



**Memorandum**

**Date:** April 6, 2012

**CPA 2011-00018**

**To:** Matt Noble, AICP  
**From:** David W. Depew, PhD, AICP, LEED® AP  
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**APR 09 2012**

**COMMUNITY DEVELOPMENT**

**Subject:** Corkscrew Woods Comprehensive Plan Analysis

In preparation for this case to be reviewed by the Local Planning Agency, we offer the following analysis of the request and supporting elements of the Comprehensive Plan.

Corkscrew Woods is a ±722.12 acre property located 3 miles east of I-75, directly adjacent to Bella Terra, south of Corkscrew Road. The requested amendment includes ±611.28 acres of the property. The remaining ±110.84 acres, known as Tract H, will retain its existing land use designation (Density Reduction/Groundwater Resource).

**REQUEST:**

1. Amend the Future Land Use Map for an approximate ±611.28 acre portion of land located south of Corkscrew Road in Section 21, Township 46S, Range 26E and Section 28, Township 46S and Range 26E, to change the classification shown on Map 1 of the Future Land Use Map Series from “Density Reduction/Groundwater Resource” to “Suburban” and “Conservation.”

Amend the Future Land Use Map Series, Map 1 page 2 of 8, Special Treatment Areas, to place the property in the Estero Community Planning Area.

Amend the Future Land Use Map Series, Map 6 & 7, ‘Lee County Utilities Future Water & Sanitary Sewer Service Areas’ to place the property in Service Areas.

Amend the Future Land Use Map Series, Map 16, ‘Planning Communities’, to remove the subject property from the Southeast Lee County Planning Community and place it in the Estero Planning Community.

Amend Policy 1.1.5 to include language that defines and limits the requested density to the subject property and establishes the requirement for restoration of the lands to be placed in Upland Conservation.

2. In the alternative, adopt new Policy 33.3.5 establishing an overlay district within the Density Reduction/Groundwater Resource category to allow existing, vested developments that are not

yet constructed to achieve density incentives based upon implementation of performance criteria that serve to implement the provisions of the Lee Plan and address the intent of the Density Reduction/Groundwater Resource land use category through development design and preservation, conservation, and restoration efforts. If this option is selected the property will remain in the Southeast Lee County Planning Community. Maps 6 and 7 will still need to be amended.

### **SUMMARY DISCUSSION**

The applicant, Lakes of Corkscrew, LLC, is requesting a change of land use designation from the Future Land Use Map from “Density Reduction/Groundwater Resource” to “Suburban” and “Conservation” for ±611.28 acres. In the alternative, the applicant is requesting the establishment of a performance based overlay, applicable only to existing, vested, unconstructed developments on the periphery of the Density Reduction/Groundwater Resource areas of Lee County. More specifically, the site in question is a ±722.12 acre site, located east of the Bella Terra Community, and south of Corkscrew Road in Sections 21 and 28, Township 46S, Range 26E. The property is a former aggregate mine, which, in Option 1, will be classified by 3 distinct Future Land Use Categories, the northern disturbed area surrounding the existing mining lake is proposed to be Suburban, the wetlands and southwest portion, known as the Restoration Area, will be placed in Conservation, and the southeast portion, known as Tract H, is included in the application because it is owned by the applicant but is not subject to the Amendment request and will remain within the Density Reduction/Groundwater Resource category. Option 2 would leave the property’s Future Land Use Map designations ‘as-is’, but create a performance based overlay and incentive system promoting a re-design of the site into a development that is more ecologically friendly and possessing greater consistency with the intent of the applicable Lee Plan Goals, Objectives, and Policies. Both options require an amendment to Maps 6 and 7 to facilitate the extension of central water and sewer.

### **Existing Conditions**

From 1996 – 2010, the property was utilized as an aggregate mine. Based upon a vested rights determination, in 2007, a plat was recorded establishing 254 single family large lots. An active Development Order and Performance Bond exist for the property as well as an Environmental Resource Permit from the South Florida Water Management District. As a result of these existing approvals, the site has been cleared and graded, a stormwater management system was constructed, and base roadways were established consistent with the approved plat. The existing approvals also provide for the individual lots to be serviced by independent single user wells and septic systems. These existing conditions lend themselves to a more suburban form of development and, although vested, would not currently be permitted under the existing Future Land Use designation of the property. Development of the subject property is vested because the land owners moved forward in reliance on the approved plat; this can be seen from a review of an aerial of the subject property.

