

**2001/2002 REGULAR LEE PLAN AMENDMENTS
TRANSMITTAL HEARING**



Commission Chambers, 2120 Main Street
September 4, 2002
9:30 A.M.
AGENDA

1. **Call to order; Certification of Affidavit of Publication**
2. **Proposed Community Plans**
 - A. **CPA 2001-09**

Amend the Future Land Use Element text of the Lee Plan to incorporate the recommendations of the Bayshore Steering Committee, establishing a Vision Statement, Goal and subsequent Objectives and Policies specific to the Bayshore Community.
 - B. **CPA 2001-10**

Amend the Lee Plan to incorporate the recommendations of the Captiva Island Community Planning effort, establishing a Goal and subsequent Objectives and Policies specific to the Captiva Island community.
3. **Public Comment on Consent Agenda**
4. **Consent Items to be Pulled**
5. **Lee Plan Amendments Transmittal Consent Agenda**
 - A. **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.
 - B. **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.
 - C. **CPA 2001-24**

Update Table 2(b), Recommended Operational Improvements on Constrained Roads.
 - D. **CPA 2001-28**

Amend the Capital Improvements Element (Tables 3 & 4) to reflect the latest adopted Capital Improvement Program.
 - E. **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.

F. 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.”

G. 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.

6. Lee Plan Amendments Transmittal Administrative Agenda

A. CPA 2001-15

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

B. CPA 2001-27

Amend Community Facilities and Services Element, Goal 40: Coordinated Surface Water Management and Land Use Planning on a Watershed Basis to add a new Objective and Policy regarding incorporation of green infrastructure into the surface water management systems of proposed developments, and provide definitions for green infrastructure and flow-way in the Glossary.

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

LEE COUNTY COMPREHENSIVE PLAN

THE LEE PLAN

BoCC Transmittal Document
For the
September 4/5, 2002 Public Hearing

Lee County Planning Division
1500 Monroe Street
P.O. Box 398
Fort Myers, FL 33902-0398
(941) 479-8585

August 16, 2002

**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 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:

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**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:

A. BOARD REVIEW:

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

1. BOARD ACTION:

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

C. VOTE:

JOHN ALBION

ANDREW COY

BOB JANES

RAY JUDAH

DOUG ST. CERNY

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

DATE OF ORC REPORT:

A. DCA OBJECTIONS, RECOMMENDATIONS AND COMMENTS

B. STAFF RESPONSE

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

DATE OF ADOPTION HEARING:

BOARD REVIEW:

