



STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS
NOTICE OF INTENT TO FIND THE
CITY OF FORT MYERS
COMPREHENSIVE PLAN AMENDMENTS IN COMPLIANCE
DOCKET NO. 03-1-NOI-3603-(A)-(I)

The Department gives notice of its intent to find the Amendments to the Comprehensive Plan for the City of Fort Myers adopted by Ordinance No. 3119 on May 19, 2003, IN COMPLIANCE, pursuant to Sections 163.3184, 163.3187 and 163.3189, F.S.

The adopted City of Fort Myers Comprehensive Plan Amendments and the Department's Objections, Recommendations and Comments Report, (if any), are available for public inspection Monday through Friday, except for legal holidays, during normal business hours, at the City of Fort Myers City Hall, Planning Department, 2nd Floor, 2200 Second Street, Fort Myers, Florida 33901.

Any affected person, as defined in Section 163.3184, F.S., has a right to petition for an administrative hearing to challenge the proposed agency determination that the Amendments to the City of Fort Myers Comprehensive Plan are In Compliance, as defined in Subsection 163.3184(1), F.S. The petition must be filed within twenty-one (21) days after publication of this notice, and must include all of the information and contents described in Uniform Rule 28-106.201, F.A.C. The petition must be filed with the Agency Clerk, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, and a copy mailed or delivered to the local government. Failure to timely file a petition shall constitute a waiver of any right to request an administrative proceeding as a petitioner under Sections 120.569 and 120.57, F.S. If a petition is filed, the purpose of the administrative hearing will be to present evidence and testimony and forward a recommended order to the Department. If no petition is filed, this Notice of Intent shall become final agency action.

If a petition is filed, other affected persons may petition for leave to intervene in the proceeding. A petition for intervention must be filed at least twenty (20) days before the final hearing and must include all of the information and contents described in Uniform Rule 28-106.205, F.A.C. A petition for leave to intervene shall be filed at the Division of Administrative Hearings, Department of Management Services, 1230 Apalachee Parkway, Tallahassee, Florida 32399-1550. Failure to petition to intervene within the allowed time frame constitutes a waiver of any right such a person has to request a hearing under Sections 120.569 and 120.57, F.S., or to participate in the administrative hearing.

After an administrative hearing petition is timely filed, mediation is available pursuant to Subsection 163.3189(3)(a), F.S., to any affected person who is made a party to the proceeding by filing that request with the administrative law judge assigned by the Division of Administrative Hearings. The choice of mediation shall not affect a party's right to an administrative hearing.

-s-Charles Gauthier, AICP

Chief, Bureau of Local Planning

Department of Community Affairs

Division of Community Planning

2555 Shumard Oak Boulevard

Tallahassee, Florida 32399-2100



LEE COUNTY
SOUTHWEST FLORIDA

BOARD OF COUNTY COMMISSIONERS

(941) 479-8309

Writer's Direct Dial Number: _____

Bob Janes
District One

January 23, 2003

Douglas R. St. Cerny
District Two

Ray Judah
District Three

Ray Eubank, Administrator
Florida Department of Community Affairs
Division of Community Planning
Bureau of Local Planning
2555 Shumard Oak Boulevard
Tallahassee, FL. 32399-2100

Andrew W. Coy
District Four

John E. Albion
District Five

Donald D. Stilwell
County Manager

James G. Yaeger
County Attorney

Re: Amendments to the Lee Plan
Adoption Submission Package (DCA No. 02-2) for the 2001/2002 Regular Comprehensive
Plan Amendment Cycle

Diana M. Parker
County Hearing
Examiner

Dear Mr. Eubank:

In accordance with the provisions of F.S. Chapter 163.3184 and of 9J-11.011, this submission package constitutes the adopted 2001/2002 Regular Comprehensive Plan Amendment Cycle to the Lee Plan (DCA No. 01-1), known locally as CPA 2001-09, CPA 2001-10, CPA 2001-11, CPA 2001-12, CPA 2001-15, CPA 2001-18, CPA 2001-22, CPA 2001-23, CPA 2001-24, CPA 2001-27, CPA 2001-28, CPA 2001-31, CPA 2001-32, CPA 2001-33, and CPA 2001-35. The adoption hearing for these plan amendments was held at 9:30 am on January 9, 2003.


Included with this package, per 9J-11.011(5), are three copies of the adopted amendments, supporting data and analysis, and the following seven adopting ordinances: Ordinance No. 03-01, Ordinance No. 03-02, Ordinance No. 03-03, Ordinance No. 03-04, Ordinance No. 03-05, Ordinance No. 03-06, and Ordinance No. 03-07. Also included, per F.S. 163.3184(7) and (15), is the required sign in form allowing a courtesy informational statement to interested citizens. By copy of this letter and its attachments I certify that this amendment has been sent to the Regional Planning Council, the Florida Department of Transportation (FDOT), the Department of Environmental Protection, the Florida Department of State, the Florida Fish and Wildlife Conservation Commission, the Department of Agriculture and Consumer Services, Division of Forestry, and the South Florida Water Management District.

The initial staff reports for the proposed amendments were sent to the DCA with a transmittal cover letter dated September 19, 2002. All amendments previously reviewed by the Department in this current cycle of amendments were adopted by the Board of County Commissioners. Changes have occurred in CPA 2001-12, CPA 2001-10, CPA 2001-27, and CPA 2001-28. CPA 2001-12 has been revised since the time of transmittal. The connection between Three Oaks Parkway and Oriole Road has been revised and has been coordinated with the adjacent property owners. One revision to CPA 2001-10 was made in response to comments raised by the Department in the ORC Report. The Board of County Commissioners adopted the amendment with the deletion of Policy 21.9,

regarding the protection of mangroves on Captiva Island. The Board has directed staff to look further into applying such a policy county wide. In amendment CPA 2001-27 a new Objective and Policy have been added to the Community Facilities and Services Element of the Lee Plan regarding the incorporation of green infrastructure into the surface water management systems of proposed developments as well as providing definitions for green infrastructure and flow-way in the Glossary. Since transmittal, staff has met with the public and state agencies on issues raised at the Transmittal hearing. Staff has revised the transmitted language as a result of those meetings. The revisions to the subject amendment were sent to the DCA for review on November 8, 2002 prior to the issuance of the ORC Report and were adopted by the Board. CPA 2001-28 has added a new table reflecting the new 2003/2007 fiscal year to the CIP. The Board of County Commissioners adopted CPA 2001-12, CPA 2001-10, CPA 2001-27, and CPA 2001-28 with the noted changes.

