

3. Mixed-Use Communities must be served by central water and wastewater services. All Mixed-Use Communities were added to the future water and sewer service areas for Lee County Utilities (Lee Plan Maps 6 and 7) in 2010. Development approvals for each community are contingent on availability of adequate capacity at the central plants and on developer-provided upgrades to distribution and collection systems to connect to the existing systems. Lee County Utilities has the plant capacity at this time to serve full build-out of all Mixed-Use Communities. Lee County acknowledges that the Three Oaks wastewater treatment plant does not have sufficient capacity to serve all anticipated growth within its future service area through the year 2030. Lee County commits to expand that facility or build an additional facility to meet wastewater demands. One of these improvements will be included in a future capital improvements program to ensure that sufficient capacity will be available to serve the Mixed-Use Communities and the additional development anticipated through the year 2030.
4. Development approvals for Mixed-Use Communities are contingent on adequate capacity in the public school system (see Goal 67).
5. 4 The state has designated S.R. 82 as an "emerging component" of Florida's Strategic Intermodal System, a designation that establishes the levels of service Lee County must adopt for S.R. 82. Lee County will seek to include the Mixed-Use Communities and appropriate adjacent urban areas in a multimodal transportation district to mitigate the effects of SR 82's status as an emerging component of Florida's Strategic Intermodal System. regulatory barriers these levels of service would impose on Lee County's ability to accomplish Objective 33.3 and its policies. As an alternative, Lee County may pursue a comparable mechanism, such as a transportation concurrency exception area, transportation concurrency management area, transportation concurrency backlog area/plan, long-term concurrency management system, or FDOT level-of-service variance, that would achieve similar results. Lee County's planning will include the following steps:
  - a. Actively seek advice, technical assistance, and support from Florida DOT and DCA while formulating the scope of a technical evaluation of a potential multimodal transportation

district that includes the four Mixed-Use Communities adjoining S.R. 82 and appropriate adjacent urban areas.

- b. Conduct the necessary technical studies to determine the potential for substantial trip diversion from Lehigh Acres residents, the viability of transit service to these Mixed-Use Communities and appropriate adjacent urban areas, and the practicality of maintaining the adopted level-of-service standards on S.R. 82.
  - c. Adopt a Lee Plan amendment establishing a multimodal transportation district (or comparable mechanism).
6. Lee County will complete these three steps by 2016. Until step 5.c is adopted, TDR credits may not be redeemed in the Mixed-Use Communities located along S.R. 82. No redemption of TDR credits that will increase dwelling units or non-residential floor area will be permitted, if these increases would cause the adopted level of service for S.R. 82 to be exceeded (see Goal 37). This restriction applies unless a Mixed-Use Community addresses its transportation impacts through the DRI process consistent with F.S. 163.3180(12).
- a. This temporary restriction does not prohibit landowners from concentrating development rights from contiguous DR/GR property under common ownership or control.
  - b. Lee County encourages the creation of TDR credits from Southeast DR/GR lands and the transfer of those credits to all other designated receiving areas, including:
    - (1) Other Mixed-Use Communities;
    - (2) Rural Golf Course Communities;
    - (3) Future Urban Area (see Objective 1.1);
    - (4) Mixed-Use Overlay;
    - (5) Lehigh Acres Specialized Mixed-Use Nodes;
    - (6) Lee Plan designation that allow bonus density (see Table 1(a)); and,
    - (7) Incorporated municipalities that have formally agreed to accept TDR credits.

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

- 1. This program will be in addition to the existing wetland TDR program

described in Article IV of Chapter 2 of the Land Development Code.

- ~~2. The maximum number of DR/GR TDR credits that may be established may not exceed 9,000 credits.~~
32. The preferred receiving locations for the transfer of TDRs are within appropriate designated Future Urban Areas such as due to their proximity to public infrastructure and urban amenities (see Objective 1.1), specifically the Mixed Use Overlay, and the Lehigh Acres Specialized Mixed Use Nodes, and the future urban land use categories that allow bonus density (see Table 1(a)). The only acceptable sites in the DR/GR area for accepting permitted to receive transferred development rights are Mixed-Use Communities or Rural Golf Course Communities as 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 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.~~
3. TDR credits will be available from sending areas as follows:
  - a. One TDR credit may be created for each allowable dwelling unit attributable to sending parcels within the Southeast DR/GR area. As an incentive for permanently protecting indigenous native uplands, one extra dwelling unit will be allowed for each five acres of preserved or restored indigenous native uplands.
  - b. As an additional incentive for protecting certain priority restoration lands (see Policy 33.2.3.2), each TDR credit created pursuant to the preceding subsection will qualify for up to two additional TDR credits if the credits are created from land in Tiers 1, 2, 3 or the southern two miles of Tiers 5, 6 or 7, as shown on the DR/GR Priority Restoration overlay.
4. The maximum number of TDR credits that can be created from the Southeast DR/GR lands is 9,000.
5. No more than 2,000 dwelling units can be placed on receiving parcels within the Southeast DR/GR Mixed-Use Communities through the TDR credit program.



6. TDR Credits may be redeemed in designated TDR receiving areas as follows:
- a. In Mixed-Use Communities in DR/GR areas, each TDR credit may be redeemed for a maximum of one dwelling unit plus a maximum of 800 square feet of non-residential floor area.
  - b. In Rural Golf Course Communities, see Policy 16.2.7.
  - c. In the Future Urban Areas described in paragraph 2. above, each TDR credit may be redeemed for a maximum of two dwelling units. In these Future Urban Areas, the redemption of TDR credits cannot allow densities to exceed the maximum bonus density specified in Table 1(a). TDR credits may not be redeemed for non-residential floor area in these Future Urban Areas.
  - d. Redemption of TDR credits within incorporated municipalities may be allowed where interlocal agreements set forth the specific terms of any allowable transfers and where the redemption allows development that is consistent with the municipality's comprehensive plan. As in the County's Future Urban Areas, each TDR credit may be redeemed for a maximum of two dwelling units.
67. 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;
  - b. Conservation uses only;
  - c. Conservation use and restoration of the property; or
  - d. some combination of the above options.