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

1. BOARD ACTION:

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

C. VOTE:

JOHN ALBION

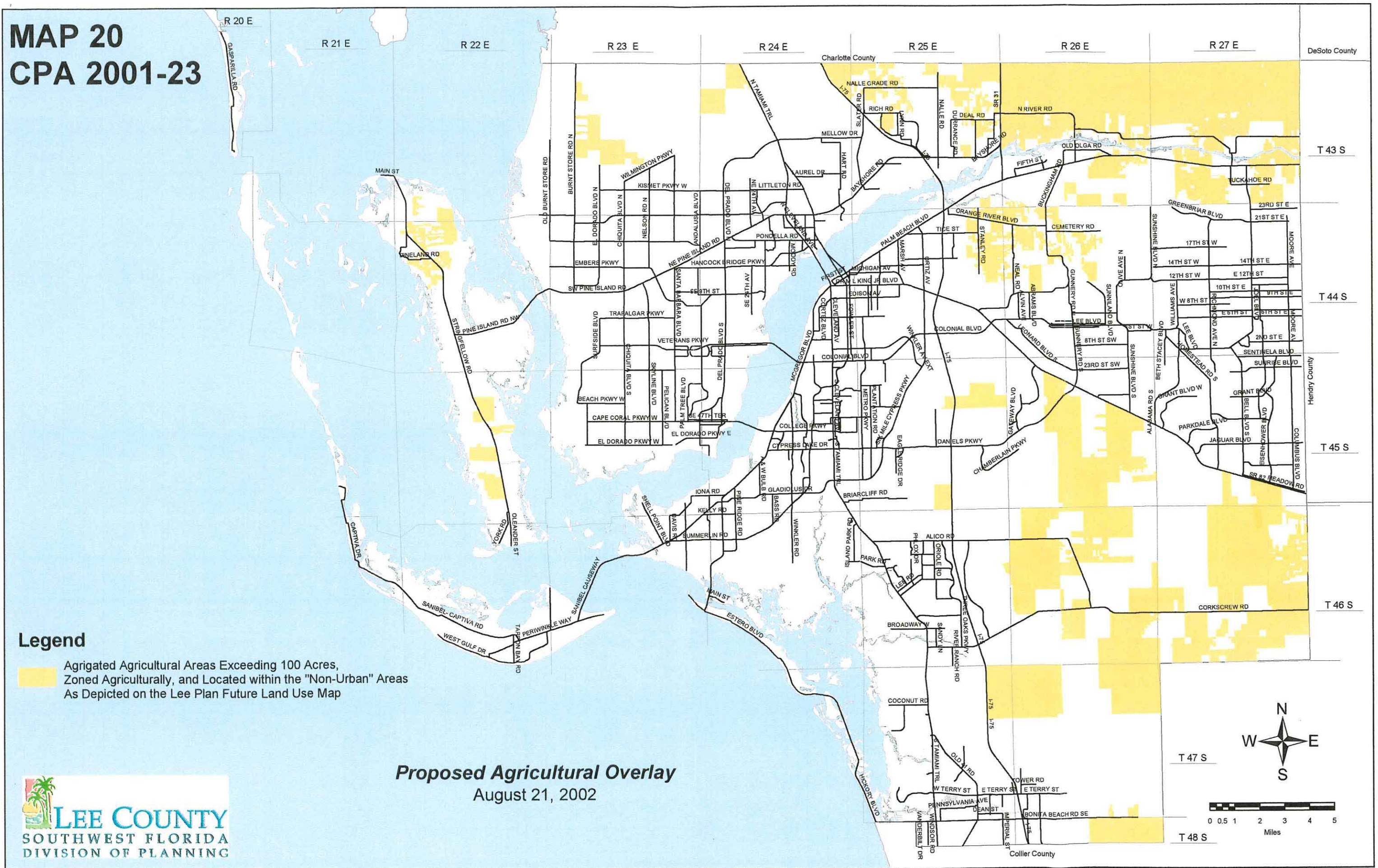
ANDREW COY

BOB JANES

RAY JUDAH

DOUG ST. CERNY

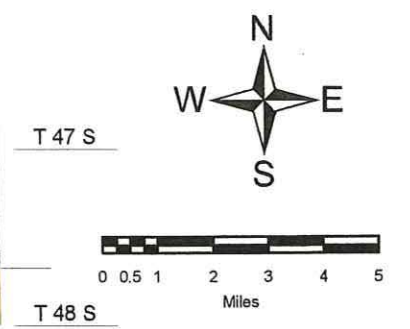
MAP 20 CPA 2001-23



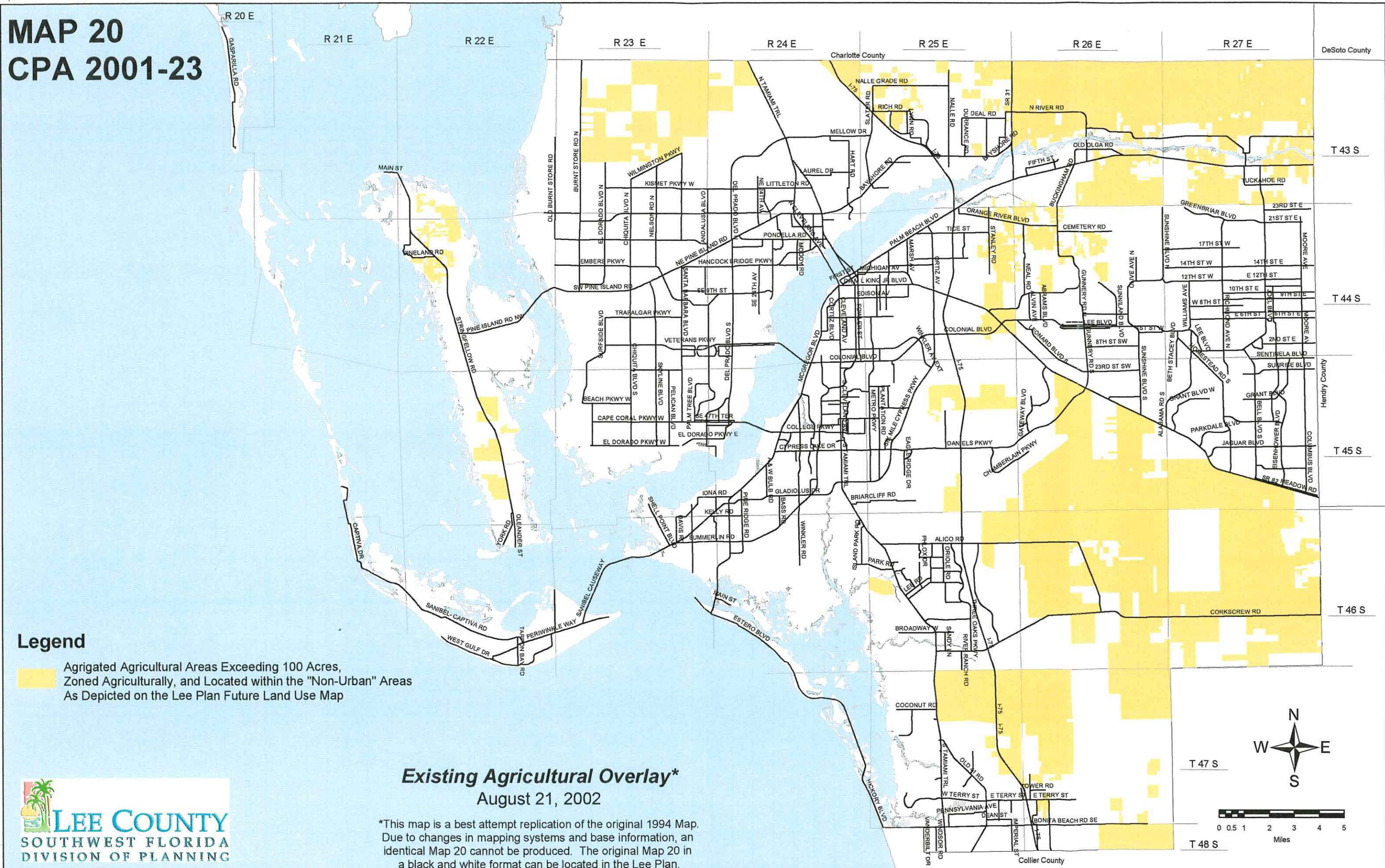
Legend

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



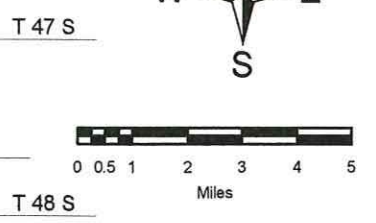
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 Agrigated Agricultural Areas Exceeding 100 Acres, Zoned Agriculturally, and Located within the "Non-Urban" Areas As Depicted on the Lee Plan Future Land Use Map




