

**LEE COUNTY**

SOUTHWEST FLORIDA

PLANNING DIVISION

M E M O R A N D U M

to: Board of County Commissioners
from: *Paul C. Connor* Gov
Paul C. Connor, AICP, Director, Division of Planning
subject: Lee County's 2000/2001 Regular Comprehensive Plan Amendment Cycle
date: December 21, 2001

Attached are the agenda and a portion of the staff reports for the public hearing to be held beginning at 9:30 A.M. on Thursday, January 10th, 2001. This is an adoption hearing for the 2000/2001 Comprehensive Plan Amendment Cycle. The Board of County Commissioners transmitted the 2000/2001 Lee Plan amendments to the State for review on September 12, 2001. The Department of Community Affairs (DCA) issued its Objections, Recommendations and Comments (ORC) Report on November 21, 2001. The DCA did not pose any objections, recommendations, or comments on 22 of the 24 transmitted amendments. The two amendments that were objected to were PAM 98-06 and CPA2000-02.

The DCA offered objections to PAM 98-06, which is a privately-initiated request to amend the Future Land Use Map series for a portion of a specified parcel of land located in Section 20, Township 46 South, Range 25 East to change the classification shown on Map 1, the Future Land Use Map, from "Rural" to "Outlying Suburban," and also, to amend Lee Plan Policy 1.1.6 and Table 1(a), Note 6. This amendment has been placed on the Administrative Agenda. Staff is still working with the applicant in their efforts to respond to the objections of DCA, although staff has not received any new information as of this writing that would change the original staff recommendation. The staff report and applicant's response to the objections of the DCA will be provided to the BoCC under a separate cover next week.

The DCA also offered an objection to CPA2000-00002, which is a privately-initiated amendment to amend Goal 15, Gasparilla Island, to limit commercial and industrial uses within those portions of the Boca Bay Community that contain the Port District zoning designation. Staff is currently working with representatives from DCA and the applicant to resolve this issue, and anticipates that the outstanding issues will be resolved to the satisfaction of the DCA. The staff report and response to DCA's objections will be provided to the BoCC under a separate cover next week.

Three other amendments have been revised to reflect recent updates that have occurred since the transmittal hearing. One of these, CPA2000-00019, is the amendment addressing the Estero Community Planning Effort. Representatives of the Estero Community Planning Panel submitted several proposed modifications to the transmittal language on December 21, 2001. Staff is still reviewing these modifications and will provide recommendations on them as part of the adoption staff report. The staff report for this amendment will be provided to the BoCC under a separate cover next week.

Another amendment that will require modification between the transmittal hearing and the adoption hearing is CPA2000-00027, which proposes to update the Capital Improvements Program (CIP) in

the Lee Plan. Planning staff will be receiving the latest CIP from Budget Services staff, and will incorporate this document into the Lee Plan. The staff report for this amendment will be provided to the BoCC under a separate cover next week.

The final amendment that might require modification from the transmittal stage is CPA2000-00015, which proposes to modify setbacks for golf course maintenance facilities from public roadways and adjacent residential properties in the Density Reduction/Groundwater Resource areas. Staff is still finalizing its recommendation on this amendment. The staff report and final recommendation will be provided to the BoCC under a separate cover next week.

Other than these 5 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. As stated previously, the staff reports and other background materials for these 5 amendments will be provided to the Board next week, and should be added to the materials received with this correspondence.

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
 Janet Watermeier, Director, Economic Development
 Dave Loveland, DOT
 Diana Parker, County Hearing Examiner

**CPA2000-29
BoCC SPONSORED
AMENDMENT
TO THE**

LEE COUNTY COMPREHENSIVE PLAN

THE LEE PLAN

BoCC Public Hearing Document
for the
January 10th Adoption Hearing

*Lee County Planning Division
1500 Monroe Street
P.O. Box 398
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November 21, 2001

**LEE COUNTY
DIVISION OF PLANNING
STAFF REPORT FOR
COMPREHENSIVE PLAN AMENDMENT
CPA2000-29**

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Text Amendment

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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: February 19, 2001

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 adding a definition for the term "Natural Resource Extraction" to the Lee Plan Glossary. In addition, amend the Future Land Use Element by adding the term "Natural Resource Extraction" to Goal 10 and its Objectives and Policies, where applicable, clarifying that natural resources other than minerals are subject to Goal 10 requirements.

B. STAFF RECOMMENDATION AND FINDINGS OF FACT SUMMARY:

1. RECOMMENDATION: Planning staff recommends that the Board of County Commissioners transmit the proposed amendment as provided under Part III.B., the Revised Staff Analysis & Recommended Language portion of this report.

