



DIVISION OF PLANNING



LEE COUNTY

MEMORANDUM

SOUTHWEST FLORIDA

to: Board of County Commissioners
from: Paul O'Connor, AICP, Director
subject: Evaluation and Appraisal Report and Smart Growth Comprehensive Plan Amendments
date: Friday, December 1, 2006

Attached is your packet for the December 13th Comprehensive Plan Amendment Transmittal Hearing. This packet contains the amendments that were: recommended by the 2004 Evaluation and Appraisal Report (EAR); recommended by the Smart Growth Committee; initiated by the Board of County Commissioners; and, privately initiated. The agenda has been divided into a Consent Agenda and an Administrative Agenda.

The Consent Agenda contains those amendments which have both Staff and Local Planning Agency recommendations for transmittal to the Department of Community Affairs (DCA). These proposed amendments are minor, technical, or non-controversial in nature. There was little or no public participation on most of these items. Staff will follow this memorandum with a memorandum explaining the nature and intent of each of the Consent Agenda items.

The Administrative Agenda contains those amendments that have different recommendations between Staff and the Local Planning agency, contain unresolved issues, may receive additional public comment, or are privately initiated.

In addition to blocking out your calendars for Wednesday, December 13th, staff has reserved all day Thursday, December 14th as a backup day should the additional time be needed.

If you would like a briefing on the packet, I am more than happy to meet with you at your convenience.

cc: without attachments

Donald Stilwell, County Manager

David Owen, County Attorney

Mary Gibbs, Director, Department of Community Development

**2005/2006 EVALUATION AND APPRAISAL REPORT AND SMART GROWTH
INITIATIVE LEE PLAN AMENDMENTS
TRANSMITTAL HEARING**

**COMMISSION CHAMBERS, 2120 MAIN STREET
DECEMBER 13, 2006
9:30 A.M.**

AGENDA

- 1. Call to order; Certification of Affidavit of Publication**
- 2. Consent Agenda**
 - A. CPA2005-08 - Caloosahatchee Shores Community Plan**

Adopt a new Policy 21.1.4 directing the Caloosahatchee Shores Community to draft enhanced code enforcement standards for possible inclusion in the Land Development Code.
Sponsor: Board of County Commissioners/The East Lee County Council.
 - B. CPA2005-10 – Airport Noise Boundaries and Number of Gas Pumps**

Amend the Future Land Use Element Policies 1.2.2, 1.7.1, and 5.1.4 and the Community Facilities and Services Element Policy 66.3.11, and the Future Land Use Map Series, Map 1, Page 5 of 5, to reflect the revised FAR Part 150 Noise Study for the Southwest Florida International Airport. In addition, amend Table 5, Southwest Florida International Airport Proposed Development Schedule, to increase the number of gas pumps allowed from twelve (12) to twenty-four (24).
Sponsor: Board of County Commissioners/Port Board.
 - C. CPA2005-12 – Captiva Community Plan**

Amend Goal 13, Policy 6.1.2, Chapter XIII Single-Family Residence Provision and the definition of Density specific to the Captiva Community to incorporate the recommendations of the Captiva Island Community Planning effort.
Sponsor: Board of County Commissioners/Captiva Community Planning Panel.
 - D. CPA2005-13 – Community Planning**

Amend the Future Land Use Element to evaluate incorporating community planning policies into the Lee Plan.
Sponsor: Board of County Commissioners/Smart Growth Committee
 - E. CPA2005-16 – San Carlos/Estero Community Boundary**

Amend the Future Land Use Map Series, Map 16, Lee County Planning Communities, to adjust the boundary between the Estero and San Carlos Planning Communities west of U.S. 41.
Sponsor: Board of County Commissioners.