### **Proposed Conditions – Alternative 1**

The proposed amendment requests three distinct Future Land Use Categories. The first is the northern portion, which is proposed to be included in the Suburban Future Land Use Category. This portion of the property is approximately ±513 acres, of which ±222 acres is an existing mining lake. Large portions of this area have been disturbed as a result of the previous mining

activities. The proposed development plan will cluster residential uses in this portion of the property. Due to the amount of clearing and existing impacts, no negative consequences from development are anticipated. The establishment of a Residential Planned Development zoning category for the property will provide for improvements to vegetation, surface and ground water protection, and lake littoral plantings.

The second category requested is Conservation, which will include the existing wetlands and a large area in the southerly portion of the property. There are ±41 acres of existing wetlands on-site which have conservation easements already in place. These areas will be placed in the Wetland Conservation category. There is an area of ±57 acres in the southwest portion of the site, referenced as the 'Restoration Area', to be placed into the Upland Conservation category. Within the Restoration Area, a Stormwater Management System and Roadway Infrastructure was previously constructed (amounting to ±36 acres of the ±57 acres), and there has been additional prior disturbances to the native vegetation from mining activities, subdivision development, and agricultural activities (grazing). The applicant proposes to restore the approximately ±36 acres of disturbed land within the Restoration Area as part of the efforts associated with the proposed Lee Plan amendment and the concurrent RPD request. Language has also been included in the proposed text amendment for Policy 1.4.6 to address the timing and execution of the restoration plan and enactment of a conservation easement over this area once restoration has been accomplished.

The third category is the southeast portion of the site, which will remain DR/GR and is also known as Tract H. This portion is owned by the Lakes of Corkscrew, LLC and as such has been included in the total acreage for the Comprehensive Plan Amendment request. However, the applicant is not proposing to alter the Future Land Use designation of this portion of the site, and it will remain in its current designation (DR/GR and Wetlands).

If the proposed amendments are approved, the allowable density of the property will increase from 254 dwelling units to 800 dwelling units or 1.6 du/acre. This is an increase of 546 units beyond the existing plat. However, it is noted that the amendment would permit the clustering of up to 2.7 dwelling units per acre on the developable portion of the property to be included in the Suburban Future Land Use Category, approximately ±291 acres (±513 acres – ±222 acres of lake = ±291 acres). At this density, the property will connect to central water and sewer, eliminating the need for individual supply wells and septic systems. The companion changes to Maps 6 and 7 assure that central utility services will be available to service the development. Existing statutes will require extension of both water and sewer to the project. This will help preserve the water quantity and quality associated with the five (5) public water supply wells that adjoin the site on the north and west boundaries. Also, ±57 acres will be placed in conservation, which when combined with the ±41 acres of existing wetlands and the ±110 acres of Tract H totals approximately ±208 acres of native vegetation to remain on-site. Together, these areas provide increased compatibility and an extended buffer between the residential development and Bella Terra to the west as well as the Corkscrew Regional Ecosystem Watershed (CREW) lands to the east and south.

## **CONSISTENCY WITH THE LEE PLAN**

### **Suburban Future Land Use**

The amendment proposes the subject property's land use designation be changed to Suburban and Conservation and be included in the Estero Planning Community. The Suburban Future Land Use category is described by Policy 1.1.5 and further refined by Goal 19. The Conservation Future Land Use category is described by Policy 1.4.6 and further refined by Objective 1.5. These Lee Plan provisions are reproduced below:

***POLICY 1.1.5:*** *The Suburban areas are or will be predominantly residential areas that are either on the fringe of the Central Urban or Urban Community areas or in areas where it is appropriate to protect existing or emerging residential neighborhoods. These areas provide housing near the more urban areas but do not provide the full mix of land uses typical of urban areas. The standard residential densities are the same as the Urban Community Category. Higher densities, commercial development greater than neighborhood centers, and industrial land uses are not permitted. Bonus densities are not allowed.*

***GOAL 19: ESTERO.*** *To protect the character, natural resources and quality of life in Estero by establishing minimum aesthetic requirements, managing the location and intensity of future commercial and residential uses, and providing greater opportunities for public participation in the land development approval process. This Goal and subsequent objectives and policies apply to the Estero Planning Community as depicted on Map 16*

***OBJECTIVE 19.3: RESIDENTIAL USES.*** *Lee County must protect and enhance the residential character of the Estero Planning Community by strictly evaluating adjacent uses, natural resources, access and recreational or open spaces, and requiring compliance with enhanced buffering requirements.*

