

LEE COUNTY ORDINANCE NO. 17-24

Verdana
(CPA2016-00009)

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 PERTAINING TO THE VERDANA (CPA2016-00009) APPROVED DURING A PUBLIC HEARING; PROVIDING FOR PURPOSE, INTENT, AND SHORT TITLE; AMENDMENTS TO ADOPTED MAP AND TEXT; LEGAL EFFECT OF "THE LEE PLAN"; PERTAINING TO MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING; GEOGRAPHICAL APPLICABILITY; SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.

WHEREAS, the Lee County Comprehensive Plan ("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 ("Board"); and,

WHEREAS, the Board, 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 a public hearing on the proposed amendment in accordance with Florida Statutes and the Lee County Administrative Code on June 26, 2017; and,

WHEREAS, the Board held a public hearing for the transmittal of the proposed amendment on September 20, 2017. At that hearing, the Board approved a motion to send, and did later send, proposed amendment pertaining to Verdana (CPA2016-00009) to the reviewing agencies set forth in Section 163.3184(1)(c), F.S. for review and comment; and,

WHEREAS, at the September 20, 2017 meeting, the Board announced its intention to hold a public hearing after the receipt of the reviewing agencies' written comments; and,

WHEREAS, on December 20, 2017, the Board held a public hearing and adopted the proposed amendment to the Lee Plan set forth herein.

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 public hearings to review proposed amendments to the Lee Plan. The purpose of this ordinance is to adopt map and text amendments to the Lee Plan discussed at those meetings and approved by a majority of the Board of County Commissioners. The short title and proper reference for the Lee County Comprehensive Land Use Plan, as hereby amended, will continue to be the "Lee Plan." **This amending ordinance may be referred to as the "Verdana Ordinance (CPA2016-00009)."**

SECTION TWO: ADOPTION OF COMPREHENSIVE PLAN AMENDMENT

The Lee County Board of County Commissioners amends the existing Lee Plan, adopted by Ordinance Number 89-02, as amended, by adopting an amendment, which amends Policy 33.3.4 and Maps 6, 7 and 17 known as Verdana (CPA2016-00009).

The corresponding Staff Reports and Analysis, along with all attachments and application submittals for this amendment are adopted as "Support Documentation" for the Lee Plan. Proposed amendments adopted by this Ordinance are attached as Exhibit A.

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. The adoption of the CPA does not guarantee further development order or development permit approval, including approval of zoning applications for increased density. Prior to any zoning approval granting density greater than 1 dwelling unit per 10 acres of DR/GR and 1 dwelling unit per 20 acres of Wetlands, the applicant must demonstrate consistency with Lee Plan Policy 33.3.4.2.

SECTION FOUR: MODIFICATION

It is the intent of the Board of County Commissioners that the provisions of this Ordinance may be modified as a result of consideration that may arise during Public Hearing(s). Such modifications shall be incorporated into the final version.

SECTION FIVE: 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 SIX: 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 that this ordinance would have been adopted had the unconstitutional provisions not been included therein.

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

SECTION EIGHT: EFFECTIVE DATE

The plan amendments adopted herein are not effective until 31 days after the State Land Planning Agency notifies the County that the plan amendment package is complete. If timely challenged, an amendment does not become effective until the State Land Planning Agency or the Administrative Commission enters a final order determining the adopted amendment to be in compliance. 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.

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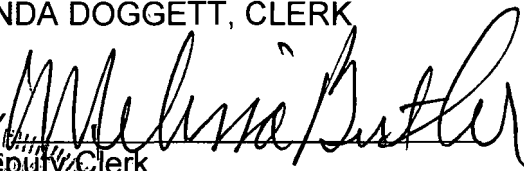
THE FOREGOING ORDINANCE was offered by Commissioner Kiker, who moved its adoption. The motion was seconded by Commissioner Hamman. The vote was as follows:

John Manning	Absent
Cecil Pendergrass	Aye
Larry Kiker	Aye
Brian Hamman	Aye
Frank Mann	Absent

DONE AND ADOPTED this 20th day of December, 2017.