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

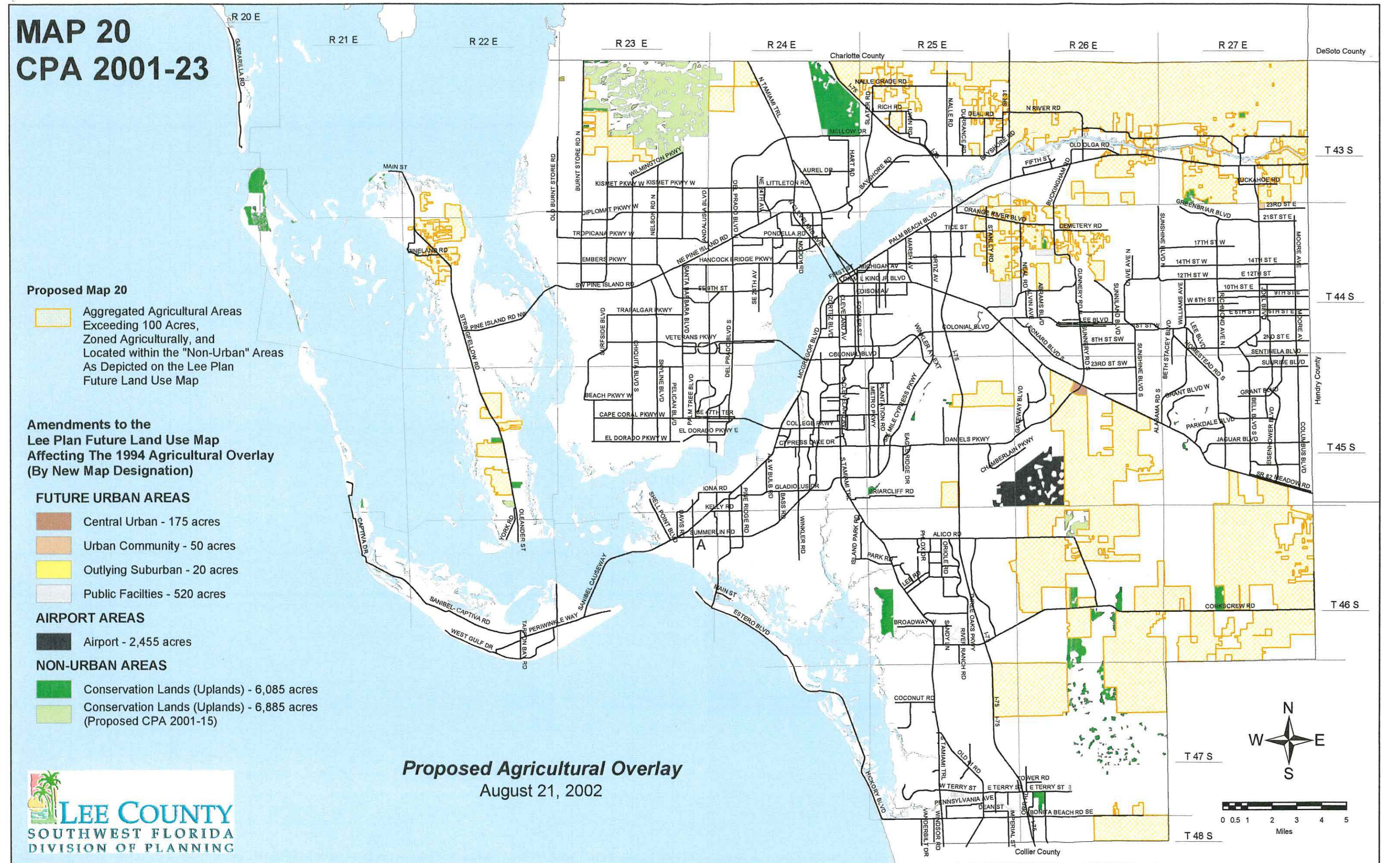
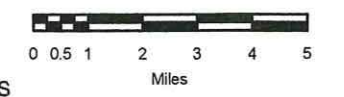
AIRPORT AREAS

