

John E. Manning  
*District One*

January 24, 2020

Cecil L. Pendergrass  
*District Two*

Ray Sandelli  
*District Three*

Ray Eubanks, Plan Processing Administrator

Brian Hamman  
*District Four*

State Land Planning Agency

Frank Mann  
*District Five*

Caldwell Building

Roger Desjarlais  
*County Manager*

107 East Madison – MSC 160

Tallahassee, FL. 32399-0800

Richard Wesch  
*County Attorney*

**Re: Amendment to the Lee Plan  
Transmittal Submission Package  
CPA2019-00008, EEPKO Text Amendment**

Donna Marie Collins  
*County Hearing  
Examiner*

Dear Mr. Eubanks:

In accordance with the provisions of F.S. Chapter 163, please find attached the proposed Comprehensive Plan Amendment, known locally as CPA2019-00008 (EEPKO Text Amendments). The proposed amendment is being submitted through the expedited state review process as described in Chapter 163.3184. The amendment is as follows:

***CPA2019-00008, EEPKO Text Amendments:***

Amend language in Lee Plan Goals 1, 6, and 33 to establish provisions for allowing neighborhood commercial uses, increased residential density, and to clarify timing of agricultural use cessation and recording of conservation easements for certain residential and mixed-used developments located in Southeast Lee County.

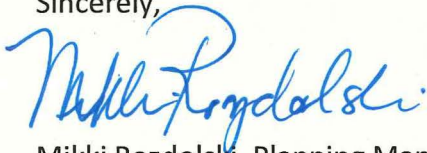
The Local Planning Agency held a public hearing for the plan amendment on December 9, 2019. The Board of County Commissioners voted to transmit the amendment on January 22, 2020. The proposed amendments are not applicable to an area of critical state concern. The Board of County Commissioners stated their intent to hold an adoption hearing following the receipt of the review agencies' comments.

The name, title, address, telephone number, and email address of the person for the local government who is most familiar with the proposed amendment is as follows:

Mr. Brandon Dunn, Principal Planner  
Lee County Planning Section  
P.O. Box 398  
Fort Myers, Florida 33902-0398  
(239) 533-8585  
Email: bdunn@leegov.com

Included with this package are one paper copy and two CD ROM copies, in PDF format, of the proposed amendment and supporting data and analysis. By copy of this letter and its attachments, I certify that this amendments and supporting data and analysis have been sent on this date to the agencies listed below.

Sincerely,



Mikki Rozdolski, Planning Manager

**Lee County Department of Community Development  
Planning Section**

All documents and reports attendant to this transmittal are also being sent by copy of this cover in an electronic format to:

Comprehensive Plan Review  
Department of Agriculture and Consumer Services

Mark Weigly  
Department of Education

Plan Review  
Department of Environmental Protection

Deena Woodward  
Florida Department of State

Scott Sanders  
Florida Fish and Wildlife Conservation Commission

Sarah Catala  
FDOT District One

Margaret Wuerstle  
Southwest Florida Regional Planning Council

Terry Manning, AICP, Senior Planner, Intergovernmental Coordination Section  
South Florida Water Management District



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Attn:  
LCBC-DEPT OF COMM DEVELOPMENT-  
1500 MONROE ST  
FORT MYERS, FL 33901

NOTICE OF PROPOSED AMENDMENT TO THE  
LEE COUNTY COMPREHENSIVE LAND USE PLAN  
(TRANSMITTAL HEARING)

The Lee County Board of County Commissioners will hold a public hearing to consider proposed amendments to the Lee County Comprehensive Land Use Plan (Lee Plan) on Wednesday, January 22, 2020. The hearing will commence at 9:30 a.m., or as soon thereafter as can be heard, in the Board Chambers at 2120 Main Street in Downtown Fort Myers. At the hearing, the Board will consider the proposed amendments for transmittal to the Florida Department of Economic Opportunity:

STATE OF FLORIDA COUNTY OF LEE:

Before the undersigned authority personally appeared Kathleen Allen, who on oath says that he or she is a Legal Assistant of the News-Press, a daily newspaper published at Fort Myers in Lee County, Florida; that the attached copy of advertisement, being a Legal Ad in the matter of

CPA2019-00006 Conservation Lands Update - Amend the Future Land Use Map series, Map 1, by adding County-owned property to the Conservation Lands (Upland and Wetland) land use category.

CPA2019-00008 EEPCText Amendment - Amend language in Lee Plan Goals 1, 6, and 33 to establish provisions for allowing limited commercial uses and increased residential density and to clarify timing of agricultural use cessation and recording of conservation easements for certain residential and mixed-used developments located in Southeast Lee County.

Legal Notices

This transmittal hearing is the first step in a two step public hearing process to amend the Lee Plan. A second hearing will follow the Department of Economic Opportunity's review of the application.

In the Twentieth Judicial Circuit Court was published in said newspaper in the issues of:

Documentation for the Proposed Comprehensive Plan Amendment is available at <https://www.leegov.com/dcd/planning/cpa> or at the Department of Community Development located at 1500 Monroe Street, Fort Myers, Florida. This meeting is open to the public. Interested parties may appear at the meeting and be heard with respect to the proposed plan amendment. A verbatim record of the proceeding will be necessary to appeal a decision made at this hearing.

01/10/20

It is the intent of the Board of County Commissioners that the provisions of this Comprehensive Plan Amendment may be modified as a result of consideration that may arise during Public Hearing(s). Such modifications shall be incorporated into the final version.

Affiant further says that the said News-Press is a paper of general circulation daily in Lee County and published at Fort Myers, in said Lee County, Florida, and that the said newspaper has heretofore been continuously published in said Lee County, Florida each day and has been entered as periodicals matter at the post office in Fort Myers, in said Lee County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he or she has never paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

Lee County will not discriminate against individuals with disabilities. To request an accommodation, contact Joan LaGuardia, (239) 533-2314, Florida Relay Service 711, or ADAREquests@leegov.com, at least five business days in advance. AD# 3977717 Jan. 10, 2020

Sworn to and Subscribed before me this 10th of January 2020, by legal clerk who is personally known to me.

*Kathleen Allen*

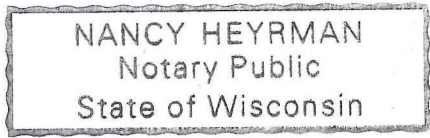
Affiant

*Nancy Heyrman*

Notary State of Wisconsin, County of Brown

5.15.23

My commission expires



This is not an invoice



COMMUNITY DEVELOPMENT

**Applicant:**

Verdana Land Investments, LLC

**Representative:**

Tina M. Ekblad, AICP

**Amended Elements:**

Future Land Use Glossary

**Attachments:**

Text amendments

**Hearing Dates:**

LPA: 12/9/2019

BOCC - Transmittal:

1/22/2020

**REQUEST**

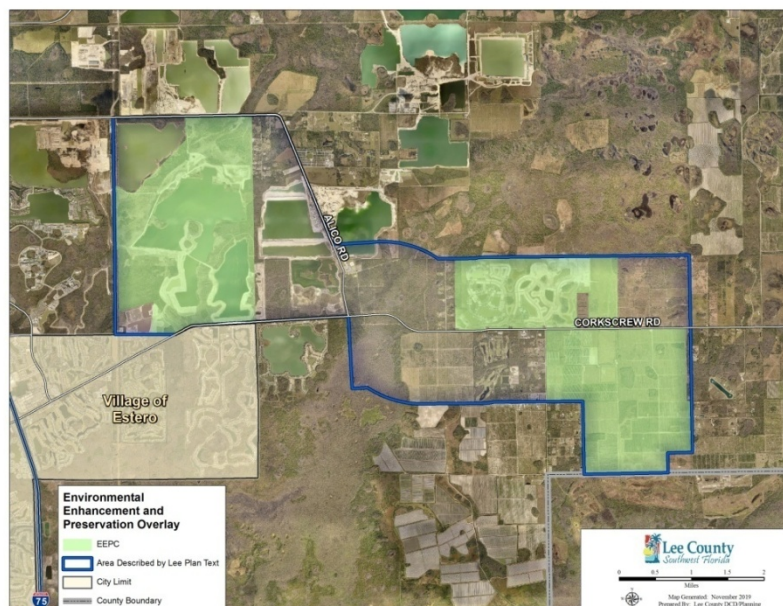
Amend language in Lee Plan Goals 1, 6, and 33 to establish provisions for allowing neighborhood commercial uses, increased residential density, and to clarify timing of agricultural use cessation and recording of conservation easements for certain residential and mixed-used developments located in Southeast Lee County.