If you have any questions, or if I can be of any assistance in this matter, please feel free to call me at the above telephone number.

Sincerely,
DEPT. OF COMMUNITY DEVELOPMENT
Division of Planning



Paul O'Connor, AICP
Director

All documents and reports attendant to this adoption are also being sent, by copy of this cover, to:

David Burr
Interim Director
Southwest Florida Regional Planning Council

Mike Rippe, District Director
FDOT District One

Executive Director
South Florida Water Management District

Plan Review Section
Department of Environmental Protection

Florida Department of State

Florida Fish and Wildlife Conservation Commission

The Department of Agriculture and Consumer Services, Division of Forestry

Charlie Green
Clerk of Circuit Court
Lee County, Florida

STATE OF FLORIDA

COUNTY OF LEE

I Charlie Green, Clerk of Circuit Court, Lee County, Florida, and ex-Officio Clerk of the Board of County Commissioners, Lee County, Florida, do hereby Certify that the above and foregoing, is a true and correct copy of Ordinance No. 03-04, adopted by the Board of Lee County Commissioners, at their meeting held on the 9th day of January, 2003.

Given under my hand and seal, at Fort Myers, Florida, this 15th day of January, 2003.

CHARLIE GREEN,
Clerk of Circuit Court
Lee County, Florida

By *Michèle B Cooper*
Deputy Clerk



FLORIDA COUNTY ORDINANCE DATA RETRIEVAL SYSTEM
CODRS CODING FORM

COUNTY: Lee

COUNTY ORDINANCE #: 03-02

(e.g., 93-001)

PRIMARY KEYFIELD

DESCRIPTOR: Comprehensive Planning

SECONDARY KEYFIELD

DESCRIPTOR: Land Use Planning

OTHER KEYFIELD

DESCRIPTOR: Planning

ORDINANCE DESCRIPTION: 2001/2002 Lee Plan Amendment

(25 Characters Maximum Including Spaces)

ORDINANCES AMENDED: (List below the ordinances that are amended by this legislation. If more than two, list the most recent two.)

AMENDMENT #1: 89-02, as amended AMENDMENT #2: _____

ORDINANCES REPEALED: (List below the ordinances that are repealed by this legislation.)

REPEAL #1: _____ ; REPEAL #3: _____
REPEAL #2: _____ ; REPEAL #4: _____

(Others Repealed: List All That Apply): _____

(FOR OFFICE USE ONLY): COUNTY CODE NUMBER: _____

KEYFIELD 1 CODE: _____ KEYFIELD 2 CODE: _____

KEYFIELD 3 CODE: _____

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REPEAL #2: _____ ; REPEAL #4: _____

(Others Repealed: List All That Apply): _____

(FOR OFFICE USE ONLY): COUNTY CODE NUMBER: _____
KEYFIELD 1 CODE: _____ KEYFIELD 2 CODE: _____
KEYFIELD 3 CODE: _____

LEE COUNTY ORDINANCE NO. 03-04
(Consent Ordinance)

AN ORDINANCE AMENDING THE LEE COUNTY COMPREHENSIVE LAND USE PLAN, COMMONLY KNOWN AS THE "LEE PLAN" ADOPTED BY ORDINANCE NO. 89-02, AS AMENDED, SO AS TO ADOPT AMENDMENTS APPROVED ON THE CONSENT AGENDA DURING THE COUNTY'S 2001/2002 REGULAR COMPREHENSIVE PLAN AMENDMENT CYCLE; PROVIDING FOR AMENDMENTS TO ADOPTED TEXT AND MAPS; PURPOSE AND SHORT TITLE; LEGAL EFFECT; GEOGRAPHICAL APPLICABILITY; SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.

WHEREAS, the Lee County Comprehensive Plan (hereinafter referred to as the "Lee Plan") Policy 2.4.1 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; and,

WHEREAS, the Lee County Board of County Commissioners, 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 public hearings pursuant to Chapter 163, Part II, Florida Statutes, and the Lee County Administrative Code on March 25, April 22, July 22, and August 26, 2002; and,

WHEREAS, the Board of County Commissioners, pursuant to Florida Statutes and the Lee County Administrative Code held a public hearing for the transmittal of the proposed amendments on September 4 and 5, 2002. At those hearings the Board approved a motion to send, and did later send, the proposed amendment to the Florida Department of Community Affairs ("DCA") for review and comment; and,

WHEREAS, at the transmittal hearings on September 4 and 5, 2002, the Board

announced its intention to hold a public hearing after the receipt of DCA's written comments commonly referred to as the "ORC Report." DCA issued their ORC report on November 22, 2002; and,

WHEREAS, the Board moved to adopt the proposed amendments to the Lee Plan set forth herein during its statutorily prescribed public hearing for the plan amendments on January 9, 2003.

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 a series of public hearings to consider proposed amendments to the Lee Plan. The purpose of this ordinance is to adopt the certain amendments to the Lee Plan discussed at those meetings and approved by a majority of the Board. The short title and proper reference for the Lee County Comprehensive Land Use Plan, as amended, will continued to be the "Lee Plan." **This ordinance may be referred to as the "2001/2002 Regular Comprehensive Plan Amendment Cycle Consent Ordinance."**

SECTION TWO: ADOPTION OF LEE COUNTY'S 2000/2001 REGULAR COMPREHENSIVE PLAN AMENDMENT CYCLE (Consent Agenda Items)

The Lee County Board of County Commissioners amends the existing Lee Plan, adopted by Ordinance Number 89-02, as amended, by adopting amendments, as revised by the Board of County Commissioners on January 9, 2003, known as: CPA2001-11, CPA2001-15, CPA2001-22, CPA2001-23, CPA2001-24, CPA2001-31, CPA2001-32, CPA2001-33, and CPA2001-35. The aforementioned amendments amend the text of the

Lee Plan including the Future Land Use Map series, the Transportation Map series, and the tables of the Lee Plan. A brief summary of the content of those amendments is set forth below:

CPA 2001-11

Amend the Future Land Use Element, Policy 1.2.2, the Airport Commerce descriptor policy, to broaden the allowable uses and to establish relationships and criteria for those uses.

CPA 2001-15

Amend the Future Land Use Map series, Map 1, by updating the Conservation Lands land use categories.

CPA 2001-22

Amend the Future Land Use Map Series, Map 12, the Water Dependent Overlay (WDO) Zones, by evaluating and updating the status of the overlay areas and the Goals, Objectives, and Policies that pertain to the WDO.

