



---

## CONSERVANCY Of Southwest Florida

---

P.O. Box 1566, Fort Myers, FL 33902-1566  
Phone/Fax 239.293.7460  
www.conservancy.org

**Lee County Local Planning Agency  
2115 Second Street  
Fort Myers, FL**

**4/23/2007**

Mr. Chairman, thank you for the opportunity to speak to you today on the proposed Fountains project.

The Conservancy of Southwest Florida opposes the proposal for The Fountains application for approval of a Development of Regional Impact (DRI) based on its location in and inconsistency with, the intent of the establishment of the Density Reduction/Groundwater Resource (DRGR) area, potential impact on listed species, and a lack of demonstrated need.

### **Incompatibility with the DRGR**

The DRGR classification was a result of a 1989 Stipulated Settlement Agreement (Case No. 89-1843GM) between the Department of Community Affairs and Lee County, with a variety of other organizations and municipalities intervening. The Agreement covered a variety of items within the Lee Plan found to be not in compliance, including the need for an overlay to provide for decreased density on key lands for water resource protection. Thus, the Lee Plan, in Policy 1.4.5 states:

*The Density Reduction/Groundwater Resource (DRGR) areas include upland areas that provide substantial recharge to aquifers most suitable for future well field 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, mineral or lime rock 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 (1du/10 acres).*

We share the concerns of all who advocated for protection of these lands and we support the Local Planning Agency of Lee County in your efforts to uphold the intent of the DRGR. Protection of water resources is as relevant today as it was in 1989 when the Agreement mandated protection of the resources through decreased density. In addition to protection of water resources, the DRGR helps to further the goals of protection of listed species and habitat also required by the Lee Plan.

We also believe that the proposed DRI is in direct conflict with Policy 2.4.3 of the Lee County Comprehensive Plan with regard to the DRGR and with regard to urban sprawl, which states:

***"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*

### **Comprehensive Assessment of the DRGR**

In the past several years, there have been projects that have piecemeal chipped away at the DRGR through map changes and rezoning which increase density. Such changes must not be allowed to continue. Lee County is currently in the process of assessing the DRGR and appropriate land uses within appropriate locations. Consultants are currently being interviewed to work on the compilation of natural resources data within the DRGR and to fill in any data gaps that exist. From this information, a new set of policies could be developed that would create a Transfer of Development Rights (TDR) program for Lee County, where the environmentally-sensitive lands are protected through taking their density and transferring it to the less sensitive lands.

Such a program can only work if responsible development practices are upheld that guide intense development to areas that can support growth, and development should not be permitted anywhere in the region, without the adequate demonstration of need.

### **Need for project**

The Conservancy believes that the County's study of the resources within the DRGR must first be done and from that, a set of policies be vetted through a stakeholders' group to determine the most appropriate areas for conservation, restoration and development. Such a planning process will be jeopardized before it begins by the piecemeal give away of development approvals, where need has not been established, and outside of areas where vacant lands currently exist to accommodate growth.

### **Listed Species**

The Conservancy believes that the applicants have made an inadequate response to the concerns raised with regard to the protection of listed species on the property, and support Lee County in their efforts to obtain adequate information on the presence and planned mitigation for listed species.

### **Conclusion**

Based on the incompatibility of the requested application with the Lee Plan regarding the intent of the DRGR, lack of demonstrated need and inadequate response to issues of concern with regard to listed species, the Conservancy requests that The Fountains DRI application be recommended for denial to the Lee County Commission.

Thank you for the opportunity to address you today on this proposal, and I would be glad to answer any questions you have.