



**LOCAL PLANNING AGENCY
OLD LEE COUNTY COURTHOUSE
2120 MAIN STREET, FORT MYERS, FL 33901
BOARD CHAMBERS
WEDNESDAY, DECEMBER 11, 2013
8:30 AM**

AGENDA

1. Call to Order/Review of Affidavit of Publication
2. Pledge of Allegiance
3. Public Forum
4. Approval of Minutes – October 28, 2013
5. Land Development Code Amendments
 - A. [North Captiva](#)
 - B. [Caloosahatchee Shores, Lehigh Acres, and North Fort Myers Community Plan Amendments](#)
 - C. [Lehigh Acres Activity Center Regulating Plan](#)
 - D. [Wellfield Protection](#)
6. Publicly Initiated Plan Amendments
 - A. [CPA2013-00007 Wellfield Protection](#)
7. Other Business
8. Adjournment – Next Meeting Date: Monday, January 27, 2014

A verbatim record of the proceeding will be necessary to appeal a decision made at this hearing. Contact the Lee County Division of Planning at 239-533-8585 for further information on obtaining a record. In accordance with the Americans with Disabilities Act, reasonable accommodations will be made upon request. Contact Janet Miller at 239-533-8583.

www.LeeCountyTownHall.com



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Government's virtual public forum today!

ORDINANCE NO. __-__

AN ORDINANCE AMENDING THE LEE COUNTY LAND DEVELOPMENT CODE, CHAPTERS 14, 30, 33, AND 34, TO PROVIDE REFERENCES TO THE NORTH CAPTIVA (UPPER CAPTIVA) COMMUNITY PLAN; CREATING ARTICLE VII IN CHAPTER 33 FOR NEW REGULATIONS SPECIFIC TO UPPER CAPTIVA, INCLUDING PUBLIC INFORMATIONAL MEETINGS, VEHICLES ON PATHWAYS AND BEACHES, OUTDOOR LIGHTING, OPEN SPACE / LANDSCAPING / INVASIVE EXOTIC REGULATIONS, AND OTHER STANDARDS DESIGNED SPECIFICALLY FOR UPPER CAPTIVA; AMENDING APPENDIX I TO PROVIDE A NEW MAP 17 DEPICTING THE BOUNDARIES OF NORTH CAPTIVA AND UPPER CAPTIVA; ADDRESSING CONFLICTS OF LAW, SEVERABILITY, CODIFICATION, AND SCRIVENER'S ERRORS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Florida Statutes Section 125.01(1)(h) authorizes counties to establish, coordinate, and enforce zoning regulations necessary for the protection of the public; and

WHEREAS, the Board of County Commissioners of Lee County, Florida, has adopted a unified Land Development Code (LDC) which contains regulations applicable to the development of land in Lee County; and

WHEREAS, the Board of County Commissioners has adopted a community plan for North Captiva (Upper Captiva), codified under Goal 25 of the Lee County Comprehensive Plan (Lee Plan); and

WHEREAS, Policy 25.1.3 states the community will draft and submit Land Development Code regulations for Lee County to review and consider, based upon the unique nature of the community, its status as a bridgeless barrier island, the limitations on supporting infrastructure, and the seasonal nature of the demand upon public facilities; and

WHEREAS, Policy 25.1.1 states that the owner or agent for any rezoning, variance or special exception request must conduct at least one public informational meeting where the owner or agent will provide a general overview of the project and answer questions from interested citizens; and

WHEREAS, Policy 25.2.3 states that except for emergency events, public purposes, approved community needs, and permitted heavy construction equipment, internal combustion powered vehicles are banned from all pathways; and

WHEREAS, Policy 25.1.4 states that the location of North Captiva provides a view of the night sky that is virtually unparalleled in Lee County and that the community will develop land development regulations for the County to review and consider that would be applicable to exterior residential and commercial lighting as a means to limit light pollution, light trespass, and its potential detrimental effects on wildlife to the greatest extent possible; and

WHEREAS, Objective 25.3 is to preserve, protect, and enhance natural resources, wildlife habitat, and natural beauty by maintaining diverse and healthy native vegetation, clear offshore waters, diverse and abundant native marine life, wildlife resources, and by minimizing harm resulting from human activity; and

WHEREAS, the Brazilian pepper (*Schinus terebinthifolius*, occasionally known as Florida holly) is classified by the Florida Exotic Pest Plant Council as a Category 1 invasive exotic that alters native plant communities by displacing native species and changing ecological functions and the Brazilian pepper tree is also listed as a noxious weed by the Florida Department of Agriculture & Consumer Services and this rapidly colonizing weed, is a public nuisance; and

WHEREAS, Goal 24 of the Lee Plan mandates that the County maintain clear, concise, and enforceable development regulations that fully address on-site and off-site development impacts, yet function in a streamlined manner; and

WHEREAS, the North Captiva (Upper Captiva) community plan includes policies that should be implemented through amendments to the Lee County Land Development Code; and

WHEREAS, the Board of County Commissioners, through the creation of LDC Chapter 33, has been centralizing LDC provisions that are applicable only to certain unincorporated communities within the County; and

WHEREAS, a new Article VII of LDC Chapter 33 would provide centralized regulations designed specifically for the Upper Captiva portion of North Captiva Island that will respond to the Lee Plan policies and objectives under Goal 25, take into account the unique characteristics of the community, and be readily understood and uniformly applied; and

WHEREAS, Lee Plan Policies 14.5.3 and 158.6.2 require county staff and private citizen committees to review development regulations to determine whether the regulations can be refined and streamlined in order to meet the Goals, Objectives, and Policies of the Lee Plan; and

WHEREAS, the proposed development regulations are designed to meet and carry out the Goals, Objectives, and Policies of the Lee Plan; and

WHEREAS, the Land Development Code Advisory Committee reviewed the proposed amendments to the LDC on _____ and recommended their adoption; and

WHEREAS, the Executive Regulatory Oversight Committee reviewed the proposed amendments to the LDC on _____ and recommended their adoption; and

WHEREAS, the Local Planning Agency reviewed the proposed amendments to the LDC on _____ and found them consistent with the Lee Plan.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA:

SECTION ONE: AMENDMENT TO LDC CHAPTER 14

Lee County Land Development Code Chapter 14 is amended as follows, with strike through identifying deleted text and underlining identifying new text.

Chapter 14 Environment and Natural Resources

ARTICLE I. IN GENERAL

Sec. 14-1. Planning community regulations.

Activities in the following communities must also comply with the regulations set forth in chapter 33 pertaining to the specific community.

- (a) Estero Planning Community.
- (b) Greater Pine Island.
- (c) Page Park.
- (d) Caloosahatchee Shores.
- (e) Lehigh Acres.
- (f) North Fort Myers.
- (g) Matlacha.
- (h) Upper Captiva.

Balance of provisions remains unchanged.

SECTION TWO: AMENDMENT TO LDC CHAPTER 30

Lee County Land Development Code Chapter 30 is amended as follows, with strike through identifying deleted text and underlining identifying new text.

Chapter 30 Signs

ARTICLE II. ADMINISTRATION AND ENFORCEMENT

Sec. 30-56. Planning community regulations.

Applications and permit approvals for signs and sign structures associated with projects located in the following planning communities must also comply with the regulations set forth in Chapter 33 pertaining to the specific planning community.