CPA 2001-23

Evaluate and amend the Future Land Use Map series, Map 20, the Agricultural Overlay and Goal 9, Agricultural Land Uses, and its subsequent objectives and policies.

CPA 2001-24

Update Table 2(b), Recommended Operational Improvements on Constrained Roads.

CPA 2001-31

Amend Policy 80.1.7 of the Conservation and Coastal Management Element by updating the policy to reflect a new percentage for replacement values and revising the target date when development regulations will require implementation of this policy.

CPA 2001-32

Amend the Intergovernmental Coordination Element and the Community Facilities Element to bring the elements into compliance with the provisions of F.S. Chapter 163.3177

CPA 2001-33

Amend the Build Back Policy of the Procedures and Administration Element by replacing references to the term "cost" with the term "value."

CPA 2001-35

Review all elements of the Lee Plan, and replace, where applicable, references to the Lee County Regional Water Supply Authority with Lee County Utilities or the Division of Natural Resources in conjunction with the County taking over the responsibilities of the Water Supply Authority.

The corresponding Staff Reports and Analysis, along with all attachments for these amendments are adopted as "Support Documentation" for the Lee Plan.

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: 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 FIVE: 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 of County Commissioners that this ordinance would have been adopted had the unconstitutional provisions not been included therein.

SECTION SIX: 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 or her designee, without need of public hearing, by filing a corrected or recodified copy with the Clerk of the Circuit Court.

SECTION SEVEN: EFFECTIVE DATE

The plan amendments adopted herein are not effective until a final order is issued by the DCA or Administrative Commission finding the amendment in compliance with Section 163.3184, Florida Statutes, whichever occurs earlier. 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. A copy of such resolution will be sent to the DCA, Bureau of Local Planning, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

THE FOREGOING ORDINANCE was offered by Commissioner Albion, who moved its adoption. The motion was seconded by Commissioner Janes, and, when put to a vote, the vote was as follows:

Robert P. Janes	Aye
Douglas St. Cerny	Aye
Ray Judah	Aye
Andrew Coy	Aye
John Albion	Aye

DONE AND ADOPTED this 9th day of January 2003.

ATTEST:
CHARLIE GREEN, CLERK

LEE COUNTY
BOARD OF COUNTY COMMISSIONERS

BY: Michelle S. Cooper
Deputy Clerk

BY: Ray Judah
Chairman

DATE: 1/9/03

Approved as to form by:

Donna Marie Collins
Donna Marie Collins
County Attorney's Office



**CPA 2001-23
BoCC SPONSORED
AMENDMENT
TO THE**

LEE COUNTY COMPREHENSIVE PLAN

THE LEE PLAN

BoCC Adoption Document

**Lee County Planning Division
1500 Monroe Street
P.O. Box 398
Fort Myers, FL 33902-0398
(239) 479-8585**

January 9, 2003

**LEE COUNTY
DIVISION OF PLANNING
STAFF REPORT FOR
COMPREHENSIVE PLAN AMENDMENT
CPA 2001-23**



Text Amendment



Map Amendment

This Document Contains the Following Reviews:	
✓	Staff Review
✓	Local Planning Agency Review and Recommendation
✓	Board of County Commissioners Hearing for Transmittal
✓	Staff Response to the DCA Objections, Recommendations, and Comments (ORC) Report
✓	Board of County Commissioners Hearing for Adoption

STAFF REPORT PREPARATION DATE: July 20, 2002

PART I - BACKGROUND AND STAFF RECOMMENDATION

A. SUMMARY OF APPLICATION

1. APPLICANT:

LEE COUNTY BOARD OF COUNTY COMMISSIONERS
REPRESENTED BY LEE COUNTY DIVISION OF PLANNING

2. REQUEST:

Evaluate and amend the Future Land Use Map series, Map 20, the Agricultural Overlay and Goal 9, Agricultural Land Uses, and its subsequent objectives and policies.

B. STAFF RECOMMENDATION AND FINDINGS OF FACT SUMMARY

1. RECOMMENDATION:

Planning staff recommends the Board of County Commissioners transmit the proposed amendment to Goal 9 and its subsequent objectives and policies and Map 20. Staff recommends that Map 20, titled "Contiguous Agricultural Parcels Over 100 Acres In Non-Urban Future Land Use Categories" be amended to reflect re-designations of properties from the "Non-Urban Areas" of Lee County as depicted on the Lee Plan Future Land Use Map

and the conversion of past agricultural uses and the establishment of new agricultural activities. A proposed map name change to "Agricultural Overlay" which is consistent to the wording in Policy 1.7.8 is also recommended. The proposed map is included as attachment 1 and staff's recommended changes to Objective 9.1 are as follows:

OBJECTIVE 9.1: Place ~~all~~ existing active and passive agricultural uses ~~on all~~ parcels in excess of 100 acres, that are zoned AG, have an agricultural exemption from the property appraiser's office, and are located outside of ~~Future Urban~~ areas anticipated for urban use during the life of the plan on an agricultural overlay. Non-contiguous parcels less than 100 acres in size will not be included on this Overlay. A bi-annual review of this map will be conducted to track changes in the inventory of agriculturally used land in the non-urban areas of Lee County.

These changes reflect staff's ability to identify all recognized agricultural uses within "Non-Urban" areas and allow future agricultural conversions to be monitored more closely.

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

- Map 20 the "Contiguous Agricultural Parcels Over 100 Acres In Non-Urban Future Land Use Categories" map was adopted into the Lee Plan in 1994 and does not reflect changes in the agriculturally used land in these areas that have occurred in the past 8 years.
- Since 1994, approximately 4,200 acres have been re-designated from a "Non-Urban" future land use category and amendments made during the EAR process reclassified approximately 1,200 acres from an urban category to a "Non-Urban" Classification. In addition, approximately 6,000 acres of land have been classified to the Conservation Land Uplands category from one of the other "Non Urban" categories (Rural, Density Reduction/Groundwater Resources, Rural Community Preserve, Open Lands, or Outer Islands). Portions of these areas are currently shown on Map 20.
- The existing Objective 9.1 is confusing on the topic of selecting parcels to be included on the overlay, specifically with regards to parcel sizes.
- The name of the map does not reflect the intent of the overlay.