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

- A broader term for mineral extraction is needed to clarify that natural resources other than minerals are subject to Goal 10 requirements.
- Principal resources sought in Lee County are sand, gravel, limestone, oil and gas which include both organic and inorganic materials.
- It should be ensured that all mined materials, organic and inorganic, are included under the language of Goal 10.
- The improved term, "Natural Resource Extraction," should be placed in the Lee Plan Glossary to support the new term.

C. BACKGROUND INFORMATION

This amendment was initiated by the Board of County Commissioners on September 19, 2000. The amendment stems from a suggested improvement to the Lee Plan by an LPA member. This issue was brought up during a public hearing in which the upcoming amendment cycle was being discussed and suggestions taken. The proposal was for staff to evaluate Goal 10, Mineral Extraction, and its references to limerock. This member of the LPA noted that technically limerock is not a mineral, but is an organic material and suggested adding improved language such as a definition for natural resource extraction.

PART II - STAFF ANALYSIS

A. STAFF DISCUSSION

Goal 10 and its Objective and Policies address the extractive industry in Lee County and provides for the protection of natural resources, such as mineral resources, while limiting the potential adverse effects associated with the extraction of such resources. Goal 10, Objective 10.1, and the policies that follow are reproduced below:

GOAL 10: MINERAL EXTRACTION. *To protect areas containing identified mineral resources from incompatible urban development, while insuring that extraction operations minimize or eliminate adverse effects on surrounding land use and natural resources.*

OBJECTIVE 10.1: *Designate through the rezoning process sufficient lands suitable for providing fill material and limerock to meet the county's needs and to export to other communities, while providing adequate protection for the county's natural resources. (Amended by Ordinance No. 94-30)*

POLICY 10.1.1: *Mineral extraction operations intending to withdraw groundwater for any purpose must provide a monitoring system to measure groundwater impacts.*

POLICY 10.1.2: *Applications for mineral extraction permits for new or expanding areas must include an environmental assessment. The assessment will include (but not be limited to) consideration of air emissions, impact on environmental and natural resources, effect on nearby land uses, degradation of water quality, depletion of water quantity, drainage, fire and safety, noise, odor, visual impacts, transportation including access roads, sewage disposal, and solid waste disposal. (Amended by Ordinance No. 00-22)*

POLICY 10.1.3: *Applications for mineral extraction permits for new or expanding sites must include a reclamation plan which provides assurance of implementation. Reclamation plans in or near important groundwater resource areas must be designed to minimize the possibility of contamination of the groundwater during mining and after completion of the reclamation. (Amended by Ordinance No. 00-22)*

POLICY 10.1.4: *Mineral extraction activities (and industrial uses which are ancillary to mineral extraction) may be permitted in areas indicated on the Future Land Use Map as Rural, Open Lands, and Density Reduction/Groundwater Resources, provided they have adequate fire protection, transportation facilities, wastewater treatment and water supply, and provided further that they have no significant adverse effects such as dust and noise on surrounding land uses and natural resources. In order to reduce transport costs and minimize wear on the county's roadways, the extraction and transport of fill material may also be permitted as an interim use in the Future Urban Areas provided that the above requirements are met; however, special restrictions may also be applied to protect other land uses. These determinations will be made during the rezoning process. (Amended by Ordinance No. 94-30, 00-22)*

POLICY 10.1.5: *Lee County will support efforts by government, community leaders, and the rock mining industry owners and businesses to seek incentives that will help to facilitate the connection of rock mining borrow lake excavations into a system of interconnected lakes and flowways that will enhance wildlife habitat values, provide for human recreation, educational and other appropriate uses, and/or strengthen community environmental benefits. (Added by Ordinance No. 99-15)*

The Goal provides specific language for the protection of mineral resources, the protection of surrounding land uses, reclamation, the prevention of the degradation of environmental resources and existing infrastructure, and provides language on the enhancement of the environment as an end result of extraction activities. The principal resources sought in Lee County, pertaining to the extraction industry, are sand, gravel, limestone, oil, and gas. These resources include both organic and inorganic materials according to the following two definitions of “mineral” and “limestone” taken from the Dictionary of Natural Resource Management (1996):

MINERAL *A non-technical word more specifically defined by legislation, usually involving one or more of the following: (1) a scientifically recognized inorganic material; (2) a material classified commercially as a mineral; (3) a material derived from the earth that possesses economic value and utility aside from the agricultural purposes of the land surface itself.*

Minerals include sand, gravel (common minerals), precious or semi-precious stones, coal, petroleum resources, and natural gas, even though the latter three are not inorganic. Some definitions limit the term to inorganic materials having a distinct chemical composition, characteristic crystalline structure, colour, and hardness.