- (a) Estero Planning Community.
- (b) Greater Pine Island.
- (c) Page Park.
- (d) Caloosahatchee Shores.
- (e) Lehigh Acres.
- (f) North Fort Myers.
- (g) Matlacha.
- (h) Upper Captiva.

Balance of provisions remains unchanged.

SECTION THREE: AMENDMENT TO LDC CHAPTER 33

Lee County Land Development Code Chapter 33 is amended as follows, with strike through identifying deleted text and underlining identifying new text.

Chapter 33 Planning Community Regulations

ARTICLE X. UPPER CAPTIVA

DIVISION 1. IN GENERAL

Sec. 33-1701. Applicability.

The provisions of this article apply to all land located within Upper Captiva, which lies north and west of the state park on the island of North Captiva, as depicted on Map 17 in Appendix I.

In the event of a conflict with any other section of this Land Development Code, such as those related to sea turtle nesting habitat (sections 14-78 and 14-79), the more stringent requirement shall apply.

Section 33-1702. Community Review

Meeting requirements. The applicant is responsible for providing the meeting space, notice of the meeting, and security measures as needed. The meeting must be held within the Upper Captiva planning area. The specific meeting location will be determined by the applicant. Meetings may, but are not required to, be conducted before non-County formed boards, committees, associations, or planning panels. During the meeting, the agent will provide a general overview of the project for any interested citizens. Subsequent to this meeting, the applicant must provide County staff with a meeting summary document that contains the following information: the date, time, and location of the meeting; a list of attendees; a summary of the concerns or issues that were raised at the meeting; and a proposal for how the applicant will respond to any issues that were raised. The applicant is not required to receive an affirmative vote or approval of citizens present at the meeting. This meeting must be held after the application has been filed. The applicant will provide notice to the Upper Captiva community no less than 10 days before the meeting by placing signs or posters in public places, by circulating a notice to the broadest e-mail list available, and by submitting a notice for posting on the community website. The applicant must also provide the meeting summary to the Upper Captiva community for the purpose of posting on the community website and on any appropriate Lee County government document clearinghouse.

Sec. 33-1703 through 33-1710. Reserved.

Sec. 33-1711. Applications requiring community review.

The owner or agent applying for the following types of county approvals must have a community review prior to obtaining a finding of sufficiency.

- (1) Planned development zoning actions. This includes administrative deviations amending the approved master concept plan or other provisions of the applicable zoning resolution.
- (2) Special exception and variance requests. These requests will be decided by the hearing examiner.
- (3) Conventional rezoning actions.

Sec. 33-1712 through 33-1720. Reserved.

DIVISION 3. VEHICLES ON PATHWAYS AND BEACHES

NOTE: STAFF DOES NOT SUPPORT DIVISION 3 BECAUSE THIS IS NOT A LAND DEVELOPMENT CODE REGULATION. STAFF FINDS THAT THE AMENDMENT LANGUAGE PROVIDES A FALSE HOPE TO THE COMMUNITY BECAUSE THE COUNTY IS UNABLE TO DETERMINE THE OWNERSHIP OF THE GOLF CART, HOW MUCH A GOLF CART WEIGHS AND THE SPEED OF THE GOLF CART MARKING THE AMENDMENT UNENFORCEABLE. STAFF RECOMMENDS ALL OF DIVISION 3 BE REMOVED FROM THIS AMENDMENT.

Sec. 33-1721. Definitions.

The following definitions are in addition to those set forth in other portions of this Code and are applicable to the provisions contained in this division only. If, when construing the specific provisions contained in this division, these definitions conflict with definitions found elsewhere in this Code, then the definitions set forth below will control. Otherwise the definitions contained elsewhere in this Code will control. If a term is not defined, the term must be given its commonly understood meaning unless there is a clear indication of an intent to construe the term differently from its commonly understood meaning.

Golf cart means a motor vehicle that meets the definition of golf cart in F.S. § 320.01, which defines golf carts as a motor vehicle that is designed and manufactured for operation on a golf course for sporting or recreational purposes and that is not capable of exceeding speeds of 20 miles per hour.

Electric vehicle means a vehicle that meets the definition of electric vehicle in F.S. § 320.01. Electric vehicles are powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, or other sources of electrical current.

Electric golf cart means an electrically powered motor vehicle that meets the definition of golf cart in F.S. § 320.01.

Internal combustion powered vehicle means any motor vehicle that is propelled by an engine that is fueled by an on-board supply of liquid or gaseous fuel.

Low-speed vehicle means an electrically powered motor vehicle that meets the definition of low-speed vehicle in F.S. § 320.01. Low-speed vehicles are electric vehicles with a top speed of no more than 25 miles per hour. A neighborhood electric vehicle is also considered a low-speed vehicle.

Pathway means any access easement, road, or street on Upper Captiva regardless of ownership or maintenance responsibility.

Sec. 33-1722. Prohibited vehicles on Upper Captiva.

Except for emergency events, public purposes, approved community needs, and permitted heavy construction equipment, internal combustion powered vehicles are banned from all pathways on North Captiva.

(a) Except where otherwise allowed, any motor vehicle with a speed capacity faster than 25 MPH or with a weight above 1,800 pounds.

(b) All motorized vehicles are prohibited from all beach areas, with the following exceptions:

(1) Research or patrol vehicles may be used by authorized permittees of the Florida Fish & Wildlife Conservation Commission or the Florida Department of Environmental Protection, law enforcement officers, EMS and firefighters, and participants in scientific monitoring pursuant to section 14.175.

(2) A wheelchair or other conveyance for a person with a disability may be used by the person with the disability.

Sec. 33-1723. Use of authorized vehicles on Upper Captiva.

The following types of vehicles are authorized to be used on Upper Captiva pathways, provided drivers comply with island signage.

(1) Electrically powered golf carts with a maximum speed capacity of 25 MPH and a maximum weight of 1,800 pounds.

(2) Electrically powered vehicles with a maximum speed capacity of 25 MPH and a maximum weight of 1,800 pounds.

(3) Internal combustion powered lawn mowing equipment

- (4) Internal combustion or electrically powered fire suppression vehicles and related equipment
- (5) Internal combustion or electrically powered heavy construction equipment
- (6) Internal combustion or electrically powered vehicles and equipment necessary for emergency events
- (7) Internal combustion or electrically powered research or patrol vehicles used by authorized permittees of the Florida Fish & Wildlife Conservation Commission or the Florida Department of Environmental Protection, law enforcement officers, EMS and firefighters, and participants in scientific monitoring.

Sec. 33-1724. Responsibility to distribute regulations.

Rental properties supplying approved vehicles, and any entity that rents or leases approved vehicles, must provide lessees with a packet of these code sections 33-1721 - 33-1723 regardless of whether the vehicle is separately paid for or made available for complimentary use.

Sec. 33-1725 through 33-1730. Reserved.

DIVISION 4. OUTDOOR LIGHTING

Sec. 33-1731. Purpose.

The purpose of this division is to regulate outdoor lighting in public and private places in order to reduce or prevent light pollution or light trespass and to preserve the vision enjoyment of the night sky on Upper Captiva.

Sec. 33-1732. Definitions.

The following definitions are in addition to those set forth in other portions of this Code and are applicable to the provisions contained in this division only. If, when construing the specific provisions contained in this division, these definitions conflict with definitions found elsewhere in this Code, then the definitions set forth below will control. Otherwise the definitions contained elsewhere in this Code will control. If a term is not defined, the term must be given its commonly understood meaning unless there is a clear indication of an intent to construe the term differently from its commonly understood meaning.