## XII. GLOSSARY

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 as identified on Map 17 where development rights are concentrated or transferred using the process described under Objective 33.3. 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.

### **SECTION THREE: MAP AMENDMENTS**

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

- a. Map 4: Deleted reference to the proposed Alico Road Extension.
- b. Map 6: Add depictions of all five Mixed Use Communities.
- c. Map 7: Add depictions of all five Mixed Use Communities.
- d. Map 14: Deleted reference to the proposed Alico Road Extension.
- e. Map 17: Deleted reference to the proposed Alico Road Extension.
- f. Map 20: Deleted reference to the proposed Alico Road Extension.
- g. Map 25: Deleted reference to the proposed Alico Road Extension.

### **SECTION FOUR: LEE PLAN TABLE AMENDMENTS**

Amend Table 1(b) to increase the number of commercial acres that can be developed in Southeast Lee County by the year 2030 from 38 acres to 68 acres. Table 1(b) as amended is attached.

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

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

## **SECTION SIX: GEOGRAPHIC APPLICABILITY**

The Lee Plan is applicable throughout the unincorporated area of Lee County, Florida, except in those unincorporated areas included in joint or interlocal agreements with other local governments that specifically provide otherwise.

## **SECTION SEVEN: SEVERABILITY**

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

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

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

## **SECTION NINE: EFFECTIVE DATE**

The plan amendments adopted herein are not effective until a final order is issued by the DCA or Administrative Commission finding the amendment in compliance with Section 163.3184(9), Florida Statutes, or until the Administrative Commission issues a final order determining the adopted amendment to be in compliance in accordance with 163.3184(10), Florida Statutes, whichever occurs earlier. No development orders, development permits, or land uses dependent on this amendment may be issued or commence before the amendment has become effective. If a final order of noncompliance is issued by the Administration Commission, this amendment may nevertheless be made

effective by adoption of a resolution affirming its effective status. A copy of such resolution will be sent to the DCA, Bureau of Local Planning, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

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

John Manning  
Brian Bigelow  
Ray Judah  
Tammara Hall  
Frank Mann

DONE AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2010

ATTEST:  
CHARLIE GREEN, CLERK

LEE COUNTY  
BOARD OF COUNTY COMMISSIONERS

BY: \_\_\_\_\_  
Deputy Clerk

BY: \_\_\_\_\_  
Tammara Hall, Chairwoman

Approved as to form by:

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

EXHIBITS:

- Exhibit A: Map 4
- Exhibit B: Map 6
- Exhibit C: Map 7
- Exhibit D: Map 14
- Exhibit E: Map 17
- Exhibit F: Map 20
- Exhibit G: Map 25
- Exhibit H: Table 1(b)
- Exhibit I: 2010 Stipulated Settlement Agreement, Case No. DOAH 10-2988GM and all attachments.

# PRIVATE RECREATIONAL FACILITIES OVERLAY MAP

## LEGEND

- County Line
- ⊞ City Limits
- Section Lines
- Major Roads
- Minor Roads
- DR/GR perimeter
- ▨ Private Recreational Facilities

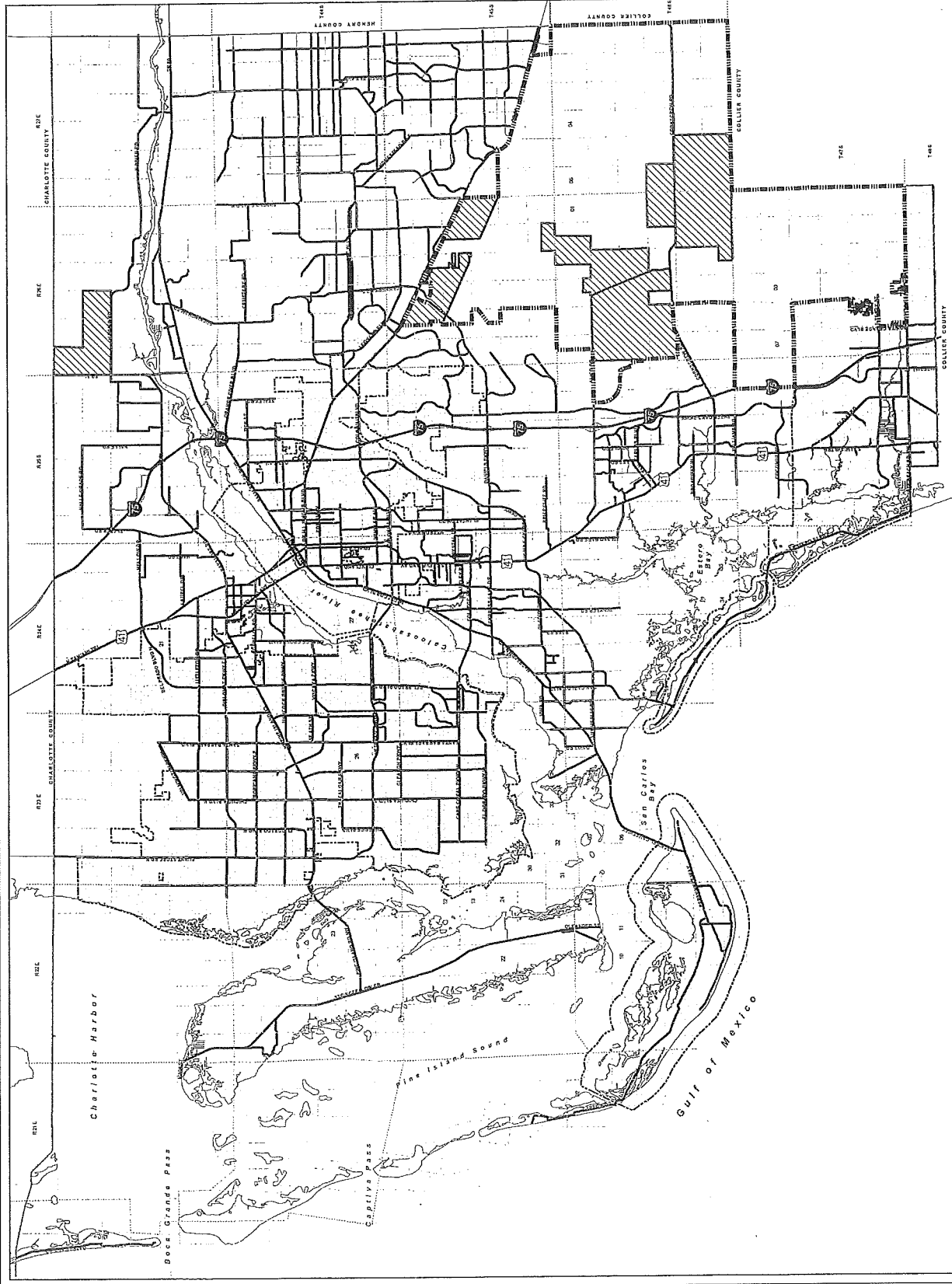
LEE COUNTY  
SOUTHWEST FLORIDA  
DIVISION OF PLANNING



