

**CPA2008-22  
CONSERVATION LANDS UPDATE  
BoCC SPONSORED  
AMENDMENT TO THE**

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**LEE COUNTY COMPREHENSIVE PLAN**

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**THE LEE PLAN**

**Lee County Board of County Commissioners  
Sponsored Application and Staff Analysis**

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**BoCC Adoption Document**

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**March 3, 2010**

**LEE COUNTY  
DIVISION OF PLANNING  
STAFF REPORT FOR  
COMPREHENSIVE PLAN AMENDMENT  
CPA2008-22**

Text Amendment

Map Amendment

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

STAFF REPORT PREPARATION DATE: August 14, 2009

**PART I - BACKGROUND AND STAFF RECOMMENDATION**

**A. SUMMARY OF APPLICATION**

**1. APPLICANT:**

LEE COUNTY BOARD OF COUNTY COMMISSIONERS  
REPRESENTED BY LEE COUNTY DIVISION OF PLANNING &  
DIVISION OF ENVIRONMENTAL SCIENCES

**2. REQUEST:**

Amend the Future Land Use Map series, Map 1, by updating the Conservation Lands land use categories.

**B. STAFF RECOMMENDATION AND FINDINGS OF FACT SUMMARY:**

**1. RECOMMENDATION:**

Planning staff recommends that the Board of County Commissioners (BOCC) transmit this proposed amendment to reflect updates only to unincorporated Lee County in the Future Land Use Element, Map 1, Future Land Use Map (FLUM) in accordance with proposed Plan amendment CPA2008-20.

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

- The Conservation Lands land use categories were created to accurately depict lands attained for conservation purposes.
- The Lee Plan Future Land Use map currently includes conservation areas owned by various agencies that have been designated as Conservation Lands.
- The citizens of Lee County approved (a non-binding referendum) the Conservation 2020 Program establishing an ad valorem tax to purchase lands for conservation purposes.
- Through the Conservation 2020 Program Lee County has acquired 22,493± acres for the purchased amount of \$251,501,729 as of February 18, 2009.
- Currently, 16% or 62,810 ± acres of unincorporated Lee County is designated in the Conservation future land use categories.
- On October 16, 2008, The Conservation Lands Acquisition and Stewardship Advisory Committee (CLASAC) recommended approval of the inclusion of 1,911+ acres, which encompasses 18 acquired nominations that have management plans, to the conservation land use categories.
- On February 18, 2009, the Department of Environmental Protection (DEP) State Lands Division agreed to include 203± acres into the conservation land use categories.
- On April 28, 2009, the South Florida Water Management District (SFWMD) agreed to include 1,327+ acres within the Density Reduction/Groundwater Resource (DR/GR) area, into the conservation land use categories.
- Previous amendments incorrectly designated properties as “Conservation Lands”. These parcels encompass 30± acres and are proposed to be removed through this amendment.
- The Conservation Lands designation gives the County a competitive edge in obtaining grants for the Conservation 2020 Program, from such sources as the Florida Community Trust, and the Greenways and Trails grant programs, through demonstrating Lee County’s commitment to preserving large parcels as natural areas.

## **C. BACKGROUND INFORMATION**

### **1. COMPREHENSIVE PLAN BACKGROUND**

On June 3, 1998, the BOCC adopted Lee Plan Policy 1.4.6 to create the Conservation Lands category and classified approximately 50,000 acres in this FLUM category, by adopting comprehensive plan amendment PAMT96-08. On January 10, 2002, the BOCC adopted amendment CPA2000-09 that included additional new language for Lee Plan Policy 1.4.6.

The FLUM was revised annually from 2002 to 2004 to update the Conservation Lands categories. Map amendments CPA2000-09, CPA2001-15 and CPA2002-08 changed the land uses of 21,359 acres purchased by the Conservation 2020 Program, the State of Florida and the Calusa Land Trust. The annual amendments were postponed until the Evaluation and Appraisal Report (EAR) was completed.

The FLUM was again revised annually from 2007 to 2009 to update the Conservation Lands categories. Map amendments CPA2005-28 and CPA2006-26 changed the land uses of 8,530 acres purchased by the County through the Conservation 2020 program, purchased by Calusa Land Trust, developments within the City of Fort Myers for conservation easement purposes, and lands acquired for mitigation purposes.

## **PART II - STAFF ANALYSIS**

### **A. STAFF DISCUSSION**

#### **1. INTENT OF PLAN AND MAP AMENDMENT**

The Conservation Lands FLUM category is for lands that are primarily used to conserve important natural resources, environmentally sensitive areas, significant archeological or historical resources, or other conservation uses. Conservation Lands typically include such uses as wildlife preserves; large wetland and upland mitigation areas and banks; natural resource based parks; and, water conservation lands such as aquifer recharge areas, flowways, flood prone areas, and well fields.

#### **2. LANDS TO BE RECLASSIFIED**

This amendment contains lands acquired by the County through the Conservation 2020 program, by the DEP through the Florida Forever Program, and SFWMD through mitigation lands. This amendment also removes lands included in the conservation lands category that were incorrectly designated or have non-compliant uses.