Accent lighting means any directional lighting which emphasizes a particular object or draws attention to a particular area.

Light trespass means all visible light emitted by a luminaire that shines beyond the property on which the luminaire is installed where the point source of the light is visible at the ground level as measured 10 feet from property line.

Sec. 33-1733. Applicability.

(a) All new outdoor luminaires and lighting fixtures installed on private and public property on Upper Captiva, including on docks and bulkheads, must comply with this division at time of development permit or no later than 5 years after the adoption of this code, whichever occurs first.

(b) All new outdoor luminaires and lighting fixtures installed on private and public property on Upper Captiva, including on docks and bulkheads, must comply with this division at time of Certificate of Occupancy (CO) for a development permit.

(c) All existing outdoor luminaires and lighting fixtures installed on private and public property on Upper Captiva, including on docks and bulkheads, must comply with this division no later than January 1, 2021.

(d) This division supplements the sea turtle lighting requirements found in article II of chapter 14 of this code.

(e) This division does not apply to interior lighting. However, interior light from any structure that is visible outdoors will be subject to control by this division

if it causes light trespass section 33-1732.

(f) When an existing outdoor luminaire or fixture is replaced, the replacement must meet the requirements of this division.

Sec. 33-1734. Exemptions.

The following sources of light are exempt from this division:

- (1) Temporary emergency lighting needed by firefighters, police officers, emergency work crews, etc.
- (2) Lights on approved vehicles.
- (3) Lights required by government agencies near airstrips or on communication towers.
- (4) Seasonal and special event decorations with individual lights in place up to 60 days per year.

Sec. 33-1735. Submittals.

(a) Where a sea turtle lighting plan must be submitted to the county in accordance with section 14-76, the lighting requirements of this division must be shown on the same lighting plan, which must be submitted prior to the earlier of building permit or development order issuance.

(b) Where a sea turtle lighting plan is not required by section 14-76, the lighting requirements of this division must be shown on a separate lighting plan, also submitted prior to the earlier of building permit or development order issuance.

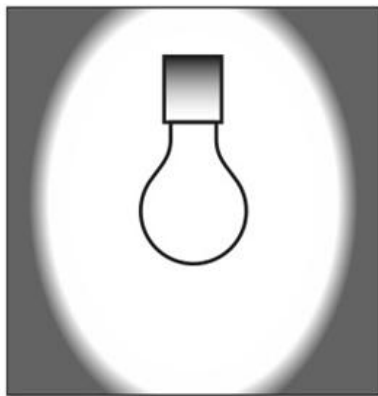
(c) The lighting plan required by this division must show the location, number, type, height, wattage, orientation, and shielding devices of all proposed exterior artificial light sources, including landscape lighting and all pole- and ground-mounted fixtures. Fixture cut sheets, catalog illustrations, and/or photometric data furnished by the manufacturer that shows the angle of light emission must also be provided. Additional information may be required to assess compliance with this division. Site lighting only will be shown and reviewed on the development order and inspected at time of certificate of compliance. Building lighting will be shown and reviewed on the building permit plans and inspected at time of certificate of occupancy.

(d) A county-approved lighting plan is required before a development order and building permit will be issued. All lighting installed must be inspected and be in compliance with the approved lighting plans before a certificate of occupancy and certificate of compliance will be issued by the county.

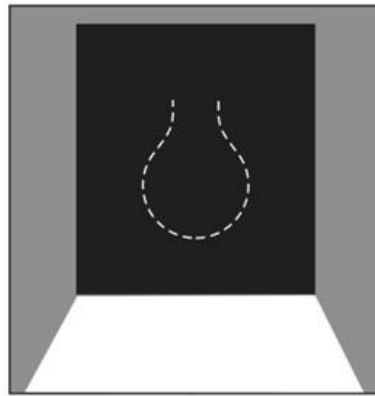
Sec. 33-1736. Outdoor lighting standards.

The following standards apply to outdoor lighting on Upper Captiva in addition to the sea turtle lighting standards found in article II of chapter 14 of this code and the outdoor lighting standards found in chapter 34-625 of this code.

- (1) All outdoor lighting, including lighting on docks and bulkheads, must be designed, installed, located, and maintained to be hooded, shielded, and/or aimed downward.
 - a. Examples of acceptable and unacceptable shielding and hooding are shown in Figures 1 through 3.
 - b. The hood or shield must mask the direct horizontal surface of the light source, or the light must be aimed to insure that the illumination is only pointing downward onto the ground surface, with no escaping light permitted to contribute to sky glow by shining upward into the sky.
- (2) Bright light shining onto adjacent property or pathways is not permitted. Light trespass beyond property boundaries or above the horizontal plane is a violation of this division.
- (3) Accent lighting, when approved pursuant to 33-1735 (c), must be directed downward onto the building or object and not toward the sky or onto adjacent properties. Direct light emissions may not be visible above the roof line or beyond the building edge.
- (4) Spotlighting on landscaping and foliage must be shielded and must not spill onto adjacent property.
- (5) When this division would otherwise require the replacement of an existing outdoor luminaire or fixture, the existing fixture may instead be adapted to comply by adding a properly designed hood or shield or by pointing any upward-mounted, shielded fixture downward onto the ground.
- (6) Fixtures affixed to poles, trees, and other structures must be no more than 15 feet above grade, shielded, and directed downward. The resulting emitted light must not spill onto adjacent property.

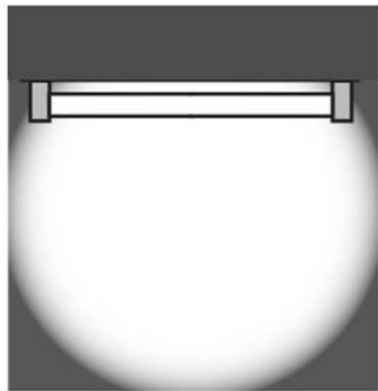


INCORRECT

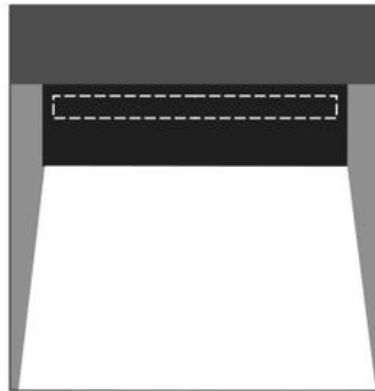


CORRECT

Outdoor lighting fixtures must be shielded above and on all sides to block light emission. Light should be directed down to avoid glare.