- F. CPA2005-17 – Long Range Transportation Plan**
Amend the Transportation Element to update Policy 36.1.1 and the Transportation Map series, Map 3, to reflect the new 2030 MPO Long Range Transportation Plan.
Sponsor: Board of County Commissioners
- G. CPA2005-18 – LOS Standards For SIS/FIHS/TRIP Funded Roads**
Amend the Transportation Element to update Policy 37.1.1 to reflect new State LOS standards for SIS/FIHS/TRIP-funded roads.
Sponsor: Board of County Commissioners.
- H. CPA2005-19 – FDOT Quality LOS Handbook**
Amend the Transportation Element to update Policy 37.1.4 to refer to the 2002 FDOT Quality LOS Handbook.
Sponsor: Board of County Commissioners.
- I. CPA2005-20 – Deletion of Policy 38.2.3**
Amend the Transportation Element to delete Policy 38.2.3.
Sponsor: Board of County Commissioners.
- J. CPA2005-21 – Update Reference to the LeeScape Master Plan**
Amend the Transportation Element to update Objective 40.3 to refer to the latest version of the LeeScape (Lee County Roadway Landscape) Master Plan.
Sponsor: Board of County Commissioners.
- K. CPA2005-22 – Mass Transit Update**
Amend the Transportation Element Mass Transit Sub-Element's Goals, Objectives and Policies as identified in the most recent Evaluation and Appraisal Report.
Sponsor: Board of County Commissioners.
- L. CPA2005-23 – Ports, Aviation and Related Facilities Update**
Amend the Transportation Element Ports, Aviation and Related Facilities Sub-Element's Goals, Objectives and Policies as identified in the most recent Evaluation and Appraisal Report.
Sponsor: Board of County Commissioners.
- M. CPA2005-25 – Change Lee Plan Horizon to the year 2030**
Amend the Lee Plan to change the references from the year 2020 to the year 2030 and update the Vision Statements to the year 2030.
Sponsor: Board of County Commissioners.
- N. CPA2005-27 – Update CIE Tables 3 and 4**
Amend the Capital Improvements Element (Tables 3 & 4) to reflect the latest adopted Capital Improvement Program.
Sponsor: Board of County Commissioners.

- O. CPA2005-28 – Conservation Lands Update**
Amend the Future Land Use Map Series, Map 1, by updating the Conservation Lands land use categories.
Sponsor: Board of County Commissioners.
- P. CPA2005-29 – Public Facilities Update**
Amend the Future Land Use Map Series, Map 1, the Future Land Use Map, to update the mapped Public Facilities future land use category by adding and/or removing lands to more accurately identify publicly owned lands.
Sponsor: Board of County Commissioners.
- Q. CPA2005-33 – Police and Justice Sub-Element Update**
Amend the Community Facilities and Services Element Police and Justice Sub-Element Objective 69.1 to delete the referenced date and to acknowledge the ongoing nature of the objective. In addition amend Policies 69.2.2 and 69.2.3. to reflect the existing status of substation facilities.
Sponsor: Board of County Commissioners.
- R. CPA2005-35 – New Urbanism Definitions**
Amend the Lee Plan Glossary to incorporate new and amend existing definitions to incorporate the principles of New Urbanism.
Sponsor: Board of County Commissioners.
- S. CPA2005-39 – Commercial FLUM Category**
Amend Goal 1 of the Future Land Use Element, the Future Land Use Map Series, Map 1, and Table1(a), by adding a new “commercial only” future land use category.
Sponsor: Board of County Commissioners.
- T. CPA2005-40 – Sub-Outlying Suburban FLUM Category**
Amend Goal 1 of the Future Land Use Element, the Future Land Use Map series, Map 1, and Table 1(a) and Table1(b), Summary of Residential Densities, by adding a new future land use category having a maximum density of 2 dwelling units per acre.
Sponsor: Board of County Commissioners.
- U. CPA2005-41 – Manatee Protection Plan**
Amend the Conservation and Coastal Management Element and the Future Land Use Element to incorporate the "boating facility siting element" of the Manatee Protection Plan required by F.S. 370.12.(2)(t)(3).
Sponsor: Board of County Commissioners.
- V. CPA2005-42 – Economic Element Update**
Amend the Lee Plan, Economic Element, for general updates as the element has not been updated since its creation in 1993.
Sponsor: Board of County Commissioners.

- W. CPA2005-43 – Single Family Residence Provision Update**
Amend the Procedures and Administration Element by updating the Single-Family Residence Provision.
Sponsor: Board of County Commissioners.
- X. CPA2005-45 – Beach and Dune Management Plans**
Amend Policy 113.3.1 in order to update the list of critical erosion areas under Beach and Dune Management Plans.
Sponsor: Board of County Commissioners.
- Y. CPA2005-47 – Housing Element Update**
Amend the Lee Plan to update the Housing Element reflecting the findings of the most current Housing Needs Assessment.
Sponsor: Board of County Commissioners.