LIMESTONE *A sedimentary rock consisting mainly (greater than 50 per cent) of calcium carbonate, typically as calcite. Limestone is formed by a combination of organic and inorganic processes and includes chemical and clastic (soluble and insoluble) constituents. Many forms of limestone contain fossils.*

Staff has evaluated Goal 10 and its Objectives and Policies, where applicable, and concur that a broader term for mineral extraction is needed to clarify that natural resources other than minerals are subject to Goal 10 requirements. Staff has evaluated the term *natural resource extraction* and also concurs that this would be the best term to ensure the inclusion of all materials, organic and inorganic, sought by the extractive industry. Throughout the language under Goal 10, mineral extraction, limerock, and rock mining are referenced.

Mining and fill dirt operations are required elements in a well balanced economy. Such operations provide fill allowing development to occur and provide raw materials for many other products. The proposed amendment will correct and bring all of the resources intended to be regulated under the Goal under unified terminology. Staff is proposing to add a definition of *natural resource extraction* to the Lee Plan Glossary.

In addition to the broader term and Glossary definition, staff is recommending that the term rock mining industry in Policy 10.1.5 be replaced with the term extractive industry. This will allow the language of the policy to include all types of mining. Staff is also recommending that Policy 1.1.7, Policy 1.4.5, and Policy 9.1.4 of the Future Land Use Element, which include references to mineral extraction, be amended to include the proposed term *natural resource extraction*.

B. CONCLUSIONS

Goal 10 and its Objectives and Policies give specific language in regards to extraction requirements yet refers only to mineral extraction. In light of the fact that limerock is a major resource found within the County but would not technically fall under the term "mineral" due to its organic properties, staff is proposing that the term *natural resource extraction* be adopted to replace the references to mineral extraction. Staff also proposes a definition in the Lee Plan Glossary to support the new term and also proposes the replacement of references to mineral extraction in Policy 1.1.7, Policy 1.4.5, and Policy 9.1.4 of the Future Land Use Element.

C. STAFF RECOMMENDATION

Planning staff recommends that the Board of County Commissioners transmit the proposed plan amendment. The proposed language is as follows.

GOAL 10: ~~MINERAL~~ NATURAL RESOURCE EXTRACTION. To protect areas containing identified ~~mineral~~ natural resources from incompatible urban development, while insuring that natural resource extraction operations minimize or eliminate adverse effects on surrounding land use and natural resources.

OBJECTIVE 10.1: Designate through the rezoning process sufficient lands suitable for providing fill material, and limerock, and other natural resource extraction materials to meet the county's needs and to export to other communities, while providing adequate protection for the county's natural resources. (Amended by Ordinance No. 94-30)

POLICY 10.1.1: ~~Mineral~~ Natural resource extraction operations intending to withdraw groundwater for any purpose must provide a monitoring system to measure groundwater impacts.

POLICY 10.1.2: Applications for ~~mineral~~ natural resource extraction permits for new or expanding areas must include an environmental assessment. The assessment will include (but not be limited to) consideration of air emissions, impact on environmental and natural resources, effect on nearby land uses, degradation of water quality, depletion of water quantity, drainage, fire and safety, noise, odor, visual impacts, transportation including access roads, sewage disposal, and solid waste disposal. (Amended by Ordinance No. 00-22)

POLICY 10.1.3: Applications for ~~mineral~~ natural resource extraction permits for new or expanding sites must include a reclamation plan which provides assurance of implementation. Reclamation plans in or near important groundwater resource areas must be designed to minimize the possibility of contamination of the groundwater during mining and after completion of the reclamation. (Amended by Ordinance No. 00-22)

POLICY 10.1.4: ~~Mineral~~ Natural resource extraction activities (and industrial uses which are ancillary to ~~mineral~~ natural resource extraction) may be permitted in areas indicated on the Future Land Use Map as Rural, Open Lands, and Density Reduction/Groundwater Resources, provided they have adequate fire protection, transportation facilities, wastewater treatment and water supply, and provided further that they have no significant adverse effects such as dust and noise on surrounding land uses and natural resources. In order to reduce transport costs and minimize wear on the county's roadways, the extraction and transport of fill material may also be permitted as an interim use in the Future Urban Areas provided that the above requirements are met; however, special restrictions may also be applied to protect other land uses. These determinations will be made during the rezoning process. (Amended by Ordinance No. 94-30, 00-22)