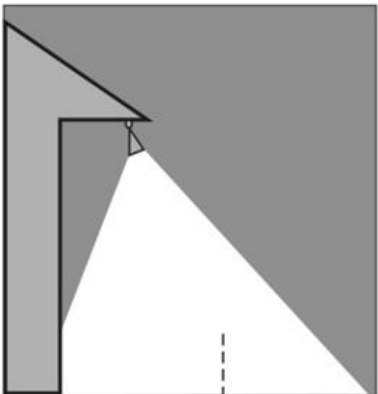


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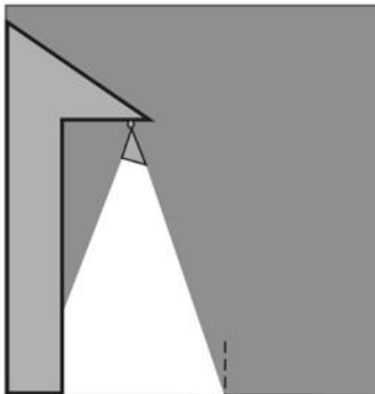
CORRECT

Fluorescent lighting fixtures must be shielded on all sides to block light emission. Light should be directed down to avoid glare.



property line

INCORRECT



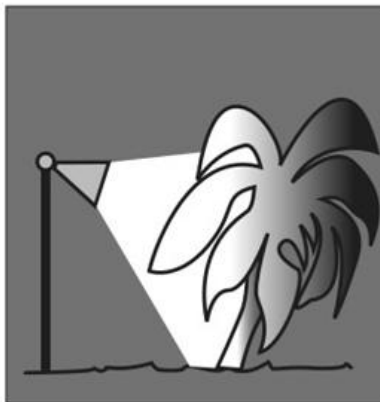
CORRECT

Light shining on adjacent property is not permitted. Fixtures must be hooded and aimed down to keep direct illumination within the owner's property.

Figure 1



INCORRECT



CORRECT

Landscape lighting must be aimed down with no escaping light contributing to sky glow by shining upward

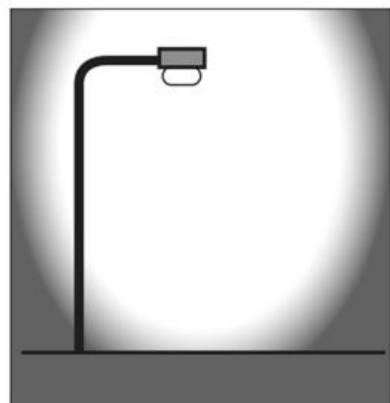


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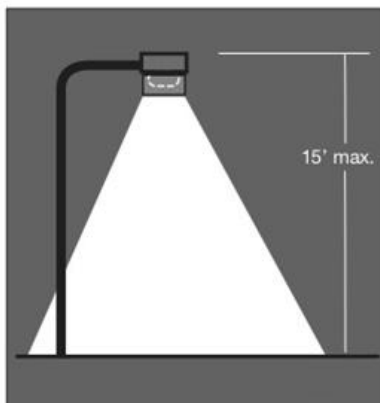


CORRECT

Signs, displays and structures must be illuminated from above, with lights aimed down.



INCORRECT



CORRECT

Street, parking lot, dock and other pole lights must be shrouded to direct light down. The height may be no more than 15'.

Figure 2



Figure 3: Examples of acceptable fixtures

**DIVISION 5. OPEN SPACE, LANDSCAPING,
AND INVASIVE EXOTIC VEGETATION**

Sec. 34-1741. Brazilian Pepper Eradication

The Brazilian pepper (*Schinus terebinthifolius*) must be entirely eradicated from all real property, including easements, rights-of-way, and common area tracts. The eradication of the Brazilian pepper must be completed prior to issuance of Certificate of Compliance (CC), issuance of a Certificate of Occupancy (CO) or by January 1, 2021, whichever comes sooner. All property must be maintained free of Brazilian pepper in perpetuity once it has been eradicated.

Draft for Discussion Only

SECTION FOUR: AMENDMENT TO LDC CHAPTER 34

Lee County Land Development Code Chapter 34 is amended as follows, with strike through identifying deleted text and underlining identifying new text.

CHAPTER 34 ZONING

ARTICLE I. IN GENERAL

Sec. 34-6. Compliance with specific planning community requirements.

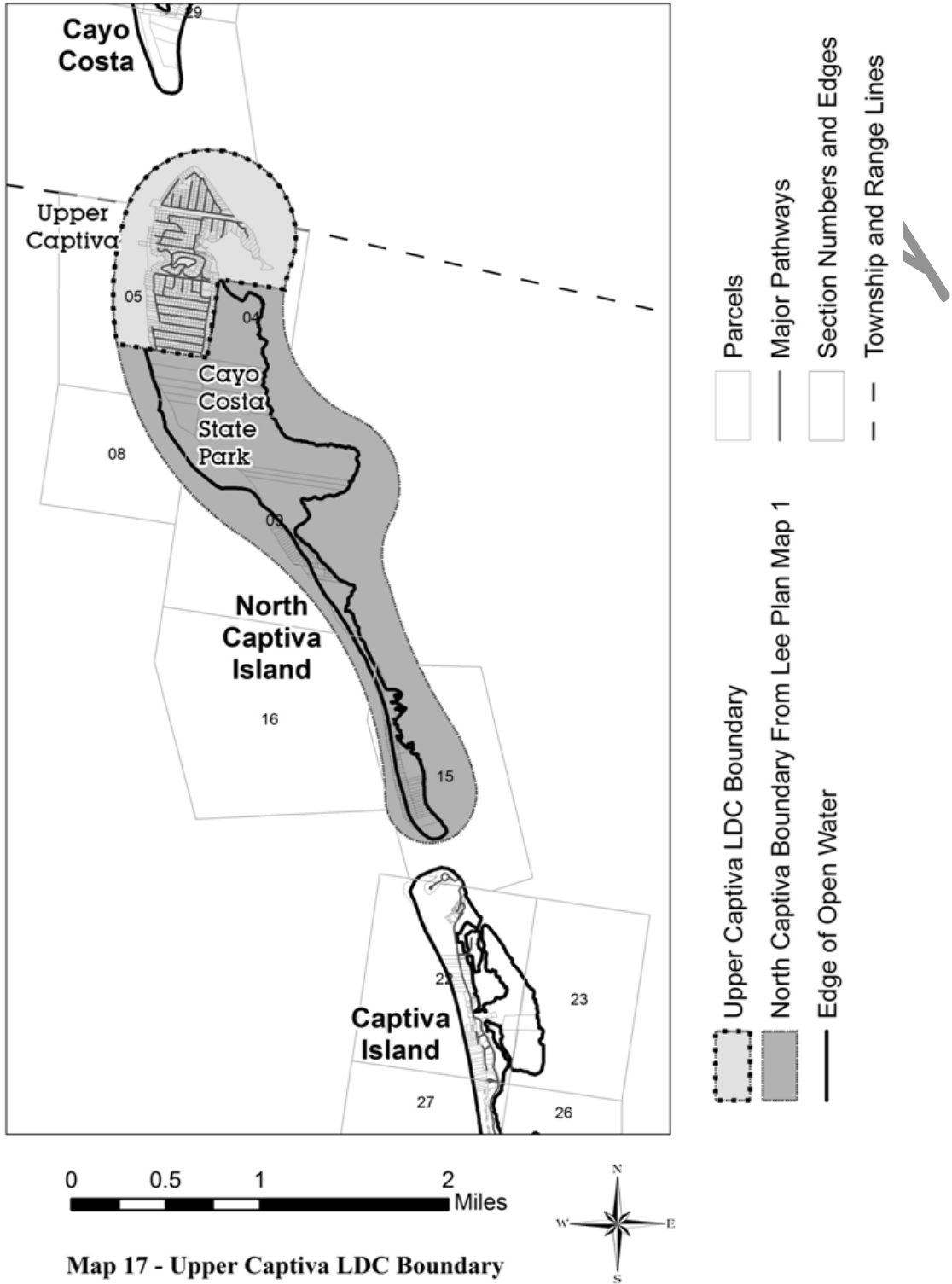
If the subject property is located in one of the following communities, the owner/applicant will be required to demonstrate compliance with the requirements applicable to the specific community as outlined in chapter 33.

