

**LEE COUNTY ORDINANCE NO. 23-12**  
Grand Bay  
(CPA2022-00006 Map and CPA2022-00007 Text)

**AN ORDINANCE AMENDING THE LEE COUNTY COMPREHENSIVE PLAN, COMMONLY KNOWN AS THE “LEE PLAN,” ADOPTED BY ORDINANCE NO. 89-02, AS AMENDED, SO AS TO ADOPT AMENDMENT PERTAINING TO THE GRAND BAY (CPA2022-00006 AND CPA2022-00007) APPROVED DURING A PUBLIC HEARING; PROVIDING FOR PURPOSE, INTENT, AND SHORT TITLE; AMENDMENTS TO ADOPTED MAP AND TEXT; LEGAL EFFECT OF “THE LEE PLAN”; PERTAINING TO MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING; GEOGRAPHICAL APPLICABILITY; SEVERABILITY, CODIFICATION, SCRIVENER’S ERRORS, AND AN EFFECTIVE DATE.**

WHEREAS, the Lee County Comprehensive Plan (“Lee Plan”) and Chapter XIII, provides for adoption of amendments to the Plan in compliance with State statutes and in accordance with administrative procedures adopted by the Board of County Commissioners (“Board”); and,

WHEREAS, the Board, in accordance with Section 163.3181, Florida Statutes, and Lee County Administrative Code AC-13-6 provide an opportunity for the public to participate in the plan amendment public hearing process; and,

WHEREAS, the Lee County Local Planning Agency (“LPA”) held a public hearing on the proposed amendment in accordance with Florida Statutes and the Lee County Administrative Code on December 12, 2022; and,

WHEREAS, the Board held a public hearing for the transmittal of the proposed amendment on January 18, 2023. At that hearing, the Board approved a motion to send, and did later send, proposed amendment pertaining to Grand Bay (CPA2022-00006 and CPA2022-00007) to the reviewing agencies set forth in Section 163.3184(1)(c), F.S. for review and comment; and,

WHEREAS, at the January 18, 2023 meeting, the Board announced its intention to hold a public hearing after the receipt of the reviewing agencies’ written comments; and,

WHEREAS, on June 7, 2023, the Board held a public hearing and adopted the proposed amendment to the Lee Plan set forth herein.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, THAT:**

## SECTION ONE: PURPOSE, INTENT AND SHORT TITLE

The Board of County Commissioners of Lee County, Florida, in compliance with Chapter 163, Part II, Florida Statutes, and with Lee County Administrative Code AC-13-6, conducted public hearings to review proposed amendments to the Lee Plan. The purpose of this ordinance is to adopt map and text amendments to the Lee Plan discussed at those meetings and approved by a majority of the Board of County Commissioners. The short title and proper reference for the Lee County Comprehensive Land Use Plan, as hereby amended, will continue to be the "Lee Plan." **This amending ordinance may be referred to as the "Grand Bay Ordinance (CPA2022-00006 Map and CPA2022-00007 Text)."**

## SECTION TWO: ADOPTION OF COMPREHENSIVE PLAN AMENDMENT

The Lee County Board of County Commissioners amends the existing Lee Plan, adopted by Ordinance Number 89-02, as amended, by adopting an amendment, which amends:

CPA2022-00006 (Map): Amends Map 1-C to extend the boundary of the Mixed Use Overlay to the west side of S. Tamiami Trail, across from the intersection with San Carlos Boulevard, to include 15.64± acres, and

CPA2022-00007 (Text): Amends Lee Plan Policy 5.1.10 to align how density is calculated with how it is defined in the Glossary and with existing processes.

The Ordinance is known as Grand Bay (CPA2022-00006 Map and CPA2022-00007 Text).

The corresponding Staff Reports and Analysis, along with all attachments and application submittals for this amendment are adopted as "Support Documentation" for the Lee Plan. Proposed amendments adopted by this Ordinance are attached as Exhibit A.

## SECTION THREE: LEGAL EFFECT OF THE "LEE PLAN"

No public or private development will be permitted except in conformity with the Lee Plan. All land development regulations and land development orders must be consistent with the Lee Plan as amended.

## SECTION FOUR: MODIFICATION

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

## SECTION FIVE: GEOGRAPHIC APPLICABILITY

The Lee Plan is applicable throughout the unincorporated area of Lee County, Florida, except in those unincorporated areas included in joint or interlocal agreements with other local governments that specifically provide otherwise.