C. BACKGROUND INFORMATION

The Board of County Commissioners (BoCC) initiated this amendment on September 25, 2001. The Agricultural overlay map was created during the 1994 Lee Plan Evaluation and Appraisal Report (EAR) to show the location, extent and distribution of large scale agricultural operations which was an element lacking from the 1989 Lee Plan Future Land Use Map series. This initial map located agricultural uses in the "non-urban" areas of Lee County that were singularly or collectively large areas of agricultural uses. No amendments to this overlay have been proposed/adopted since its creation. Since this map was originally created, agricultural uses have been converted to other uses and other areas in the "Non-Urban" areas of the county have been converted to agricultural uses. Additionally, areas previously designated "Non-Urban" on the Future Land Use Map have been re-designated to categories that are not expected to remain "non-urban". These changes in conditions have made the existing overlay map out of date. This amendment includes text revisions to ensure a periodic review

of agricultural uses will be performed to maintain an accurate agricultural overlay in the Lee Plan Future Land Use Map series. The proposed language changes also strive to clarify the selection criteria used for areas included on the overlay.

Based on research of the original overlay, it is clear that parcels were included on the original map were often smaller than 100 acres in size. However, when analyzed in conjunction with neighboring agricultural parcels the combined area met or exceeded the 100 acres threshold. There are also agricultural uses that existed in 1994 (and continue today) that are outside of the "Future Urban Area" as depicted on the Future Land Use Map but are not in the one of the "Non-Urban Areas" shown on the Future Land Use Map. These uses are primarily in the Airport Commerce category that is under the heading "Southwest International Airport Area" in the Lee Plan. These areas however, are not anticipated to remain "non-urban" over the life of the plan. These properties were not included on Map 20. As implied by the omission of these properties from the overlay and the title of the map, the intent was to only include properties that are designated with one of the "Non-Urban" future land use categories. The one exception would be lands in the "Wetlands" category. The proposed text changes to Objective 9.1 are intended to clarify these points.

PART II - STAFF ANALYSIS

A. STAFF DISCUSSION

Origin of Map 20 "Contiguous Agricultural Parcels Over 100 Acres In Non-Urban Future Land Use Categories"

The overlay map was created during the 1994 Lee Plan Evaluation and Appraisal Report (EAR) to show the location, extent and distribution of large scale agricultural operations which was an element lacking from the 1989 Lee Plan Future Land Use Map series. This overlay is intended for use conjunctively with Goal 9 and its subsequent objectives and policies. The following criteria were identified in the EAR for selecting lands to be included in this overlay (Lee Plan Evaluation & Appraisal Report Volume 1 of 2, July 7, 1994, Page III-29):

1. *"The existing operations in the Future Urban Areas are clearly transitional uses and are not, therefore, shown on the map as agricultural uses."*

Since this overlay was created two large areas that were previously designated as Density Reduction/Groundwater Resource on the Future Land Use Map have been re-classified to "Airport" and "Airport Commerce". While these designations are under the heading "Southwest Florida International Airport Area" and not under the "Future Urban Areas" heading in the Lee Plan, they are clearly expected to contain urban uses in the future. This is also the case for property designated in categories included in the "Interstate Highway Interchange Areas" and "New Community" headings in the Lee Plan. When the original overlay was created, properties in these areas existed that met the remaining criteria as outlined by the EAR. These properties were not included in the overlay even though they were not in the "Future Urban Area" on the Lee Plan Future Land Use Map. While not specifically listed in the criteria, it is evident that properties designated with categories in the "Southwest Florida International Airport Area", "Interstate

Highway Interchange Areas”, and “New Community”, were not intended to be included in the overlay regardless of use, zoning, or size.

Attachment 2 depicts areas that have been re-designated from a future land use category listed as “Non-Urban” to one of the categories that are planned to develop with urban uses. Agricultural uses within these areas are proposed to be removed from the overlay. No areas have been re-designated to a designation listed under the “Non-Urban” heading that meet the remaining criteria for inclusion on this overlay. There are, however, properties that were not shown on the original overlay that are designated with a “non-urban” category that do meet the criteria. These properties were either converted to an agricultural use since the original overlay was created or were simply overlooked at the time the overlay was created. The proposed Map 20, Agricultural Overlay, includes these properties (see attachment 3).

2. *“The minimum threshold has been set at 100 acres.”*

This criterion is relatively vague and is carried over in the adopted objective and map title. The 1994 map did include parcels that were smaller than 100 acres. However, when property ownership is dismissed as the criteria the size is based on contiguous agricultural uses in excess of 100 acres the currently adopted overlay fits the definition. The proposed language clarifies that the overlay is intended to map agricultural uses not ownership.

One example of this situation occurs in Section/Township/Range 01-43-27. This 640 ± acres section was divided into smaller (less than 10 acres) parcels prior to the creation of the overlay. However, the parcels in this section has always been included as part of the overlay. The collective agricultural uses do exceed the 100 acres minimum as set forth in the EAR. The proposed overlay map included with this amendment evaluates the existing agricultural uses collectively and places abutting parcels that collectively exceed the 100 acre threshold on the overlay map.

3. *“The map will show passive as well as active uses.”*

To clarify this point the revised language specifies that the property must be designated, by the Lee County Property Appraiser’s office, as a “bona-fide” agricultural use qualifying the owner for a tax exemption based on this use.

Since the creation of the overlay, many parcels have been converted from agricultural uses to urban uses. While this conversion is expected to occur in the urban future land use categories, properties located in categories listed as “Non-Urban” on the Future Land Use Map have also been converted between agricultural and non-agricultural uses. One example of this conversion is the Brooks development, a mixed-use project approved through the Planned Development District Option, in sections 01, 02, 11, and 12 in Township 47 Range 25.

Other conversions from agricultural uses have occurred on properties that have been purchased for conservation purposes. Examples of this scenario are the Yucca Pen property located north of

Cape Coral between US 41 and Burnt Store Road and areas of the Flint Pen Strand located in the Southeast portion of Lee County. Most of these lands have been re-designated to the "Conservation Lands" Future Land Use category that is also listed as a "Non-Urban" area by the Lee Plan. The proposed overlay map removes properties designated "Conservation Lands" from Map 20.

There are also areas in the "Non-Urban" areas of the county that meet the size, use, and zoning criteria today that are not depicted on the overlay. These areas were essentially "holes" in the 1994 overlay map. As stated previously, these properties have been converted to a bona-fide agricultural use since the creation of the overlay or had been overlooked at that time.

4. *The overlay description and Goal 9 enhance agricultural operations by protecting them from the impacts of new developments by putting prospective residents near these operations on notice that they will be permitted to continue regardless of any future public opposition.*

This is more for informational purposes rather than property selection.