- (1) Estero Planning Community.
- (2) Greater Pine Island.
- (3) Page Park.
- (4) Caloosahatchee Shores.
- (5) Lehigh Acres.
- (6) North Fort Myers.
- (7) Matlacha.
- (8) Upper Captiva.

Balance of provisions remains unchanged.

SECTION FIVE: AMENDMENT TO LDC APPENDIX I

Lee County Land Development Code Appendix I is amended to include the following Map 17.



SECTION SIX: CONFLICTS OF LAW

Whenever the requirements or provisions of this Ordinance are in conflict with the requirements or provisions of any other lawfully adopted ordinance or statute, the most restrictive requirements will apply.

SECTION SEVEN: SEVERABILITY

It is the Board of County Commissioner’s intent that if any section, subsection, clause or provision of this ordinance is deemed invalid or unconstitutional by a court of competent jurisdiction, such portion will become a separate provision and will not affect the remaining provisions of this ordinance. The Board of County Commissioners further declares its intent that this ordinance would have been adopted if such unconstitutional provision was not included.

SECTION EIGHT: CODIFICATION AND SCRIVENER’S ERRORS

The Board of County Commissioners intends that this ordinance will be made part of the Lee County Land Development Code. Sections of this ordinance can be renumbered or relettered and the word “ordinance” can be changed to “section”, “article,” or other appropriate word or phrase to accomplish codification, and regardless of whether this ordinance is ever codified, the ordinance can be renumbered or relettered and typographical errors that do not affect the intent can be corrected with the authorization of the County Administrator, County Manager or his designee, without the need for a public hearing.

SECTION NINE: EFFECTIVE DATE

This ordinance will take effect upon its filing with the Office of the Secretary of the Florida Department of State. The provisions of this ordinance will apply to all projects or applications subject to the LDC unless the application for such project is complete and found sufficient before the effective date hereof.

Commissioner _____ made a motion to adopt the foregoing ordinance, seconded by Commissioner _____. The vote was as follows:

- Larry Kiker
- Brian Hamman
- Frank Mann
- John Manning
- Cecil Pendergrass

DONE AND ADOPTED this ___ day of _____ 201__.

ATTEST:

LINDA DOGGETT, CLERK

BY: _____
Deputy Clerk

LEE COUNTY

BOARD OF COMMISSIONERS

BY: _____
Cecil Pendergrass, Chair

Approved as to form by:

Michael D. Jacob
County Attorney's Office

Draft for Discussion Only

LDC AMENDMENTS

OVERVIEW

CHAPTER 33

- 33-1419 Revise to allow variances/deviations from prohibited signs in Caloosahatchee Shores Planning Community
- 33-1431 Clarify uses in former model homes
- 33-1501 Revise to allow variances/deviations from prohibited signs in Lehigh Acres Planning Community
- 33-1536 & 33-1566 Revise to allow conventional rezonings within the Mixed Use Special Treatment Areas in North Fort Myers Planning Community

DRAFT LDC AMENDMENTS

Chapter 33 PLANNING COMMUNITY REGULATIONS

ARTICLE V. LEHIGH ACRES PLANNING COMMUNITY

DIVISION 2. COMMERCIAL DESIGN STANDARDS AND SPECIFICATIONS

Subdivision III. Signs

Sec. 33-1419. Prohibited signs.

~~Unless a deviation or variance is granted, the~~ The following types of signs are prohibited.
~~No variances or deviations are permitted from this section.~~

(1) through (8) remain unchanged.

DIVISION 3. SPECIFIC USE STANDARDS

Subdivision I. Model Homes

Sec. 33-1431. Model homes.

(a) through (b) remain unchanged.

(c) The following regulations will apply to redevelopment of model homes:

- (1) *Permitted uses.* The following uses may be approved for a model home through the special exception process. These uses are in addition to the uses permitted by right or ~~permitted~~ by special exception in the RS-1 zoning district. Other uses are subject to approval through a planned development in accordance with chapter 34, article IV.

Remainder of Section is unchanged.

ARTICLE VII. CALOOSAHATCHEE SHORES PLANNING COMMUNITY

DIVISION 2. DESIGN STANDARDS

Subdivision III. Signs

Sec. 33-1505. Prohibited signs.

(a) ~~Unless a deviation or variance is granted, the~~ The following signs are prohibited within the Caloosahatchee Shores Planning Community. ~~No variances or deviations are permitted from this section.~~

(1) through (10) remain unchanged.

ARTICLE VIII. NORTH FORT MYERS PLANNING COMMUNITY

DIVISION 1. GENERALLY

Sec. 33-1536. Reserved. ~~Compact communities/planned developments.~~

~~Rezoning within the centers and corridors listed in Chapter 32, Article VII, section 32-801, are limited to Compact Communities per Chapter 32 or Planned Developments or amendments to existing Planned Developments per Chapter 34. Special exceptions, deviations, and variances may be pursued utilizing the process per Chapter 10 or Chapter 34.~~

DIVISION 3. COMMERCIAL CORRIDOR LAND DEVELOPMENT PROVISIONS

Subdivision I. Generally

Sec. 33-1566. Applicability.

Scope. The provisions of division 3 apply to all commercially zoned properties with frontage on, or contiguous to and developed in conjunction with properties with frontage on, the following roadways within the North Fort Myers Planning Community:

(a) through (e) remain unchanged.

~~Except that areas located within neighborhood centers, or the town center, or within commercial corridors that are designated mixed use overlay on the Special Treatment Areas Map, Lee Plan Map 1, Page 6 of 6.~~

Chapter 32. COMPACT COMMUNITIES

ARTICLE VI. COMPACT COMMUNITIES THROUGH OPTIONAL REGULATING PLANS.

Sec. 32-603 Adopted Compact Community Plans.

The plans identified in Figures 1 through ~~7~~ 9 have been adopted and may be utilized in accordance with this Article. Minor changes may be approved per LDC Sec. 32-604(b). Additional plans may be adopted by amendments to this Article and adoption of Compact Community Regulating Plans by the Lee County Board of County Commissioners.

Figure 1 – North Fort Myers Town Center Conceptual Regulating Plan

Figure 2 – North Fort Myers Town Center Detailed Regulating Plan

Figure 3 – North Fort Myers Town Center Illustrative Site Plan (non-binding).