**SUMMARY OF AMENDMENTS**

- Allow development of neighborhood commercial uses which are consistent with wellfield protection within Environmental Enhancement and Preservation Communities (EEPCs) that have a minimum area of 2,000 acres;
- Allow up to an additional 15% residential units within EEPCs when enhanced regional benefits are provided through a planned development rezoning;
- Clarify timing of agricultural use cessation and recording of conservation easements for EEPCs; and
- Provide a threshold of 300,000 square feet for commercial development in Southeast Lee County limited to EEPCs, Mixed-Use Communities, and Rural Golf Course Communities depicted on Map 17.

**LOCATION**

The text amendments related to residential development are specific to properties in the EEPC Overlay, shown below. The text amendments related to commercial development apply to all properties within Southeast Lee County in order to address commercial development/needs in Southeast Lee County cumulatively and to maintain internal consistency within the Lee Plan.



**RECOMMENDATION**

Staff recommends the Board of County Commissioners **transmit** the amendments provided in Attachment 1 based on the analysis and findings of this staff report.

**PART 1  
CONCURRENT APPLICATION REVIEW**

Concurrent Application Review: The applicant has filed a companion rezoning application (DCI2019-00018) that is being reviewed concurrently with this plan amendment application. Chapter 163.3184(12), F.S. provides that “At the request of an applicant, a local government shall consider an application for zoning changes that would be required to properly enact any proposed plan amendment transmitted pursuant to this subsection.” This requires Lee County provide concurrent review of the rezoning request.

The rezoning application is to rezone approximately 2,138 acres within the EEPC Overlay from Residential Planned Development, Mixed Use Planned Development and Agricultural to a unified Mixed Use Planned Development to allow a maximum of 2,400 residential dwelling units and 100,000 square feet of commercial uses.

If the Board of County Commissioners amends the Lee Plan to incorporate the proposed changes discussed in this report, the applicant MUST demonstrate consistency with the Lee Plan, as amended, prior to rezoning approval.

**PART 2  
REQUEST**

The requested amendments will allow an increase to the number of dwelling units allowed within EEPCs when enhanced regional environmental benefits are provided as part of an approved planned development rezoning and development of up to 100,000 square feet of neighborhood commercial uses within EEPCs that have an area of 2,000 acres or more. In addition, amendments are proposed to clarify the timing of the cessation of agricultural uses and recording of conservation easements for EEPCs and to limit the total amount of commercial development allowed in Southeast Lee County to a maximum of 300,000 square feet.

**PART 3  
DISCUSSION & ANALYSIS**

The proposed amendments are specific to properties located within the Southeast Lee County Community Plan area and subject to the provisions of Lee Plan Goal 33. Goal 33 describes the importance of water resources and wildlife habitat in the southeast portion of the county (Objective 33.2) and supports clustered and concentrated development patterns in order to incorporate protection and enhancement of these important water resources and wildlife habitat into development design (Objectives 33.3 and 33.4).

Within the Southeast Lee County Community Plan area are the Density Reduction/Groundwater Resource and Wetlands future land use categories, as described below.

**Density Reduction/Groundwater Resource (DR/GR):** The DR/GR future land use category was originally incorporated into the Lee Plan as part of the implementation of the 1990 Stipulated Settlement Agreement between Lee County and the Florida Department of Community Affairs (DCA). The DR/GR future land use category is described in Policy 1.4.5 provided, in part, below:

**POLICY 1.4.5:** The Density Reduction/Groundwater Resource (DR/GR) land use category includes 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.

The underlying objectives for the DR/GR future land use category are to protect the County's shallow aquifers and to reduce the population accommodation of the Future Land Use Map in the Lee Plan.

Prior to the adoption of the 1990 Stipulated Settlement Agreement, Lee County proposed to protect the shallow aquifers, in part, with an amendment to the Future Land Use Map. The original proposal was for the creation of a new future land use category for the southeast area of the county called "Groundwater Resource." The amendment proposed a reduction in density from one dwelling unit per acre to one dwelling unit per five acres.

The DCA was concerned with the population accommodation of the Future Land Use Map in relation to the Planning Horizon of the Lee Plan. Therefore, as part of the 1990 Stipulated Settlement Agreement, allowable density was further reduced to one dwelling unit per ten acres and the words "Density Reduction" were added to the name of the category.

**Wetlands:** All wetlands are within the Wetlands future land use category, which is described in Objective 1.5 and Policy 1.5.1 of the Lee Plan as follows:

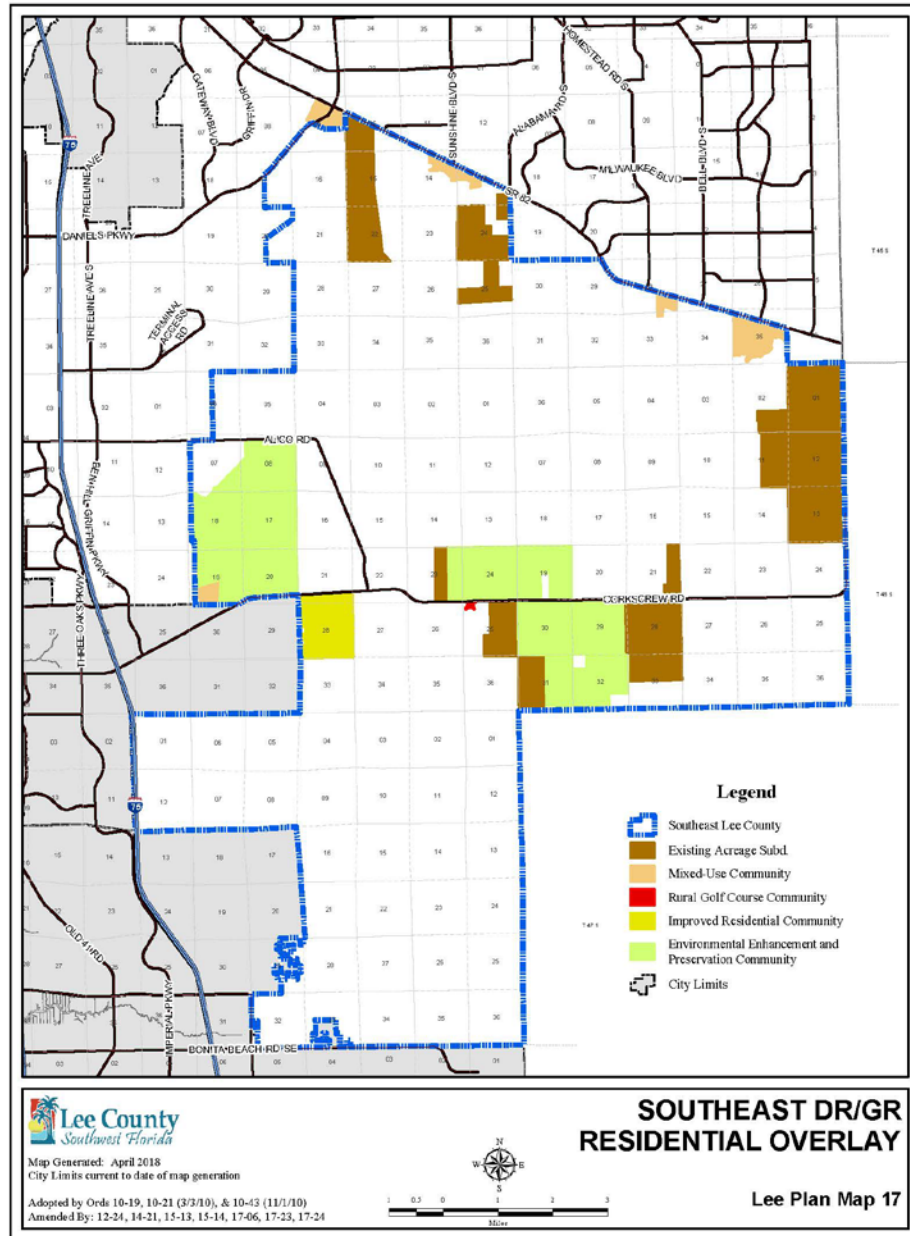
**OBJECTIVE 1.5: WETLANDS.** Designate on the Future Land Use Map those lands that are identified as Wetlands in accordance with F.S. 373.019(17) through the use of the unified state delineation methodology described in FAC Chapter 17-340, as ratified and amended in F.S. 373.4211. (Ordinance No. 94-30)

**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 (1 du/20 acre) except as otherwise provided in Table 1(a) and Chapter XIII of this plan. (Ordinance No. 94-30)



Southeast DR/GR Residential Overlay (Lee Plan Map 17)

There are five types of Southeast Lee County residential communities described by Lee Plan Policy 1.7.13 and depicted on the Southeast DR/GR Residential Overlay, Map 17: Existing Acreage Subdivisions; Rural Golf Course Communities; Mixed-Use Communities; Improved Residential Communities; and EEPCs.