Map Changes

Attachment 3 depicts changes proposed to Map 20. The map is commonly referred to as the "Agricultural Overlay". This is also the terminology used in Policy 1.7.8. Staff proposes to rename Map 20 to reflect this common title. The adopted Map 20 includes 120,000± acres depicted in the overlay and the proposed Overlay depicts 88,000± acres. The net affect of the proposed changes will be a reduction in the size of the overlay of 32,000± acres. The proposed overlay will add 7,000± acres of newly identified agricultural uses and remove 39,000± acres of land not meeting the outlined criteria from the overlay. The "Conservation Lands" future land use category is listed as a "Non-Urban" designation in the Lee Plan; however, agricultural uses are not anticipated as long term uses in this "Non-Urban" category and should not be included on the overlay.

Text Changes

Changes to the existing wording of Objective 9.1 will clarify the language to reflect the original intent as explained in the EAR backup documentation and the action taken by Lee County when it adopted the original overlay map. The proposed revisions to the objective will identify that properties included in overlay are located in a future land use category that is not intended for urban uses in the future and individual parcels of land smaller than 100 acres in size may be included on the overlay as long as they are located in an area of agricultural uses that collectively exceeds 100 acres. The revised language also clarifies that properties on the overlay must be identified by the Lee County Property Appraiser's office as a "bona-fide" passive or active agricultural use.

B. CONCLUSIONS

The existing Map 20, "Contiguous Agricultural Parcels Over 100 Acres In Non-Urban Future Land Use Categories", requires an update to reflect agricultural conversions since the overlay was created during the EAR process. The revised overlay also reflects changes in "Non-Urban" designations on the Future Land Use Map. Language clarifications have also been proposed as well as a map title change to more accurately reflect the original intent of the overlay.

C. STAFF RECOMMENDATION

Planning staff recommends the Board of County Commissioners transmit the proposed amendment to Goal 9 and its subsequent objectives and policies and Map 20. Staff recommends that Map 20, titled "Contiguous Agricultural Parcels Over 100 Acres In Non-Urban Future Land Use Categories" be amended to reflect redesignations of properties from the "Non-Urban Areas" of Lee County as depicted on the Lee Plan Future Land Use Map and the conversion of past agricultural uses and the establishment of new agricultural activities. A proposed map name change to "Agricultural Overlay" which is consistent to the wording in Policy 1.7.8 is also recommended. The proposed map is included as attachment 1 and staff's recommended changes to Objective 9.1 are as follows:

OBJECTIVE 9.1: Place ~~all~~ existing active and passive agricultural uses ~~on all parcels in excess of 100 acres~~, that are zoned AG, have an agricultural exemption from the property appraiser's office, and are located outside of ~~Future Urban~~ areas anticipated for urban use during the life of the plan on an agricultural overlay. Non-contiguous parcels less than 100 acres in size will not be included on this Overlay. A bi-annual review of this map will be conducted to track changes in the inventory of agriculturally used land in the non-urban areas of Lee County.

**PART III - LOCAL PLANNING AGENCY
REVIEW AND RECOMMENDATION**

PUBLIC HEARING DATE. July 22, 2001

A. LOCAL PLANNING AGENCY REVIEW

Staff made a brief presentation on this amendment to explain the criteria used to select parcels included on the proposed overlay. One LPA member questioned why a particular parcel was being removed from the overlay when he knew it was used to provide irrigation for agricultural uses in the area. Since the LPA meeting, staff has verified that that parcel is not classified by the Lee County Property Appraiser's office as an agricultural use, which is one of the criteria used to select parcels for inclusion on map 20. Other members of the LPA asked questions regarding properties and the selection process which were addressed by the staff member presenting this amendment. Finally, the LPA asked for a brief explanation of the purpose of the Agricultural Overlay Map. Staff explained that the map was intended as a tool used to identify large areas of agricultural uses in the non-urban areas of the county.

The discussion on this amendment was then opened for public comments and questions. One member of the public asked for confirmation that the map was an informational tool and not a regulatory map. He then questioned why the properties south of Bonita Beach Road were included on this map since there are active development proposals under review by the county. Staff confirmed that the map was not regulatory and that the parcels were included on the overlay since they met all of the criteria of the selection process. Only one member of the public addressed the LPA on this amendment.

Additional discussion by the LPA regarding the selection criteria and language clarifications followed the public input.

**B. LOCAL PLANNING AGENCY RECOMMENDATION AND FINDINGS OF FACT
SUMMARY**

1. **RECOMMENDATION:** The Local Planning Agency recommends that the Board of County Commissioners transmit the proposed amendment to the Florida Department of Community Affairs.
2. **BASIS AND RECOMMENDED FINDINGS OF FACT:** The LPA concurred with the findings of fact as contained in the staff report.

C. VOTE:

NOEL ANDRESS	AYE
MATT BIXLER	AYE
SUSAN BROOKMAN	AYE
RONALD INGE	AYE
GORDON REIGELMAN	AYE
ROBERT SHELDON	AYE
GREG STUART	ABSENT

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

DATE OF TRANSMITTAL HEARING: September 4, 2002

A. BOARD REVIEW: The Board of County Commissioners provided no discussion concerning the proposed plan amendment. This item was approved on the consent agenda.

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

1. **BOARD ACTION:** The Board of County Commissioners voted to transmit the proposed plan amendment.

2. **BASIS AND RECOMMENDED FINDINGS OF FACT:** The Board accepted the findings of fact advanced by staff and the LPA.

C. VOTE:

JOHN ALBION	<hr/> AYE <hr/>
ANDREW COY	<hr/> ABSENT <hr/>
BOB JANES	<hr/> AYE <hr/>
RAY JUDAH	<hr/> AYE <hr/>
DOUG ST. CERNY	<hr/> AYE <hr/>

**PART V – DEPARTMENT OF COMMUNITY AFFAIRS
OBJECTIONS, RECOMMENDATIONS, AND COMMENTS (ORC) REPORT**

DATE OF ORC REPORT: November 22, 2002

- A. DCA OBJECTIONS, RECOMMENDATIONS AND COMMENTS:** The Department of Community Affairs had no objections, recommendations, or comment on this amendment.
- B. STAFF RECOMMENDATION:** Adopt the amendment as transmitted.