Figure 4 – Lehigh Acres Downtown Activity Center Conceptual Regulating Plan

Figure 5 – Lehigh Acres Downtown Activity Center Detailed Regulating Plan

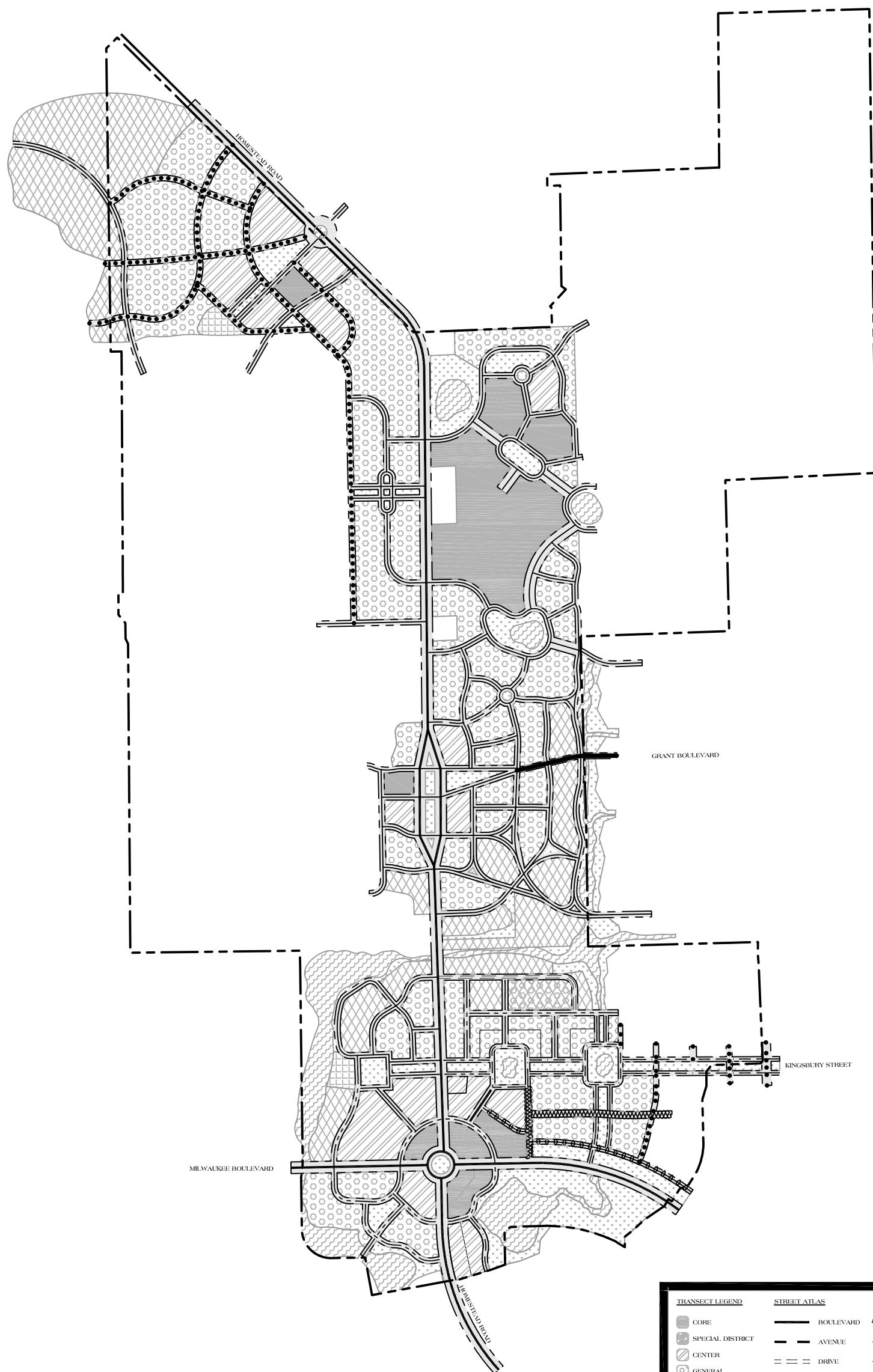
Figure 6 – Lehigh Acres Admiral Lehigh Neighborhood Activity Center Conceptual Regulating Plan.

Figure 7 – Lehigh Acres Admiral Lehigh Neighborhood Activity Center Detailed Regulating Plan.

Figure 8 – Lehigh Acres Community Activity Center Conceptual Regulating Plan

Figure 9 – Lehigh Acres Community Activity Center Detailed Regulating Plan

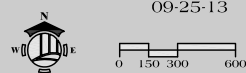
Sec. 32-603 Figure 8



| TRANSECT LEGEND | STREET ATLAS | | LOT TYPES |
|----------------------|--------------|----------|----------------------|
| CORE | BOULEVARD | STREET A | MU - MIXED USE LOT |
| SPECIAL DISTRICT | AVENUE | STREET B | AH - APARTMENT LOT |
| CENTER | DRIVE | STREET C | LV - LIVE/WORK LOT |
| GENERAL | ROAD | STREET D | RH - ROWHOUSE LOT |
| CIVIC | ALLEY | STREET E | H - HOUSE LOT |
| EDGE | LANE | STREET F | SH - SIDEYARD LOT |
| BLUEWAY | | | CH - COTTAGE LOT |
| NEW CONNECTION POINT | | | CB - CIVIC BUILDING |
| | | | CS - CIVIC SPACE LOT |
| | | | SL - STORMWATER LOT |
| | | | EX - EXISTING |

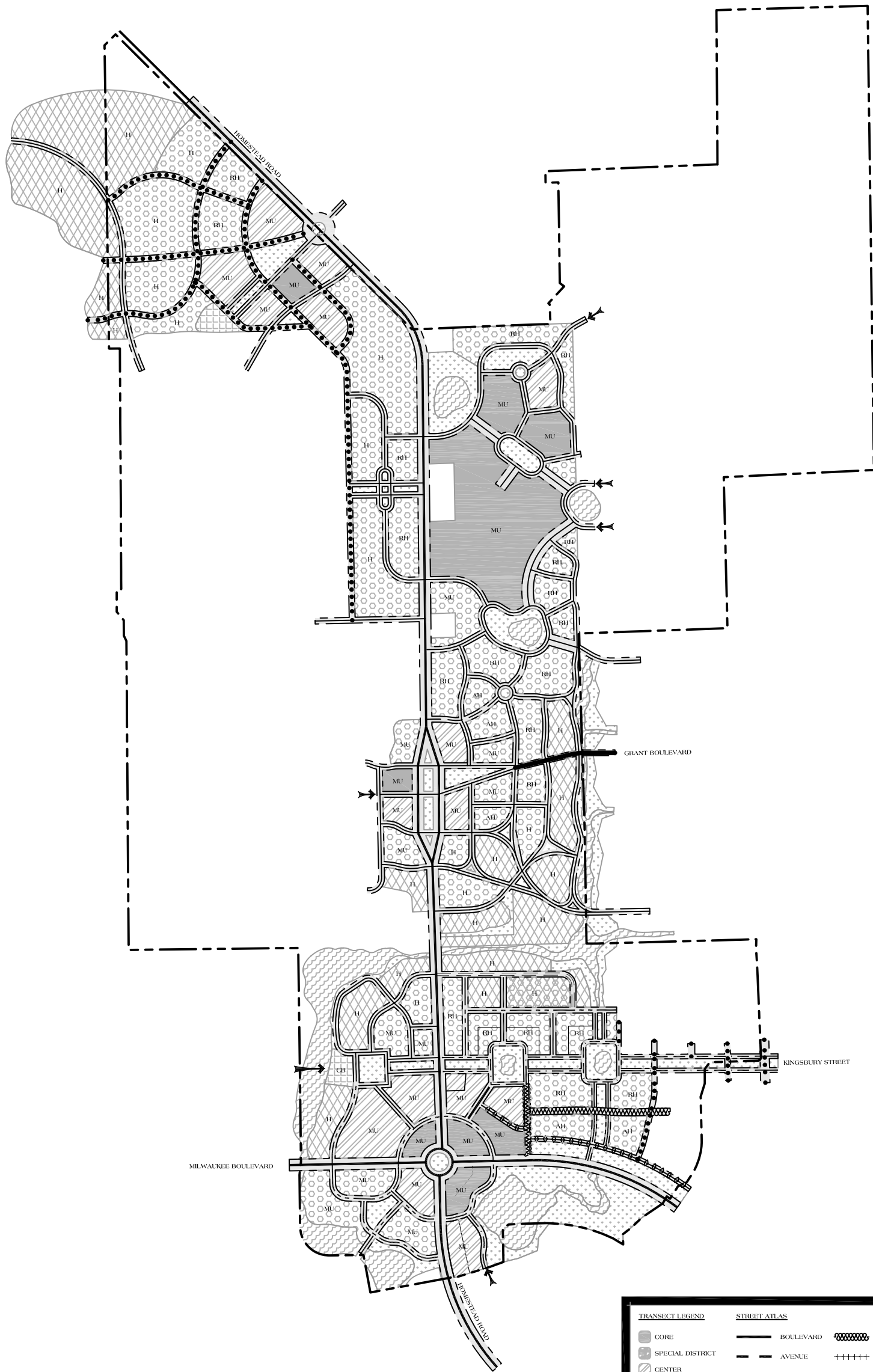
P:\Projects\1151 Lee County\1151 Lee County\1151 Lee County\1151 Lee County\Fig.08 Conceptual Regulating Plan.dwg 09-25-13 10:30:11