## SECTION SIX: SEVERABILITY

The provisions of this ordinance are severable and it is the intention of the Board of County Commissioners of Lee County, Florida, to confer the whole or any part of the powers herein provided. If any of the provisions of this ordinance are held unconstitutional by a court of competent jurisdiction, the decision of that court will not affect or impair the remaining provisions of this ordinance. It is hereby declared to be the legislative intent of the Board that this ordinance would have been adopted had the unconstitutional provisions not been included therein.

## SECTION SEVEN: INCLUSION IN CODE, CODIFICATION, SCRIVENERS' ERROR

It is the intention of the Board of County Commissioners that the provisions of this ordinance will become and be made a part of the Lee County Code. Sections of this ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section," "article," or other appropriate word or phrase in order to accomplish this intention; and regardless of whether inclusion in the code is accomplished, sections of this ordinance may be renumbered or relettered. The correction of typographical errors that do not affect the intent, may be authorized by the County Manager, or his designee, without need of public hearing, by filing a corrected or recodified copy with the Clerk of the Circuit Court.

## SECTION EIGHT: EFFECTIVE DATE

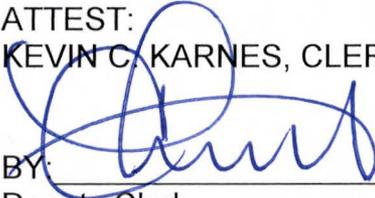
The plan amendments adopted herein are not effective until 31 days after the State Land Planning Agency notifies the County that the plan amendment package is complete. If timely challenged, an amendment does not become effective until the State Land Planning Agency or the Administrative Commission enters a final order determining the adopted amendment to be in compliance. No development orders, development permits, or land uses dependent on this amendment may be issued or commence before the amendment has become effective. If a final order of noncompliance is issued by the Administration Commission, this amendment may nevertheless be made effective by adoption of a resolution affirming its effective status.

THE FOREGOING ORDINANCE was offered by Commissioner Pendergrass, who moved its adoption. The motion was seconded by Commissioner Greenwell. The vote was as follows:

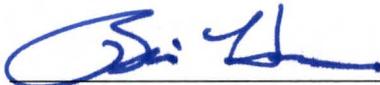
Kevin Ruane	Aye
Cecil L Pendergrass	Aye
Raymond Sandelli	Aye
Brian Hamman	Aye
Mike Greenwell	Aye

DONE AND ADOPTED this 7<sup>th</sup> day of June 2023.

ATTEST:  
KEVIN C. KARNES, CLERK

BY:   
Deputy Clerk

LEE COUNTY BOARD OF  
COUNTY COMMISSIONERS

BY:   
Brian Hamman, Chair



DATE: 6/8/23

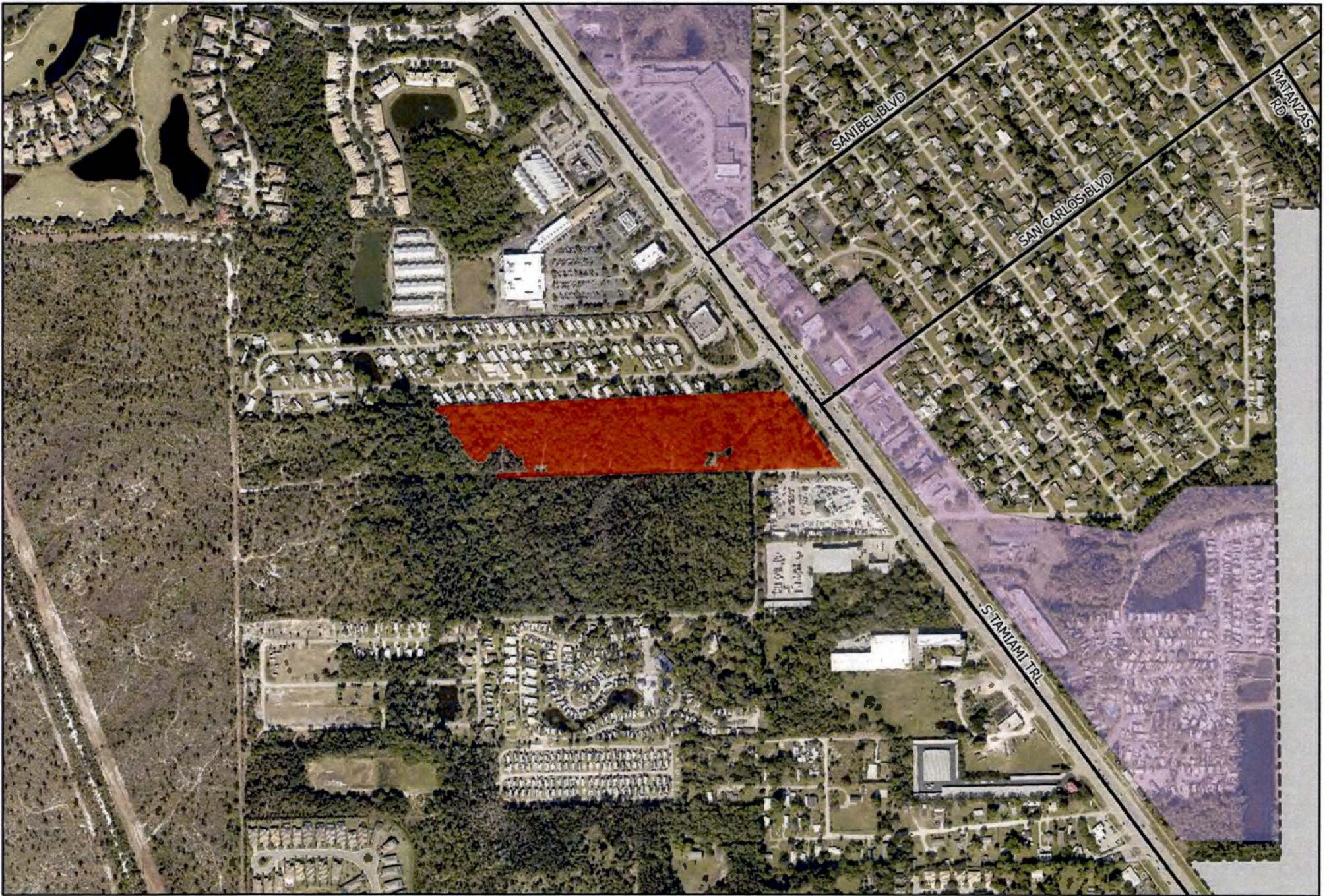
APPROVED AS TO FORM FOR THE  
RELIANCE OF LEE COUNTY ONLY