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

Lee Plan Map 4

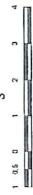
EXHIBIT A



# LEE COUNTY UTILITIES FUTURE WATER SERVICE AREAS

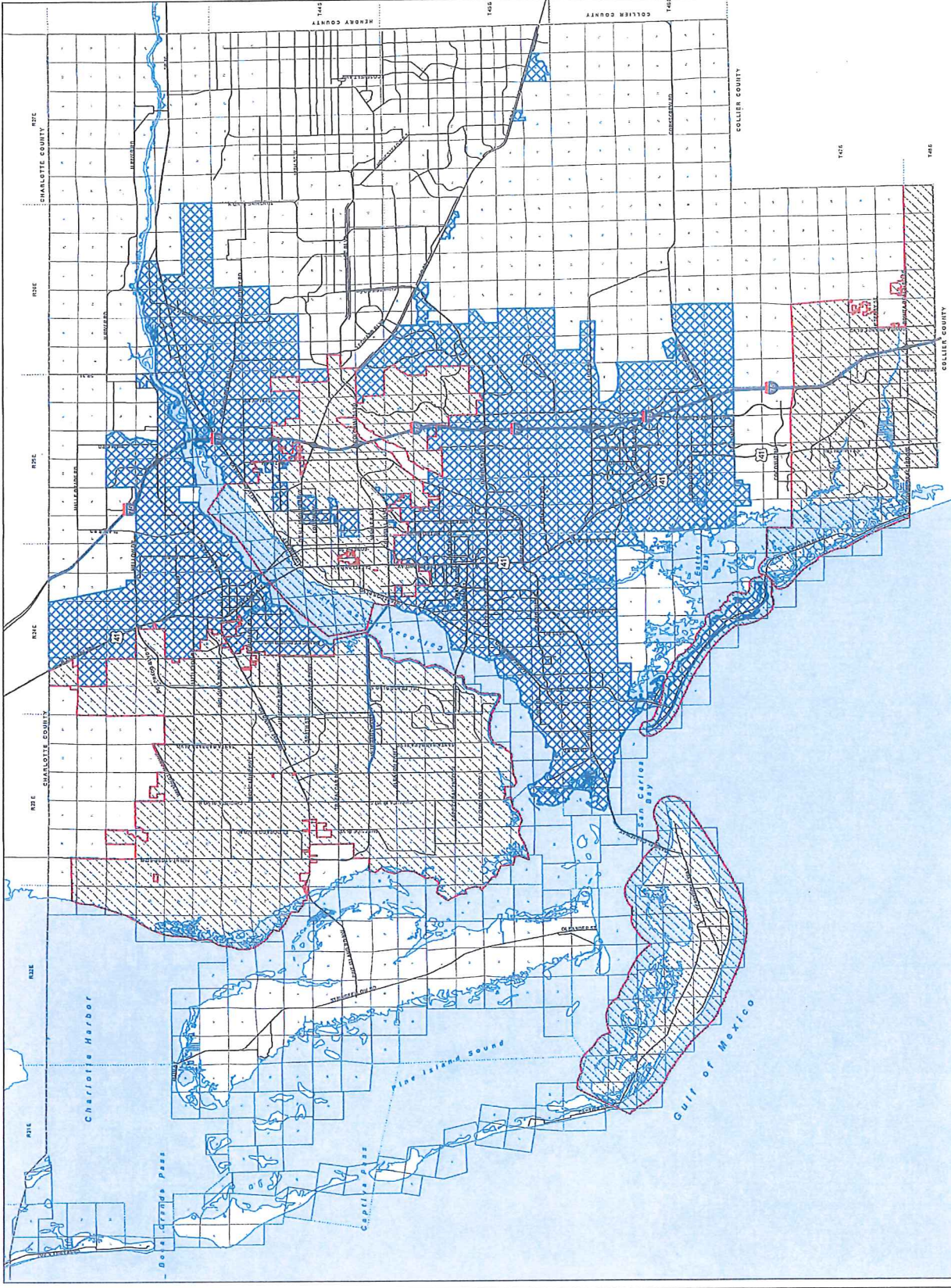
## Legend

-  City Limits
-  Future Water Service Areas



Map Generated: October 2010  
 City Limits current to date of map generation  
 Amended by Ordinance Nos. 00-22, 03-19, 10-06  
 Adopted March 3, 2010  
 Effective Date June 2, 2010