COMMUNITY ACTIVITY CENTER
CONCEPTUAL REGULATING PLAN



THIS DRAWING IS INTENDED FOR ILLUSTRATIVE PURPOSES ONLY & SHOULD NOT BE USED FOR CONSTRUCTION.

Sec. 32-603 Figure 9

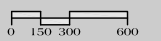


| TRANSECT LEGEND | STREET ATLAS | STREET | LOT TYPES |
|----------------------|--------------|----------|----------------------|
| CORE | BOULEVARD | STREET A | MU - MIXED USE LOT |
| SPECIAL DISTRICT | AVENUE | STREET B | AH - APARTMENT LOT |
| CENTER | DRIVE | STREET C | LW - LIVE/WORK LOT |
| GENERAL | ROAD | STREET D | RH - ROWHOUSE LOT |
| CIVIC | ALLEY | STREET E | H - HOUSE LOT |
| EDGE | LANE | STREET F | SH - SIDEYARD LOT |
| BLUEWAY | | | CH - COTTAGE LOT |
| | | | CB - CIVIC BUILDING |
| | | | CS - CIVIC SPACE LOT |
| | | | SL - STORMWATER LOT |
| | | | EX - EXISTING |
| NEW CONNECTION POINT | | | |

COMMUNITY ACTIVITY CENTER
DETAILED REGULATING PLAN



09-25-13



THIS DRAWING IS INTENDED FOR ILLUSTRATIVE PURPOSES ONLY & NOT A SUBSTITUTE FOR PROFESSIONAL DESIGN.

ORDINANCE NO. _____

AN ORDINANCE AMENDING LEE COUNTY LAND DEVELOPMENT CODE, CHAPTER 14 (ENVIRONMENT AND NATURAL RESOURCES) TO REVISE WELLFIELD PROTECTION PROVISIONS REGARDING THE GROUNDWATER MODELING INFORMATION; TO PROHIBIT THE INSTALLATION OF A WATER SUPPLY WELL WITHIN 2,640 FEET OF AN EXISTING OR PERMITTED AQUIFER STORAGE AND RECOVERY WELL (PREVIOUSLY PROHIBITED WITHIN 500 FEET); AND TO AMEND AND REPLACE APPENDIX N.

WHEREAS, Florida Statutes Section 125.01(1)(h) authorizes counties to establish, coordinate, and enforce zoning regulations necessary for the protection of the public; and,

WHEREAS, Goal 24 of the Lee County Comprehensive Land Use Plan (Lee Plan) mandates that the County maintain clear, concise, and enforceable development regulations that fully address on-site and off-site development impacts, yet function in a streamlined manner; and,

WHEREAS, Lee County's Wellfield Protection Maps need to be revised to reflect current wellfield configurations and operating conditions; and,

WHEREAS, Lee County's Aquifer Storage and Recovery (ASR) Well Protection Zones must be revised to provide institutional control in accordance with the Florida Department of Environmental Protection Underground Injection Control permits and their accompanying Administrative Orders issued for continued operation of the Lee County Utilities ASR facilities; and,

WHEREAS, the Board of County Commissioners adopted the Lee County Land Development Code which contains regulations applicable to the development of land in Lee County; and,

WHEREAS, the Land Development Code Advisory Committee (LDCAC) was created by the Board to explore and review amendments to the LDC; and,

WHEREAS, the LDCAC has reviewed the proposed amendments to the LDC on _____ and recommended approval of the proposed amendments; and,

WHEREAS, the Executive Regulatory Oversight Committee reviewed the proposed amendments to the Code on J _____ and recommended their adoption; and,

WHEREAS, the Local Planning Agency reviewed the proposed

amendments on _____, and found them consistent with the Lee Plan, as indicated.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA:

SECTION ONE: AMENDMENT TO LDC CHAPTER 14- ENVIRONMENT AND NATURAL RESOURCES

Lee County Land Development Code Chapter 14 is amended as follows with strike through identifying deleted text and underline identifying new text.

**Chapter 14. ENVIRONMENT AND NATURAL RESOURCES
ARTICLE III. WELLFIELD PROTECTION
DIVISION 1. GENERALLY**

Sec. 14-212. Protection zone maps.

(a) *Adoption.* The protection zone maps, contained in appendix N, have been developed by the county and are hereby adopted by reference and made a part of this article. The official protection zone maps are on file at the division office. Reproductions of the maps are available for a fee at the division. The wellfield protection zone maps are based on groundwater modeling performed by ~~Water Resource Solutions Inc.~~ and presented in a report titled "Lee County Utilities Supporting Documentation for the Wellfield Protection Ordinance Updated" dated March 2005 and revised April 2007. RMA GeoLogic Consultants, Inc. and documented in reports titled "Supporting Documentation for the Update of the Lee County Wellfield Protection Zones", dated January 2009 and "Supporting Documentation for the 2011 Update of the Lee County Wellfield Protection Zones", dated October 2011.

Subsections (b) and (c) remain unchanged.

Sec. 14-216. Criteria for establishing protection zones.

Subsections (a) and (b) remain unchanged.

(c) The aquifers referenced in this article are identical to those listed in the report titled "~~Lee County Utilities Supporting Documentation for the Wellfield Protection Ordinance Update" Water Resource Solutions, March 2005 and updated April 2007. "Supporting Documentation for the Update of the Lee County Wellfield Protection Zones", dated January 2009 and "Supporting Documentation for the 2011 Update of the Lee County Wellfield Protection Zones", dated October 2011 by RMA Geologic Consultants, Inc.~~

Sec. 14-219. Aquifer storage and recovery wells.

The installation of a water supply well is prohibited within ~~500~~ 2,640 feet of an existing or permitted aquifer storage and recovery well, unless confinement exists between the production zone of the water well and the storage/production zone of the aquifer storage and recovery well.

SECTION TWO: AMENDMENT TO LDC APPENDIX N (WELLFIELD PROTECTION ZONES)

Lee County Land Development Code Appendix N is amended and replaced as depicted in Exhibit "A" attached hereto.

SECTION THREE: CONFLICTS OF LAW

Whenever the requirements or provisions of this Ordinance are in conflict with the requirements or provisions of any other lawfully adopted ordinance or statute, the most restrictive requirements will apply.