Although the focus of the proposed amendments is related to EEPCs, the Rural Golf Course Communities and Mixed-Use Communities are pertinent, since commercial development allowed in these communities must be considered in the analysis of this request. Increased

densities and commercial intensity are permitted within Mixed-Use Communities by clustering development rights into mixed-use development nodes. Rural Golf Course Communities also allows concentration of residential uses using transferred development rights. The potential of Neighborhood Commercial uses being allowed within Rural Golf Course Communities zoned Private Recreation Facility Planned Development (PRFPD) was adopted by the Board on December 18, 2019 by Ordinance 19-25.

### EEPC Overlay

The EEPC Overlay was incorporated into the Lee Plan by Ordinance 15-13 and continues to be consistent with Lee Plan Objective 123.1, Policy 123.1.1, Policy 123.2.8 and Policy 123.11.4.

There are three general objectives of the EEPC Overlay:

1. Target strategic areas that can provide critical connections to other conservation lands that serve as the backbone for water resource management and wildlife movement within Southeast Lee County, consistent with Policy 33.2.3 of the Lee Plan;
2. Require development to be designed with the land, consistent with numerous Goals, Objectives, and Policies of the Lee Plan; and,
3. Provide a predictable way to assign appropriate increases in density as an incentive to offset the cost of the improvements needed to achieve the longstanding environmental goals of the Southeast DR/GR.

The first objective of the EEPC Overlay is to include lands that can provide strategic regional benefits while minimizing new and adverse impacts that would be inconsistent with the following conservation goals of Southeast Lee County:

1. Maintaining and enhancing the surface and groundwater resources;
2. Avoiding further loss of wetlands, and requiring any loss of wetlands within the DR/GR to be mitigated within the DR/GR;
3. Expanding the existing shallow and sandstone aquifer monitoring well system to be used as a resource management tool;
4. Restoring historic flow-ways;
5. Providing connectivity between larger, regionally significant preserves for mammal and herpefaunal movement;
6. Planning for public potable water well withdrawals to insure natural systems are not harmed;
7. Restoration of historic ecosystems;
8. Maintaining and enhancing woodstork foraging areas; and
9. Maintaining and enhancing agricultural operations.



The boundary of the EEPC Overlay is described in Policy 33.3.4 below:

**POLICY 33.3.4:** Lands that provide a significant regional hydrological and wildlife connection have the potential to improve, preserve, and restore regional surface and groundwater resources and indigenous wildlife habitats. These lands, located along Corkscrew and Alico Roads, can provide important hydrological connections to the Flint Pen Strand and the Stewart Cypress Slough as well as important wildlife habitat connections between existing CREW and Lee County properties. As an incentive to improve, preserve, and restore regional surface and groundwater resources and wildlife habitat of state and federally listed species additional densities and accessory commercial uses will be granted if the project is found consistent with and demonstrates through a planned development rezoning the following:

1. These lands are within the “Environmental Enhancement and Preservation Communities” overlay as designated on Map 17 of the Plan. Lands eligible for designation on the Environmental Enhancement and Preservation Communities overlay must be consistent with the criteria below:
  - Provide significant regional hydrological and wildlife connections and have the potential to improve, preserve, and restore regional surface and groundwater resources and indigenous wildlife habitats; and
  - Be located west of Lee County 20/20 Imperial Marsh Preserve (Corkscrew Tract) and within one mile north or south of Corkscrew Road. Properties with frontage on Corkscrew Road designated as Tier 1 Priority Restoration Area may extend the overlay an additional mile south to include contiguous Tier 1 properties where the extension will result in regional environmental benefits by connecting protected habitat north of Corkscrew Road to land in Collier County used for conservation purposes; or,
  - Be located west of the intersection of Alico Road and Corkscrew Road, north of Corkscrew Road and south of Alico Road.

The EEPC Overlay boundary is not being revised by these amendments.

#### Lee Plan Amendments

Attachment 1 to this staff report provides two versions of the proposed text amendments. The first identifies amendments to the Lee Plan as it is currently in effect and the second identifies amendments to the Lee Plan as it will become effective under pending Lee County Ordinance 19-13. Many of the provisions proposed to be amended by this application were modified by Ordinance 19-13. The analysis in the staff report is based on the current effective version of the Lee Plan; however, the analysis is applicable to both sets of proposed text amendments.

**Increased Residential Density:** The applicant is requesting the ability to increase the residential density in EEPCs by 15 percent. In order to justify the increase, the applicant is proposing that EEPCs provide an additional 5 percent open space for the entire project, increase surface water

storage and flood attenuation to assist with the implementation of Lee County's regional flood mitigation efforts, and provide surface water connections to adjacent flowways.

To implement this request, **Policy 33.3.4, subsection 3.e.** will be amended to allow a density increase of up to 15 percent if all of the following are provided as part of the planned development:

- i. A minimum of 65 percent open space, not including previously mined lakes;
- ii. Significant regional hydrological connections that further Lee County's flood mitigation and flowway restoration efforts by providing:
  - a. Physical surface water connections to allow surface water to flow to and from adjacent properties and off-site flowways (to be considered site-related improvements); and
  - b. Enhanced on-site surface water storage and flood attenuation.

The amendments will allow for an increased number of dwelling units to be approved through the rezoning process; however, the development footprint will not increase, additional open space will be required, and wildlife habitat area will not decrease. Applicants seeking the additional 15 percent density will also have to specifically demonstrate they are furthering flood mitigation and flowway restoration efforts of Lee County. The goal of Lee County's flood mitigation project is to reduce flooding at a regional scale. The proposed amendments would allow Lee County to work with private partners on a case-by-case basis to implement regional flood mitigation projects based on existing and historic flowways in exchange for an increase in density.

Currently, the only undeveloped property within the EEPC Overlay that could benefit from these amendments is Verdana Village, which is undergoing a concurrent rezoning review. Verdana Village is approximately 2,138 acres and could be approved for 2,138 dwelling units utilizing the current development incentives of the EEPC Overlay. If the proposed amendments are adopted, Verdana Village could be approved for up to 2,459 dwelling units, an increase of 321 dwelling units. The concurrent rezoning for Verdana Village, DCI2019-00018, requests a maximum of 2,400 dwelling units, an increase of 262 dwelling units.

The EEPC Overlay was initially adopted on September 5, 2015. In August and September of 2017, southwest Florida experienced two major rain events, Invest 92L and Hurricane Irma. These events resulted in significant flooding across Lee County. After immediate clean-up and removal of drainage obstructions, Lee County made observations, collected data, and created models to understand how the natural and manmade drainage features responded, with the goal being to reduce flooding on a larger regional scale. This effort is known as the Lee County Flood Mitigation Study.

Lee County has identified 1,820 cubic feet per second (CFS) of surface water moving from north to south in the Corkscrew Road East portion of the Lee County Flood Mitigation Study (from

Burgundy Farms Road to the eastern border of Lee County). To demonstrate consistency with the revised Policy 33.3.4, subsection 3.e., the applicant is proposing in their concurrent zoning for Verdana Village to restore two historic flowways that traverse the Verdana Village property and accommodate acceptance of 650 CFS of surface water (and provide additional storage), while maintaining the projects' permitted discharge rate to the south. The 650 CFS with additional flow represents approximately 1/3 of the flow of surface water identified in the Lee County Flood Mitigation Study.

The proposed amendments to **Policy 33.3.4, subsection 3.e.** promotes reestablishment of historic flow patterns and provides significant opportunity to mitigate flooding at a regional scale. Therefore this will provide enhanced regional hydrological benefits, consistent with the goal of Policy 33.3.4.

**Commercial Development:** In addition to the increased density, the applicant is requesting that commercial development, limited to Neighborhood Commercial uses, be allowed in EEPs. To accomplish the request, a new **subsection 4 to Lee Plan Policy 33.3.4** is proposed as provided below:

4. Commercial uses may be approved as part of a mixed use planned development if the project is found consistent with all of the following:
  - a. The project is a minimum of 2,000 acres;
  - b. The project consists of both residential and commercial development and meets the minimum requirements of this policy;
  - c. Wetlands may not be impacted by the commercial development area;
  - d. The project will be consistent with Policy 33.3.5 and will not exceed the allowable total square footage for commercial uses in Southeast Lee County;
  - e. Commercial uses and maximum floor area is limited to Neighborhood Commercial, as defined, and must not include any of the following uses: auto parts stores, lawn and garden supply stores, fuel pump stations, drycleaners (on-site), or any other use that is not compatible with protecting Southeast Lee County's environment.
  - f. Commercial development within the 6-month, 1-year, 5-year, or 10-year travel zones of the Wellfield Protection Ordinance must provide a total of 1.5" of treatment, ½ -inch of which must be completed via dry pretreatment, at a minimum. The entire commercial portion of the project will be considered to be within the most restrictive wellfield protection zone as provided in the Wellfield Protection Ordinance. Ground water quality monitoring well(s) for the Surficial Aquifer System



must be provided and located between Lee County's nearest production well(s) and the commercial development.