POLICY 10.1.5: Lee County will support efforts by government, community leaders, and the ~~rock-mining~~ extractive industry owners and businesses to seek incentives that will help to facilitate the connection of ~~rock-mining~~ natural resource extraction borrow lake excavations into a system of interconnected lakes and flowways that will enhance wildlife habitat values, provide for human recreation, educational and other appropriate uses, and/or strengthen community environmental benefits. (Added by Ordinance No. 99-15)

OBJECTIVE 10.2: Determine and maintain a balance between the County's petroleum resources and the health, safety and welfare of the residents of its Future Urban Areas. (Added by Ordinance No. 98-09)

POLICY 10.2.1: By 2000, the county will conduct a study to determine the appropriateness of oil exploration, drilling, or production. The study will address the issues of the compatibility of oil-related activities with the environment and urban uses. This study will include recommendations regarding the appropriateness of such activities within Lee County as well as guidelines under which such activities should be regulated under the Lee County Land Development Code. (Added by Ordinance No. 98-09, Amended by Ordinance No. 00-22)

Glossary Term:

NATURAL RESOURCE EXTRACTION - The act of extracting, through various techniques, renewable and non-renewable resources in their natural state on or below the surface of the earth.

Additional Policies:

POLICY 1.1.7: The Industrial Development areas play an important role in strengthening the county's economic base and will become increasingly important as the county grows in size and urban complexity. To a great extent these are the areas to which Lee County must look for expanded job opportunities, investments and production opportunities, and a balanced and sufficient tax base. These areas have special locational requirements that are more stringent than those for residential areas, including transportation needs (e.g., air, rail, highway); industrial levels of water, sewer, fire protection, and other urban services; and locations that are convenient for employees to reach. Whereas the other Future Urban Areas will include a broad combination of residential, commercial, public, and limited industrial land uses, the Industrial Development area is to be reserved mainly for industrial activities per se, as well as for selective land use mixtures such as the combined uses of industrial, manufacturing, research, properly buffered recreational uses (except where precluded by airport hazard zone regulations), and office complexes (if specifically related to adjoining industrial uses) that constitute a growing part of Florida's economic development sector. New ~~mineral~~ natural resource extraction (mining) activities and fill dirt operations must be approved through the Industrial Planned Development rezoning process. Retail or wholesale of products manufactured or processed upon the premises may be allowed at a ratio of 1 square foot of commercial uses to 10 square feet of industrial use in association with a Planned Development. Ancillary minor retail commercial uses intended to support the surrounding industrial land uses may not exceed 30,000 square feet per development; and, at buildout, may not exceed more than ten percent (10%) of the total acreage of the lands designated as Industrial Development areas in each community outlined in Map

16. Residential uses, other than bona fide caretaker residences, are not permitted in this category except to the extent provided in Chapter XIII of the Plan. (Amended by Ordinance No. 94-30, 98-09, 99-15)

POLICY 1.4.5: The Density Reduction/Groundwater Resource (DR/GR) areas include upland areas that provide substantial recharge to aquifers most suitable for future wellfield development. These areas also are the most favorable locations for physical withdrawal of water from those aquifers. Only minimal public facilities exist or are programmed. Land uses in these areas must be compatible with maintaining surface and groundwater levels at their historic levels. Permitted land uses include agriculture, ~~mineral or timber~~ natural resource extraction and related facilities, conservation uses, publicly-owned gun range facilities, private recreation facilities, and residential uses at a maximum density of one dwelling unit per ten acres (1 du/10 acres). Individual residential parcels may contain up to two acres of Wetlands without losing the right to have a dwelling unit, provided that no alterations are made to those wetland areas. (Amended by Ordinance 91-19, 94-30, 99-16)

POLICY 9.1.4: Protect agricultural activities on lands designated as Agricultural on the agricultural overlay from the impacts of new ~~mineral~~ natural resource extraction operations, recreational uses, and residential developments. (Amended by Ordinance No. 94-30)

PART III - LOCAL PLANNING AGENCY REVIEW AND RECOMMENDATION

DATE OF PUBLIC HEARING: February 26, 2001

A. LOCAL PLANNING AGENCY REVIEW

Staff presented this amendment before the LPA on February 26, 2001. After some discussion the LPA voted to continue the amendment. One member of the LPA asked for examples of materials that would fall under the definition. Staff noted that sand, gravel, limestone, oil, and gas are some of the most sought out resources in the county. Another member noted there are other materials sought after and suggested staff add language to the glossary term providing examples but not limiting the term to only these materials. Another member of the LPA noted that the glossary term should not be defined with the same words used within the term (extraction) and suggested this be changed. Another member of the LPA questioned if water had been given proper consideration with the proposed changes, due to the fact that water is also a natural resource. A motion was called and carried to continue the amendment until water can be reviewed and given adequate consideration under the context of the proposed amendment.