3. Administrative Agenda

- A. CPA2005-02 – Webb/Buckingham**
Amend the Future Land Use Map Series, Map 1, to change +/-95 acres from the Rural Future Land Use Designation to the Urban Community Future Land Use Designation and to change the boundaries in the Future Land Use Map series, Map 16, to place the property in the Lehigh Acres Planning Community.
Sponsor: Carlton Land Holdings LLC.
- B. CPA2005-05 – Three Oaks North**
Amend the Future Land Use Map Series, Map 1, for 83± acres in the northwest quadrant of I-75 and Alico Road, Section 3, Township 46 South, Range 25 East, Lee County, Florida, lying west of I-75 from "Industrial Development" to "Industrial Commercial Interchange."
Sponsor: Paul H. Freeman, Trustee
- C. CPA2005-07 – River Hall (FKA Hawk's Haven)**
Amend the Future Land Use Map Series for a specified parcel (approximately 1,727 acres) located in Sections 25, 26, 27, 34, 35, and 36, Township 43 South, Range 26 East to change the Future Land Use classification shown on Map 1 from "Rural" and "Suburban" to "Outlying Suburban" and "Public Facilities." Amend Table 1(a), Footnote 6 to limit development in the plan amendment area to 2 units per acre and place a specific cap on residential development of 2,800 dwelling units on the specified property.
Sponsor: Hawks Haven Investment LLC
- D. CPA2005-09 - Palm Beach Community Plan**
Amend the Future Land Use Element to add a Goal, Objectives, and Policies that are specific to the Palm Beach Community.
Sponsor: Board of County Commissioners/The East Lee County Council.

- E. CPA2005-11 – Greenways Recreational Trails Master Plan**
Incorporate the Lee County Multi-Purpose Recreational Trails and Greenways Master Plan into the Lee Plan. Revise Goal 85, Objective 85.1, Policy 85.1.2, Policy 85.1.3, Policy 85.1.4, Policy 85.1.5, and Policy 107.1.1(4.)(d.). Incorporate proposed new Policy 40.4.6, Policy 40.4.7, Policy 40.4.8, Policy 77.3.6, Policy 77.3.7, new Objective 85.4, Policy 85.4.1, Policy 85.4.2, new Goal 80, new Objective 80.1, Policy 80.1.1, Policy 80.1.2, new Objective 125.3, and Policy 125.3.1. Incorporate proposed new Map 22 (Lee County Greenways Multi-Purpose Recreational Trails Master Plan Map) into the Lee Plan.
Sponsor: Board of County Commissioners.
- F. CPA2005-24– Update Transportation Concurrency Policies**
Amend the Transportation Element to update transportation concurrency related Objectives and Policies to reflect current County policy and recent changes in state law.
Sponsor: Board of County Commissioners.
- G. CPA2005-26 – Update BEBR Population Projections**
Amend the Lee Plan text and tables to reflect the latest BEBR population projections. Also, amend Map 16 to reflect current city boundaries.
Sponsor: Board of County Commissioners.
- H. CPA2005-37 – New Urbanism**
Amend the Future Land Use Element to include and revise Goals, Objectives, and Policies to incorporate the concepts and principles of New Urbanism, Traditional Neighborhood Design, and Transit Oriented Development. Amend the Future Land Use Map Series to include an overlay depicting areas where mixed use development will be allowed to calculate residential density from commercial property when smart growth principles are applied.
Sponsor: Board of County Commissioners.
- I. CPA2005-46 – Smart Growth Recommendations**
Amend the Lee Plan to incorporate the recommendations from the County's Smart Growth Initiative into the Lee Plan.
Sponsor: Board of County Commissioners.
- J. CPA2005-49 – Update Goal 10 Natural Resource Extraction**
Amend the Lee Plan to address the further impacts of mining and steps needed for adequate mitigation or prevention of adverse impacts. Further, recommendations are made to prevent future land use conflicts between mining and other uses in rural areas. Goal 10, Natural Resource Extraction, is proposed to be expanded to include measures for rock mining, and for mitigation of rock mining impacts with adjacent land uses.
Sponsor: Board of County Commissioners.

8. Adjourn

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Administrative Agenda Items

CPA2005-49
Update Goal 10 natural
Resources Extraction

CPA2005-00049
UPDATE GOAL 10 NATURAL
RESOURCE EXTRACTION
BoCC SPONSORED
AMENDMENT
TO THE

LEE COUNTY COMPREHENSIVE PLAN

THE LEE PLAN

BoCC Public Hearing Document
for the
December 13th, 2006 Public Hearing

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

December 1, 2006

**LEE COUNTY
DIVISION OF PLANNING
STAFF REPORT FOR
COMPREHENSIVE PLAN AMENDMENT
CPA2005-00049**

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

INITIAL STAFF REPORT PREPARATION DATE: November 15, 2006

REVISED STAFF REPORT PREPARATION DATE: December 1, 2006

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:

Adopt a new Objective and Policies under Goal 10: Natural resource Extraction to address the further impacts of mining and the steps needed for adequate mitigation or prevention of adverse impacts. Further, recommendations are made to prevent future land use conflicts between mining and other uses in rural areas. More specifically, Goal 10, natural Resource Extraction, will be expanded to include measures for rock mining, and for mitigation of rock mining impacts with adjacent land uses.