Lee Plan Map 6  
 EXHIBIT B



# LEE COUNTY UTILITIES FUTURE SEWER SERVICE AREAS

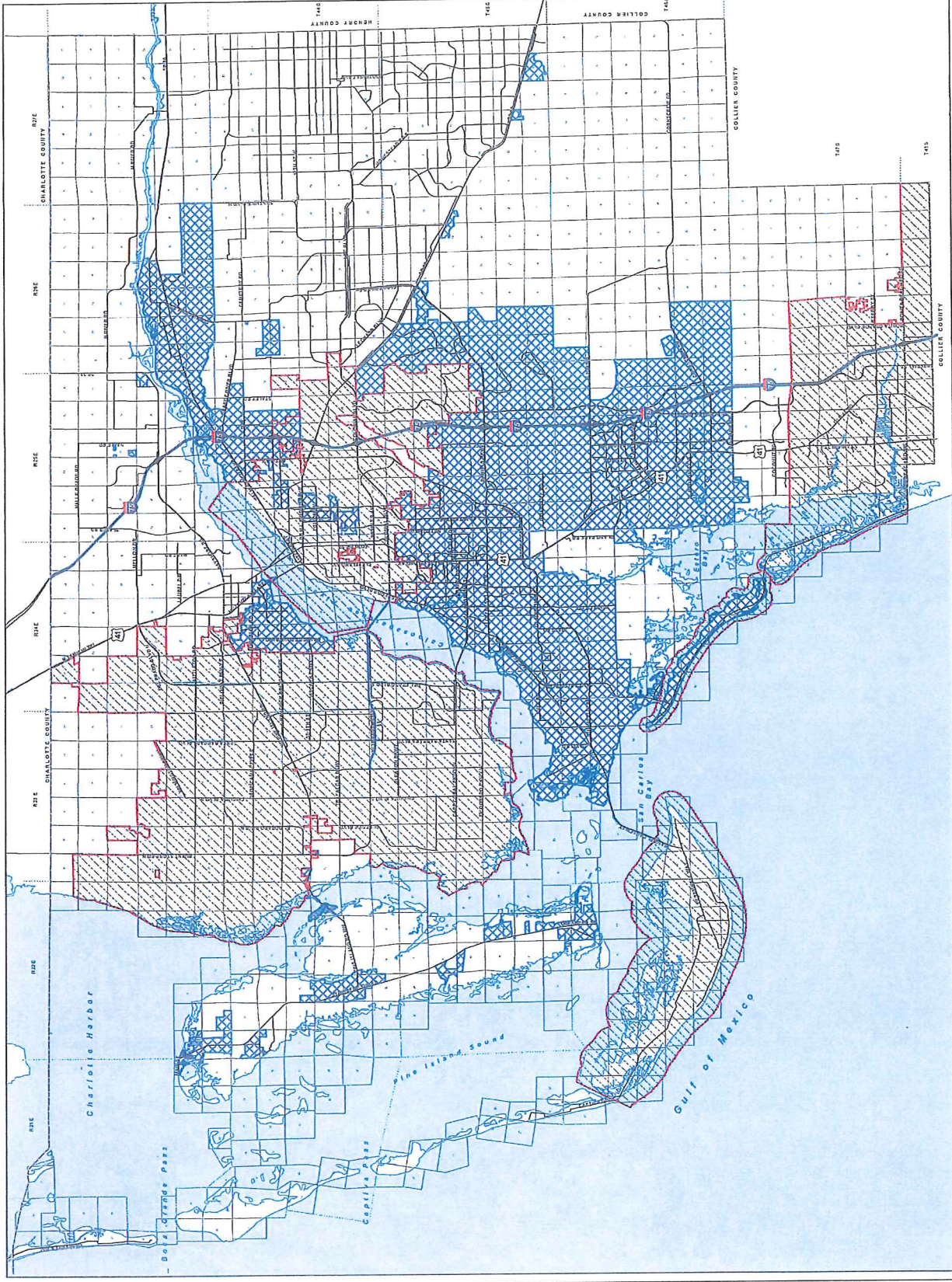
## Legend

-  City Limits
-  Future Sewer Service Areas








Map Generated: October 2010  
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 Amended by Ordinance Nos. 00-22, 03-19, 10-07  
 Adopted March 3, 2010  
 Effective Date June 2, 2010

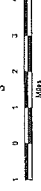
Lee Plan Map 7  
 EXHIBIT C



# FUTURE LIMEROCK MINING OVERLAY

## Legend

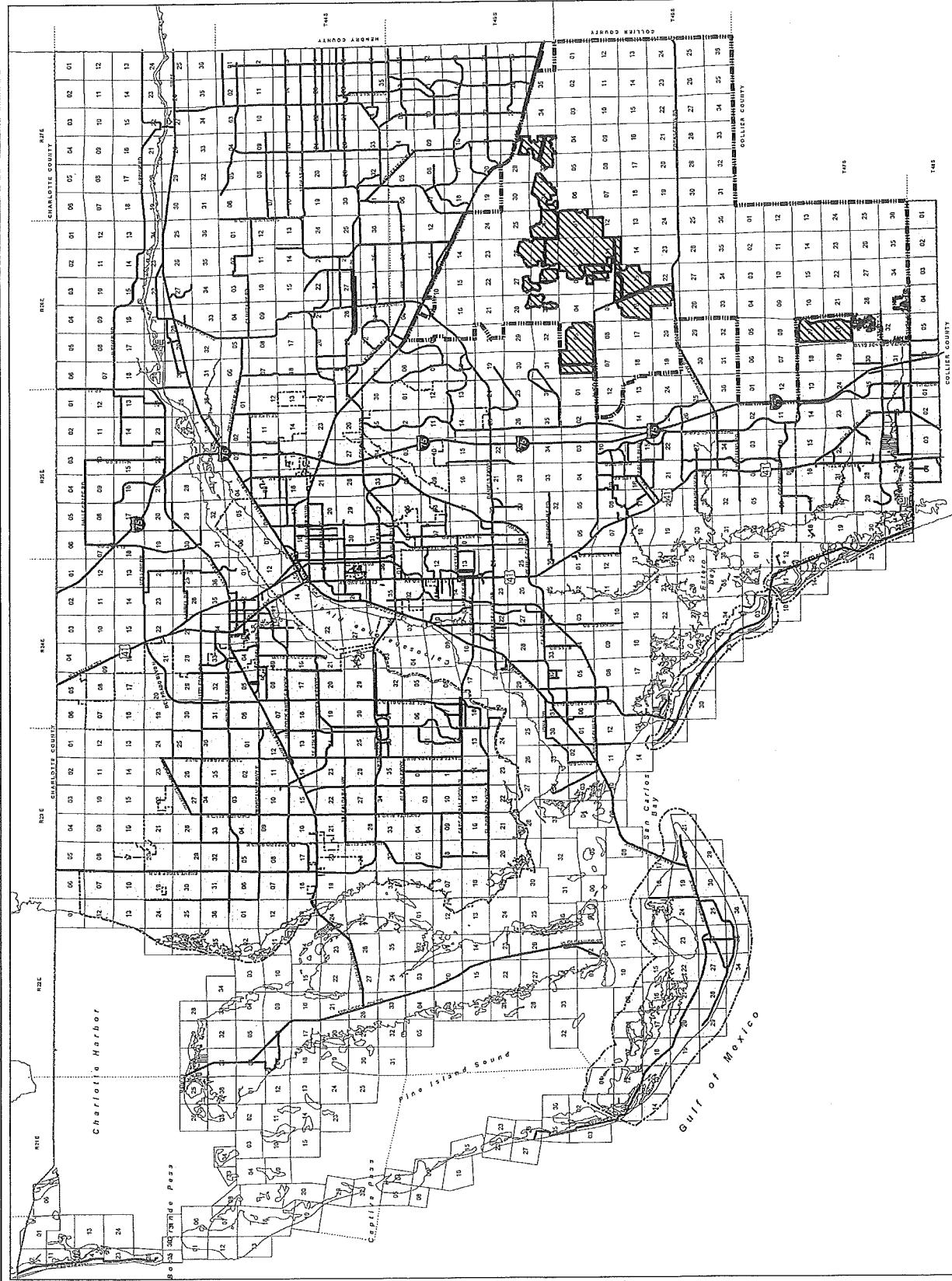
-  Southeast Lee County
-  Future Limerock Mining
-  County Line
-  Major Roads
-  City Limits