B. REVISED STAFF ANALYSIS & RECOMMENDED LANGUAGE

Staff has evaluated the concerns of the LPA and offer the revised language provided below. In order to address the word *extraction* within the proposed glossary term staff has replaced it with the word *removing*. According to Black's Law Dictionary the word *removal* is defined as follows:

Removal - In a broad sense, the transfer of a person, thing, or case from one place to another.

In this case the word would be relating to the transfer of a thing, a natural resource, from one place to another. Staff finds that the word *removing* would be a clear and concise word to be included in the glossary term, replacing the word *extraction*.

Staff has also reviewed water under the context of the amendment. There are sufficient safeguards contained within the Lee Plan, the County's plan amendment application, and the Land Development Code in addition to South Florida Water Management District rules protecting and regulating water supply. In addition, after discussions with Lee County Natural Resource staff, it is commonly perceived that the removal of water is considered in conjunction with the term withdrawal, rather than the term extraction.

Lee Plan

The Lee Plan provides language addressing critical areas for future water supply, the protection of such critical areas, the staff appointed for reviewing proposed development near public utility wellfields, coordination with and criteria set forth by the SFWMD, identifying water pollutant sources, identifying water needs, inspections, the wellfield protection ordinance, and avoidance of premature urbanization. Following are the Goals, Objectives, and Policies from the Future Land Use, Community Facilities and Services, Conservation and Coastal Management, and Housing elements of the Lee Plan which provide the language noted above:

***POLICY 2.4.2:** All proposed changes to the Future Land Use Map in critical areas for future potable water supply (Bonita Springs as described in Policy 13.2.2; Lehigh Acres as described in Policy 34.1.9; and all land in the Density Reduction/ Groundwater Resource land use category) will be subject to a special review by the staff of Lee County. This review will analyze the proposed land uses to determine the short-term and long-term availability of irrigation and domestic water sources, and will assess whether the proposed land uses would cause any significant*

impact on present or future water resources. If the Board of County Commissioners wishes to approve any such changes to the Future Land Use Map, it must make a formal finding that no significant impacts on present or future water resources will result from the change. (Amended by Ordinance No. 92-47) (Amended by Ordinance No. 94-30, 00-22)

POLICY 2.4.3: Future Land Use Map Amendments to the existing DR/GR areas south of SR 82 east of I-75, excluding areas designated by the Port Authority as needed for airport expansion, which increase the current allowable density or intensity of land use will be discouraged by the county. It is Lee County's policy not to approve further urban designations there for the same reasons that supported its 1990 decision to establish this category. In addition to satisfying the requirements in 163 Part II Florida Statutes, Rule 9J-5 of the Florida Administrative Code, the Strategic Regional Policy Plan, the State Comprehensive Plan, and all of the criteria in the Lee Plan, applicants seeking such an amendment must:

1. analyze the proposed allowable land uses to determine the availability of irrigation and domestic water sources; and,
2. identify potential irrigation and domestic water sources, consistent with the Regional Water Supply Plan. Since regional water suppliers cannot obtain permits consistent with the planning time frame of the Lee Plan, water sources do not have to be currently permitted and available, but they must be reasonably capable of being permitted; and,
3. present data and analysis that the proposed land uses will not cause any significant harm to present and future public water resources; and,
4. supply data and analysis specifically addressing the urban sprawl criteria listed in Rule 9J-5.006(5) (g), (h), (i) and (j), FAC.

During the transmittal and adoption process, the Board of County Commissioners must review the application for all these analytical requirements and make a finding that the amendment complies with all of them. (Added by Ordinance No. 97-05)

POLICY 13.2.2: IRRIGATION WELLS. Bonita Springs (as defined in this plan) is hereby declared a critical area for future potable water supply, based on evidence that withdrawals from the main potable aquifer, the lower Tamiami aquifer, are approaching or exceeding the maximum safe yield. In response to this designation, the county will maintain current regulations to provide that new irrigation well permits in Bonita Springs may not utilize the main potable water source. (Also see Policy 34.1.9 for new permit requirements for wells in Lehigh Acres, and Policy 2.4.2 for special requirements for amendments to the Future Land Use Map.) (Amended by Ordinance No. 94-30, 00-22)