***OBJECTIVE 19.4: NATURAL RESOURCES.*** *County regulations, policies, and discretionary actions affecting Estero must protect or enhance key wetland or native upland habitats.*

***POLICY 19.4.1:*** *By the end of 2003, Lee County will review, amend or adopt Lee Plan or Land Development Code regulations to provide the following:*

- *All future development proposals adjacent to the Estero River or its tributaries must include floodplain protection plans prior to zoning approval.*
- *All new developments adjacent to the Estero River or its tributaries must provide an additional buffer which preserves all of the native vegetation within that buffer, adjacent to the top of bank, with the exception of passive recreational uses. This is intended to prevent degradation of water quality within these natural water bodies.*
- *Lee County will encourage on-site preservation of indigenous plant communities and listed species habitat. When site constraints are such that off-site mitigation of indigenous areas is deemed necessary, the mitigation will be of similar habitat, provided whenever possible, within one mile of Estero Fire District Boundary.*
- *Lee County will provide significant incentives (for example increased density, Transfer of Development Rights, etc.) for the protection of*

*wetlands, historic flowways, native habitat or other significant natural resources within the Estero Planning Community.*

**POLICY 19.4.2:** *Lee County, or another authorized agency, will work to provide alternative irrigation sources (re-use, Aquifer Storage and Recovery Water, or mixed-non-potable) or financial incentives to provide non-potable water to uses within the Estero Community. This is desired to discourage the proliferation of private, single user wells.*

**POLICY 19.4.3:** *Lee County will continue to enforce wellfield protection requirements, monitoring and other applicable provisions to ensure that future wellfield drawdown zones are protected.*

**POLICY 1.4.6:** *The Conservation Lands include uplands and wetlands that are owned and used for long range conservation purposes. Upland and wetland conservation lands will be shown as separate categories on the FLUM. Upland conservation lands will be subject to the provisions of this policy. Wetland conservation lands will be subject to the provisions of both the Wetlands category described in Objective 1.5 and the Conservation Lands Category described in this policy. The most stringent provisions of either category will apply to wetland conservation lands. Conservation lands will include all public lands required to be used for conservation purposes by some type of legal mechanism such as statutory requirements, funding and/or grant conditions, and mitigation preserve areas required for land development approvals. Conservation Lands may include such uses as wildlife preserves; wetland and upland mitigation areas and banks; natural resource based parks; ancillary uses for environmental research and education, historic and cultural preservation, and natural resource based parks (such as signage, parking facilities, caretaker quarters, interpretive kiosks, research centers, and quarters, and other associated support services); and water conservation lands such as aquifer recharge areas, flowways, flood prone areas, and well fields. 2020 lands designated as conservation are also subject to more stringent provisions of the 2020 program or the 2020 ordinances.*

**OBJECTIVE 1.5 WETLANDS:** *Designate on the Future Land Use Map those lands that are identified as Wetlands in accordance with FS 373.019(17) through the use of a the unified state delineation methodology described in FAC Chapter 17-340, as ratified and amended in FS 373.4211.*

**POLICY 1.5.1:** *Permitted land uses in Wetlands consist of very low density residential uses and recreational uses that will not adversely affect the ecological functions of wetlands. All development in Wetlands must be consistent with Goal 114 of this plan. The maximum density is one dwelling unit per twenty acres (1du/20acre) except as otherwise provided in Table 1(a) and Chapter XIII of this plan.*

As Policy 1.1.5 notes “The Suburban areas are or will be predominantly residential areas that are either on the fringe of the Central Urban or Urban Community areas or in areas where it is appropriate to protect existing or emerging residential neighborhoods.” Objective 19.3 reinforces this concept with the statement that the County must protect and enhance residential

neighborhoods as well as evaluating adjacent uses, natural resources, recreation, and open space when residential projects are proposed.

The proposed amendment requests the addition of ±513 acres into the Suburban Future Land Use Category. While this will increase the allowable density of the subject property, it will reduce the development footprint. It is important to take the existing approvals for the site into consideration. Currently, the property has an active plat for 254 single family large lots, as well as an active Development Order and irrevocable Performance Bond, which enabled construction of roadways, a stormwater management system, along with recording of the plat. The existing development approvals provide for the future construction of individual water supply wells and septic systems for each lot. Thus, although the approval of the proposed amendment will allow an increase in density, it will also provide a number of significant benefits over the existing plat. These include, but are not limited to, development clustering, extension of central water and sewer service thus eliminating the need for 254 individual wells and septic systems, a single centralized alternative source for irrigation water, on-site restoration, establishment of upland buffers abutting CREW, and long-term preservation of existing and restored uplands and wetlands.