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

Lee Plan Map 14










EXHIBIT D





# SOUTHEAST DR/GR RESIDENTIAL OVERLAY

## Legend

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

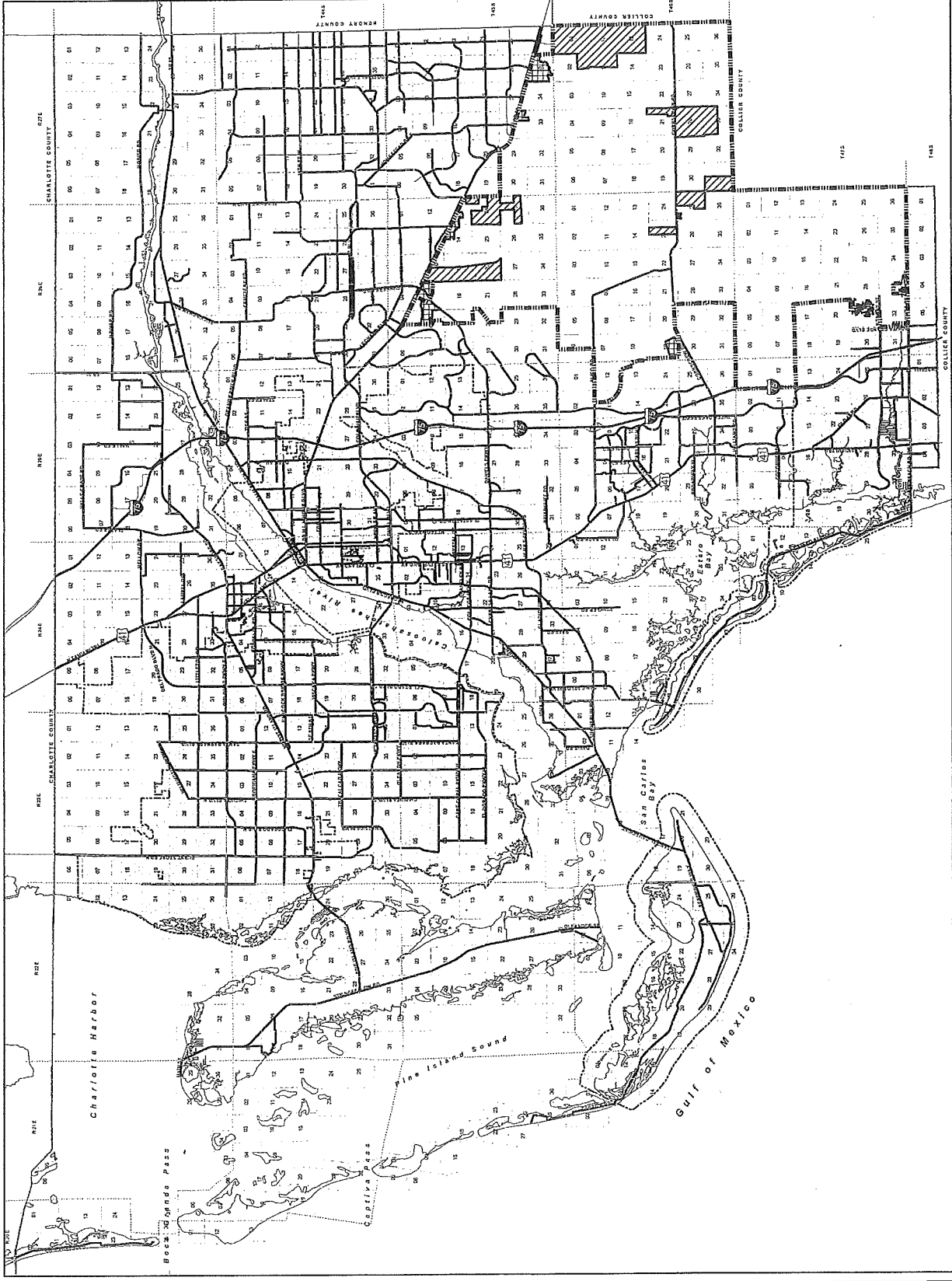
**LEE COUNTY**  
SOUTHWEST FLORIDA  
DIVISION OF PLANNING