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

DATE OF ADOPTION HEARING: January 9, 2003

A. BOARD REVIEW: The Board provided no discussion on this amendment. This item was approved on the consent agenda.

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

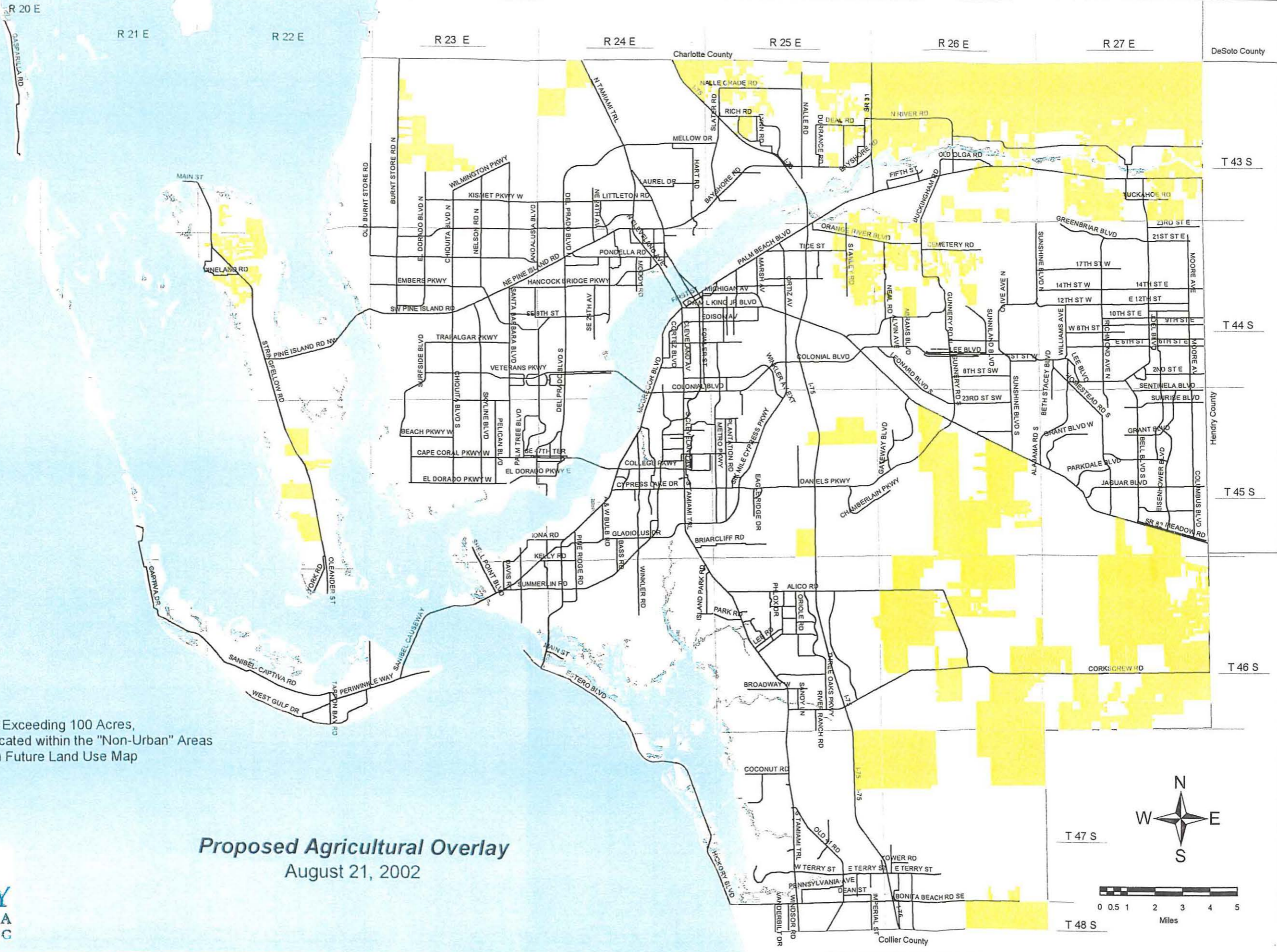
1. BOARD ACTION: The Board voted to adopt the amendment.