#### *Clustered Development*

Of the ±513 acres to be included in the Suburban Future Land Use Category, ±222 acres are the existing mining lake. This large feature of the site will require the residential density to be clustered on the remaining ±291 acres of developable land. The project includes an associated text amendment to the Suburban Future Land Use Policy 1.1.5 limiting density to the subject property at a maximum of 800 dwelling units and a minimum of 600 dwelling units. This eliminates the ability for another property to utilize any of the dwelling units not constructed on the subject property in a future request. The density limit also provides a step-down transition from the residential intensity of Bella Terra to the west and Conservation Lands to the East. The application recognizes high density development in this location is not consistent with the adjacent uses and community character. Therefore, 2 dwelling units per acre are requested yet limited by the 800 unit maximum, significantly less than the allowable maximum of 6 dwelling units per acre in the Suburban category. The 800 dwelling unit cap of the text amendment is less than the 1,023 units allowed at 2 dwelling units per acre.

#### *Central Utility Service*

In addition to limiting density, the text amendment also prohibits the construction of independent well and septic systems on the property, as is currently required with the existing 254 lot plat. The approval of the project represents a unique opportunity to eliminate the construction of independent well and septic systems and avoid an increase in drawdown to nearby Lee County's public supply wells. The proposal includes an amendment to Maps 6 and 7 to expand the Lee County Utilities Service Area and the text amendment supports the development connecting to central water and sanitary sewer systems at not less than 600 and not more than 800 dwelling units. Lee County Utilities has confirmed it will service the subject property for potable water and wastewater. The expansion of utilities to the subject property provides increased protection to the adjoining Lee County public water supply wells, the opportunity to loop the Bella Terra system, additional reuse water, and improved fire protection. Irrigation water for the property will be provided by a central system from the existing, on-site mining lake.

### *Restoration and Preservation*

The amendment to the Future Land Use Map includes a change of ±98 acres to the Conservation Future Land Use Category. This includes approximately ±41 acres of wetlands, which are already under conservation easements consistent with the provisions of Objective 1.5. The remaining ±57 are included in the southwest portion of the property, known as the Restoration Area, which will preserve existing indigenous vegetation and restore approximately ±36 acres of previously disturbed areas. The ±98 acres of Conservation plus the ±110 acres in Tract H will provide compatibility and an increased buffer between the subject property and the Corkscrew Regional Ecosystem Watershed Lands to the south and east. The proposal incorporates the wetlands and restoration area into the development plan, reducing impacts and keeping the natural systems intact while establishing an on-site amenity. The application reserves the right to incorporate passive recreational opportunities into the Restoration Area as is allowed by Policy 1.4.6. The Conservation Category is more restrictive than the DR/GR category and will ensure these areas are restored and then protected in perpetuity.

### **Lee Plan Objective 2.4**

The Future Land Use Element of the Lee Plan also provides guidelines for future land use map amendments under Objective 2.4. Under this objective Policy 2.4.3 provides language specifically on amendments to the Density Reduction/Groundwater Resources land use category. Objective 2.4 and Policy 2.4.3 are reproduced below.

***OBJECTIVE 2.4: FUTURE LAND USE MAP AMENDMENTS.*** Regularly examine the Future Land Use Map in light of new information and changed conditions, and make necessary modifications.

***POLICY 2.4.2:*** All proposed changes to the Future Land Use Map in critical areas for future potable water supply (Bonita Springs as described in Policy 1.7.10; Lehigh Acres as described in Policy 54.1.9; and all land in the Density Reduction/Groundwater Resources land use category) will be subject to a special review by the staff of Lee County. This review will analyze the proposed land uses to determine the short-term and long-term availability of irrigation and domestic water sources, and will assess whether the proposed and uses would cause any significant impacts on present or future water resources will result from the change.