POLICY 16.4.8: If a proposed Private Recreation Facilities falls within an area identified as anticipated drawdown zone for existing or future public well development, the project must utilize an alternative water supply such as reuse or withdrawal from a different non-competing aquifer or show that adequate supply is available in excess of that being used for planned public water supply development. (Added by Ordinance No. 99-16)

POLICY 35.1.2: The Lee County Regional Water Supply Authority will plan and coordinate with all member governments in the development of comprehensive plans as they relate to wellfield protection, aquifer recharge, water supply, and related capital facilities. (Added by Ordinance No. 00-22)

POLICY 35.1.3: The Lee County Regional Water Supply Authority will perform groundwater modeling and analysis for new development, as requested by the member governments, to assess the potential impact on the water resources of member governments. The analysis will focus on the following issues:

- Adequacy of water supply, including groundwater level draw-down
 - Avoidance of adverse impacts on natural systems from water supply withdrawals.
- (Added by Ordinance No. 00-22)

e. Groundwater Recharge

GOAL 43: GROUNDWATER. *To protect the county's groundwater supplies from those activities having the potential for depleting or degrading those supplies.*

OBJECTIVE 43.1: WELLFIELD PROTECTION. *The county will maintain a wellfield protection ordinance to provide regulations protecting the quality of water flowing into potable water wellfields. (Amended by Ordinance No. 94-30, 00-22)*

POLICY 43.1.1: *The wellfield protection ordinance will be amended whenever better technical data is developed and whenever additional potable wellfields are proposed. (Amended by Ordinance No. 00-22)*

POLICY 43.1.2: *The staff hydrogeologist will review and comment on all development applications near public utility potable water wellfields, with particular attention to proposed land uses within a 10-year travel time from the wellheads. (Amended by Ordinance No. 00-22)*

OBJECTIVE 43.2: POTABLE GROUNDWATER. *Base all future development and use of groundwater resources on determinations of the safe yield of the aquifer system(s) in order not to impair the native groundwater quality or create other environmental damage. Criteria for safe-yield determinations will be determined by the SFWMD, the agency charged with permitting these activities. (Amended by Ordinance No. 94-30, 00-22)*

POLICY 43.2.1: *For maximum protection of groundwater resources, identify future wellfields and/or relocation site(s) for existing wellfields well in advance of need. Coordinate with SFWMD, other water suppliers, and DEP to avoid duplication and to assist in data collection and interchange. (Amended by Ordinance No. 94-30)*

POLICY 43.2.2: *Institute a program to identify sources of groundwater pollutants in Lee County and to map these (point and non-point) on a county-wide basis.*

POLICY 43.2.3: *Identify water needs consistent with projections of human population and the needs of natural systems in order to determine the future demands for groundwater. (Amended by Ordinance No. 94-30)*

POLICY 43.2.4: *Expand current programs to identify and map the contamination potential of groundwater resources for those areas of Lee County not currently under public ownership.*

POLICY 43.2.5: *Lee County, in cooperation with other agencies and the municipalities, will budget to maintain its current program of plugging non- valved, abandoned, or improperly-cased artesian wells so that at least seventy-five of these wells are plugged each year until such wells are eliminated. (Amended by Ordinance No. 94-30, 00-22)*

POLICY 85.1.7: *Valid permits and inspection shall be required prior and subsequent to drilling operations for wells, elevator shafts, foundation holes, and test borings.*

POLICY 85.1.8: *The county shall continue its program of plugging improperly constructed wells which are detrimental to groundwater resources. (Amended by Ordinance No. 94-30)*

POLICY 100.9.7: *The county shall coordinate residential development within urban areas to coincide with existing or planned and programmed services and facilities so as to avoid premature or non-contiguous urbanization and the use of septic tanks and private wells for potable water within developed urban areas.*

Plan Amendment Application

Lee County's application for a comprehensive plan amendment requests various forms of support documentation under Part IV of the application. Section F of Part IV provides for additional requirements for specific amendments. Under this section #3 requires requests involving lands in critical areas be evaluated based on Policy 2.4.2. Part IV.F.3. is reproduced below:

3. Requests involving lands in critical areas for future water supply must be evaluated based on policy 2.4.2.

Wellfield Protection Ordinance

The wellfield protection ordinance (Ordinance No. 95-01) was adopted by the Lee County Board of County Commissioners in 1995 and is located under Article III, Section 14-201 through 14-258 of the Land Development Code. The intent of the article, under Section 14-202(b), is reproduced below:

b) The intent of this article is further to safeguard the public health, safety and welfare of the residents of the county by providing criteria for the regulation of activities which may allow the entrance of brackish water into identified protection zones surrounding existing wellfields, and prohibiting or regulating hazardous or toxic substances within identified protection zones surrounding such wellfields, thereby protecting existing public potable water supply wells from contamination. The provisions of this article apply only to the unincorporated areas of the county.