- g. The human wildlife coexistence plan required by subsection 2.f. of this policy must include a commercial component that at a minimum provides for bear-proof refuse containers, below ground grease traps, and prevents light spillage onto adjacent preserve areas.

As proposed, commercial development would only be allowed in planned developments containing at least 2,000 acres. In addition, no planned development would be able to have more than 100,000 square feet of commercial development. Design requirements specific to commercial development areas within EEPs are also proposed to ensure protection of Southeast Lee County's environment and Lee County's wellfield. The following must be demonstrated through the planned development rezoning: the uses do not impact wetlands; the uses will not impact wildlife (through additional requirements in the wildlife coexistence plan); additional surface water treatment is provided; and, groundwater monitoring will occur between the commercial uses and Lee County's wellfield. These requirements are in addition to the existing development requirements for EEPs, in whole, including: 60 percent of the project be open space; restoration of 55 percent of the property into wetland and upland preserves including exotic removal, re-grading of agricultural fields and replanting of native habitat; improvement of critical wildlife connections to adjacent public conservation lands; preservation of water resources through reductions in water use allocation and the use of native plants to reduce irrigation; elimination of irrigation for agricultural uses; restoration of historic flowways and connections to off-site flowways; and, required connection to sewer and water instead of use of well and septic.

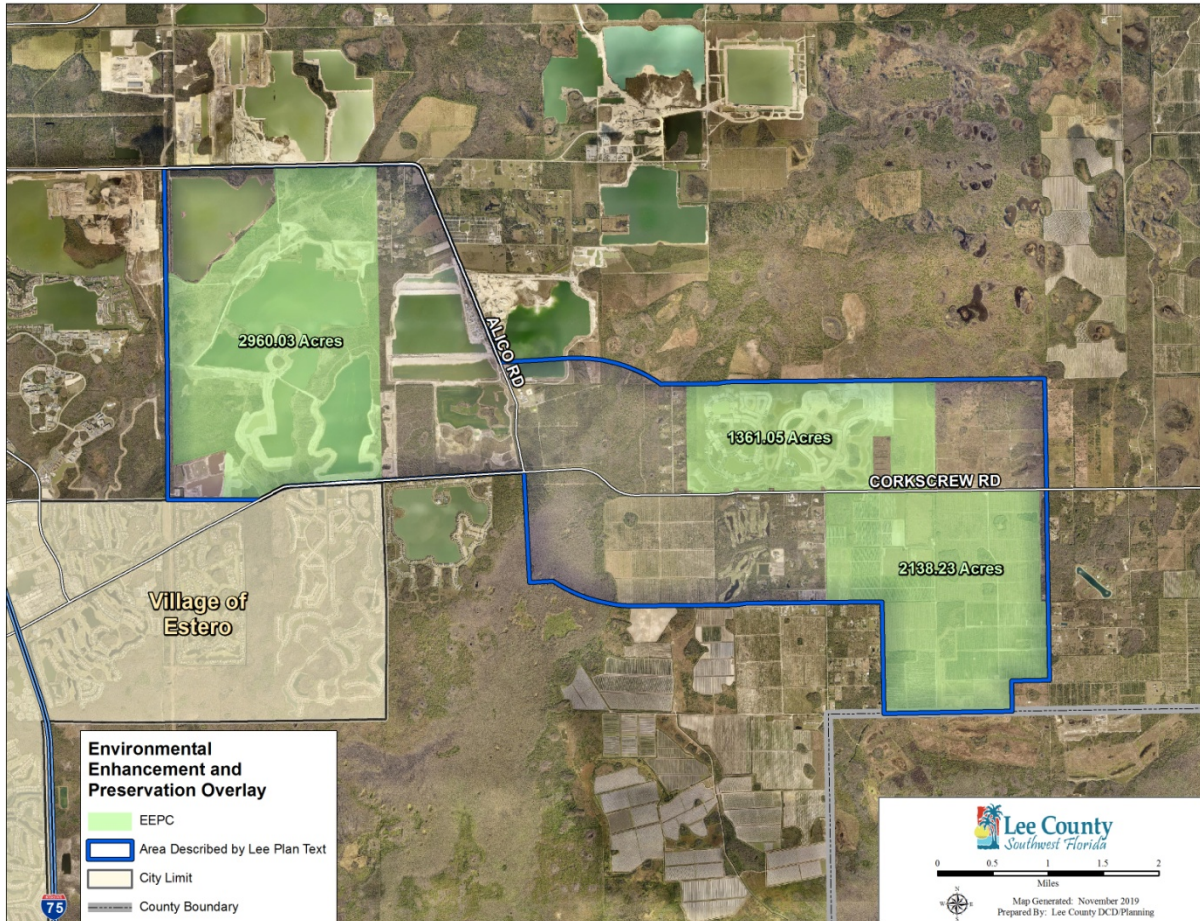
As shown on the map of the Environmental Enhancement and Preservation Overlay (see next page), there are only two projects that meet the minimum size requirements for commercial uses – WildBlue and Verdana Village. WildBlue is approximately 2,960 acres and Verdana Village, currently under review, is 2,138 acres.

The cumulative amount of commercial uses in the Southeast Lee County community plan area will be limited to a maximum of 300,000 square feet as proposed in **Policy 33.3.5**:

**Policy 33.3.5: Commercial uses may only be permitted if incorporated into a Mixed-Use Community, Environmental Enhancement and Preservation Community, or Rural Golf Course Community depicted on Map 17. The maximum commercial floor area that may be approved within the Southeast Lee County community plan area may not exceed 300,000 square feet.**

The 300,000 square feet of commercial development is currently identified in Policy 33.3.2, specific to Mixed-Use Communities. The 300,000 square foot threshold is proposed to be removed from Policy 33.3.2, as shown in Attachment 1; this allows for the appropriate amount

of commercial development for the Southeast Lee County Community Plan area to be established in a single policy, Policy 33.3.5, and to be distributed between Mixed-Use Communities, Rural Golf Course Communities and EEPs depicted on Lee Plan Map 17. The combined amendments to Policy 33.3.2 and 33.3.5 result in no increase to the amount of commercial development currently allowed within Southeast Lee County.



Currently there are approximately 41,000 square feet of commercial uses approved or built within the Southeast Lee County Community Plan area: Wildblue, as previously stated, is about 2,960 acres, and has been approved for 40,000 square feet of commercial uses; and the Corkscrew Country Store, located at the southwest intersection of Corkscrew and Carter Roads, has approximately 1,000 square feet of commercial uses. An additional 100,000 square feet of commercial development has been requested in conjunction with the Old Corkscrew Golf Club, a Rural Golf Course Community depicted on Map 17. Mixed-Use Communities (Policy 33.3.2) have been designated on Map 17 since 2010 and are allowed commercial uses; however, it is important to note that there is not adequate water and sewer infrastructure to serve the Mixed-Use Communities located along S.R. 82 and none have been developed. Lee County

Utilities is able to provide water and sewer services to the approved developments along Corkscrew Road.

The proposed amendments to Policy 33.3.4 subsection 4 will protect public water resources through the planned development rezoning process. No significant impacts to present or future water resources are expected as a result of the proposed amendments which could allow commercial uses in proximity to Lee County's wellfield; the amendments are consistent with Lee Plan Policies 2.4.2 and 2.4.3.

**Cessation of Agricultural Uses:** Revisions to **Policy 33.3.4 subsections 2e and 2i** are proposed to clarify the timing of agricultural use cessation and recording of conservation easements.

- e. Record a Conservation Easement for a minimum of 55 percent of the planned development, not including previously mined lakes, to be dedicated to the appropriate maintenance entity that provides Lee County, or some other public agency acceptable to Lee County, with third party enforcement rights. All Conservation Easements required as part of the planned development must be recorded within 5 years from first development order approval.
- i. ~~Elimination of any agricultural uses, including the use of I-rrigation and fertilizers (or other chemicals) for agricultural purposes,~~ must be entirely eliminated at time of first development order approval for row crops and no later than 5 years from first development order approval for citrus groves. If cessation of citrus groves is to be phased, a phasing plan provided at the time of zoning must demonstrate regional environmental benefits, including but not limited to regional or historic surface water and wildlife connections, occurring with the first phase of development.

The amendment clarifies that agricultural uses will cease at the time of first DO or within 5 years if a phasing plan is provided .Upon the cessation of the agricultural uses, the conservation easement for the restoration areas will be recorded.

#### **PART 4 INFRASTRUCTURE AND SERVICES**

Transportation/Traffic Circulation Impacts: The applicant's consultant, David Plummer & Associates (DPA), provided a traffic analysis dated September 12, 2019 in conjunction with this request. The submittal analyzed a total residential density of 2,520 residential units and 100,000 square feet of commercial along the south side of Corkscrew Road. The area of the subject application includes three prior plan amendments also known as CAM40 (40 residential units in concurrent CPA2019-00005), Pepperland Ranch (700 residential units in approved CPA2016-00003), and Verdana (1,460 residential units in approved CPA2016-00009).