***POLICY 2.4.3:*** Future Land Use Map Amendments to the existing DR/GR areas south of SR 82 east of I-75, excluding areas designated by the Port Authority as needed for airport expansion, which increase the current allowable density or intensity of land use will be discouraged by the County. It is Lee County's policy not to approve further urban designations there for the same reasons that supported its 1990 decision to establish this category. In addition to satisfying the requirements of 163 Part II Florida Statutes, Rule 9J-5 of the Florida Administrative Code, the Strategic Regional Policy Plan, the State Comprehensive Plan, and all the criteria in the Lee Plan applicants seeking such an amendment must:

- 1.*** Analyze the proposed allowable land uses to determine the availability of irrigation and domestic water sources; and,

*2. Identify potential irrigation and domestic water sources, consistent with the Regional Water Supply Plan. Since regional water suppliers cannot obtain permits consistent with the planning timeframe of the Lee Plan, water sources do not have to be currently permitted and available, but they must be reasonably capable of being permitted; and,*

*3. Present data and analysis that the proposed land uses will not cause any significant harm to present and future public water resources; and,*

*4. Supply data and analysis specifically addressing the urban sprawl criteria listed in Rule 9J-5.006(5)(g), (h), (i) and (j) FAC.*

*During the transmittal and adoption process, the Board of County Commissioners must review the application for all these analytical requirements and make a finding that the amendment complies with all of them.*

The existing approvals and plat for the subject property would enable 254 individual self-supply domestic use wells and septic systems to be constructed on-site. The proposed amendment represents a unique opportunity to avoid an increase in drawdown as well as the construction of 254 individual use wells and septic systems in close proximity to Lee County Utilities existing production wells. A thorough analysis has been conducted to demonstrate the impact of the existing approval for individual use wells and septic systems. For the existing 254 lots, the water table analysis provided by the applicant suggests that increased sandstone aquifer drawdown in proximity to six Lee County Utilities' production wells adjacent to the property will be apparent. The proposed amendment includes a request to extend the Lee County Utilities service area to the subject property. Lee County Utilities has confirmed it will service the subject property with potable water and wastewater services, eliminating concerns about increased sandstone aquifer drawdown and water quality issues as well as protecting natural resources. The only water supply needed for the proposed project would consist of supplemental lawn/landscape irrigation, which would be supplied through a centralized system sourced from the existing ±222 acre on-site lake. Based on the results of the impact analysis, minimal drawdown in the lake will occur and will not adversely impact the ability of Lee County Utilities to withdraw groundwater from their six existing Surficial Aquifer System (SAS) production wells located along the north and west boundaries of the subject property. The centralized irrigation system will enable better control over irrigation on allowable days and SFWMD declared water shortages. Furthermore, the on-site lake withdrawal is not anticipated to negatively impact the hydroperiods of the on-site wetlands. It should also be noted that final irrigation water demands will be determined based on the final site plan and a Consumptive Use Permit (CUP) will be required from the SFWMD prior to any withdrawal from the on-site lake. As a part of the CUP conditions for issuance, a thorough analysis of all potential groundwater and environmental impacts will be conducted by SFWMD prior to the approval of the CUP.

A review and analysis of the proposal has been conducted and Lee County staff determined water resources would not be impacted. The existing 254 platted lots site has a higher water demand and will create more of a detriment to the present and future water resources of the County than the proposed project. Approval of the proposed project will ensure the availability of future irrigation and domestic water sources, reduce aquifer drawdown, and eliminate the potential for adverse impacts to the nearby Lee County public supply wellfield.



## **Water Resources**

The proposed project includes an amendment to extend central utilities to the subject property to provide sanitary sewer and potable water service. Irrigation water will be withdrawn from the existing on-site mining lake as a central source. These conditions of the proposal ensure reduced impacts to surface and ground water and the continued functioning of the six existing production wellfields along the north and west property boundaries. The existing production wells demonstrate the property is not needed for *future* wellfield development as suggested in the DR/GR Policy. The favorable locations for withdrawal are already identified and utilized by the County. This amendment will serve to further protect the existing public water supply wells adjoining the subject property. The remainder of the property is available for development and the proposed conditions regarding connection to central water and sewer will ensure surface and groundwater levels remain consistent.

***GOAL 60: COORDINATED SURFACE WATER MANAGEMENT AND LAND USE PLANNING ON A WATERSHED BASIS.*** *To protect or improve the quality of receiving waters and surrounding natural areas and the function of natural groundwater aquifer recharge areas while also providing flood protection for existing and future development.*

Goal 60 and its objectives and policies protect and improve water quality and the functions of natural recharge areas. The supporting policies require, where practicable, the preservation and/or restoration of habitats associated with flow ways, to ensure environmental function and value. Furthermore, incorporating associated habitat into the project design is encouraged. The subject property is a former aggregate mine with an existing plat, Development Order, and Performance Bond. The public water supply wells were located proximate to the created lake in order for the lake to act as a reservoir for the water being withdrawn from the potable water supply wells.