B. STAFF RECOMMENDATION AND FINDINGS OF FACT SUMMARY:

1. RECOMMENDATION:

Planning Staff recommends that the Board of County Commissioners move this proposed amendment to the next round of plan amendments.

2. PROPOSED TRANSMITTAL LANGUAGE

PROPOSED NEW OBJECTIVE AND POLICIES UNDER ELEMENT II - FUTURW LAND USE, GOAL 10: NATURAL RESOURCE EXTRACTION

OBJECTIVE 10.3: Coordinate mining activities; evaluation, monitoring, restoration and redevelopment plans with water supply planning activities, surface water management, wetland protection, wildlife conservation and future residential activities.

POLICY 10.3.1. Mining applications will include design features and supporting data to maintain or enhance the predevelopment surface and groundwater levels, hydroperiods and flows for the appropriate watersheds and sub-basins.

POLICY 10.3.2. Mining applications will include baseline monitoring, onsite and regional assessments of the change in flow, timing of travel, and direction of surface and groundwater systems in the impacted area. Particular attention will be given to connectivity and the potential travel time to wellfields and concentrations of domestic self supplied users.

POLICY 10.3.3. Mining applications will include assessments of the potential impact on the aquatic ecology and water quality of the lakes resulting from lake design and post mining impacts including runoff or groundwater flow and likely land uses surrounding the site.

POLICY 10.3.4. The depth of mining for any excavation proposed will be limited to that necessary to prevent the breach of aquacludes or change in water quality within the aquaclude separating the aquifer the mining is within from any other aquifer. Other limitations on mining setbacks or depths will be determined on a case by case basis, tied to existing neighboring uses, and specific hydrogeologic, wetlands protection and wildlife conservation issues.

POLICY 10.3.5 Annual reports on mining will be required in any permit approval, which swill include a continuation of the staff recommended baseline monitoring, the areas under active mining, depths being mined, the quantity and type of mined materials, estimated reserves left for mining, and the annual volume, direction and destination of the material being transported.

POLICY 10.3.6 Any significant adverse impacts identified during mining or post-mining will be subject to adaptive management and corrective measures.

POLICY 10.3.7. Any restoration activities required of a mining permit, and any proposed redevelopment of a mined site tied to a mining permit must consider the restoration and sustainable management of all lakes, preserves and buffer areas and the timing of development, including mining, of surrounding sites. Residential uses when deemed appropriate, will be limited in the

timing of their placement until surrounding mining operations cease creating groundwater or geological impacts affecting the foundations of structures

3. BASIS AND RECOMMENDED FINDINGS OF FACT:

The report *Lee County Groundwater Resource and Mining Study* was prepared under contract with a team of geologists. The draft report was dated June 2005 and amended in August 2006. The report evaluated, with the information available, the likely commercial rock deposits and the current mining operations. It identified the most likely location of future mining, with the application of a series of overlays indicating community and environmental constraints. The remaining areas were deemed to meet the county wide need for rock aggregate for the planning horizon. The report may be found in its entirety at:

http://www.lee-county.com/dcd1/Downloads/Documents/Studies_Reports/GroundwaterResource/GR&M.htm

The issue of mining and claims of nuisance on surrounding rural residential land has repeatedly come before the Board of County Commissioners. Additionally, various mining proposals include reclamation plans that involve some conversion to residential. When the mining activity on site or on adjacent parcels continues while the residential component is developed, additional conflict occurs. Ensuring a separation in time between the mining and subsequent residential activity will prevent or mitigate such conflict.

C. BACKGROUND INFORMATION

The Groundwater Resource and Mining report was recommended through the Smart Growth Committee. In addition, the 2004 Evaluation and Appraisal Report, as amended, indicated that the Report would be prepared to update information on the groundwater and mining resources of the County.