2. BASIS AND RECOMMENDED FINDINGS OF FACT: The Board accepted the findings of fact as advanced by staff.


C. VOTE:

JOHN ALBION	_____
	AYE
ANDREW COY	_____
	AYE
BOB JANES	_____
	AYE
RAY JUDAH	_____
	AYE
DOUG ST. CERNY	_____
	AYE

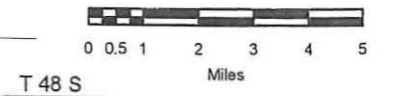
MAP 20 CPA 2001-23



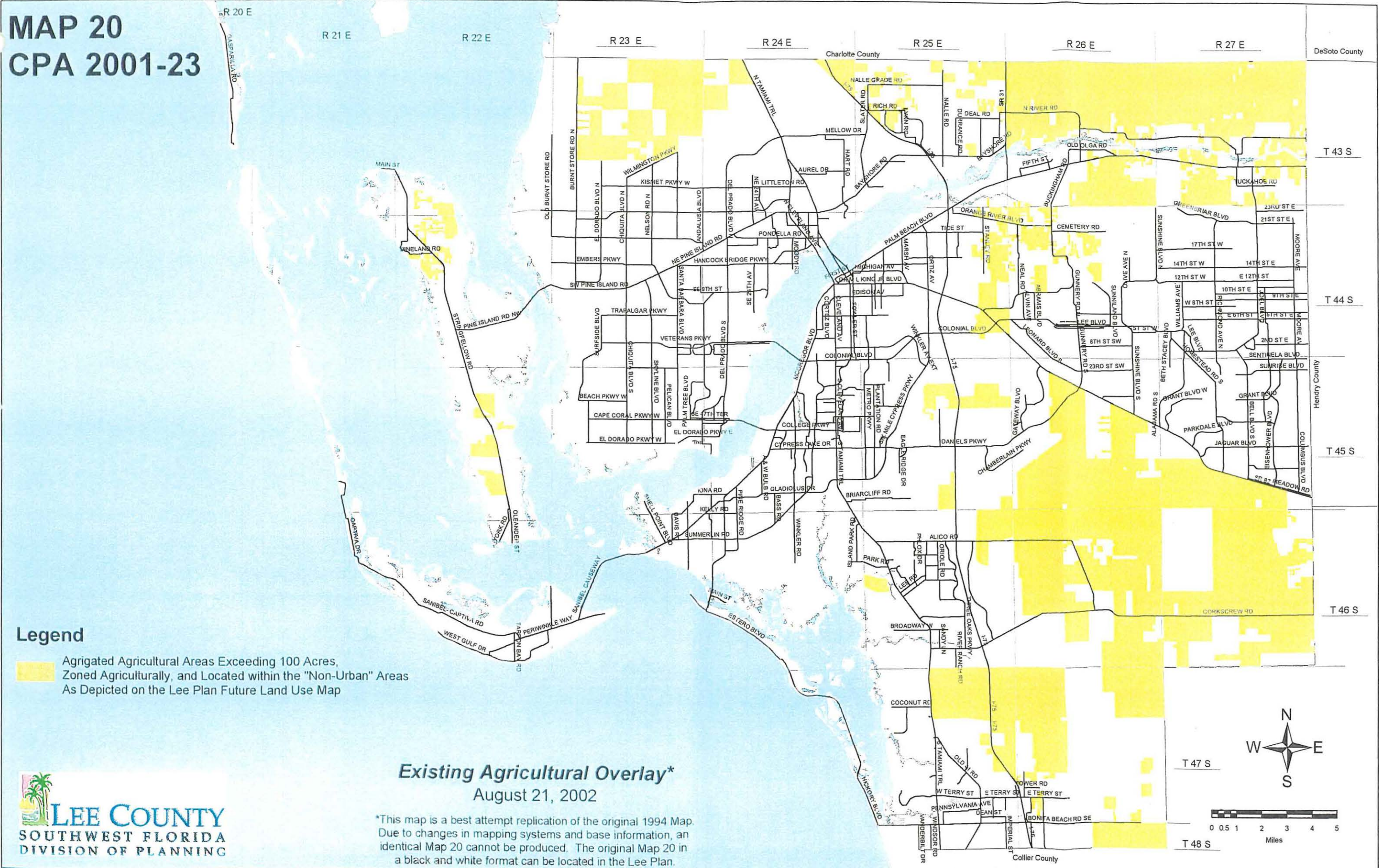
Legend

 Agrigated Agricultural Areas Exceeding 100 Acres, Zoned Agriculturally, and Located within the "Non-Urban" Areas As Depicted on the Lee Plan Future Land Use Map

Proposed Agricultural Overlay
August 21, 2002



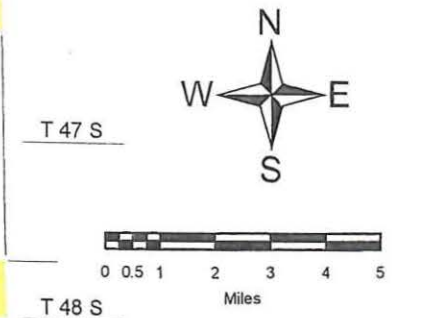
MAP 20 CPA 2001-23



Legend
 Agrigated Agricultural Areas Exceeding 100 Acres,
 Zoned Agriculturally, and Located within the "Non-Urban" Areas
 As Depicted on the Lee Plan Future Land Use Map


Existing Agricultural Overlay* August 21, 2002

*This map is a best attempt replication of the original 1994 Map. Due to changes in mapping systems and base information, an identical Map 20 cannot be produced. The original Map 20 in a black and white format can be located in the Lee Plan.







MAP 20 CPA 2001-23

Proposed Map 20

-  Aggregated Agricultural Areas Exceeding 100 Acres, Zoned Agriculturally, and Located within the "Non-Urban" Areas As Depicted on the Lee Plan Future Land Use Map

Amendments to the Lee Plan Future Land Use Map Affecting The 1994 Agricultural Overlay (By New Map Designation)



FUTURE URBAN AREAS

-  Central Urban - 175 acres
-  Urban Community - 50 acres
-  Outlying Suburban - 20 acres
-  Public Facilities - 520 acres

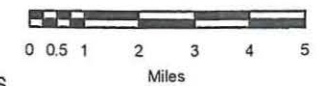
AIRPORT AREAS

-  Airport - 2,455 acres

NON-URBAN AREAS

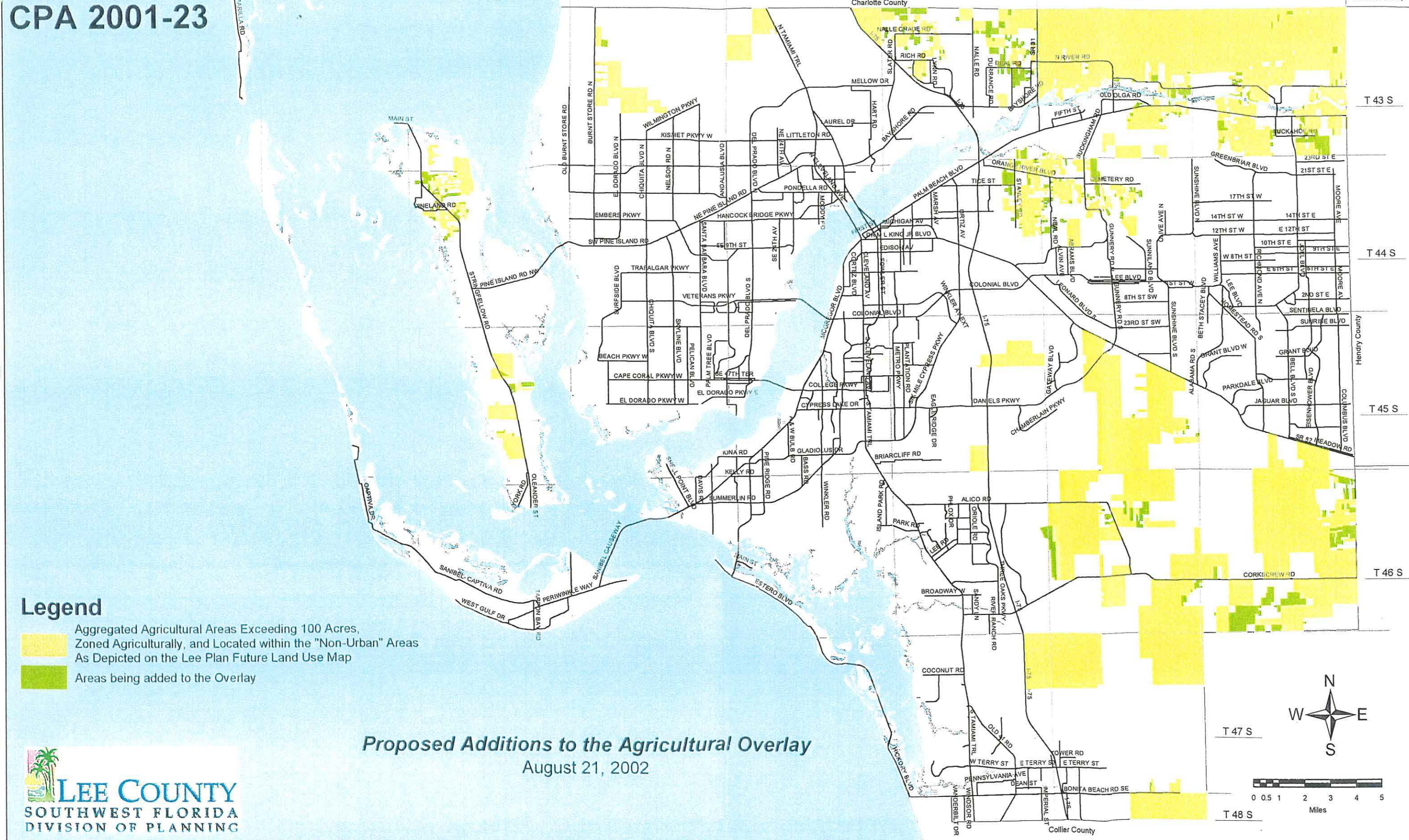
-  Conservation Lands (Uplands) - 6,085 acres
-  Conservation Lands (Uplands) - 6,885 acres (Proposed CPA 2001-15)