As a result of the previous approvals, a surface water management system was approved by the South Florida Water Management District and constructed by the prior property owner. The system ensures the continued function of the on-site wetlands, along with the water supply for the wells, and will remain intact with the new development proposal. The project design includes ±98 acres of Conservation, of which approximately ±40 acres is wetlands already placed under conservation easement. The remaining ±57 acres comprise the Restoration Area located in the southern portion of the property. This area is proposed to be placed in a conservation easement after ±36 acres of previously disturbed areas is restored. The proposed text amendment to the Conservation Future Land Use Policy 1.4.6 includes language to require a restoration plan as part of the planned development approval and the execution of a conservation easement as part of the local development order approval. Incorporating this language into the text amendment ensures the restoration of the ±36 acres and the conservation easement will occur at the time the property is developed. The ±98 acre Conservation Area will connect to the existing stormwater management system, which will be designed via a permit modification with the South Florida Water Management District to ensure the continued function of on-site wetlands and Conservation Area.

### **Proposed Conditions – Alternate 2**

In the alternative, the proposal is to leave the subject property ‘as-is’ but implement an Overlay for the DR/GR land use designation that addresses planning and water supply issues associated with previously permitted development. Language for the adoption of the Overlay is set forth below. The Overlay establishes performance criteria, development parameters, and density calculations that permit re-design of developments that are deemed to have potentially greater impact upon DR/GR properties and the County’s water resources.

### **Proposed Text Amendment:**

*“Policy 33.3.5: For certain properties with valid development approval(s) that meet established criteria and incentives for re-design in accordance with the intent of the Density Reduction/Groundwater Resource category as detailed in Policy 1.4.5, an overlay in the DR/GR lands is hereby established. The proposed Overlay is applicable to all properties possessing all of the following criteria:*

- 1. Abuts (excluding any public rights of way, easements, or access roadways) lands designated as future urban area;*
- 2. Adjacent to, and abuts, existing development with public water and sewer services;*
- 3. Can provide two (2) direct accesses to an arterial roadway (existing or potential);*
- 4. Has valid, existing, vested approval(s) for a residential development greater than 20 acres in size that is inconsistent with the current DR/GR density requirements;*
- 5. Has demonstrated that the proposed design is more consistent with preservation of historic ground water flows and elevations than the existing permitted development based upon an application of applicable Lee Plan criteria; and*
- 6. Is not identified on Lee Plan map 17 as an Existing Acreage Subdivision or a Mixed Use Community.*

*For properties qualifying, under all six (6) of the above criteria, development controls will be implemented through a Residential Planned Development, consisting of the following:*

- 1. The proposed development must demonstrate increased, beyond the amounts set forth in the original development approval, conservation and open space with restoration elements and a long-term maintenance commitment;*
- 2. The development must contain recreational amenities promoting a healthy lifestyle;*
- 3. Compared to the original development approval, the proposed development must demonstrate that it has less impact upon water resources;*
- 4. Compared to the original development approval, the proposed development must demonstrate that there are either increased recharge rates or reduced groundwater draw down rates for the new development plan;*
- 5. Compared to the original development approval, the development must demonstrate lower irrigation demand;*
- 6. Compared to the original development approval, the development must demonstrate protection of public water supplies through conformance with the Lee County Well Field Protection Ordinance;*
- 7. The development must use native indigenous plantings in all common elements;*

8. *The development must extend public water and sewer service to all dwelling units at the developer's expense;*
9. *Where available, and if possible at the time of the local development order, the development will use reclaimed water for irrigation purposes;*  
;
10. *Compared to the original development approval, the development must demonstrate enhanced lake management plans, including erosion controls and bank stabilization, for any existing or created lakes for purposes of improving water quality beyond that of the approved development; and*
11. *The development must demonstrate a uniform program for Best Management Practices in the regulated application of fertilizers, herbicides, and pesticides to developed areas.*