The report updates the information on rock of minable quality, based upon current commercial industry economics. It provides an assessment on current production, and a series of estimates of rock availability, with and without environmental constraints. It also provides an assessment of impacts on water resources by mining operations and by the creation of lakes in areas with lesser Evapotranspiration (E/T) characteristics. The report further evaluates the impact of mines on the topography and gradient of water flow.

The report provides recommendations that address the impacts of mining, and provides for remedies, in regard to water resources.

Previous plan amendments and land development regulations have attempted to mitigate between activities of mining and impacts on other land uses in proximity. The recent blasting ordinance serves as one such amendment. However, road noise and truck traffic, deterioration of road beds due to heavy vehicles, and temporary changes in water tables lead to concerns of traffic accidents, housing damage, and other incidents for residential living. Further effort is needed to prevent nuisance, by timing land use transitions from mining to other uses.

PART II - STAFF ANALYSIS

A. STAFF DISCUSSION

Aggregate is a critical ingredient in making the "built environment." A key factor in the cost of aggregate, and hence the cost of the built environment, is the transportation cost of this very heavy and bulky material. It is common to use the most suitable materials found closest to the site of development within the region determined by the transportation network and distribution of materials.

Lee County has large deposits of such materials. It is known, however, that the extraction of these materials have impacts on the natural system, involving the utter loss of all surficial habitat, and cause major changes to the water budget of the impact area. Also, mining is an uncomfortable neighbor for residential land uses.

The County has used its land use authority to reduce the nuisance effect of mining. The reverse is also being determined to be true—residential development occurring adjacent to active mining does generate concerns about impacts on the newly established residential areas, leading to demands for mining changes that were not required prior to the residential development.

Most mining is occurring or expected to occur in the headwaters of the County's natural water courses or in the recharge areas of the surficial aquifer, the source of water for many agriculture and domestic self supplied users, as well as Lee County Utility. Further, the aggregate comes from another aquifer, also a source of water for utility, agriculture, and domestic self supplied users. Maintaining surficial and groundwater storage is critical for the rest of the County's development and environmental management strategies. With proper precautions, mining can assist in furthering these strategies rather than being a deterrent.

The primary supporting document on mining and water resources is the Lee County Groundwater and Mining Study, and the recommended policies 10.3.1-10.3.5 are drawn from this report. The report was peer reviewed, and amendments to the report made in August 2006, but none of the peer issues on mining involved conflicts with the recommendations, which have been converted into the policies above.

Item 10.3.6 addresses a concern that reclamation plans for residential use should at a minimum be timed to prevent nuisance conflicts with mining on adjacent tracts.

B. CONCLUSIONS

The recommendations contained in the Groundwater Resource and Mining Study should be implemented in the Lee Plan. Additional protection for future residential development of mining sites should be implemented.

C. STAFF RECOMMENDATION

Staff recommends that the Board of County Commissioners move this proposed amendment to the next round of plan amendments.

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

DATE OF PUBLIC HEARING: November 27, 2006

A. LOCAL PLANNING AGENCY REVIEW

The Local Planning Agency was scheduled to review this proposal at their November 27th Regular Meeting. One Local Planning Agency member raised several concerns. This member felt that meeting the new proposed requirements would require the disclosure of proprietary information. There was also a concern about the modeling requirements to comply with the travel times to wellfields. The meeting was about to lose a quorum and the Local Planning Agency approved a motion to recommend moving this amendment to the next round of plan amendments. Following this recommendation will delay this amendment to Local Planning Agency hearings in the spring of 2007 and Board transmittal hearing in the early summer of 2007.

B. LOCAL PLANNING AGENCY RECOMMENDATION AND FINDINGS OF FACT SUMMARY

1. **RECOMMENDATION:** The Local Planning Agency recommends that this proposed amendment be moved to the next round of plan amendments. Given the issues raised and the lack of sufficient answers to the questions raised, staff concurs with the motion to continue to the next round.

2. **BASIS AND RECOMMENDED FINDINGS OF FACT:**

C. VOTE:

NOEL ANDRESS	AYE
DEREK BURR	AYE
RONALD INGE	AYE
CARLETON RYFFEL	ABSENT
RAYMOND SCHUMANN, ESQ.	AYE
RAE ANN WESSEL	AYE
VACANT	

**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:

BRAIN BIGELOW

TAMMARA HALL

BOB JANES

RAY JUDAH

FRANK MANN

**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: _____

A. BOARD REVIEW:

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

1. BOARD ACTION:

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

C. VOTE:

BRIAN BIGELOW

TAMMARA HALL

BOB JANES

RAY JUDAH

FRANK MANN