-  Airport - 2,455 acres

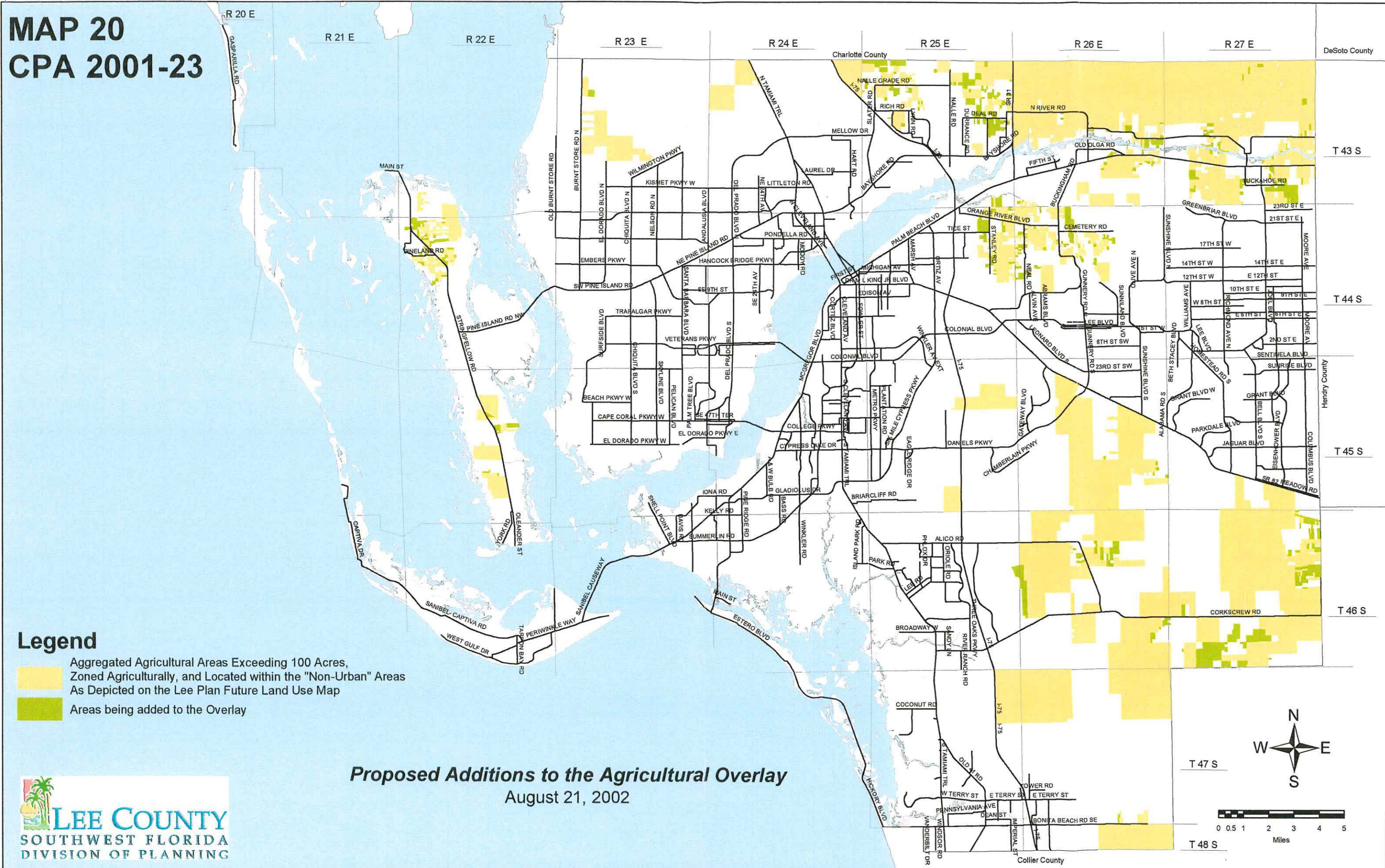
NON-URBAN AREAS

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

Proposed Agricultural Overlay