*Density Calculation:*

1. *Under no circumstances shall density exceed two (2) units per gross acre of developable lands (including any existing lakes entirely within the boundaries of the property in question) for purposes of calculating incentives for re-design of existing development. Development incentive calculations shall be made by adding the total incentives obtained times the gross developable acres.*
2. *The following criteria are to be used to calculate the incentive density permitted for any development qualifying under the DR/GR Overlay:*
  - a. *Preservation of panther habitat:*
    - i. *0-25 acres: 0.1 du/acre*
    - ii. *26-50 acres: 0.2 du/acre*
    - iii. *More than 50 acres: 0.25 du/acre*
  - b. *Adjacency to regionally significant conservation area or flowway:*
    - i. *0-1/2 mile shared boundary: 0.1 du/acre*
    - ii. *1/2-3/4 mile shared boundary: 0.2 du/acre*
    - iii. *More than 3/4 mile shared boundary: 0.25 du/acre*
  - c. *Protection of on-site flowway functionality:*
    - i. *0-25 acres: 0.1 du/acre*
    - ii. *26-50 acres: 0.2 du/acre*
    - iii. *More than 50 acres: 0.25 du/acre*
  - d. *Provision of on-site conservation easements:*
    - i. *0-25 acres: 0.1 du/acre*
    - ii. *26-50 acres: 0.2 du/acre*
    - iii. *More than 50 acres: 0.25 du/acre*
  - e. *Provision of on-site restoration:*
    - i. *0-10 acres: 0.1 du/acre*
    - ii. *11-20 acres: 0.2 du/acre*
    - iii. *More than 20 acres: 0.25 du/acre*
  - f. *Provision of off-site restoration:*
    - i. *0-10 acres: 0.1 du/acre*
    - ii. *11-20 acres: 0.2 du/acre*
    - iii. *More than 20 acres: 0.25 du/acre*
  - g. *Provision of off-site conservation or preservation:*

- i. 0-10 acres: 0.1 du/acre
        - ii. 11-20 acres: 0.2 du/acre
        - iii. 21-30 acres: 0.3 du/acre
        - iv. More than 30 acres: 0.35 du/acre
3. *If the applicant can demonstrate an equivalent alternative measure for any of the above incentive criteria based upon unique features associated with the property in question, at the sole discretion of the Director of Community Development, the alternative may be used for the calculation of an incentive with the provision that no alternative, equivalent criterion may achieve greater credit than 0.35 du/acre. This alternative will be evaluated as part of the Residential Planned Development rezoning request.*

Inclusion of the proposed Overlay would allow re-design of developments previously approved at densities greater than that allowed in the DR/GR as that category is now defined. The amendment restricts itself to properties that are large enough to have a potentially significant adverse impact upon surface and ground water resources within the DR/GR. The proposed amendment language provides for strict criteria for evaluation of such projects, performance criteria for re-design, and a density incentive scale to determine the potential density that could be achieved if the re-design is undertaken. Additionally, the criteria exclude Existing Acreage subdivisions, Mixed Use Communities, and any other developments that have a density consistent with DR/GR criteria.

The proposed Overlay is restricted to properties that adjoin future urban areas and are adjacent to existing water and sewer systems. The intent is to insure that any development proposed will provide central utilities and remove the threat of wells and septic systems from the DR/GR area. Requirements to demonstrate that public water supply wells will be protected, compliance with the Lee County Well Field Protection Ordinance 07-35, provide for on-site control of horticultural chemicals, and implement a design to improve recharge on the subject property will further the intent of the DR/GR category. Further, by restricting the application of the Overlay to properties with prior approvals, no new development is being permitted or allowed in the DR/GR designated areas by virtue of this amendment. Compliance with the development allocation table (Table 1b) is also part of the Overlay amendment, and no additional modifications to that table will be required.

Lee Plan Policy 1.4.5 states, *“The Density Reduction/Groundwater Resource (DR/GR) areas include upland areas that provide substantial recharge to aquifers most suitable for future wellfield development. These areas also are the most favorable locations for physical withdrawal of water from those aquifers. Only minimal public facilities exist or are programmed. Land uses in these areas must be compatible with maintaining surface and groundwater levels at their historic levels. Permitted land uses include agriculture, natural resource extraction and related facilities, conservation uses, publicly-owned gun range facilities, private recreation facilities, and residential uses at a maximum density of one dwelling unit per ten acres (1 du/10 acres). Individual residential parcels may contain up to two acres of Wetlands without losing the right to have a dwelling unit, provided that no alterations are made to those wetland areas.”* The proposed overlay deals with potential impacts to DR/GR lands anticipated from vested developments at the periphery of the land use category. In order to provide transitional uses, minimize impacts of the few vested developments that exist within the DR/GR, and implement

provisions for the protection of groundwater and aquifer recharge qualities, the proposed overlay will serve to retain the protections inherent in the DR/GR category while advancing the intent of the Policy.

