

**CPA2009-08  
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 Hearing Document  
for the  
October 20th, 2010 Adoption Hearing**

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**October 6th, 2010**

**DIVISION OF PLANNING  
STAFF REPORT FOR  
COMPREHENSIVE PLAN AMENDMENT  
CPA2009-08**

Text Amendment

Map Amendment

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

STAFF REPORT PREPARATION DATE: May 14, 2010

**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 to unincorporated Lee County in the Future Land Use Element, Map 1, Future Land Use Map (FLUM).

**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 22,820± acres for the purchased amount of \$260,038,229 as of April 22, 2010.
- Currently, 17% or 66,221 ± acres of unincorporated Lee County is designated in the Conservation future land use categories.
- On September 10, 2009, The Conservation Lands Acquisition and Stewardship Advisory Committee (CLASAC) recommended approval of the inclusion of 10± acres, which encompasses 1 acquired nomination, to the conservation land use categories.
- On January 8, 2010 Lee County Environmental Sciences staff agreed to include 11± acres located in the Shell Point area, into the conservation land use categories.
- On January 22, 2010, Lee County, County Lands staff agreed to include 35± acres within the CREW Trust Lands, into the conservation land use categories.
- On February 11, 2010, the Department of Environmental Protection (DEP) State Lands Division agreed to include 152± acres into the conservation land use categories.
- On March 24, 2010, Lee County, Parks and Recreation staff agreed to include 22± acres within the Hickey Creek Greenbriar Preserve, into the conservation land use categories.
- On April 22, 2010, the East County Water Control District (ECWCD) agreed to include 7± acres within the Hickey Creek Greenbriar Preserve, into the conservation land use categories.
- 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 2010 to update the Conservation Lands categories. Map amendments CPA2005-28, CPA2006-26 and CPA2008-22 changed the land uses of 11,943 acres purchased by the County through the Conservation 2020 program, Department of Environmental Protection (DEP), South Florida Water Management District (SFWMD), 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, Parks and Recreation, Environmental Sciences and County Lands. Also included are lands acquired by DEP through the Florida Forever Program and ECWCD for the protection of natural resources.

##### **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 August 26, 2009 and the regular CLASAC committee on September 10, 2009, CLASAC recommended approval of the inclusion of 10± acres, which encompasses 1 acquired nomination, to the conservation land use categories. The subject property is classified as Coastal Rural. 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. LEE COUNTY PROPERTIES**

Through mitigation and conservation efforts Lee County local entities have acquired lands within the Hickey Creek Greenbriar Preserve, Shell Point area, and CREW Trust Lands. These subject properties are classified as Urban Community, DR/GR, 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.

On January 22, 2010, Lee County, County Lands agreed to include 35± acres within the CREW Trust Lands, into the conservation land use categories.

On March 24, 2010, Lee County, Parks and Recreation agreed to include 22± acres within the Hickey Creek Greenbriar Preserve into the conservation land use categories.

On January 8, 2010 Lee County Environmental Sciences staff agreed to include 11± acres located in the Shell Point area, into the conservation land use categories.

**c. 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 11, 2010, DEP, TIITF (Trustees of the Internal Improvement Trust Fund) State Lands Division, agreed to include 152± acres into the conservation land use categories. The subject properties are classified as Outer Islands, DR/GR 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. ECWCD PROPERTIES**

The ECWCD has purchased and accepted lands within East Lee County for conservation and management of the communities natural resources. Restoration and management actives include natural ecosystem creation to improve water quality, and provide viable habitat for wildlife and recreation opportunities for residents. On April 22, 2010, the ECWCD agreed to include 7± acres within the Hickey Creek Greenbriar Preserve, into the conservation land use categories. The subject properties are classified as Urban Community 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.

**3. 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.

#### **4. 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.

#### **5. 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.

#### **6. 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, Parks and Recreation, County Lands, Environmental Sciences, ECWCD, and by DEP, 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, Parks and Recreation, County Lands, Environmental Sciences, ECWCD, and by the DEP State Lands Division through the Florida Forever Program. These properties are to reflect unincorporated Lee County in the Future Land Use Element, Map 1, FLUM.

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

DATE OF PUBLIC HEARING: May 24, 2010

CONTINUED: June 7, 2010

**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>WAYNE DALTRY</b>	<b>AYE</b>



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

DATE OF TRANSMITTAL HEARING: June 16, 2010

**A. BOARD REVIEW:** The proposed amendment was scheduled on the Board's consent agenda. The Board provided no discussion concerning the proposed amendment. No members of the public addressed the proposed amendment.

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

- 1. BOARD ACTION:** The Board voted to transmit the proposed amendment.
  
- 2. BASIS AND RECOMMENDED FINDINGS OF FACT:** The Board accepted the findings of fact advanced by the staff and the Local Planning Agency.

**C. VOTE:**

<b>BRIAN BIGELOW</b>	<u>AYE</u>
<b>TAMMARA HALL</b>	<u>AYE</u>
<b>VACANT</b>	<u> </u>
<b>RAY JUDAH</b>	<u>AYE</u>
<b>FRANK MANN</b>	<u>AYE</u>

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

DATE OF ORC REPORT: August 27, 2010

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

The Florida Department of Community Affairs provided no objections, recommendations, or comments concerning this amendment.

**B. STAFF RESPONSE**

Staff recommends that the Board of County Commissioners adopt the amendment as transmitted.

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

DATE OF ADOPTION HEARING: October 20, 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**

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**TAMMARA HALL**

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**RAY JUDAH**

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**FRANK MANN**

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**JOHN MANNING**

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