



PLANNING DIVISION

M E M O R A N D U M



LEE COUNTY

SOUTHWEST FLORIDA

to: Board of County Commissioners

from: Paul O'Connor, AICP, Director, Division of Planning
POC

subject: Lee County's 2001/2002 Regular Comprehensive Plan Amendment Cycle

date: December 23, 2002

Attached are the agenda and staff reports for the public hearing to be held beginning at 9:30 A.M. on Thursday, January 9th, 2003. This is an adoption hearing for the 2001/2002 Comprehensive Plan Amendment Cycle. The Board of County Commissioners transmitted the 2000/2001 Lee Plan amendments to the State for review on September 19, 2002. The Department of Community Affairs (DCA) issued its Objections, Recommendations and Comments (ORC) Report on November 22, 2002. The DCA did not pose any objections or recommendations to any of the 15 transmitted amendments. The DCA did provide one comment regarding CPA2001-10, the Captiva Island Community Planning Effort. The comment points out that proposed Policy 21.9, which states that "mangroves on Captiva Island should be protected," is vague and should be revised to establish guidelines on how they should be protected. Per the DCA's comment, staff is proposing modified language in order to satisfy the Captiva residents desire to further protect mangroves on the island.

Three other amendments have been revised to reflect recent updates that have occurred since the transmittal hearing. The next revised amendment is CPA2001-12, which adds a specific access management plan to Policy 1.3.8 for Alico Road in the vicinity of the I-75 interchange, and adds the maps of the specific access management plans to the Future Land Use Map series. 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.

CPA2001-28, which amends the Capital Improvements Element (Tables 3 & 4) to reflect the latest adopted Capital Improvement Program, has also been revised to reflect the latest tables approved by the Board at the budget meetings. The changes to the tables occurred after the plan amendment transmittal hearings and are updated in the attached staff report..

The final amendment that is being modified since the transmittal hearing is CPA2001-27. This amendment adds a new Objective and Policy 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 been meeting with the public and state agencies on issues raised at the Transmittal hearing. Staff has revised the proposed language in the attached staff report 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.

Other than these 3 amendments that will require modifications as noted above, the remaining documents were simply updated to reflect that there were no objections, recommendations, or comments by the DCA.

If you have any questions regarding the adoption hearing, do not hesitate to call me at 479-8309.

cc: *Donald Stilwell, County Administrator*
Mary Gibbs, Director, Department of Community Development
Minutes
Lee Cares
Tim Jones, Assistant County Attorney
Donna Marie Collins, Assistant County Attorney
Janet Watermeier, Director, Economic Development
Dave Loveland, DOT
Diana Parker, County Hearing Examiner
Wayne Daltry, Smart Growth Director

**January 9, 2003
9:30 A.M.
AGENDA**

- 1. Call to order; Certification of Affidavit of Publication**
- 2. Community Plan Agenda**
- 3. Public Comment on Consent Agenda**
- 4. Consent Agenda:**
 - **Items to be pulled for discussion by the Board**
 - **Motion to approve the balance of items**
 - **Consideration of items pulled for discussion**
- 5. Adopt the following ordinance which adopts the consent agenda items:**

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.

- 6. Administrative Agenda**
- 7. Adjourn**

COMMUNITY PLAN AGENDA

A. 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.

B. Adopt the following ordinance which adopts CPA 2001-10:

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 CPA2001-10 (PERTAINING TO THE CAPTIVA ISLAND COMMUNITY PLAN) APPROVED 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 OF "THE LEE PLAN"; GEOGRAPHICAL APPLICABILITY; SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.

C. 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.

D. Adopt the following ordinance which adopts CPA 2001-09:

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 CPA2001-09 (PERTAINING TO THE BAYSHORE COMMUNITY PLAN) APPROVED 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 OF "THE LEE PLAN"; GEOGRAPHICAL APPLICABILITY; SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.

E. CPA2001-18

Amend the Future Land Use Element of the Lee Plan, text and Future Land Use Map series to incorporate the recommendations of the Greater Pine Island Community Planning effort, establish a new Vision Statement, establish a revised Goal 14, amend subsequent Policies specific to Greater Pine Island, amend Objective 1.4 "Non-Urban Areas" by establishing a new "Coastal Rural" future

land use category and amend the Future Land Use Map series to reclassify from "Outlying Suburban" to "Coastal Rural" 157 acres of agricultural land between Bokeelia and September Estates and to reclassify all "Rural" designated land to "Coastal Rural."