The applicant has indicated that no dwelling units or commercial development are planned to be completed and occupied within five years. As a result the applicant did not submit a five year analysis. Given the likely time frame to remove existing orange groves, design and permit the site, and construct site infrastructure, this is acceptable to staff. Table 18 of the 2019 Public Facilities Level of Service Inventory and Concurrency Report indicates that Corkscrew Road is anticipated to operate at an acceptable level of service in the year 2023.

The 2018 and forecast 2023 level of service on Corkscrew Road within the three mile study area from the report are summarized in Table 1. The 2023 forecast includes approved development orders for buildout of The Place at Corkscrew.

**Table 1: Five Year Level of Service Analysis**

Roadway	From	To	2018 Existing Level of Service	2023 Forecast Level of Service
Corkscrew Road	Alico Road	Six L's Farm Rd	B	C
Corkscrew Road	Six L's Farm Rd	Collier County line	B	C

The applicant's traffic study focused on the potential transportation impacts with (Exhibit 3 of the September 12, 2019 DPA analysis) and without (Exhibit 2 of the September 12, 2019 DPA analysis) the development in 2040. The study accounted for existing and approved area development along Corkscrew Road. This included the EEPKO projects WildBlue, The Place at Corkscrew, CAM40, Pepperland Ranch, and Verdana, as well as projects along Corkscrew Road west of Alico Road.

Both Exhibit 2 and 3 indicate that all roadway segments of Corkscrew Road within the three mile study area will operate at or better than the acceptable level of service standard in Lee Plan Policy 95.1.3. Staff agrees with the applicant's level of service determination and summarizes the Exhibit 2 and 3 level of service findings below in Table 2.

**Table 2: Twenty Year (2040) Level of Service Analysis**

Roadway	From	To	Level of Service Without Text Amendment	Level of Service With Text Amendment
Corkscrew Road	Alico Road	Six L's Farm Rd	D	D
Corkscrew Road	Six L's Farm Rd	Project entrance	C	C
Corkscrew Road	Project entrance	TPI Rd	B	B
Corkscrew Road	TPI Rd	Collier County line	A	B

School Impacts: The School District of Lee County reviewed the potential increase in residential dwelling units and found that capacity is not an issue within the Concurrency Service Areas.

Solid Waste Collection Service: Lee County Solid Waste will be capable of serving the proposed additional development with adequate solid waste collection services.

Mass Transit Service: Currently, the EEPC Overlay is outside of LeeTran's ¼ mile fixed route buffer and the ¾ mile ADA Service Corridor. The current Transit Development Plan (TDP) does not identify expansion of LeeTran's transit service in this area as a need within the 10-year horizon of the document.

Emergency Medical Services (EMS): Lee County EMS has identified concerns with not being able to accommodate the proposed additional development. There are two EMS stations within proximity (approximately 7 miles): Station 21 and Station 25. An evaluation of current response times along Corkscrew Road in that vicinity, as well as drive time modeling, suggests that existing service standards as required in County Ordinance 08-16 will not be met. The applicant will be required to address this deficiency as part of the concurrent zoning case as required by Policy 33.3.4.2.m.

Police Service: The proposed amendments do not affect the ability of the Lee County Sheriff's Office to provide core services as this time. Service to the general area of the EEPC Overlay will be provided primarily from the South District Office in Bonita Springs with supplemental support from City of Bonita Springs contract deputies.

Fire Protection Service: The Estero Fire Rescue Service District is able to serve the proposed additional development with fire protection and non-transport emergency medical services. An additional fire station is planned for the general area of the EEPC Overlay in 3 – 5 years.

Utilities Service: Lee County Utilities will be able to serve the proposed additional development with adequate potable water and sanitary sewer services.

## **PART 5 CONCLUSIONS**

Staff is recommending amendments to Goals 1, 6, and 33 of the Lee Plan that would: Allow development of neighborhood commercial uses which are consistent with wellfield protection within EEPCs that have a minimum area of 2,000 acres; allow up to 15 percent more residential units within EEPCs when enhanced regional benefits are provided; clarify timing of agricultural use cessation and recording of conservation easements for EEPCs; and provide a threshold of 300,000 square feet for commercial development in Southeast Lee County.

As discussed in this staff report, the proposed amendments:

- Will not cause the development footprints to increase, additional open space will be required, and wildlife habit area will not decrease;

- Promote the reestablishment of historic flow patterns and provides significant opportunity to mitigate flooding at a regional scale;
- Will not increase to the amount of commercial development currently allowed within the Southeast Lee County Community Plan area;
- Are consistent with Lee Plan Policies 2.4.2 and 2.4.3, and will protect public water resources through the planned development rezoning process; and
- Result in no significant impacts on present or future water resources.

**Recommendation:** Staff recommends that the Board of County Commissioners *transmit* the proposed amendments, as identified in Attachment 1.

**PART 6**  
**LOCAL PLANNING AGENCY**  
**REVIEW AND RECOMMENDATION**

DATE OF PUBLIC HEARING: December 9, 2019

**A. LOCAL PLANNING AGENCY REVIEW:**

Prior to the start of the Public Hearing one member of the LPA stated that they had a conflict of interest and would abstain from voting on the proposed amendment.

The applicant's representatives provided a detailed presentation of the proposed amendments including existing conditions, the concurrent rezoning application, an overview of the EEPKO, changing development patterns, environmental impacts, water resources, wellfield protection, commercial needs analysis, transportation impacts, enhanced regional environmental benefits, restoration strategy, and Lee Plan consistency.

Following the applicant's presentation, staff provided a brief overview of the amendment including staff's conclusions and recommendation.

Members of the LPA requested clarification about hydrologic connections across Corkscrew Road, benefits to water resources, enhancements to surface water management systems; impacts to traffic; and how the amendments would apply to future EEPKO's.

One member of the public addressed the LPA and expressed concerns regarding the proposed amount of commercial, legitimacy of increased regional enhancements, status of the transportation study, and impacts to panther movement.

**B. LOCAL PLANNING AGENCY RECOMMENDATION:**

A motion was made to recommend the Board of County Commissioners *transmit* CPA2019-00008 for state review. The motion included a request to ensure that the phasing of the restoration is tied to the phasing of the development. The motion passed 6 to 0.



**VOTE:**

<b>RAYMOND BLACKSMITH</b>	<b>ABSTAIN</b>
<b>RHONDA BREWER</b>	<b>AYE</b>
<b>JAMES INK</b>	<b>AYE</b>
<b>DON SCHROTENBOER</b>	<b>AYE</b>
<b>KRISTINE SMALE</b>	<b>AYE</b>
<b>STAN STOUWER</b>	<b>AYE</b>
<b>HENRY ZUBA</b>	<b>AYE</b>

**C. STAFF RESPONSE AND RECOMMENDATION:**

In response to the LPA's request regarding phasing, the phasing schedules for restoration and development will be determined as part of the concurrent planned development and implemented through the development order process.

Staff continues to recommend that the Board of County Commissioners *transmit* the proposed amendments, as identified in Attachment 1.

**PART 7**

**BOARD OF COUNTY COMMISSIONERS  
TRANSMITTAL HEARING FOR PROPOSED AMENDMENT**

DATE OF PUBLIC HEARING: January 22, 2020

**A. BOARD REVIEW:**

Staff provided a brief presentation for the proposed amendments which provided a summary of the proposed amendments, and the LPA and staff recommendations.

The applicant provided a detailed presentation that included an overview of the proposed amendments, an analysis of the need for commercial uses, hydrological benefits, flowway restoration, stormwater retention, trip capture, and Lee Plan consistency.

One member of the public addressed the Board of County Commissioners concerning the proposed amendments. She was concerned about allowing commercial development in this area of Southeast Lee County.

**B. BOARD ACTION:**

A motion was made to transmit CPA2019-00008 as recommended by staff and the LPA. The motion was passed 5 to 0.

**VOTE:**

<b>BRIAN HAMMAN</b>	<b>AYE</b>
<b>FRANK MANN</b>	<b>AYE</b>
<b>JOHN MANNING</b>	<b>AYE</b>
<b>CECIL L. PENDERGRASS</b>	<b>AYE</b>
<b>RAY SANDELLI</b>	<b>AYE</b>

The text amendments are provided below in two versions. The first (pages 1 – 6) amends the Lee Plan as it is currently in effect and the second (pages 7 – 11) amends the Lee Plan as it will become effective under Lee County Ordinance 19-13. Many of the provisions proposed to be amended by this application were modified by Ordinance 19-13.

The following amendments are based on the current Lee Plan (as of January 8, 2020)

**II. Future Land Use**

\*\*\*\*\*

**POLICY 1.4.5:** The Density Reduction/Groundwater Resource (DR/GR) land use category includes 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.