ATTEST:
LINDA DOGGETT, CLERK

LEE COUNTY BOARD OF
COUNTY COMMISSIONERS

BY: 
Deputy Clerk

BY: 
Cecil Pendergrass, Chair

DATE: December 20, 2017

APPROVED AS TO FORM FOR THE
RELIANCE OF LEE COUNTY ONLY


County Attorney's Office

Exhibit A: Adopted revisions to Policy 33.3.4 and Maps 6, 7, and 17
(Adopted by BOCC December 20, 2017)

EXHIBIT A

Note: Text depicted with underline represents additions to the Lee Plan. Strike-through text represents deletions from the Lee Plan.

Text Amendments:

POLICY 33.3.4: Properties that provide a significant regional hydrological and wildlife connection have the potential to improve, preserve, and restore regional surface and groundwater resources and indigenous wildlife habitats. These properties, located along Corkscrew and Alico Roads, can provide important hydrological connections to the Flint Pen Strand and the Stewart Cypress Slough as well as important wildlife habitat connections between existing CREW and Lee County properties. As an incentive to improve, preserve, and restore regional surface and groundwater resources and wildlife habitat of state and federally listed species additional densities and accessory commercial uses will be granted if the project is found consistent with and demonstrates through a Planned Development rezoning the following:

1. These lands are within the “Environmental Enhancement and Preservation Communities” overlay as designated on Map 17 of the Plan. Lands eligible for designation on the Environmental Enhancement and Preservation Communities overlay must be consistent with ~~one~~ of the criteria below:
 - Provide significant regional hydrological and wildlife connections and have the potential to improve, preserve, and restore regional surface and groundwater resources and indigenous wildlife habitats; and
 - Be located west of Lee County 20/20 Imperial Marsh Preserve (Corkscrew Tract) and within one mile north or south of Corkscrew Road. Properties with frontage on Corkscrew Road designated as Tier 1 Priority Restoration Area may extend the overlay an additional mile south to include contiguous Tier 1 properties where the extension will result in regional environmental benefits by connecting protected habitat north of Corkscrew Road to land in Collier County used for conservation purposes; or,
 - Be located west of the intersection of Alico Road and Corkscrew Road, north of Corkscrew Road and south of Alico Road.

Policy 33.3.4(2) to Policy 33.3.4(2)(h) will remain unchanged.

- i. Elimination of any agricultural row crop uses, at time of first development order, including the use of irrigation and fertilizers (or other chemicals), must be entirely eliminated at time of first development order approval for row crops and no later than 5 years from first development order approval for citrus groves. If cessation of citrus groves is to be phased, a phasing plan provided at the time of zoning must demonstrate regional environmental benefits, including but not limited to regional or historic surface water and wildlife connections, occurring with the first phase of development.

The remainder of the policy will remain unchanged.

EXHIBIT A

Map Amendments:



Map 6: Future Water Service Area

Map 7: Future Sewer Service Area


Map 17: Southeast DR/GR Residential Overlay

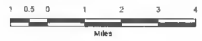
LEE COUNTY UTILITIES FUTURE WATER SERVICE AREAS