F. Adopt the following ordinance which adopts CPA2001-18:

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 CPA2001-18 (PERTAINING TO THE GREATER PINE ISLAND COMMUNITY PLAN) APPROVED DURING THE COUNTY'S 2001/2002 REGULAR COMPREHENSIVE PLAN AMENDMENT CYCLE; PROVIDING FOR AMENDMENTS TO ADOPTED TEXT AND FUTURE LAND USE MAP; PURPOSE AND SHORT TITLE; LEGAL EFFECT OF "THE LEE PLAN"; GEOGRAPHICAL APPLICABILITY; SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.

CONSENT AGENDA

- A. 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.
- B. CPA 2001-15**
Amend the Future Land Use Map series, Map 1, by updating the Conservation Lands land use categories.
- C. 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.
- D. 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.
- E. CPA 2001-24**
Update Table 2(b), Recommended Operational Improvements on Constrained Roads.
- F. 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.
- G. 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
- H. 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."
- I. 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.

ADMINISTRATIVE AGENDA

A. CPA 2001-12

Modify Policy 1.3.8 to create specific access management plans for Alico Road, Bonita Beach Road, and Lockett Road in the vicinity of I-75 (follow-up to PAT 99-27). In addition, include access management maps in the Future Land Use Map series.

B. Adopt the following ordinance which adopts CPA 2001-12:

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 CPA2001-12 (PERTAINING TO THE CREATION OF SPECIFIC ACCESS MANAGEMENT PLANS FOR ALICO ROAD, BONITA BEACH ROAD, AND LUCKETT ROAD IN THE VICINITY OF I-75 AND TO INCLUDE ACCESS MANAGEMENT MAPS IN THE FUTURE LAND USE MAP SERIES) APPROVED DURING THE COUNTY'S 2001/2002 REGULAR COMPREHENSIVE PLAN AMENDMENT CYCLE; PROVIDING FOR AMENDMENTS TO ADOPTED TEXT AND ACCESS MANAGEMENT MAPS; PURPOSE AND SHORT TITLE; LEGAL EFFECT OF "THE LEE PLAN"; GEOGRAPHICAL APPLICABILITY; SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.

C. 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.

D. Adopt the following ordinance which adopts CPA 2001-27:

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 CPA2001-27 (PERTAINING TO THE ADDITION OF A NEW OBJECTIVE AND POLICY UNDER GOAL 40 REGARDING THE INCORPORATION OF GREEN INFRASTRUCTURE INTO THE SURFACE WATER MANAGEMENT SYSTEMS OF PROPOSED DEVELOPMENTS AND TO THE ADDITION OF TWO DEFINITIONS TO THE GLOSSARY FOR "GREEN INFRASTRUCTURE" AND "FLOW-WAY") APPROVED 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 OF "THE LEE PLAN"; GEOGRAPHICAL APPLICABILITY; SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.

E. CPA 2001-28

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

F. Adopt the following ordinance which adopts CPA 2001-28:

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 CPA2001-28 (PERTAINING TO TABLES 3 AND 4 OF THE CAPITAL IMPROVEMENT ELEMENT) APPROVED 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 OF "THE LEE PLAN"; GEOGRAPHICAL APPLICABILITY; SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.

LEE COUNTY ORDINANCE NO. 03- _____
(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 _____, who moved its adoption. The motion was seconded by Commissioner _____, and, when

put to a vote, the vote was as follows:

Robert P. Janes

Douglas St. Cerny

Ray Judah

Andrew Coy

John Albion

DONE AND ADOPTED this 9th day of January 2003.