- 2. Permitted land uses include agriculture, natural resource extraction and related facilities, conservation uses, public and private recreation facilities, and residential uses at a maximum density of one dwelling unit per ten acres (1 du/10 acres). See Policies 33.3.2, 33.3.3, and 33.3.4, ~~33.3.5 and 33.3.6~~ for potential density adjustments resulting from concentration or transfer of development rights.
  - a. For residential development, also see Objective 33.3 and following policies. Commercial and civic uses can be incorporated into Mixed-Use Communities, Environmental Enhancement and Preservation Communities, and Rural Golf Course Communities that are depicted on Map 17 to the extent specifically provided in those policies.

(Ordinance No. 91-19, 94-30, 99-16, 02-02, 10-20, 12-24, 15-13, 18-18)

- Remove out-of-date cross-references
- Add references to EEPs and Rural Golf Course Communities that will be able to have commercial uses in addition to Mixed-Use Communities identified on Map 17

\*\*\*\*\*

**POLICY 6.1.2:** Commercial development in non-urban future land use categories is limited to Minor Commercial except that:

- Neighborhood Commercial uses serving the Lee County Civic Center are permitted within one quarter mile of SR31 between North River Road and the Caloosahatchee River in the North Olga Community Planning Area and ~~Neighborhood Commercial~~ may be expanded to Community Commercial when approved as part of a planned development that is located at the intersection of

two arterial roadways and has direct access to, or the ability to extend, existing water and sanitary sewer utilities.

- Neighborhood Commercial uses are permitted in the Southeast Lee County Planning Community as provided for in Objectives 13.3 and 33.3.

Minor Commercial development may include limited commercial uses serving rural areas and agricultural needs, and commercial marinas. Minor Commercial development must be located so that the retail use, including buildings and outdoor sales area, is located at the intersection (within 330 feet of the adjoining rights-of-way of the intersecting roads) of arterial and collector roads or two collector roads with direct access to both intersecting roads. Direct access may be achieved with an internal access road to either intersecting roads. On islands, without an intersecting network of collector and arterial roads, commercial development may be located at the intersection of local and collector, or local and arterial, or collector and collector roads.

(Ordinance No. 93-25, 94-30, 98-09, 99-15, 99-18, 00- 22, 02-02, 07-09, 10-05, 10-16, 10-19, 10-40, 11-18, 16-07, 17-13)

- Add cross reference for Lee Plan internal consistency

\*\*\*\*\*

**POLICY 33.3.2:** Map 17 identifies future locations for Mixed-Use Communities where development rights can be concentrated from large Southeast Lee County tracts into Traditional Neighborhood Developments. The preferred pattern for residential development is to cluster density within Mixed-Use Communities along existing roads and away from Future Limerock Mining areas.

1. Southeast Lee County Mixed-Use Communities must be concentrated from contiguous property owned under single ownership or control. Residential density is calculated from the upland and wetland acreage of the entire contiguous Southeast Lee County property. Increases in residential densities may be approved through incentives as specified in the LDC for permanent protection of indigenous native uplands on the contiguous tract (up to one extra dwelling unit allowed for each five acres of preserved or restored indigenous native uplands) and through the acquisition of TDUs from TDR sending areas within Southeast Lee County as provided in Objective 33.4.

~~e. Additional intensity created using TDUs may not exceed 300,000 square feet of non-residential floor area for the entire Mixed Use Community.~~

4. Commercial uses developed as part of a Mixed-Use Community will be consistent with Policy 33.3.5 and will not exceed the allowable total square footage for commercial uses in Southeast Lee County.

(Ordinance No. 10-43, 12-24, 17-13)



- Update for Lee Plan internal consistency
- Commercial development for all of Southeast Lee County Community Plan area is limited to 300,000 square feet by new Policy 33.3.5

\*\*\*\*\*

**POLICY 33.3.4:** Lands that provide a significant regional hydrological and wildlife connection have the potential to improve, preserve, and restore regional surface and groundwater resources and indigenous wildlife habitats. These lands, located along Corkscrew and Alico Roads, can provide important hydrological connections to the Flint Pen Strand and the Stewart Cypress Slough as well as important wildlife habitat connections between existing CREW and Lee County properties. As an incentive to improve, preserve, and restore regional surface and groundwater resources and wildlife habitat of state and federally listed species additional densities and ~~accessory~~ commercial uses ~~will~~ may be granted if the project is found consistent with and demonstrates through a planned development rezoning the following:

2. The property is rezoned to a planned development that meets the following:
  - e. Record a Conservation Easement for a minimum of 55 percent of the planned development, not including previously mined lakes, to be dedicated to the appropriate maintenance entity that provides Lee County, or some other public agency acceptable to Lee County, with third party enforcement rights. All Conservation Easements required as part of the planned development must be recorded within 5 years from first development order approval.
  - i. ~~Elimination of any agricultural uses, including the use of irrigation and fertilizers (or other chemicals) for agricultural purposes~~ must be entirely eliminated at time of first development order approval for row crops and no later than 5 years from first development order approval for citrus groves. If cessation of citrus groves is to be phased, a phasing plan provided at the time of zoning must demonstrate regional environmental benefits, including but not limited to regional or historic surface water and wildlife connections, occurring with the first phase of development.

- Clarify timing of agricultural use cessation and recording of conservation easements for EEPCs

\*\*\*\*\*

3. In recognition of the preservation, enhancement, and protection of regional flowways and natural habitat corridors, the interconnection with existing off-site conservation areas, and the significant enhancement, preservation and protection of these lands,

additional density may be approved through planned developments meeting the criteria and requirements outlined above as follows:

e. Additional dwelling units may be approved in the planned development by using any combination of the following: ~~meeting the requirements in subsection 2 of this Policy if transferred~~

1) Utilize the Southeast Lee County TDR program to transfer dwelling units from ~~other~~ Southeast Lee County lands located outside of the planned development pursuant to Policy 33.4.2. ~~at the standard density of 1 unit per 10 acres for DR/GR lands and 1 unit per 20 acres for Wetlands future land use category if density rights are extinguished through an instrument acceptable to the County Attorney's Office. Dwelling units transferred from other Southeast Lee County lands will be counted against the 2,000 dwelling unit limitation for Southeast Lee County receiving parcels identified in the Southeast Lee County TDR program.~~

2) Provide all of the following as part of the planned development for a density increase of up to 15 percent:

i. A minimum of 65 percent open space, not including previously mined lakes; and

ii. Significant regional hydrological connections that further Lee County's flood mitigation and flowway restoration efforts by providing:

a. Physical surface water connections to allow surface water to flow to and from adjacent properties and off-site flowways (to be considered site-related improvements); and

b. Enhanced on-site surface water storage and flood attenuation.

- **Allow up to an additional 15% residential units within EEPCs when enhanced regional benefits are provided through a planned development rezoning**

4. Commercial uses may be approved as part of a mixed use planned development if the project is found consistent with all of the following:

a. The project is a minimum of 2,000 acres;

b. The project consists of both residential and commercial development and meets the minimum requirements of this policy;

c. Wetlands may not be impacted by the commercial development area;

- d. The project will be consistent with Policy 33.3.5 and will not exceed the allowable total square footage for commercial uses in Southeast Lee County;
- e. Commercial uses and maximum floor area is limited to Neighborhood Commercial, as defined, and must not include any of the following uses: auto parts stores, lawn and garden supply stores, fuel pump stations, drycleaners (on-site), or any other use that is not compatible with protecting Southeast Lee County's environment.
- f. Commercial development within the 6-month, 1-year, 5-year, or 10-year travel zones of the Wellfield Protection Ordinance must provide a total of 1.5" of treatment, ½ -inch of which must be completed via dry pretreatment, at a minimum. The entire commercial portion of the project will be considered to be within the most restrictive wellfield protection zone as provided in the Wellfield Protection Ordinance. Ground water quality monitoring well(s) for the Surficial Aquifer System must be provided and located between Lee County's nearest production well(s) and the commercial development.
- g. The human wildlife coexistence plan required by subsection 2.f. of this policy must include a commercial component that at a minimum provides for bear-proof refuse containers, below ground grease traps, and prevents light spillage onto adjacent preserve areas.  
(Ordinance No. 15-13, 15-14, 17-13, 17-24, 19-13)

- Allow development of neighborhood commercial uses which are consistent with wellfield protection within EEPs that have a minimum area of 2,000 acres.

\*\*\*\*\*

**POLICY 33.3.5:** Commercial uses may only be permitted if incorporated into a Mixed-Use Community, Environmental Enhancement and Preservation Community, or Rural Golf Course Community depicted on Map 17. The maximum commercial floor area that may be approved within the Southeast Lee County community plan area may not exceed 300,000 square feet.

- Add policy within Goal 33: Southeast Lee County which limits commercial uses to 300,000 square feet within the Southeast Lee County community plan area.