##### **A. CONSERVATION 2020 PROPERTIES**

The CLASAC was established by Ordinance 96-12 to develop and implement a conservation land acquisition and stewardship program (known as the Conservation 2020 Program). After meetings with CLASAC Management Subcommittee on September 22, 2008 and the regular CLASAC committee on October 16, 2008, CLASAC recommended approval of the inclusion of 1,911+ acres, which encompasses 18 acquired nominations that have management plans, to the conservation land use categories. The subject properties are classified as Density Reduction/Groundwater Resource, Urban Community, Suburban, Rural Community, Rural, Coastal Rural, Open Lands, and Wetlands. Exhibit A of this report shows the Future Land Use Categories for each individual parcel that is proposed to be converted to the Conservation Lands category.

##### **B. DEP PROPERTIES**

The Florida Forever program encompasses a wide range of goals, including: restoration of damaged environmental systems; water resource development and supply; increased public access; public lands management and maintenance; and,

increased protection of land by acquisition of conservation easements. On February 18, 2009, DEP, TIITF (Trustees of the Internal Improvement Trust Fund) State Lands Division, agreed to include 203+ acres into the conservation land use categories. The subject properties are classified as Outer Islands and Wetlands Future Land Use Categories. Exhibit A of this report shows the Future Land Use Categories for each individual parcel that is proposed to be converted to the Conservation Lands category.

**C. SFWMD PROPERTIES**

The SFWMD has purchased and accepted lands within the DR/GR area for mitigation purposes. Restoration and management activities include wetland creation, prescribed burning, and exotic plant control. On April 28, 2009, the SFWMD agreed to include 1,327+ acres within the DR/GR area, into the conservation land use categories. The subject properties are classified as Density Reduction/ Groundwater Resource and Wetlands Future Land Use Categories. Exhibit A of this report shows the Future Land Use Categories for each individual parcel that is proposed to be converted to the Conservation Lands category.

**D. REMOVAL PROPERTIES**

The subject properties encompass 30+ acres and are classified as Conservation Uplands and Wetlands Future Land Use Categories. Exhibit A of this report shows the existing Future Land Use Categories for each individual parcel and the proposed conversion category.

- **Boca Bay Master Association Access Road** - Public Facilities category
- **Wingate Property** - Outer Island category
- **Payton Property** - Outlying Suburban category
- **Deczege Properties** - Urban Community category
- **Lee County Property (Boca Grande Ballfield Site)** - Public Facilities category (only on ball fields and mosquito control area)
- **San Carlos Holdings Property** - Wetlands category
- **Howe Property** - Wetlands category
- **Burges Property** - Wetlands category

**3. LANDS TO BE RECLASSIFIED WITHIN MUNICIPALITIES RECOMMENDED IF CPA2008-20 IS NOT APPROVED:**

**A. CONSERVATION 2020 PROPERTIES**

October 16, 2008, CLASAC recommended approval of the inclusion of 198+ acres, which encompasses 5 acquired nominations that have management plans, to the conservation land use categories. The subject properties are classified as Rural, Mixed Residential, Outlying Suburban and Central Urban. Exhibit A of this report shows the Future Land Use Categories for each individual parcel that is proposed to be converted to the Conservation Lands category.

**B. DEP PROPERTIES**

On February 18, 2009, the DEP State Lands Division agreed to include 21+ acres into the conservation land use categories. The subject properties are classified as Wetlands Future Land Use Categories. Exhibit A of this report shows the Future Land Use Categories for each individual parcel that is proposed to be converted to the Conservation Lands category

**C. REMOVAL PROPERTIES**

The subject properties encompass 476± acres and are classified as Conservation Uplands and Wetlands Future Land Use Categories. Exhibit A of this report shows the existing Future Land Use Categories for each individual parcel and the proposed conversion category.

- **Cape Winds Properties** - Outlying Suburban category
- **Lee County Property (Boston Red Sox Players Development Facility)** - Public Facilities category
- **Resource Conservation Property** - Public Facilities category
- **City of Fort Myers Property** - Public Facilities category
- **Chacko-Amma Property** - Outlying Suburban category
- **Kraner Property** - Wetlands category

**4. ALLOWABLE USES AND ACTIVITIES**

Conservation Lands are properties purchased and used primarily for the conservation of natural resources. Uses and activities should be compatible with this overall objective and must comply with all applicable federal, state, and local government requirements and conditions.

The allowable uses within the Conservation Lands categories are determined by the entity owning each parcel and/or the government agency having management authority so long as such activities comply with applicable federal, regional, state, and local regulations. Examples of activities which are currently occurring on identified public conservation lands include but are not limited to:

1. Public education activities including research centers, interpretive centers, historical buildings, archaeological sites, guided nature walks, educational kiosks, educational programs, signage, and other associated facilities.
2. Natural resource enhancement, restoration and management activities such as fencing, prescribed burning, invasive exotic plant removal, wetlands restoration, and other similar activities.
3. Resource based recreation activities such as picnicking, hiking, canoeing, horseback riding, bicycle riding, camping, nature study, and associated facilities.
4. Public utility facilities associated with water conservation, public water supply, and water quality such as public well fields, water and wastewater treatment facilities, and effluent reuse and disposal systems.