ATTEST:
CHARLIE GREEN, CLERK

LEE COUNTY
BOARD OF COUNTY COMMISSIONERS

BY: _____
Deputy Clerk

BY: _____
Chairman

DATE: _____

Approved as to form by:

Donna Marie Collins
County Attorney's Office

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

LEE COUNTY COMPREHENSIVE PLAN

THE LEE PLAN

BoCC Public Hearing Document
For January 9, 2003
Adoption Hearing

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

November 22, 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 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	<u>AYE</u>
ANDREW COY	<u>ABSENT</u>
BOB JANES	<u>AYE</u>
RAY JUDAH	<u>AYE</u>
DOUG ST. CERNY	<u>AYE</u>

**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

BOARD REVIEW:

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

1. BOARD ACTION:

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

C. VOTE:

JOHN ALBION

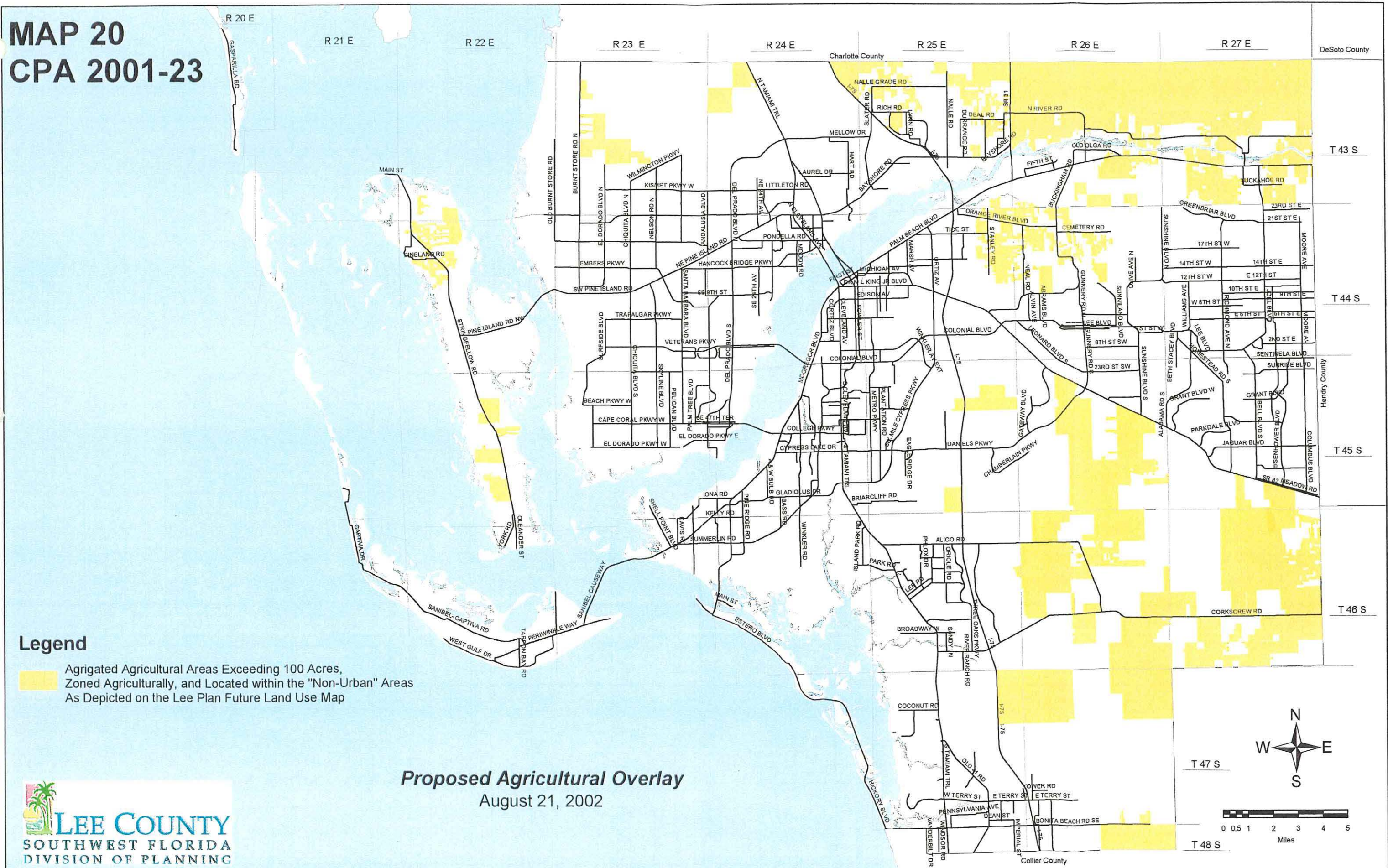
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BOB JANES