The proposed overlay will also implement the provisions of Objective 2.4 and its attendant, applicable Policies, through the performance criteria which mandate the extension of public utilities, improvements to recharge opportunities, control of fertilizers and related chemicals, improvements to water quality standards, and a demonstration that public potable water supplies will be protected. Inclusion of requirements for reductions in irrigation water and use of reclaimed water, where available, also serves to reduce demands upon aquifers that have the potential to supply public water supply wells

Similarly, the mandate for use of native plant materials works to reduce water dependence and helps re-establish indigenous species within the DR/GR. The density criteria rating system provides for opportunities to add to conservation and preservation lands, consistent with the Lee Plan's Policy cluster associated with Objective 19.4, while retaining the protection of its conservation policies such as Policy 1.4.6 and the Wetlands policies associated with Objective 1.5. The overlay also provides the opportunity and requirement to coordinate surface water management systems with the concept of improving the quality of receiving waters and surrounding natural areas as well as the function of natural groundwater aquifer recharge areas while also providing flood protection for existing and future development, consistent with Goal 60 of the Lee Plan.

### **Conclusion**

The proposed amendment to the Comprehensive Plan represents a unique opportunity to improve the development parameters of an existing, vested development located within the DR/GR. Either option will provide greater protection to Lee County public water supply wells and eliminate the opportunity for individual use wells and septic systems to be constructed on the site. In exchange, the applicant is willing to go through the entitlement process rather than utilize the existing approvals at the expense of the surrounding area. While the Lee Plan amendment will authorize the establishment of performance criteria, the accompanying rezoning request, specifically authorized by Florida's growth management law amendments, will provide the companion details that will further delineate development details. The proposed project provides ±57 acres of Conservation Land, clusters the residential uses on already impacted portions of the site, and establishes a community that is sustainable and compatible with the existing, surrounding residential and conservation uses. Specific limitations are proposed either to the Suburban future Land Use Policy 1.1.5 to ensure surrounding properties cannot utilize any of the dwelling units not constructed on the subject property in a future request, or through the application of the overlay criteria and incentive calculations. These limitations, either through the specific restrictions or through the incentive calculations, will also cap the requested density at 800 dwelling units, lower than the 1,023 allowed at 2 du/acre and the maximum Suburban density of 6 du/acre. The proposal's density provides a step-down transition from the residential intensity of Bella Terra to the west and the Conservation Lands to the East. By virtue of the existing underlying plat on the site, the proposal cannot be considered urban sprawl or expansion.

In addition to addressing the amount of density to be accommodated by the subject property, either of the proposed amendments will prohibit the construction of 254 well and septic systems, as is currently possible according to the existing plat. Lee County Utilities has confirmed it will provide central water and sewer to the site and irrigation will be provided by the on-site lake. (Currently re-use water is not available to the site; the system does not have the reclaimed water to meet that added demand.) The expansion of central water and sewer will eliminate concerns about increased drawdown and water quality issues while protecting natural resources and ensuring the ability of the Lee County production wells to continue operating. The five existing wells along the property boundary demonstrate the remainder of the property is not needed for wellfield development and the requirement for connection to the central water and sewer requirement will ensure aquifer levels remain consistent as the property is developed.

The consolidation of the development footprint, provided for in either of the two (2) options, also provides for an essential component to the development plan, the preservation and restoration of native Florida ecosystems in the southerly portion of the property. Within the ±57 acre Restoration area, ±36 acres are proposed to be restored to address previous impacts to the site and improve compatibility with the adjacent Conservation Lands. The amendments both require the restoration and a conservation easement to be approved and implemented in conjunction with the development process for the property. The proposed development plan for the property has been created to reduce impacts to wetlands and associated vegetation on site, instead utilizing them as an amenity. The wetlands and associated habitat will connect to the existing approved stormwater management system. The overlay amendment has the added benefit of authorizing additional contributions to acquisition programs as part of the incentive system.

Proposed Lee Plan Policy 33.3.5 Incentive Unit Calculation Sheet

Policy 33.3.5 Development Incentives		Incentive Units
Site Identification (STRAP)	Various (platted subdivision with 254 lots)	
Total Site Area (acres)	722.12	
Gross developable lands (acres)	513	
Panther habitat preserved (acres)	208	128.25
Adjacency to regionally significant conservation area or flowway (miles)	1.75	128.25
Provision of on-site flowway functionality (acres)	73	128.25
Provision of on-site conservation easements (acres)	208	128.25
Provision of on-site restoration (acres)	36	128.25
Provision of off-site restoration (acres)		
Provision of off-site conservation or preservation (acres)	+/- 100	179.55
Equivalent alternative(s)		
Total Incentive Units		820.8