The article establishes and defines four types of wellfield protection zones and adopts protection zone maps. Under Section 14-214, titled *prohibited and regulated activities within protection zones*, earth mining within a 500-foot radius of an existing wellhead is prohibited. Also under this section of the article all protection zones, 1 through 4, are regulated that any stormwater or surface water discharge within the zones will conform to existing South Florida Water Management District and State Department of Environmental Protection rules.

Staff has reviewed and evaluated the natural resource water under the context of the proposed amendment and has determined that there is significant documentation regarding the protection and regulation of this natural resource. All of the County's regulating documents discussed above in addition to the South Florida Water Management Districts regulations, provide standards and prohibitions on the withdrawal of groundwater and the impacts of development and activities on the County's water resources. Staff has concluded that although water is a natural resource the proposed glossary term should exclude this natural resource due to the fact that it is adequately addressed through other regulations and the fact that Goal 10 and its Objectives and Policies primarily concentrate on the extraction of materials, rather than the withdrawal of groundwater.

The revised language to the Glossary term is as follows. No other changes have been made to the initial proposal also shown below. New changes to the proposed term are shown in strike through and double underlining.

Glossary Term:

NATURAL RESOURCE EXTRACTION - The act of ~~extracting~~ removing, through various techniques, renewable and non-renewable resources, excluding water, in their natural state on or below the surface of the earth. Such resources include but are not limited to sand, gravel, limestone, fill dirt, oil, and natural gas.

GOAL 10: ~~MINERAL~~ NATURAL RESOURCE EXTRACTION. To protect areas containing identified ~~mineral~~ natural resources from incompatible urban development, while insuring that natural resource extraction operations minimize or eliminate adverse effects on surrounding land use and natural resources.

OBJECTIVE 10.1: Designate through the rezoning process sufficient lands suitable for providing fill material, ~~and~~ limerock, and other natural resource extraction materials to meet the county's needs and to export to other communities, while providing adequate protection for the county's natural resources. (Amended by Ordinance No. 94-30)

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POLICY 10.1.2: Applications for ~~mineral~~ natural resource extraction permits for new or expanding areas must include an environmental assessment. The assessment will include (but not be limited to) consideration of air emissions, impact on environmental and natural resources, effect on nearby land uses, degradation of water quality, depletion of water quantity, drainage, fire and safety, noise, odor, visual impacts, transportation including access roads, sewage disposal, and solid waste disposal. (Amended by Ordinance No. 00-22)

POLICY 10.1.3: Applications for ~~mineral~~ natural resource extraction permits for new or expanding sites must include a reclamation plan which provides assurance of implementation. Reclamation plans in or near important groundwater resource areas must be designed to minimize the possibility of contamination of the groundwater during mining and after completion of the reclamation. (Amended by Ordinance No. 00-22)

POLICY 10.1.4: ~~Mineral~~ Natural resource extraction activities (and industrial uses which are ancillary to ~~mineral~~ natural resource extraction) may be permitted in areas indicated on the Future Land Use Map as Rural, Open Lands, and Density Reduction/Groundwater Resources, provided they have adequate fire protection, transportation facilities, wastewater treatment and water supply, and provided further that they have no significant adverse effects such as dust and noise on surrounding land uses and natural resources. In order to reduce transport costs and minimize wear on the county's roadways, the extraction and transport of fill material may also be permitted as an interim use in the Future Urban Areas provided that the above requirements are met; however, special restrictions may also be applied to protect other land uses. These determinations will be made during the rezoning process. (Amended by Ordinance No. 94-30, 00-22)

POLICY 10.1.5: Lee County will support efforts by government, community leaders, and the ~~rock mining extractive~~ industry owners and businesses to seek incentives that will help to facilitate the connection of ~~rock mining~~ natural resource extraction borrow lake excavations into a system of interconnected lakes and flowways that will enhance wildlife habitat values, provide for human recreation, educational and other appropriate uses, and/or strengthen community environmental benefits. (Added by Ordinance No. 99-15)

OBJECTIVE 10.2: Determine and maintain a balance between the County's petroleum resources and the health, safety and welfare of the residents of its Future Urban Areas. (Added by Ordinance No. 98-09)