RAY JUDAH

DOUG ST. CERNY

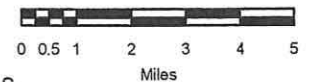
MAP 20 CPA 2001-23



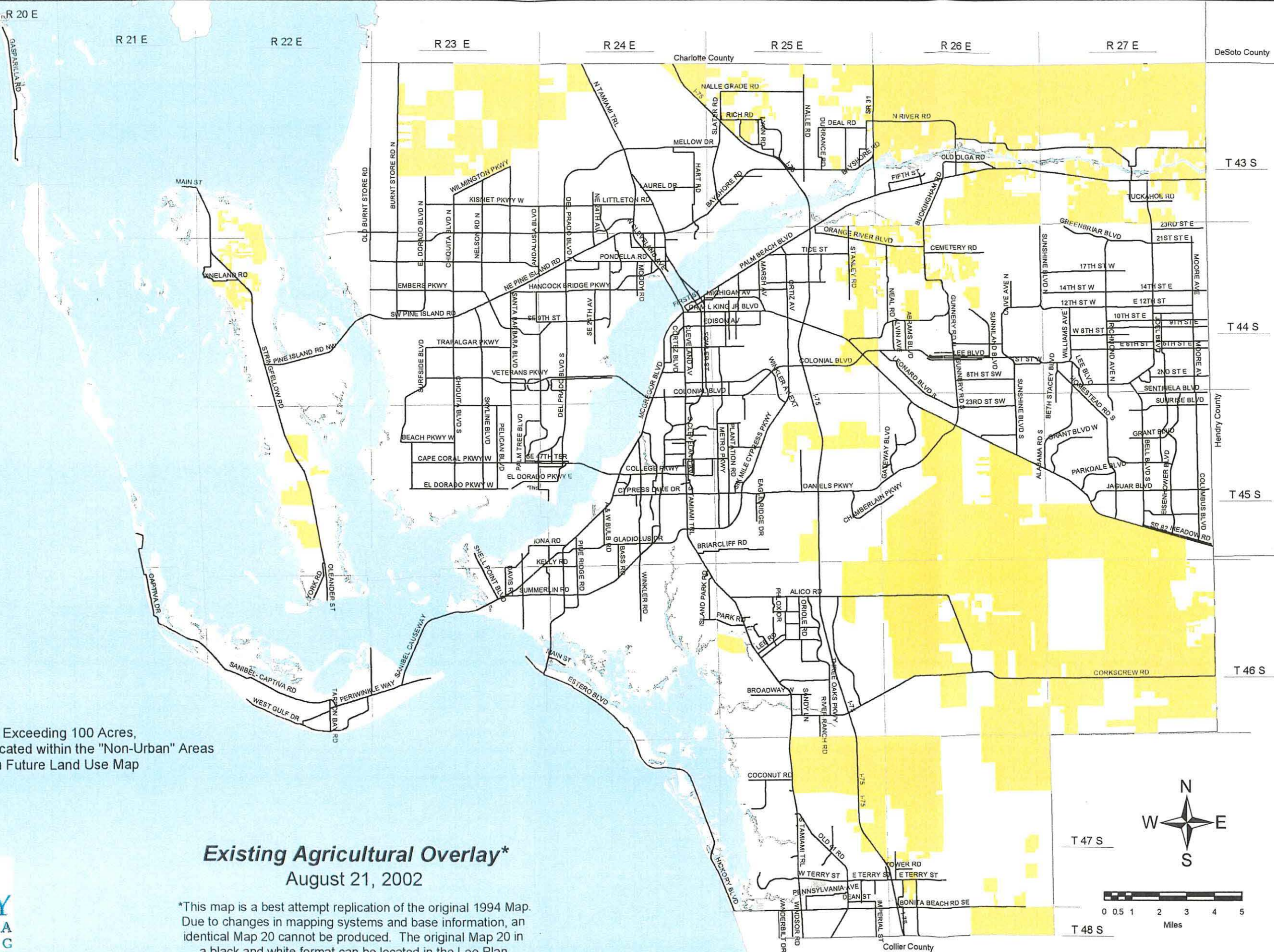
Legend

 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



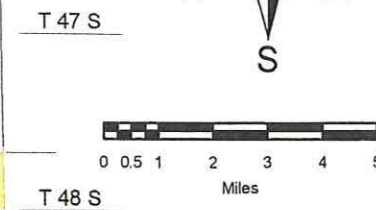
Legend

 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)