\*\*\*\*\*

**POLICY 33.4.2:** The Southeast Lee County TDR program will have the following characteristics:

2. Receiving area density and intensity equivalents of Southeast Lee County TDUs.

- d. In Environmental Enhancement and Preservation Communities identified on Map 17, each Southeast Lee County TDU credit may be redeemed for a maximum of one (1) dwelling unit per 10 acres using credits from DR/GR sending areas and a maximum of one (1) dwelling unit per 20 acres using credits from wetland sending areas.
- e. No more than 2,000 dwelling units may be placed on receiving parcels identified in subsections a. through de. above using the Southeast Lee County TDR program.

*Accordingly, subsections e. and f. are relettered to f. and g.*

- Relocates the ability to transfer density from Southeast Lee County using the Southeast Lee County TDR program to Objective 33.4: Southeast Lee County Transfer of Development Rights (TDR) Program.
- Does **not** change transfer rate or sending/receiving areas

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**XII. Glossary**

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**Future Non-Urban Areas** – Those categories on the Future Land Use Map that are designated primarily for single use development with a density equal to or less than 1 unit per acres unless otherwise allowed within a special treatment area identified in Objective 1.7: Rural, Rural Community Preserve, Coastal Rural, Outer Island, Open Lands, Wetlands, Conservation Lands (upland and wetland), New Community within the North Olga Planning Community and Density Reduction/Groundwater Resource.

- Clarifies that incentives provided as part of a special treatment area will not impact its classification as Future Non-Urban.



**Lee Plan Updated By Ord. 19-13 (Pending Effective Date)**  
**The following amendments are proposed if Ordinance 19-13 becomes effective prior to the adoption of CPA2019-00008.**

**II. Future Land Use**

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**POLICY 1.4.5:** The Density Reduction/Groundwater Resource (DR/GR) land use category includes 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.

2. Permitted land uses include agriculture, natural resource extraction and related facilities, conservation uses, public and private recreation facilities, residential uses at a maximum standard density of one dwelling unit per ten acres (1 du/10 acres). See Objectives 33.2 and 33.3 for potential density adjustments resulting from concentration or transfer of development rights and Objectives 13.3 and 33.2 for potential to incorporate limited commercial uses into Mixed-Use Communities, Environmental Enhancement and Preservation Communities, or Rural Golf Course Communities that are depicted on Map 17.

(Ordinance No. 91-19, 94-30, 99-16, 02-02, 10-20, 12-24, 15-13, 18-18, 19-13)

\*\*\*\*\*

**POLICY 6.1.2:** Commercial development in non-urban future land use categories is limited to Minor Commercial except that:

- Neighborhood Commercial uses serving the Lee County Civic Center are permitted within one quarter mile of SR31 between North River Road and the Caloosahatchee River in the North Olga Community Planning Area and. ~~Neighborhood Commercial~~ may be expanded to Community Commercial when approved as part of a planned development that is located at the intersection of two arterial roadways and has direct access to, or the ability to extend, existing water and sanitary sewer utilities.
- Neighborhood Commercial uses are permitted in the Southeast Lee County Planning Community as provided for in Objectives 13.3 and 33.2.

Minor Commercial development may include limited commercial uses serving rural areas and agricultural needs, and commercial marinas. Minor Commercial development must be located so that the retail use, including buildings and outdoor sales area, is located at the intersection (within 330 feet of the adjoining rights-of-way of the intersecting roads) of arterial and collector roads or two collector roads with direct access to both intersecting roads. Direct access may be achieved with an internal access road to either intersecting roads. On islands, without an intersecting network of collector and arterial

roads, commercial development may be located at the intersection of local and collector, or local and arterial, or collector and collector roads.  
(Ordinance No. 93-25, 94-30, 98-09, 99-15, 99-18, 00-22, 02-02, 07-09, 10-05, 10-16, 10-19, 10-40, 11-18, 16-07, 17-13)

\*\*\*\*\*

**GOAL 33: SOUTHEAST LEE COUNTY.** Protect Southeast Lee County’s natural resources through public and private acquisition and restoration efforts. Development incentives will be utilized as a mechanism to preserve, enhance, and protect natural resources, such as regional flow-ways and natural habitat corridors in the development of privately owned land. Allowable land uses will include conservation, agriculture, public facilities, low density or clustered residential, natural resource extraction operations, limited commercial, and private recreation facilities; allowable land uses must be compatible with protecting Southeast Lee County’s environment. (Ordinance No. 10-20, 19-13)

\*\*\*\*\*

**POLICY 33.2.2:** Map 17 identifies future locations for Mixed-Use Communities where development rights can be concentrated from large Southeast Lee County tracts into Traditional Neighborhood Developments. The preferred pattern for residential development is to cluster density within Mixed-Use Communities along existing roads and away from Future Limerock Mining areas.

1. Southeast Lee County Mixed-Use Communities must be concentrated from contiguous property owned under single ownership or control. Residential density is calculated from the upland and wetland acreage of the entire contiguous Southeast Lee County property. Increases in residential densities may be approved through incentives as specified in the LDC for permanent protection of indigenous native uplands on the contiguous tract (up to one extra dwelling unit allowed for each five acres of preserved or restored indigenous native uplands) and through the acquisition of TDUs from TDR sending areas within Southeast Lee County as provided in Objective 33.34.

~~e. Additional intensity created using TDUs may not exceed 300,000 square feet of non-residential floor area for the entire Mixed-Use Community.~~

4. Commercial uses developed as part of a Mixed-Use Community will be consistent with Policy 33.2.5 and will not exceed the allowable total square footage for commercial uses in Southeast Lee County.

(Ordinance No. 10-43, 12-24, 17-13)

\*\*\*\*\*

**POLICY 33.2.4:** Lands that provide a significant regional hydrological and wildlife connection have the potential to improve, preserve, and restore regional surface and

groundwater resources and indigenous wildlife habitats. These lands, located along Corkscrew and Alico Roads, can provide important hydrological connections to the Flint Pen Strand and the Stewart Cypress Slough as well as important wildlife habitat connections between existing CREW and Lee County properties. As an incentive to improve, preserve, and restore regional surface and groundwater resources and wildlife habitat of state and federally listed species additional densities and ~~accessory~~ commercial uses ~~will~~ may be granted if the project is found consistent with and demonstrates through a planned development rezoning the following:

2. The property is rezoned to a planned development that meets the following:
  - e. Record a Conservation Easement for a minimum of 55 percent of the planned development, not including previously mined lakes, to be dedicated to the appropriate maintenance entity that provides Lee County, or some other public agency acceptable to Lee County, with third party enforcement rights. All Conservation Easements required as part of the planned development must be recorded within 5 years from first development order approval.
  - i. ~~Elimination of any agricultural uses, including the use of irrigation~~ Irrigation and fertilizers (or other chemicals) for agricultural purposes, must be entirely eliminated at time of first development order approval for row crops and no later than 5 years from first development order approval for citrus groves. If cessation of citrus groves is to be phased, a phasing plan provided at the time of zoning must demonstrate regional environmental benefits, including but not limited to regional or historic surface water and wildlife connections, occurring with the first phase of development.

\*\*\*\*\*

3. In recognition of the preservation, enhancement, and protection of regional flowways and natural habitat corridors, the interconnection with existing off-site conservation areas, and the significant enhancement, preservation and protection of these lands, additional density may be approved through planned developments meeting the criteria and requirements outlined above as follows:
  - f. Additional dwelling units may be approved in the planned development by using any combination of the following: meeting the requirements in subsection 2 of this Policy if transferred
    - 1) Utilize the Southeast Lee County TDR program to transfer dwelling units from ~~other~~ Southeast Lee County lands located outside of the planned development pursuant to Policy 33.4.2. at the standard density of 1 unit per 10 acres for DR/GR lands and 1 unit per 20 acres for Wetlands future land use category if density rights are extinguished through an instrument acceptable to the County Attorney's Office. Dwelling units transferred from

~~other Southeast Lee County lands will be counted against the 2,000 dwelling unit limitation for Southeast Lee County receiving parcels identified in the Southeast Lee County TDR program.~~

- 2) Provide all of the following as part of the planned development for a density increase of up to 15 percent:
  - i. A minimum of 65 percent open space, not including previously mined lakes; and
  - ii. Significant regional hydrological connections that further Lee County's flood mitigation and flowway restoration efforts by providing:
    - a. Physical surface water connections to allow surface water to flow to and from adjacent properties and off-site flowways (to be considered site-related improvements); and
    - b. Enhanced on-site surface water storage and flood attenuation.