Legend

-  City Limits
-  Future Water Service Areas

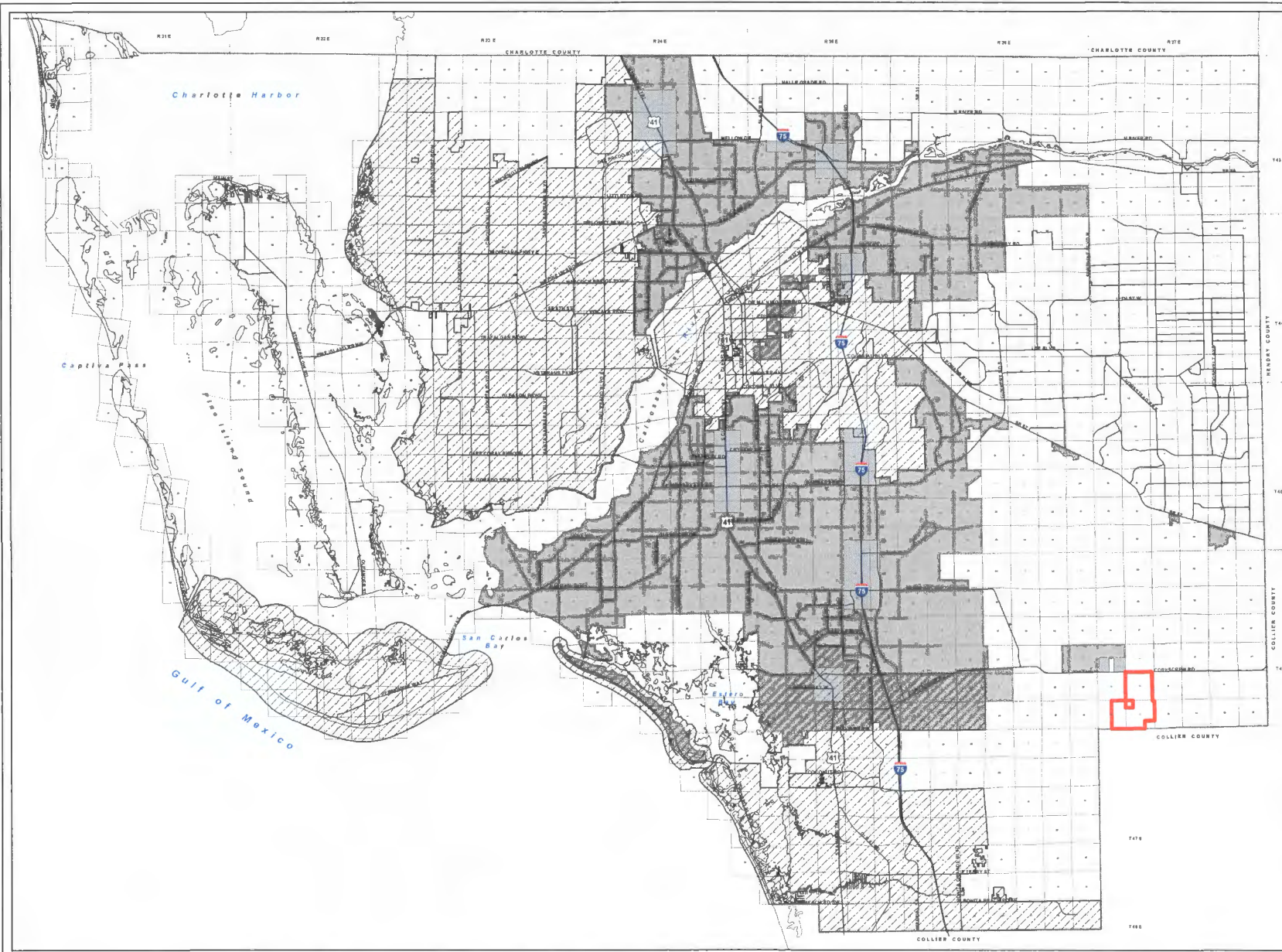
CPA2016-00009
VERDANA

-  Extend the existing service area to cover subject property



Map Generated June 2017
Produced By DCI/Division of Planning
City Limits current to date of map generation
Adopted by Ord. No. 89-02, 1/31/1989
Amended by Ord. Nos. 00-22, 03-19, 10-06, 10-40, 10-43
12-24, 13-16, 14-21, 15-13, 15-14

