

**CPA2010-12  
CONSERVATION LANDS UPDATE  
BOCC SPONSORED  
AMENDMENT TO THE**

---

**LEE COUNTY COMPREHENSIVE PLAN**

---

**THE LEE PLAN**

Lee County Board of County Commissioners  
Sponsored Amendment and Staff Analysis

---

**BoCC Adoption Document**

---

*Lee County Planning Division  
1500 Monroe Street  
P.O. Box 398  
Fort Myers, FL 33902-0398  
(239) 533-8585*

**September 28, 2011**

**LEE COUNTY  
DIVISION OF PLANNING  
STAFF REPORT FOR  
COMPREHENSIVE PLAN AMENDMENT  
CPA2010-12**

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 Review Agencies' Comments</b>
✓	<b>Board of County Commissioners Hearing for Adoption</b>

STAFF REPORT PREPARATION DATE: April 13, 2011

**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 land use categories.

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

**1. RECOMMENDATION:**

Planning staff recommends that the Board of County Commissioners (BOCC) adopt this proposed amendment to reflect updates to unincorporated Lee County in the Future Land Use Element Map, 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 24,039± acres for the purchased amount of \$295,866,051 as of March 11, 2011.
- Currently, 17% or 66,458± acres of unincorporated Lee County are designated in the Conservation future land use categories.
- On February 11, 2011, The Florida Audubon Society agreed to include 27± acres into the conservation land use categories.
- On February 28, 2011, The Department of Environmental Protection (DEP) agreed to include 123± acres into the conservation land use categories.
- On March 1, 2011, The Sanibel-Captiva Conservation Foundation agreed to include 351± acres into the conservation land use categories.
- On March 4, 2011, Lee County Parks and Recreation agreed to include 28± acres into the conservation land use categories.
- On March 16, 2011, The Calusa Land Trust agreed to include 30± acres into the conservation land use categories.
- Previous amendments incorrectly designated properties as “Conservation Lands”. These parcels encompass 72± 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 2002-2004 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, CPA2008-22, and CPA2009-08 changed the land uses of 12,180 acres purchased by the County through Conservation 2020 Program, DEP, South Florida Water Management District (SFWMD), Calusa Land Trust, East County Water Control District (ECWCD) 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 as wildlife preserves; large wetland and upland mitigation areas and banks; natural resource based parks; and, water conservation lands such as aquifer recharge areas, flow ways, flood prone areas, and well fields.

#### **2. LANDS TO BE CLASSIFIED**

This amendment contains lands acquired by The Florida Audubon Society, DEP through the Florida Forever Program, Sanibel-Captiva Conservation Foundation, Lee County Parks and Recreation, and Calusa Land Trust.

##### **A. FLORIDA AUDUBON SOCIETY**

The mission of Audubon of Florida and National Audubon is to conserve and restore natural ecosystems, focusing on birds and other wildlife for the benefit of humanity and the earth's biological diversity. On February 11, 2011, The Florida Audubon Society agreed to include 27± acres into the conservation land use categories. These subject properties are classified as 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 28, 2011, DEP, TIITF (Trustees of the Internal Improvement Trust Fund) State Lands Division, agreed to include 123± acres into the conservation land use categories. The subject properties are classified as Outer Islands Future Land Use Category. 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. SANIBEL-CAPTIVA CONSERVATION FOUNDATION PROPERTIES**

The Sanibel-Captiva Conservation Foundation is dedicated to the conservation of coastal habitats and aquatic resources on Sanibel and Captiva and in the surrounding watershed. On March 1, 2011, Sanibel-Captiva Conservation Foundation agreed to include 351± acres into the conservation land use categories. These subject properties are classified as Wetlands and Outer Island. 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. LEE COUNTY PROPERTIES**

Through mitigation and conservation efforts Lee County Parks and Recreation have acquired lands adjacent to the Caloosahatchee River known as Morse Shores Preserve and an out parcel located on North Captiva. On March 4, 2011, Lee County Parks and Recreation agreed to include 28± acres into the conservation land use categories.