  
County Attorney's Office

Exhibit A (Adopted by BOCC June 7, 2023):  
Adopted existing Future Land Use Map 1-C  
Adopted revisions to Proposed Future Land Use Map 1-C  
Adopted revisions to Text

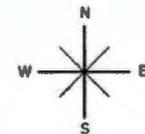
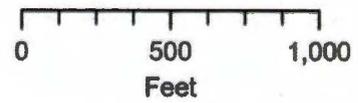
## EXHIBIT A

**Note: Text depicted with underscore represents additions to the Lee Plan.  
Strike-through text represents deletions from the Lee Plan.**



CPA2022-00006  
Mixed Use Overlay

- Proposed Mixed Use Overlay
- Existing Mixed Use Overlay
- City Limits



PROPOSED TEXT AMENDMENTS

FUTURE LAND USE ELEMENT

**Policy 5.1.10:** In those instances where contiguous land ~~under single ownership~~ is divided ~~with~~ into two or more land use categories ~~by the adoption or revision of the Future Land Use Map~~, the allowable number of dwelling units density ~~under this Plan~~ will be the sum of the allowable dwelling units densities for each land use category ~~for each portion of the land~~. ~~This density can be allocated~~ The dwelling units may be distributed across the property provided that: the resultant development affords further protection to environmentally sensitive lands, if they exist on the property, and the number of dwelling units within any Future Non-Urban Area land use category does not exceed the density allowed in that future land use category.

- ~~1. The planned development zoning is utilized; and~~
- ~~2. No density is allocated to lands designated as non-urban or Environmentally Critical that would cause the density to exceed that allowed on such areas; and~~
- ~~3. The land was under single ownership at the time this policy was adopted and is contiguous; in situations where land under single ownership is divided by roadways, railroads, streams (including secondary riparian systems and streams but excluding primary riparian systems and major flow ways such as the Caloosahatchee River and Six Mile Cypress Slough), or other similar barriers, the land will be deemed contiguous for purposes of this policy; and~~
- ~~4. The resultant planned development affords further protection to environmentally sensitive lands if they exist on the property.~~



FLORIDA DEPARTMENT *of* STATE

**RON DESANTIS**  
Governor

**CORD BYRD**  
Secretary of State

June 8, 2023

Honorable Kevin Karnes  
Clerk of the Circuit Courts  
Lee County  
Post Office Box 2469  
Fort Myers, Florida 33902-2469

Attn: Chris Jagodzinski

Dear Kevin Karnes:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Lee County Ordinance No. 23-12, which was filed in this office on June 8, 2023.

Sincerely,

Anya Owens  
Administrative Code and Register Director

ACO/wlh

**RECEIVED**

*By Chris Jagodzinski at 4:50 pm, Jun 08, 2023*