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

Lee Plan Map 17

EXHIBIT E



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

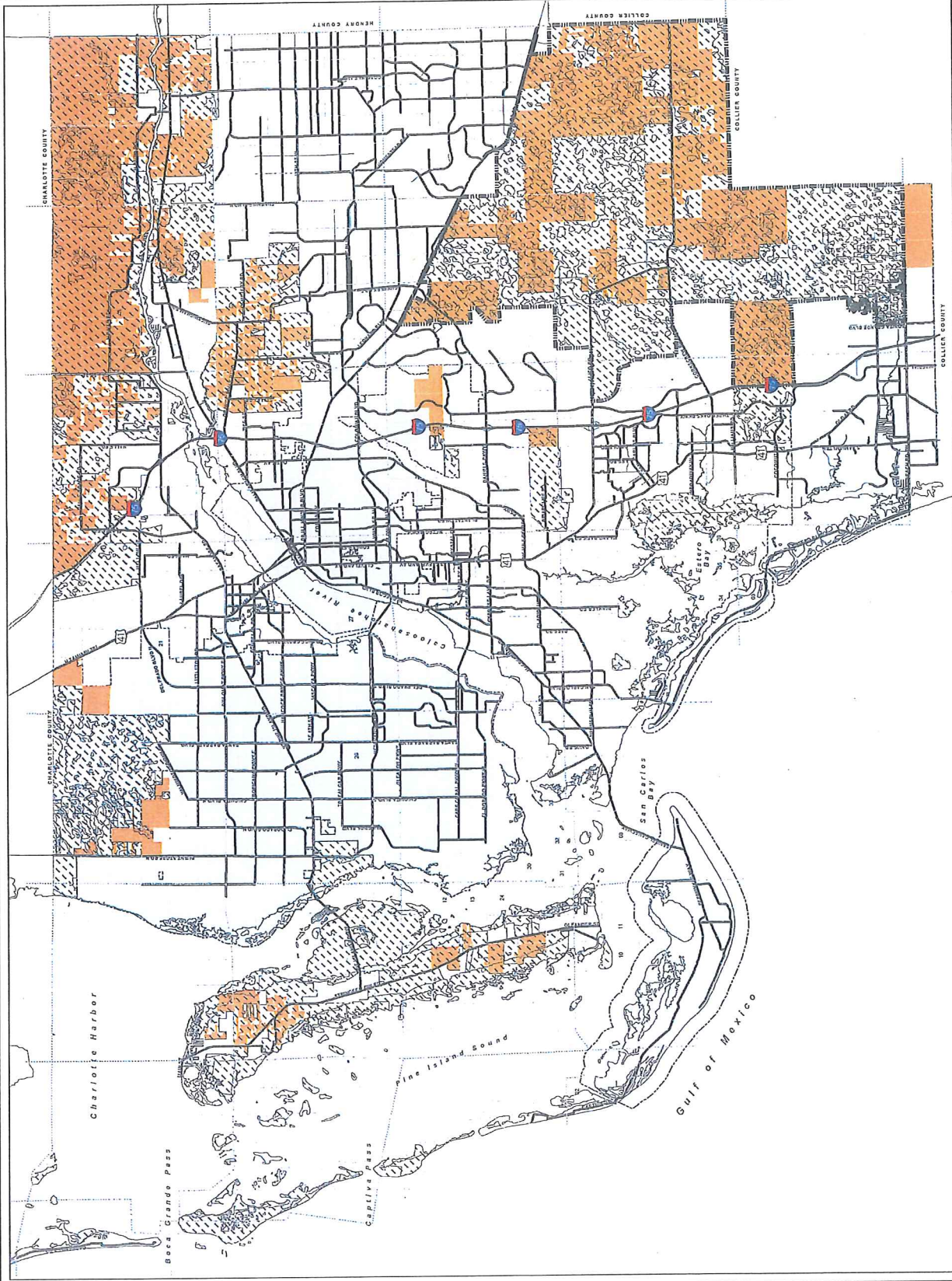
- LEGEND**
-  City Limits
  -  Section Lines
  -  Major Roads
  -  Minor Roads
  -  Southeast Lee County
  -  Agricultural Overlay
  -  Agricultural Areas
  -  Non-Urban Area