Lee Plan Map 6




LEE COUNTY UTILITIES FUTURE SEWER SERVICE AREAS

Legend

-  City Limits
-  Future Sewer Service Areas

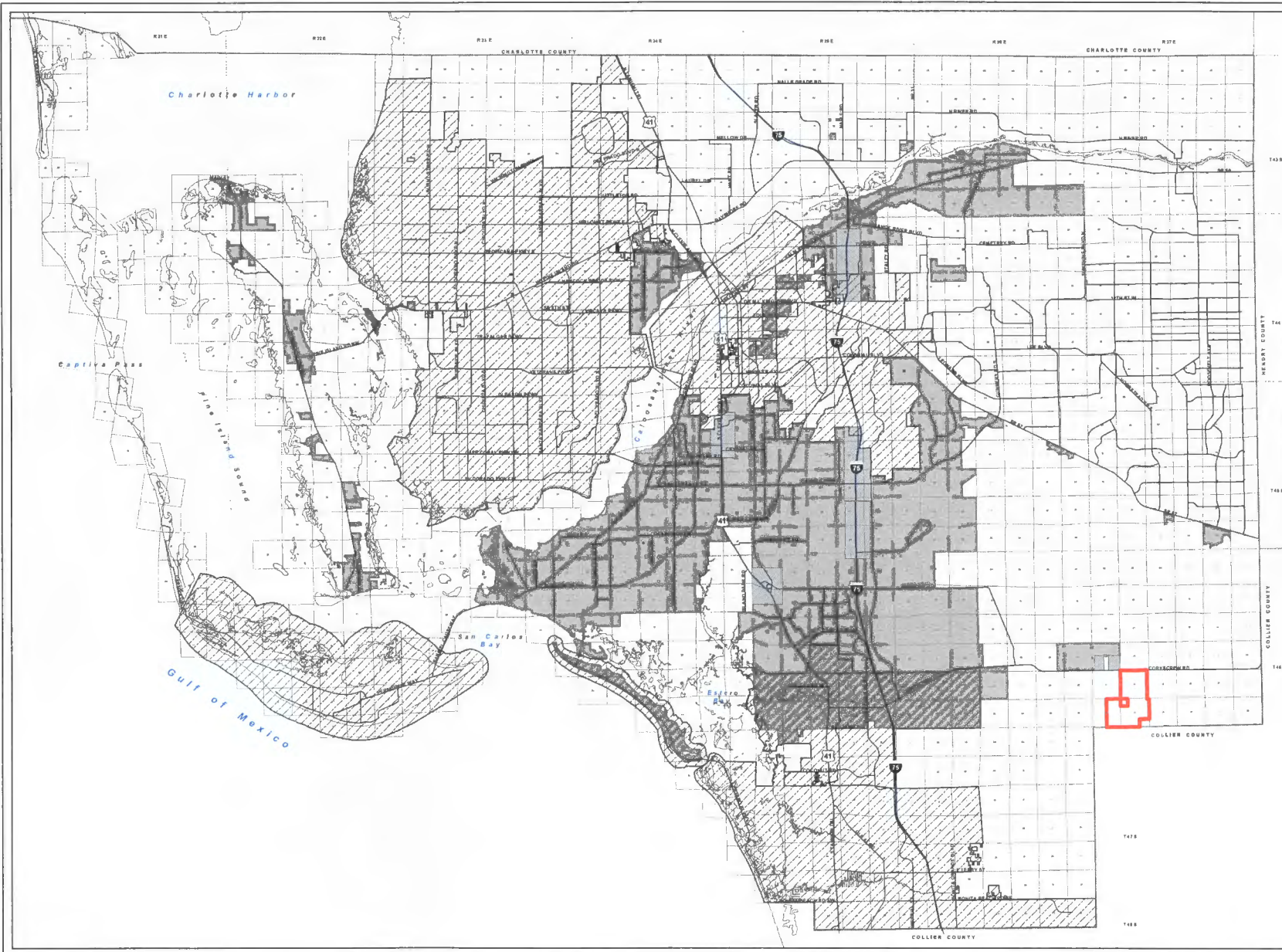
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VERDANA