August 21, 2002



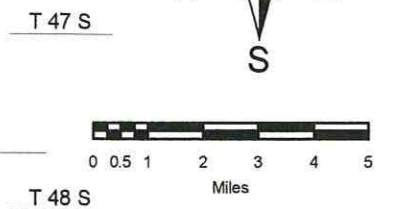
MAP 20 CPA 2001-23



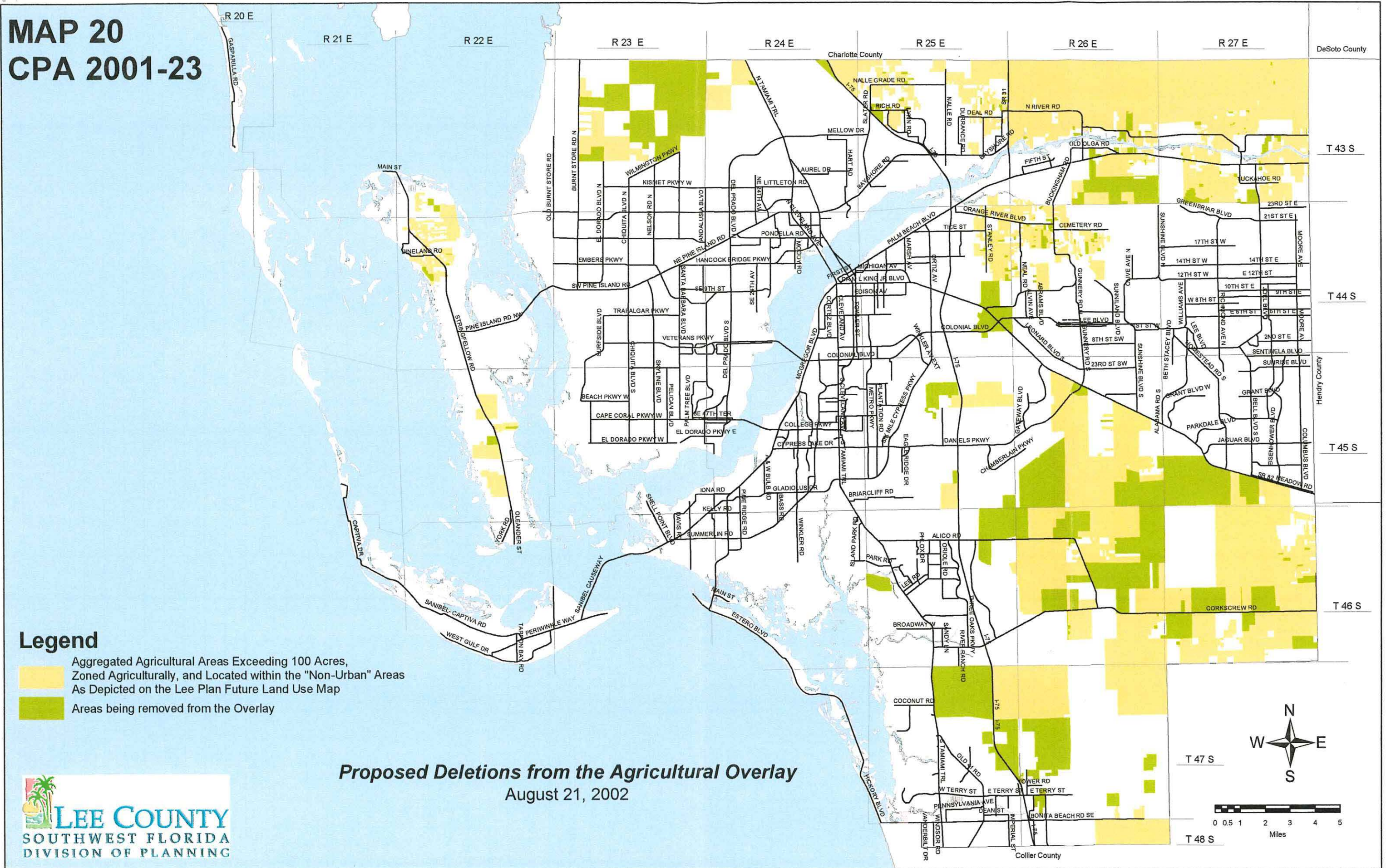
Legend

- 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