Proposed Agricultural Overlay
August 21, 2002



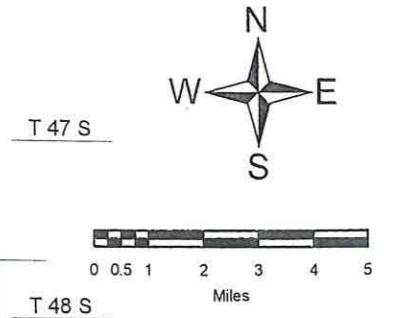
MAP 20 CPA 2001-23

R 20 E R 21 E R 22 E R 23 E R 24 E R 25 E R 26 E R 27 E
Charlotte County DeSoto County

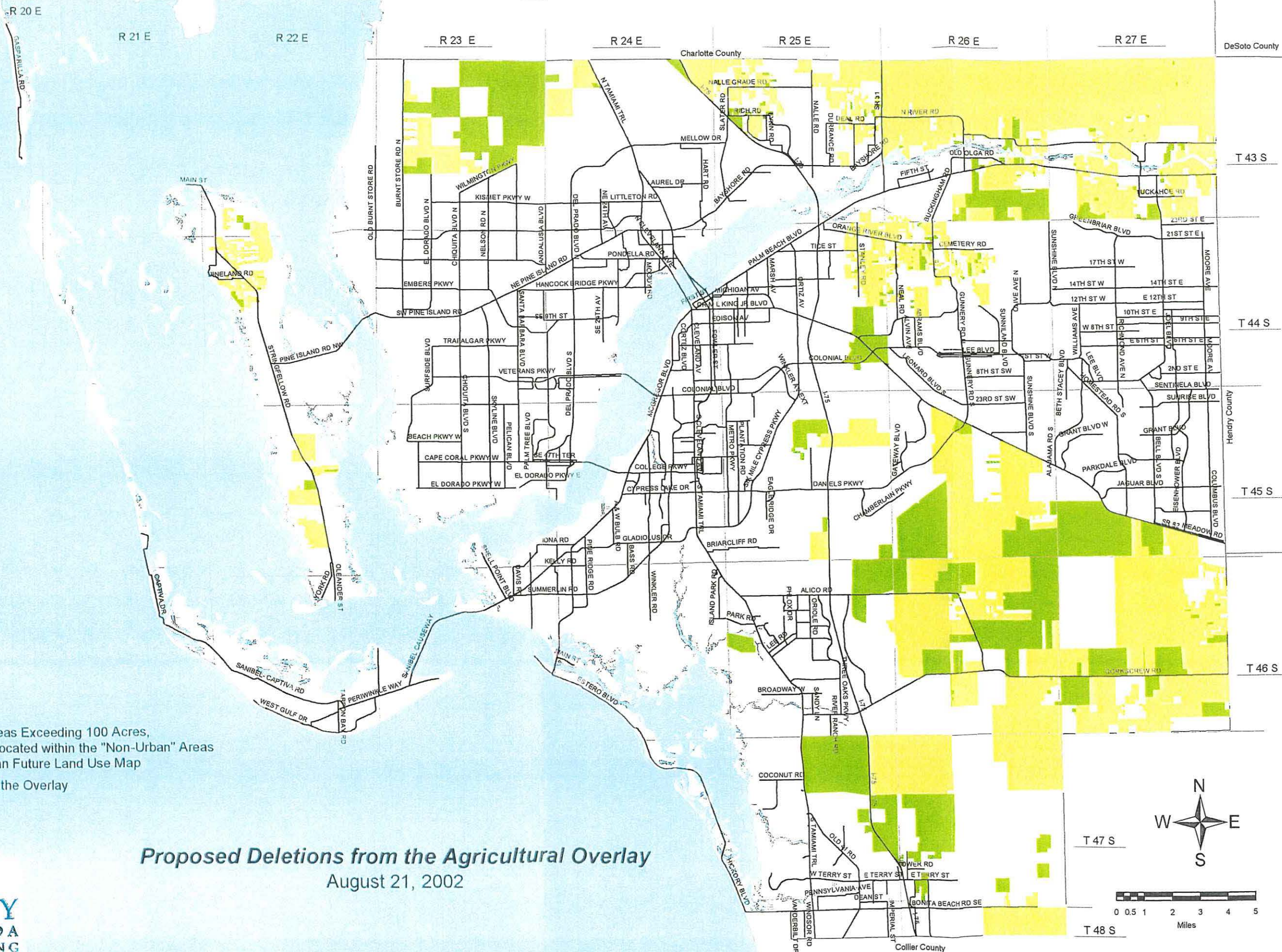


- Legend**
- Aggregated Agricultural Areas Exceeding 100 Acres, Zoned Agriculturally, and Located within the "Non-Urban" Areas As Depicted on the Lee Plan Future Land Use Map
 - Areas being added to the Overlay

Proposed Additions to the Agricultural Overlay
August 21, 2002



MAP 20 CPA 2001-23



Legend

- Aggregated Agricultural Areas Exceeding 100 Acres, Zoned Agriculturally, and Located within the "Non-Urban" Areas As Depicted on the Lee Plan Future Land Use Map
- Areas being removed from the Overlay

Proposed Deletions from the Agricultural Overlay
August 21, 2002