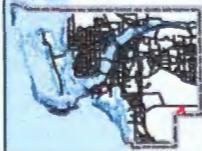
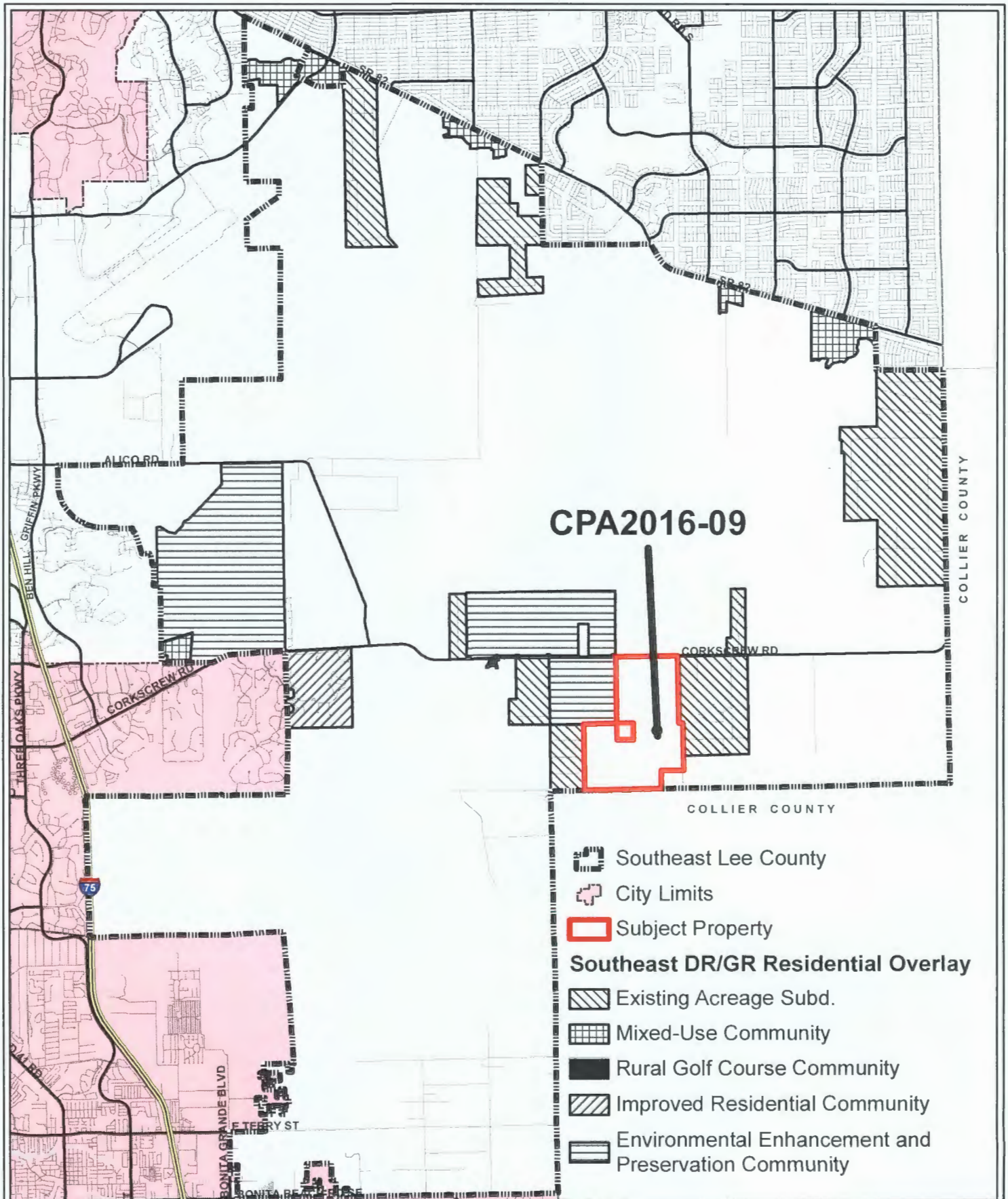
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Map Generated: June 2017
Produced By: DCD/Division of Planning
City Limits current to date of map generation
Adopted by Ord. No. 88-02, 1/31/1989
Amended by Ord. Nos. 00-22, 03-19, 10-07, 10-40, 10-43
11-13, 12-24, 14-21, 15-13, 15-14

Lee Plan Map 7







FLORIDA DEPARTMENT *of* STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

December 21, 2017

Honorable Linda Doggett
Clerk of the Circuit Courts
Lee County
Post Office Box 2469
Fort Myers, Florida 33902-2469

Attention: Ms. Melissa Butler

Dear Ms. Doggett:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Ordinance No. 17-24, which was filed in this office on December 21, 2017.

Sincerely,

Ernest L. Reddick
Program Administrator

ELR/lb