4. Commercial uses may be approved as part of a mixed use planned development if the project is found consistent with all of the following:

- a. The project is a minimum of 2,000 acres;
- b. The project consists of both residential and commercial development and meets the minimum requirements of this policy;
- c. Wetlands may not be impacted by the commercial development area;
- d. The project will be consistent with Policy 33.3.5 and will not exceed the allowable total square footage for commercial uses in Southeast Lee County;
- e. Commercial uses and maximum floor area is limited to Neighborhood Commercial, as defined, and must not include any of the following uses: auto parts stores, lawn and garden supply stores, fuel pump stations, drycleaners (on-site), or any other use that is not compatible with protecting Southeast Lee County's environment.
- f. Commercial development within the 6-month, 1-year, 5-year, or 10-year travel zones of the Wellfield Protection Ordinance must provide a total of 1.5" of treatment, ½ -inch of which must be completed via dry pretreatment, at a minimum. The entire commercial portion of the project will be considered to be within the most restrictive wellfield protection zone as provided in the Wellfield Protection Ordinance. Ground water quality monitoring well(s) for the Surficial



Aquifer System must be provided and located between Lee County’s nearest production well(s) and the commercial development.

g. The human wildlife coexistence plan required by subsection 2.f. of this policy must include a commercial component that at a minimum provides for bear-proof refuse containers, below ground grease traps, and prevents light spillage onto adjacent preserve areas.

(Ordinance No. 15-13, 15-14, 17-13, 17-24, 19-13)

\*\*\*\*\*

**POLICY 33.2.5:** Commercial uses may only be permitted if incorporated into a Mixed-Use Community, Environmental Enhancement and Preservation Community, or Rural Golf Course Community depicted on Map 17. The maximum commercial floor area that may be approved within the Southeast Lee County community plan area may not exceed 300,000 square feet.

\*\*\*\*\*

**POLICY 33.3.2:** The Southeast Lee County TDR program will have the following characteristics:

- 2. Receiving area density and intensity equivalents of Southeast Lee County TDUs.
  - d. In Environmental Enhancement and Preservation Communities identified on Map 17, each Southeast Lee County TDU credit may be redeemed for a maximum of one (1) dwelling unit per 10 acres using credits from DR/GR sending areas and a maximum of one (1) dwelling unit per 20 acres using credits from wetland sending areas.
  - e. No more than 2,000 dwelling units may be placed on receiving parcels identified in subsections a. through de. above using the Southeast Lee County TDR program.

*Accordingly, subsections e. and f. are relettered to f. and g.*

\*\*\*\*\*

**XII. Glossary**

\*\*\*\*\*

**Future Non-Urban Areas** – Those categories on the Future Land Use Map that are designated primarily for single use development with a density equal to or less than 1 unit per acres unless otherwise allowed within a special treatment area identified in Objective 1.7: Rural, Rural Community Preserve, Coastal Rural, Outer Island, Open Lands, Wetlands, Conservation Lands

(upland and wetland), New Community within the North Olga Planning Community and Density Reduction/Groundwater Resource.

# STAFF COMMENTS

CPA2019-00008

EEPCO

TEXT AMENDMENT

# Memo

To: Brandon Dunn, Principal Planner - Planning

From: Andy Getch, P.E., - Infrastructure Planning

Date: November 21, 2019

Subject: EEPCO Text Amendment (CPA2019-00008)

LCDCD Infrastructure Planning staff has reviewed the traffic analysis from the applicant’s consultant, David Plummer & Associates (DPA), dated September 12, 2019 to accompany the subject (Environmental Enhancement and Protection Communities Overlay) EEPCO Text Amendment CPA2019-00008. The submittal analyzed a total residential density of 2,520 residential units and 100,000 square feet of commercial along the south side of Corkscrew Road. The area of the subject application includes three prior plan amendments also known as CAM40 (40 residential units in concurrent CPA2019-00005), Pepperland Ranch (700 residential units in approved CPA2016-00003), and Verdana (1,460 residential units in approved CPA2016-00009).

The applicant has indicated that no dwelling units or commercial development are planned to be completed and occupied within five years. As a result the applicant did not submit a five year analysis. Given the likely time frame to remove existing orange groves, design and permit the site, and construct site infrastructure, this is acceptable to staff. Table 18 of the 2019 Public Facilities Level of Service Inventory and Concurrency Report indicates that Corkscrew Road is anticipated to operate at an acceptable level of service in the year 2023. The 2018 and forecast 2023 level of service on Corkscrew Road within the three mile study area from of the report are summarized in Table 1. The 2023 forecast includes approved development orders for buildout of The Place at Corkscrew.

Table 1 Five Year Level of Service Analysis

Roadway	From	To	2018 Existing Level of Service	2023 Forecast Level of Service
Corkscrew Road	Alico Road	Six L’s Farm Rd	B	C
Corkscrew Road	Six L’s Farm Rd	Collier County line	B	C



The applicant’s consultants submitted traffic study focused on the potential transportation impacts with (Exhibit 3 of the September 12, 2019 DPA analysis) and without (Exhibit 2 of the September 12, 2019 DPA analysis) the development in 2040. The study accounted for existing and approved area development along Corkscrew Road. This included the EEPKO projects WildBlue, The Place at Corkscrew, CAM40, Pepperland Ranch, and Verdana as well as projects along Corkscrew Road west of Alico Road. Both Exhibit 2 and 3 indicate that all roadway segments of Corkscrew Road within the three mile study area will operate at or better than the acceptable level of service standard in Lee Plan Policy 95.1.3. Staff agrees with the applicant’s level of service determination and summarizes the Exhibit 2 and 3 level of service findings below in Table 2.

Table 2 Twenty Year (2040) Level of Service Analysis

Roadway	From	To	Level of Service Without Text Amendment	Level of Service With Text Amendment
Corkscrew Road	Alico Road	Six L’s Farm Rd	D	D
Corkscrew Road	Six L’s Farm Rd	Project entrance	C	C
Corkscrew Road	Project entrance	TPI Rd	B	B
Corkscrew Road	TPI Rd	Collier County line	A	B

Cc: Marcus Evans (electronic copy)  
Lili Wu (electronic copy)

**MEMORANDUM  
FROM  
PUBLIC WORKS  
Natural Resources Division**

**Date:** November 21, 2019

**TO:** Mikki Rozdolski  
Planning Section Manager

**From:** Luis Molina, PG, PE  
Surface Water Manager,  
Natural Resources Division



**SUBJECT:** CPA2019-00008 **Text Amendments**

The Division of Natural Resources has reviewed the following proposed Lee Plan text amendment which would allow for increased residential density:

- 2) Provide all of the following as part of the planned development for a density increase of up to 15 percent:
  - i. A minimum of 65 percent open space, not including previously mined lakes;
  - ii. Significant regional hydrological connections that further Lee County's flood mitigation and flowway restoration efforts by providing:
    - a. Physical surface water connections to allow surface water to flow to and from adjacent properties and off-site flowways (to be considered site-related improvements); and
    - b. Enhanced on-site surface water storage and flood attenuation.

It is the Division's opinion that the above modifications to Policy 33.3.4.3.2) which promotes reestablishment of historic flow patterns and increased surface water storage. This provides significant opportunity to mitigate flooding at a regional scale. Therefore this will provide enhanced regional hydrological benefits, consistent with the goal of Policy 33.3.4.

The Division of Natural Resources also reviewed the applicant's proposed Lee Plan text amendment which would allow for limited neighborhood commercial uses:

- 4. Commercial uses may be approved as part of a mixed use planned development if the project is found consistent with all of the following:
  - a. The project is a minimum of 2,000 acres;
  - b. The project consists of both residential and commercial development and meets the minimum requirements of this policy;
  - c. Wetlands may not be impacted by the commercial development area;
  - d. The project will be consistent with Policy 33.3.5 and will not exceed the allowable total square footage for commercial uses in Southeast Lee County;

- e. Commercial uses and maximum floor area is limited to Neighborhood Commercial, as defined, and must not include any of the following uses: auto parts stores, lawn and garden supply stores, fuel pump stations, drycleaners (on-site), or any other use that is not compatible with protecting Southeast Lee County's environment.
- f. Commercial development within the 6-month, 1-year, 5-year, or 10-year travel zones of the Wellfield Protection Ordinance must provide a total of 1.5" of treatment, ½ - inch of which must be completed via dry pretreatment, at a minimum. The entire commercial portion of the project will be considered to be within the most restrictive wellfield protection zone as provided in the Wellfield Protection Ordinance. Ground water quality monitoring well(s) for the Surficial Aquifer System must be provided and located between Lee County's nearest production well(s) and the commercial development.
- g. The human wildlife coexistence plan required by subsection 2.f. of this policy must include a commercial component that at a minimum provides for bear-proof refuse containers, below ground grease traps, and prevents light spillage onto adjacent preserve areas.

It is the Division's opinion that the above modifications to Policy 33.3.4.4 which could allow for additional commercial uses in proximity to Lee County's wellfield and finds the amendments are consistent with Lee Plan Policies 2.4.2 and 2.4.3, and protects public water resources through the planned development rezoning process. Therefore, staff finds that no significant impacts on present or future water resources are expected as a result from the above text amendments.

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