5. Native range for cattle grazing as a management tool only.

**5. ZONING**

Currently the subject properties have many different zoning classifications. The most appropriate zoning district for Conservation Lands is the Environmentally Critical District (EC) (Sections 34-981 to 34-984, Land Development Code). Lee County may elect to rezone conservation lands to this zoning district if more restrictive land use regulations are desired.

**6. WETLANDS**

The Lee Plan has traditionally shown wetlands as a separate land use category with specific wetland protection policies. The wetlands category provides an accounting of the total wetlands in Lee County to comply with Rule 9J-5.006(1)(b)4., F.A.C. Wetlands will be identified as Conservation Lands to effectively account for, connect, enlarge, conserve, and provide long range management for natural resource conservation areas in Lee County. For planning purposes, wetlands in conservation lands will be subject to the land use policies of both the Wetlands and the Conservation Lands categories. If there is a conflict in land use policies, the more restrictive policy will apply.

**7. GRANTS**

The Conservation Lands designation gives the County a competitive edge in obtaining grants from such sources as the Florida Community Trust and Greenways and Trails grant programs. According to Rule 9K-4, pre-acquired lands are eligible for a grant through the Florida Community Trust within one year of purchase. The ranking criteria for the Florida Community Trust allocates 70 points out of a total 315 points to the comprehensive plan component.

**B. CONCLUSIONS**

Placement of the lands acquired through the Conservation 2020 Program, Florida Forever Program and SFWMD mitigation, into the Conservation Lands category is consistent with Objective 1.4, Policy 1.4.6, Goal 104, and Policy 104.1.2 of the Comprehensive Plan and Ordinance 96-12.

**C. STAFF RECOMMENDATION**

Planning staff recommends that the BOCC transmit the proposed amendment to amend the FLUM series to include in the Conservation Lands categories those lands acquired by the County through the Conservation 2020 program, by the DEP State Lands Division through the Florida Forever Program, and SFWMD through mitigation lands. Staff also recommends the removal of properties that were incorrectly designated as "Conservation Lands". These properties are to reflect only unincorporated Lee County in the Future Land Use Element, Map 1, FLUM in accordance with the proposed plan amendment CPA2008-20.

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

DATE OF PUBLIC HEARING: August 24, 2009

**A. LOCAL PLANNING AGENCY REVIEW:** Environmental Sciences staff gave a brief summary of the proposed amendment. There was no comment or questions from LPA or the public concerning the amendment.

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

1. **RECOMMENDATION:** The Local Planning Agency recommends that the Board of County Commissioners transmit the proposed amendment.
  
2. **BASIS AND RECOMMENDED FINDINGS OF FACT:** The Local Planning Agency accepted the findings of fact as advanced by staff.

**C. VOTE:**

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



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

DATE OF TRANSMITTAL HEARING: September 23, 2009

**A. BOARD REVIEW:** An errata sheet was presented to the Board of County Commissioners for a data entry error regarding the Boca Grande Ball Field site. The document revised the eastern portion of the parcel to remain “Conservation Wetlands” rather than the proposed change of “Wetlands”. This errata sheet and amendment was transmitted as part of the consent agenda. The Board of County Commissioners did not pull this amendment from the consent agenda for discussion. There was no public comment concerning the amendment change.

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

- 1. BOARD ACTION:** The Board of County Commissioners voted unanimously to transmit the proposed amendment as a part of the consent agenda.
  
- 2. BASIS AND RECOMMENDED FINDINGS OF FACT:** The Board of County Commissioners accepted the findings of fact as advanced by the staff and the local planning agency.

**C. VOTE:**

<b>BRIAN BIGELOW</b>	<u>          </u> <b>AYE</b>
<b>TAMMARA HALL</b>	<u>          </u> <b>AYE</b>
<b>ROBERT P. JANES</b>	<u>          </u> <b>AYE</b>
<b>RAY JUDAH</b>	<u>          </u> <b>AYE</b>
<b>FRANK MANN</b>	<u>          </u> <b>AYE</b>

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

DATE OF ORC REPORT: January 15, 2010

**A. DCA OBJECTIONS, RECOMMENDATIONS AND COMMENTS**

The DCA had no objections, recommendations, or comments concerning this amendment.

**B. STAFF RECOMMENDATION**

Adopt the amendment as transmitted.

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

DATE OF ADOPTION HEARING: March 3, 2010

**A. BOARD REVIEW:**

This plan amendment was approved as part of the consent agenda. The Board provided no discussion concerning the proposed plan amendment. No members of the public commented on the proposed amendment.

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

**1. BOARD ACTION:**

The Board of County Commissioners adopted the proposed plan amendment.

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

The Board of County Commissioners accepted the finding of facts as advanced by Staff and the LPA.

**C. VOTE:**

<b>BRIAN BIGELOW</b>	<u>AYE</u>
<b>TAMMARA HALL</b>	<u>AYE</u>
<b>ROBERT P. JANES</b>	<u>AYE</u>
<b>RAY JUDAH</b>	<u>AYE</u>
<b>FRANK MANN</b>	<u>AYE</u>