POLICY 10.2.1: By 2000, the county will conduct a study to determine the appropriateness of oil exploration, drilling, or production. The study will address the issues of the compatibility of oil-related activities with the environment and urban uses. This study will include recommendations regarding the appropriateness of such activities within Lee County as well as guidelines under which such activities should be regulated under the Lee County Land Development Code. (Added by Ordinance No. 98-09, Amended by Ordinance No. 00-22)

Additional Policies:

POLICY 1.1.7: The Industrial Development areas play an important role in strengthening the county's economic base and will become increasingly important as the county grows in size and urban complexity. To a great extent these are the areas to which Lee County must look for expanded job opportunities, investments and production opportunities, and a balanced and sufficient tax base. These areas have special locational requirements that are more stringent than those for residential areas, including transportation needs (e.g., air, rail, highway); industrial levels of water, sewer, fire protection, and other urban services; and locations that are convenient for employees to reach. Whereas the other Future Urban Areas will include a broad combination of residential, commercial, public, and limited industrial land uses, the Industrial Development area is to be reserved mainly for industrial activities per se, as well as for selective land use mixtures such as the combined uses of industrial, manufacturing, research, properly buffered recreational uses (except where precluded by airport hazard zone regulations), and office complexes (if specifically related to adjoining industrial uses) that constitute a growing part of Florida's economic development sector. New ~~mineral~~ natural resource extraction (mining) activities and fill dirt operations must be approved through the Industrial Planned Development rezoning process. Retail or wholesale of products manufactured or processed upon the premises may be allowed at a ratio of 1 square foot of commercial uses to 10 square feet of industrial use in association with a Planned Development. Ancillary minor retail commercial uses intended to support the surrounding industrial land uses may not exceed 30,000 square feet per development; and, at buildout, may not exceed more than ten percent (10%) of the total acreage of the lands designated as Industrial Development areas in each community outlined in Map 16. Residential uses, other than bona fide caretaker residences, are not permitted in this category except to the extent provided in Chapter XIII of the Plan. (Amended by Ordinance No. 94-30, 98-09, 99-15)

POLICY 1.4.5: The Density Reduction/Groundwater Resource (DR/GR) areas include upland areas that provide substantial recharge to aquifers most suitable for future wellfield development. These areas also are the most favorable locations for physical withdrawal of water from those aquifers. Only minimal public facilities exist or are programmed. Land uses in these areas must be compatible with maintaining surface and groundwater levels at their historic levels. Permitted land uses include agriculture, ~~mineral or limestone~~ natural resource extraction and related facilities, conservation uses, publicly-owned gun range facilities, private recreation facilities, and residential uses at a maximum density of one dwelling unit per ten acres (1 du/10 acres). Individual residential parcels may contain up to two acres of Wetlands without losing the right to have a dwelling unit, provided that no alterations are made to those wetland areas. (Amended by Ordinance 91-19, 94-30, 99-16)

POLICY 9.1.4: Protect agricultural activities on lands designated as Agricultural on the agricultural overlay from the impacts of new ~~mineral~~ natural resource extraction operations, recreational uses, and residential developments. (Amended by Ordinance No. 94-30)

**LOCAL PLANNING AGENCY
REVIEW AND RECOMMENDATION**

DATE OF PUBLIC HEARING: March 26, 2001

C. LOCAL PLANNING AGENCY REVIEW

Staff presented this amendment before the LPA on March 26, 2001. Staff clarified the changes made to the proposed language since it had been presented before the LPA in February. The LPA provided no discussion concerning the proposed amendment.

D. LOCAL PLANNING AGENCY RECOMMENDATION AND FINDINGS OF FACT SUMMARY

- 1. RECOMMENDATION:** The LPA recommends that the Board of County Commissioners transmit this amendment.
- 2. BASIS AND RECOMMENDED FINDINGS OF FACT:** The LPA accepted the findings of fact as advanced by the staff.

E. VOTE:

NOEL ANDRESS	<u>AYE</u>
SUSAN BROOKMAN	<u>AYE</u>
BARRY ERNST	<u>AYE</u>
RONALD INGE	<u>AYE</u>
GORDON REIGELMAN	<u>AYE</u>
VIRGINIA SPLITT	<u>ABSENT</u>
GREG STUART	<u>AYE</u>

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

DATE OF TRANSMITTAL HEARING: August 29, 2001

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

AYE

ANDREW COY

AYE

BOB JANES

AYE

RAY JUDAH

AYE

DOUG ST. CERNY

AYE

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

DATE OF ORC REPORT: November 21, 2001

A. DCA OBJECTIONS, RECOMMENDATIONS AND COMMENTS

The DCA had no objections, recommendations, or comments concerning 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 10, 2002

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