These subject properties are classified as Outer Island 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.

## **E. CALUSA LAND TRUST PROPERTIES**

The Calusa Land Trust is a nonprofit environmental group, which has volunteers who donate their time, talent, and financial support to protect natural resources. The purpose of the Calusa Land Trust is to protect the natural diversity and beauty of the Pine Island region by acquiring, managing and preserving in perpetuity environmentally sensitive or historically important land and to foster appreciation for and understanding of the environmental and our past. On March 16, 2011, Calusa Land Trust agreed to include 30± acres into the conservation land use categories. These subject properties are classified as Wetlands, Outer Island, Coastal Rural, and Outlying Suburban. 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.

## **F. REMOVAL PROPERTIES**

The subject properties encompass 72± 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.

- Scott Properties – Wetlands 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, and 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 Environmental 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 Land to effectively account for, connect, enlarge, conserve, and provide long range management for natural resource conservation areas in Lee County. For planning purposes, wetland 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 Greenway 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 allocate 70 points out of a total 315 to the comprehensive plan component.

### **B. CONCLUSIONS**

Placement of the lands acquired through The Florida Audubon Society, DEP, Sanibel-Captiva Conservation Foundation, Lee County Parks and Recreation, and Calusa Land Trust, into the Conservation Lands category is consistent with Objective 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 Florida Audubon Society, DEP, Sanibel-Captiva Conservation Foundation, Lee County Parks and Recreation, and Calusa Land Trust. Staff also recommends the removal of properties that were incorrectly designated as "Conservation Lands". 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: April 25, 2011

**A. LOCAL PLANNING AGENCY REVIEW:**

Environmental Sciences staff gave a brief summary of the proposed amendment. There was no comment or questions from the public concerning the amendment. One LPA member commented about other Cayo Costa state parcels that may need to be updated in future amendments. Staff responded that staff will continue to update the Future Land Use Map as needed.

**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>RON INGE</b>	<b>AYE</b>
<b>JIM GREEN</b>	<b>AYE</b>
<b>MITCH HUTCHCRAFT</b>	<b>ABSENT</b>
<b>JACK MEEKER</b>	<b>AYE</b>
<b>CAROL NEWCOMB-JONES</b>	<b>AYE</b>



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

DATE OF TRANSMITTAL HEARING: June 13<sup>th</sup> 2011

**A. BOARD REVIEW:**

The proposed amendment was heard as part of the Board’s consent agenda. The Board provided no discussion concerning the proposed amendment. One member of the public addressed the proposed amendment and supported the ‘Conservation Lands’ land use change to the Pine Island properties.

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

**1. BOARD ACTION:**

The Board voted to **transmit** the proposed amendment as part of the Consent Agenda.

**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>	<b>AYE</b> _____
<b>TAMMARA HALL</b>	<b>AYE</b> _____
<b>RAY JUDAH</b>	<b>AYE</b> _____
<b>FRANK MANN</b>	<b>AYE</b> _____
<b>JOHN MANNING</b>	<b>AYE</b> _____

**PART V – REVIEWING AGENCIES’ OBJECTIONS,  
RECOMMENDATIONS AND COMMENTS**

DATE OF DCA COMMENTS: July 29<sup>th</sup>, 2011

**A. COMMENTS FROM REVIEWING AGENCIES:**

No reviewing agency provided comments concerning the proposed amendment.

**B. STAFF RECOMMENDATION:**

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

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

DATE OF ADOPTION HEARING: September 28<sup>th</sup>, 2011

**A. BOARD REVIEW:**

The proposed amendment was heard as part of the consent agenda. The Board of County Commissioners provided no comment concerning the amendment. No member of the public appeared or provided comments concerning the proposed amendment.

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

**1. BOARD ACTION:**

The Board voted to *adopt* the proposed amendment as part of the Consent Agenda.

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

The Board accepted the findings of fact as advanced by staff and the Local Planning Agency.

**C. VOTE:**

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