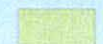
FUTURE URBAN AREAS

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

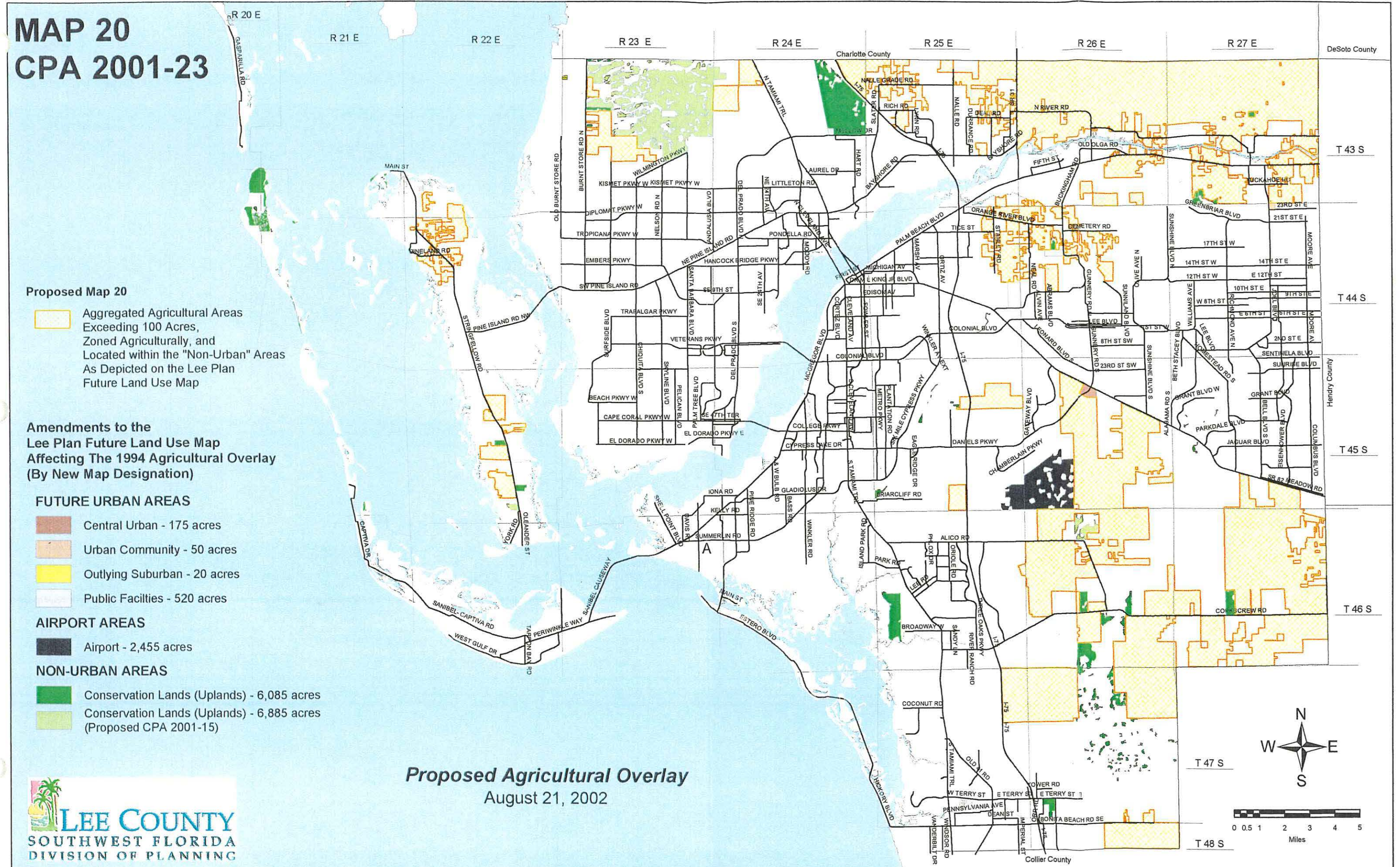
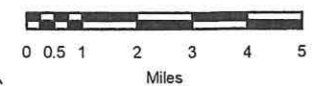
AIRPORT AREAS