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

Lee Plan Map 20

EXHIBIT F



# Historic Surface and Groundwater Levels

## LEGEND

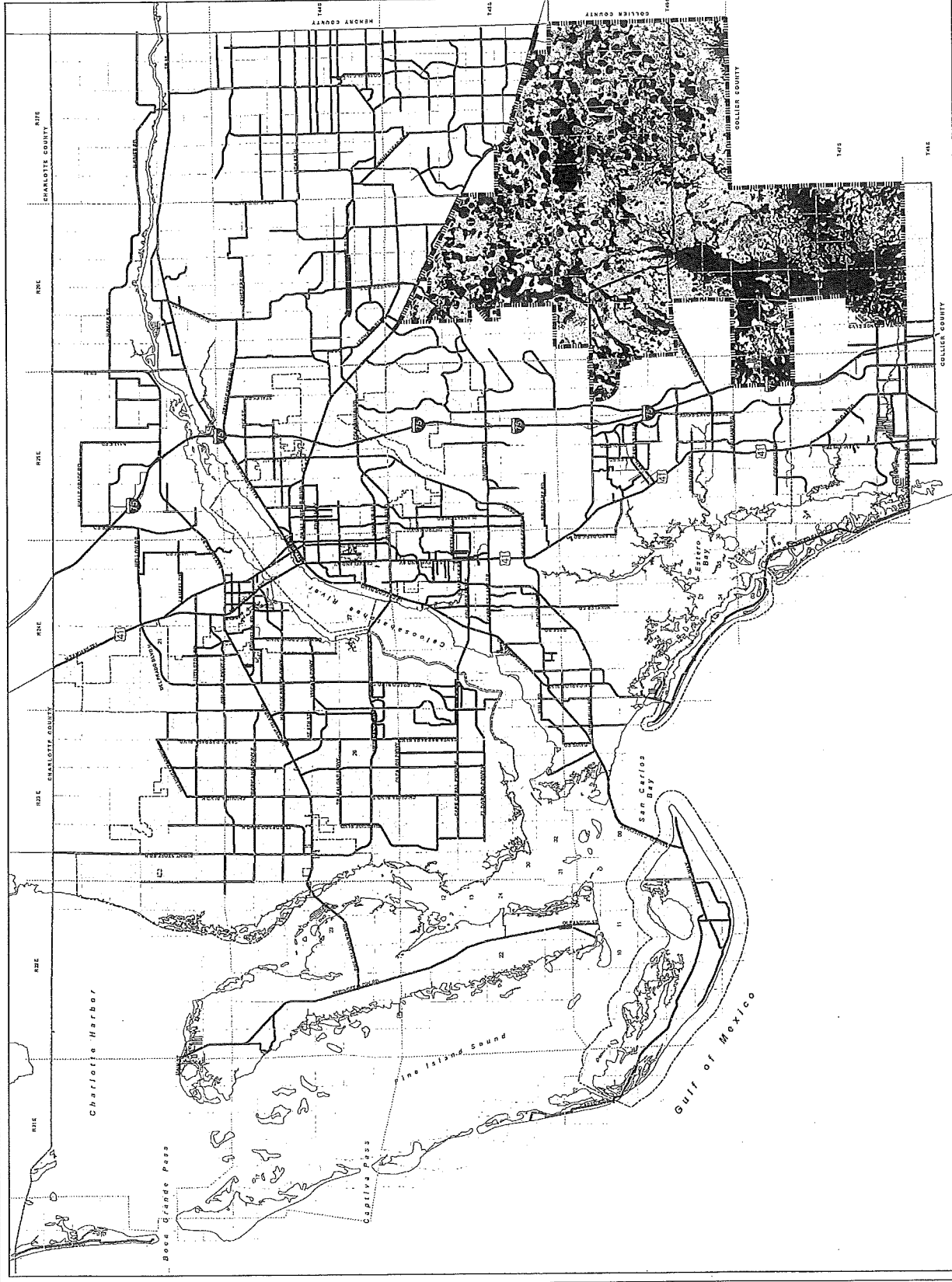
- County Line
- ⊞ City Limits
- Section Lines
- Major Roads
- Minor Roads
- SE Lee County Southeast Lee County
- Historic wet season water depths
  - 0.25' to 0.75' for 1 - 2 Months
  - 0.25' to 0.75' for 1 - 3 Months
  - 0.75' to 1.50' for 4 - 7 Months
  - 1.50' to 2.50' for 7 - 9 Months



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

Lee Plan Map 25

EXHIBIT G



PROPOSED  
TABLE 1(b)  
Year 2030 Allocations

DR/GR - CPA2008-06

Residential By Future Land Use Category	Lee County Totals		Alva	Boca Grande	Bonita Springs	Fort Myers Shores	Burnt Store	Cape Coral	Capitva	Fort Myers Beach	Gateway Airport
	Existing	Proposed									
Intensive Development	1,357	1,357	0	0	0	20	0	27	0	250	0
Central Urban	14,787	14,787	0	0	0	225	0	0	0	230	0
Urban Community	18,225	18,225	520	485	0	637	0	0	0	0	0
Suburban	16,633	16,623	0	0	0	1,810	0	0	0	85	0
Outlying Suburban	4,106	4,105	30	0	0	40	20	2	500	0	0
Sub-Outlying Suburban	1,548	1,548	0	0	0	367	0	0	0	0	0
Industrial Development	79	79	0	0	0	0	0	0	0	39	20
Public Facilities	4	4	0	0	0	0	0	0	1	0	0
University Community	850	850	0	0	0	0	0	0	0	0	0
Destination Resort Mixed Use Water Dependent	8	8	0	0	0	0	0	0	0	0	0
Burnt Store Marina Village	4	4	0	0	0	0	4	0	0	0	0
Industrial Interchange	0	0	0	0	0	0	0	0	0	0	0
General Interchange	42	42	0	0	0	0	0	0	0	0	0
General/Commercial Interchange	0	0	0	0	0	0	0	0	0	0	0
Industrial/Commercial Interchange	0	0	0	0	0	0	0	0	0	0	0
University Village Interchange	0	0	0	0	0	0	0	0	0	0	0
New Community	909	909	0	0	0	0	0	0	0	0	900
Airport	0	0	0	0	0	0	0	0	0	0	0
Tradeport	0	0	0	0	0	0	0	0	0	0	0
Rural	8,313	8,313	1,948	0	0	1,400	636	0	0	0	9
Rural Community Preserve	3,100	3,100	0	0	0	0	0	0	0	0	0
Coastal Rural	1,300	1,300	0	0	0	0	0	0	0	0	0
Outer Islands	202	202	5	0	0	1	0	0	150	0	0
Open Lands	2,805	2,805	250	0	0	0	590	0	0	0	0
Density Reduction/Groundwater Resource	6,935	6,935	711	0	0	0	0	0	0	0	94
Conservation Lands Uplands	0	0	0	0	0	0	0	0	0	0	0
Wetlands	0	0	0	0	0	0	0	0	0	0	0
Conservation Lands Wetlands	0	0	0	0	0	0	0	0	0	0	0
<b>Total Residential</b>	<b>81,373</b>	<b>81,373</b>	<b>3,463</b>	<b>485</b>	<b>0</b>	<b>4,500</b>	<b>1,250</b>	<b>29</b>	<b>651</b>	<b>604</b>	<b>1,023</b>
<b>Commercial</b>	<b>12,793</b>	<b>12,793</b>	<b>57</b>	<b>52</b>	<b>0</b>	<b>400</b>	<b>50</b>	<b>17</b>	<b>125</b>	<b>150</b>	<b>1,100</b>
<b>Industrial **</b>	<b>13,801</b>	<b>13,801</b>	<b>26</b>	<b>3</b>	<b>0</b>	<b>400</b>	<b>5</b>	<b>26</b>	<b>0</b>	<b>300</b>	<b>3,100</b>
<b>Non-Regulatory Allocations</b>											
Public	81,983	81,983	7,100	421	0	2,000	7,000	20	1,961	350	7,500
Active Agriculture	17,776	17,776	5,100	0	0	550	150	0	0	0	0
Passive Agriculture	46,659	46,659	13,549	0	0	2,500	109	0	0	0	1,481
Conservation (wetlands)	81,948	81,948	2,214	611	0	1,142	3,286	133	1,603	748	2,809
Vacant	21,772	21,772	1,953	0	0	226	931	34	0	45	300
<b>Total</b>	<b>352,175</b>	<b>352,175</b>	<b>33,463</b>	<b>1,572</b>	<b>0</b>	<b>11,718</b>	<b>12,731</b>	<b>269</b>	<b>4,340</b>	<b>2,197</b>	<b>17,323</b>
<b>Population for Unincorporated Area of Lee County</b>	<b>469,000</b>	<b>469,000</b>	<b>5,090</b>	<b>1,591</b>	<b>0</b>	<b>30,861</b>	<b>3,270</b>	<b>223</b>	<b>530</b>	<b>5,744</b>	<b>11,562</b>