-  Airport - 2,455 acres

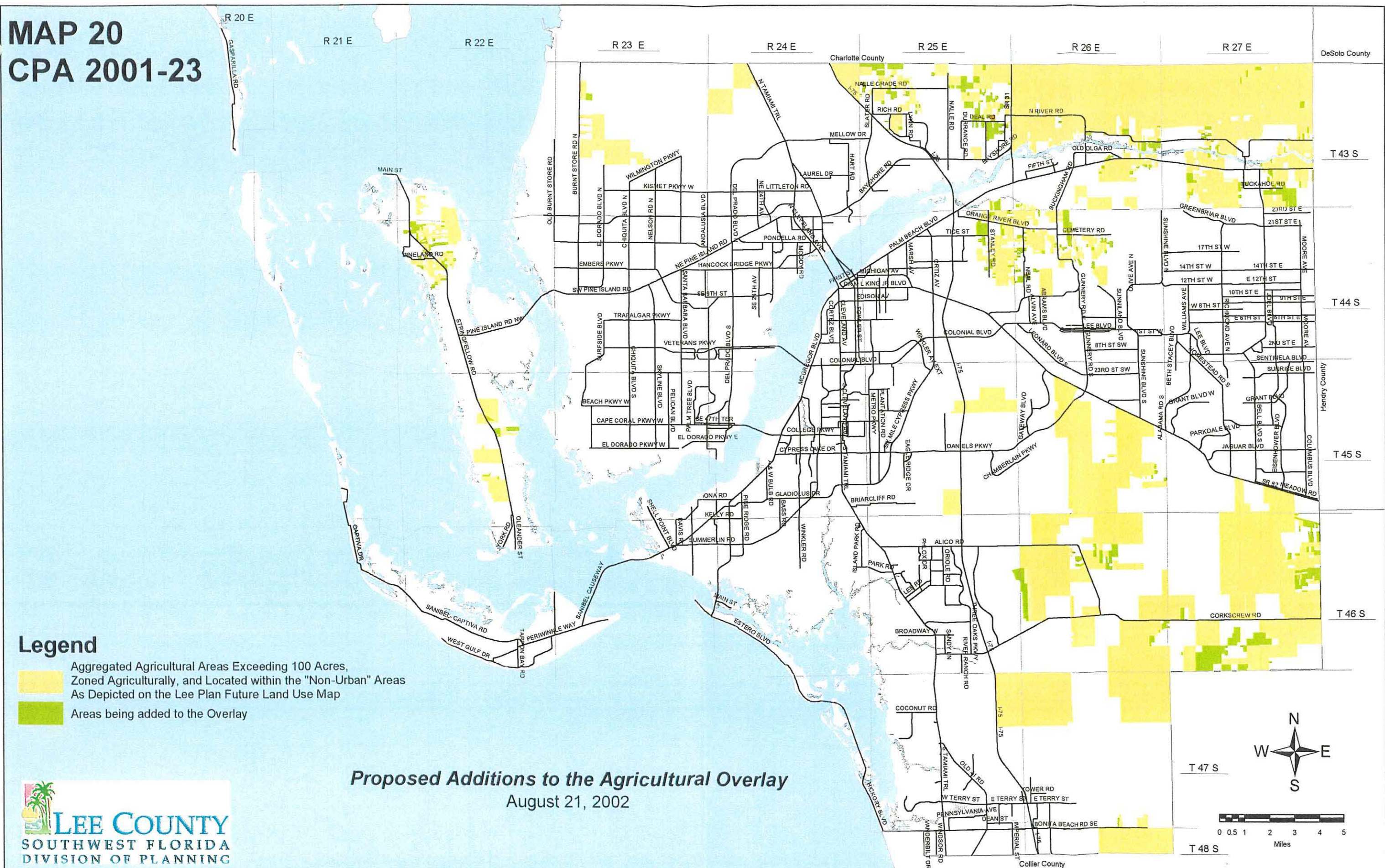
NON-URBAN AREAS

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

Proposed Agricultural Overlay
August 21, 2002



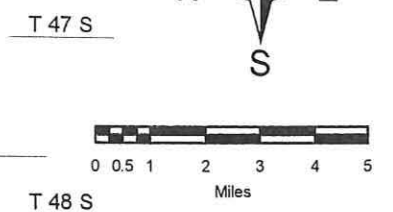
MAP 20 CPA 2001-23



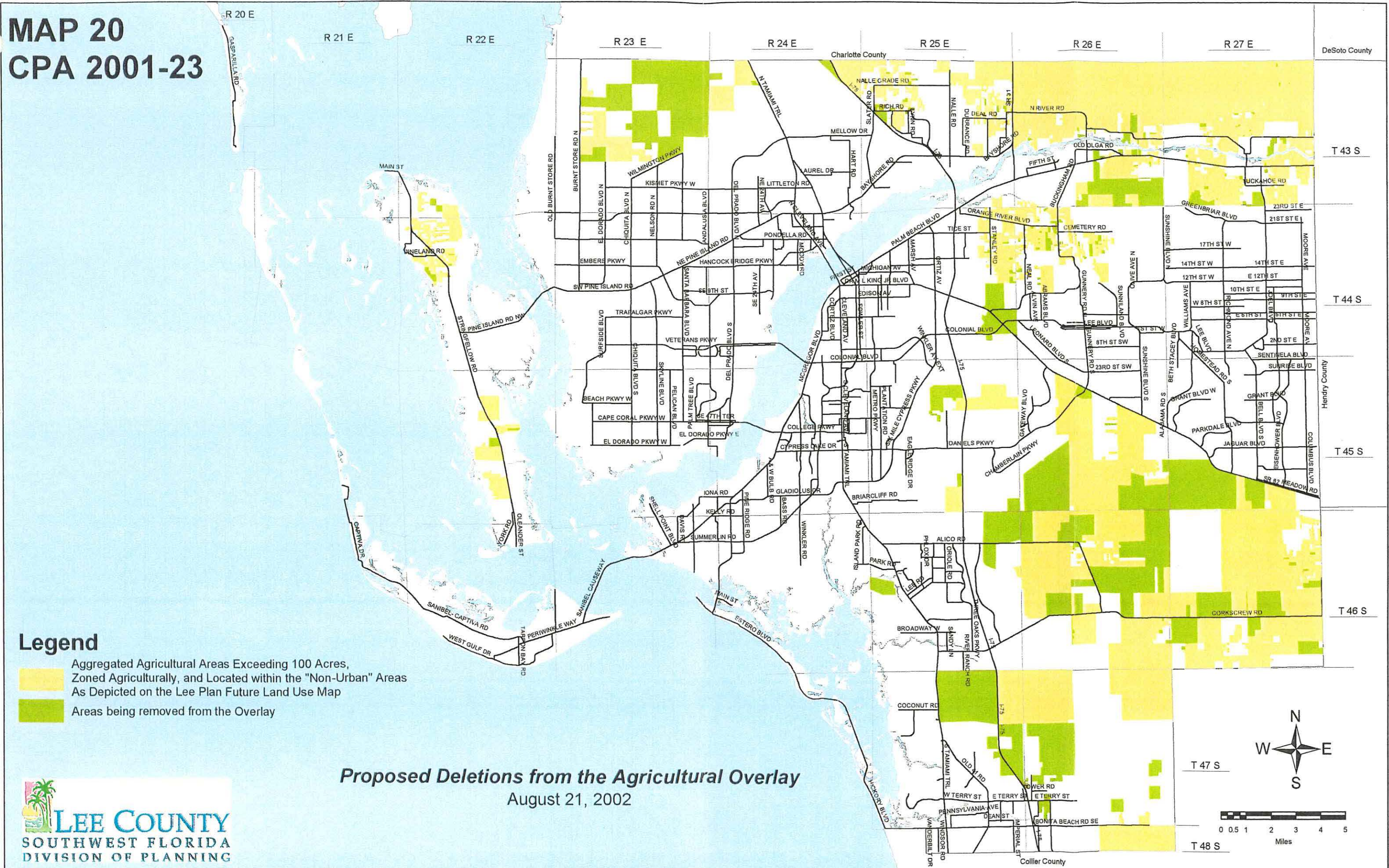
Legend

- 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