\* Population for Unincorporated Area of Lee County  
\*\* See Policy 33.1.4

**PROPOSED  
TABLE 1(b)  
Year 2030 Allocations  
DR/GR - CPA2008-06**

Future Land Use Classification	Residential By Future Land Use Category												
	Daniels Parkway	Iona/McGregor	San Carlos	Sanibel	South Fort Myers	Pine Island	Lehigh Acres	Southwest Lee County Existing	Southwest Lee County Proposed	North Fort Myers	Buckingham	Estero	Bayshore
Intensive Development	0	0	0	0	660	3	42	0	0	365	0	0	0
Central Urban	0	375	17	0	3,140	0	8,200	0	0	2,600	0	0	0
Urban Community	0	850	1,000	0	860	500	13,013	0	0	0	110	450	0
Suburban	0	2,488	1,975	0	1,200	675	0	0	0	6,690	0	1,700	0
Outlying Suburban	1,700	377	0	0	0	600	0	0	0	382	0	454	0
Sub-Outlying Suburban	0	0	25	0	0	0	0	0	0	140	66	0	950
Industrial Development	0	5	5	0	10	0	0	0	0	0	0	0	0
Public Facilities	0	0	0	0	0	0	0	0	0	0	0	0	0
University Community	0	0	850	0	0	0	0	0	0	0	0	0	0
Destination Resort Mixed Use Water Dependent	0	8	0	0	0	0	0	0	0	0	0	0	0
Burnt Store Marina Village	0	0	0	0	0	0	0	0	0	0	0	0	0
Industrial Interchange	0	0	0	0	0	0	0	0	0	0	0	0	0
General Interchange	2	0	0	0	0	0	0	45	15	7	0	6	12
General/Commercial Interchange	0	0	0	0	0	0	0	0	0	0	0	0	0
Industrial/Commercial Interchange	0	0	0	0	0	0	0	0	0	0	0	0	0
University Village Interchange	0	0	0	0	0	0	0	0	0	0	0	0	0
New Community	0	0	0	0	0	0	0	0	0	0	0	0	0
Airport	0	0	0	0	0	0	0	0	0	0	0	0	0
Tradeport	0	0	0	0	0	0	0	0	0	0	0	0	0
Rural	1,500	0	90	0	0	190	14	0	0	500	50	635	1,350
Rural Community Preserve	0	0	0	0	0	0	0	0	0	0	3,100	0	0
Coastal Rural	0	0	0	0	0	1,300	0	0	0	0	0	0	0
Outer Islands	0	1	0	0	0	45	0	0	0	0	0	0	0
Open Lands	120	0	0	0	0	0	0	0	0	45	0	0	1,800
Density Reduction/Groundwater Resource	0	0	0	0	0	0	0	4,000	4,000	0	0	0	2,100
Conservation Lands Uplands	0	0	0	0	0	0	0	0	0	0	0	0	0
Wetlands	0	0	0	0	0	0	0	0	0	0	0	0	0
Conservation Lands Wetlands	0	0	0	0	0	0	0	0	0	0	0	0	0
<b>Total Residential</b>	<b>3,322</b>	<b>4,104</b>	<b>3,952</b>	<b>0</b>	<b>5,870</b>	<b>3,313</b>	<b>21,269</b>	<b>4,816</b>	<b>4,015</b>	<b>10,729</b>	<b>3,326</b>	<b>3,245</b>	<b>6,212</b>
<b>Commercial</b>	<b>440</b>	<b>1,100</b>	<b>1,944</b>	<b>0</b>	<b>2,100</b>	<b>226</b>	<b>1,420</b>	<b>38</b>	<b>68</b>	<b>1,667</b>	<b>18</b>	<b>1,700</b>	<b>139</b>
<b>Industrial **</b>	<b>10</b>	<b>320</b>	<b>450</b>	<b>0</b>	<b>900</b>	<b>64</b>	<b>300</b>	<b>7,246</b>	<b>7,246</b>	<b>554</b>	<b>5</b>	<b>87</b>	<b>5</b>
<b>Non-Regulatory Allocations</b>	<b>2,416</b>	<b>3,550</b>	<b>2,660</b>	<b>0</b>	<b>3,500</b>	<b>2,100</b>	<b>15,269</b>	<b>43,900</b>	<b>12,000</b>	<b>4,000</b>	<b>1,486</b>	<b>7,000</b>	<b>1,500</b>
Active Agriculture	20	0	0	0	0	2,400	0	7,920	7,920	200	411	125	900
Passive Agriculture	20	0	0	0	0	815	0	48,000	48,000	1,556	3,619	200	4,000
Conservation (Wetlands)	1,719	9,306	2,798	0	188	14,767	1,541	31,530	31,530	1,317	336	5,068	882
Vacant	20	975	244	0	309	3,761	8,085	600	470	2,060	1,000	809	530
<b>Total</b>	<b>7,967</b>	<b>19,355</b>	<b>12,058</b>	<b>0</b>	<b>12,667</b>	<b>27,466</b>	<b>47,904</b>	<b>81,248</b>	<b>81,248</b>	<b>22,103</b>	<b>10,201</b>	<b>18,234</b>	<b>14,168</b>
Population Distribution*	18,488	34,538	36,963	0	58,363	13,265	164,699	427,400	1,270	70,659	6,177	25,395	8,410

\* Population for Unincorporated Area of Lee County  
\*\* See Policy 33.1.4