SECTION FOUR: SEVERABILITY

It is the Board of County Commissioner's intent that if any section, subsection, clause or provision of this ordinance is deemed invalid or unconstitutional by a court of competent jurisdiction, such portion will become a separate provision and will not affect the remaining provisions of this ordinance. The Board of County Commissioners further declares its intent that this ordinance would have been adopted if such unconstitutional provision was not included.

SECTION FIVE: CODIFICATION AND SCRIVENER'S ERRORS

The Board of County Commissioners intends that this ordinance will be made part of the Lee County Code. Sections of this ordinance can be renumbered or relettered and the word "ordinance" can be changed to "section", "article," or other appropriate word or phrase to accomplish codification, and regardless of whether this ordinance is ever codified, the ordinance can be renumbered or relettered and typographical errors that do not affect the intent can be corrected with the authorization of the County Administrator, County Manager or his designee, without the need for a public hearing.

SECTION SIX: EFFECTIVE DATE

This ordinance will take effect upon its filing with the Office of the Secretary of the Florida Department of State. The provisions of this ordinance will apply to all projects or applications subject to the LDC unless the development order application for such project is complete or the zoning request is found sufficient before the effective date.

Commissioner Manning made a motion to adopt the foregoing ordinance, seconded by Commissioner Mann. The vote was as follows:

John Manning _____
Cecil L Pendergrass _____
Larry Kiker _____
Vacant _____
Frank Mann _____

DULY PASSED AND ADOPTED this ___ day of _____, 2013.

ATTEST:
COMMISSIONERS
LINDA DOGGETT, CLERK

BOARD OF COUNTY
OF LEE COUNTY, FLORIDA

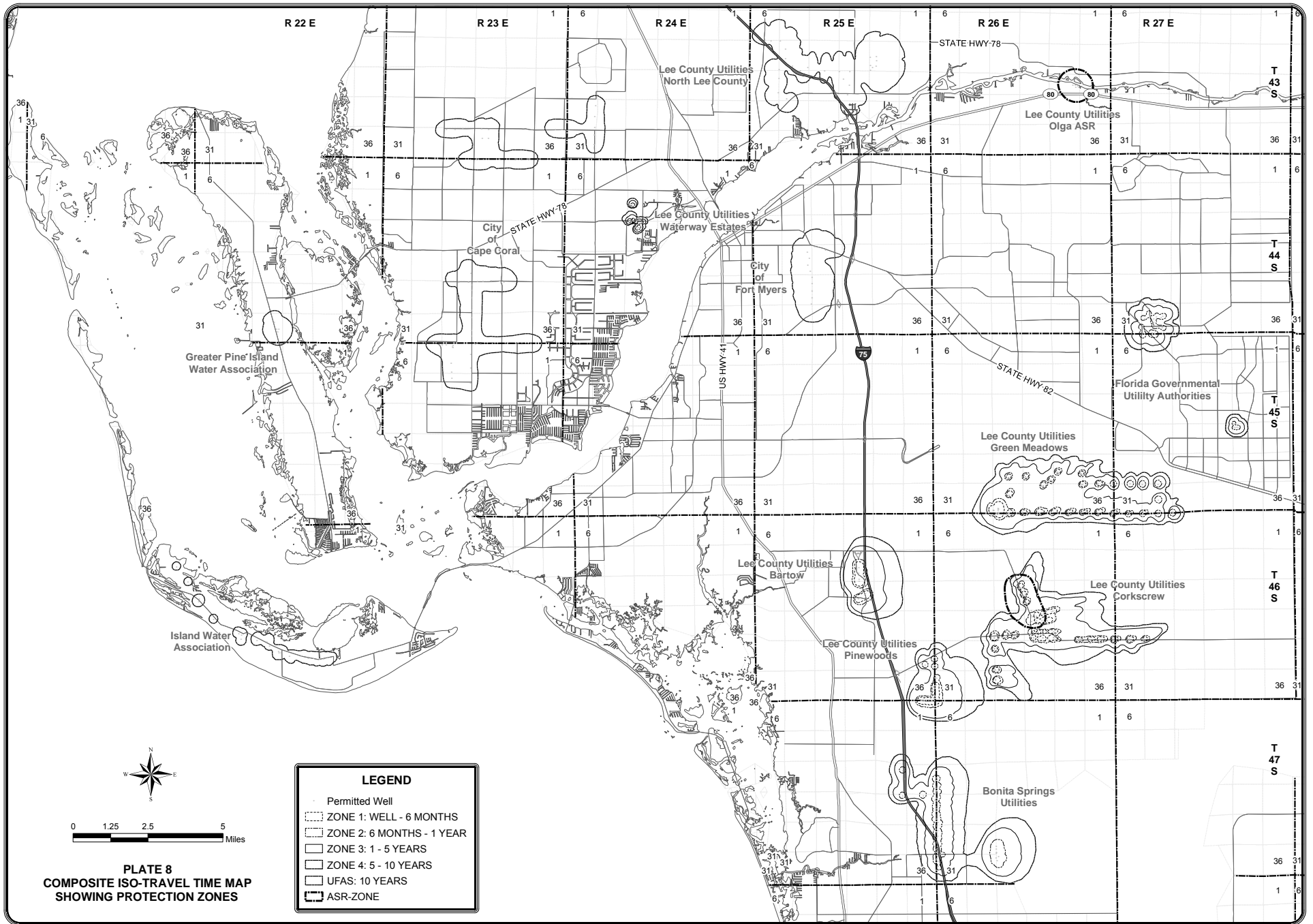
BY: _____
Deputy Clerk

BY: _____
Cecil L Pendergrass, Chair








Approved as to form by:

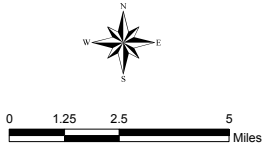
County Attorney's Office

Attached:
Exhibit A- Appendix N-Composite Iso-Travel Time Map



LEGEND

-  Permitted Well
-  ZONE 1: WELL - 6 MONTHS
-  ZONE 2: 6 MONTHS - 1 YEAR
-  ZONE 3: 1 - 5 YEARS
-  ZONE 4: 5 - 10 YEARS
-  UFAS: 10 YEARS
-  ASR-ZONE



**PLATE 8
COMPOSITE ISO-TRAVEL TIME MAP
SHOWING PROTECTION ZONES**

**CPA2013-07
WELLFIELD AND IRRIGATION
OVERLAY COMPREHENSIVE PLAN
AMENDMENT
TO THE**

LEE COUNTY COMPREHENSIVE PLAN

THE LEE PLAN

Lee County Board of County Commissioners
Sponsored Amendment and Staff Analysis

**LPA Public Hearing Document
For the
December 11th, 2013 Public Hearing**

*Lee County Planning Division
1500 Monroe Street
P.O. Box 398
Fort Myers, FL 33902-0398
(239) 533-8585*

November 26, 2013

**LEE COUNTY
DIVISION OF PLANNING
STAFF REPORT FOR
COMPREHENSIVE PLAN AMENDMENT
CPA2013-07**

Text Amendment

Map Amendment

| This Document Contains the Following Reviews | |
|---|--|
| <input checked="" type="checkbox"/> | Staff Review |
| | Local Planning Agency Review and Recommendation |
| | Board of County Commissioners Hearing for Transmittal |
| | Staff Response to Review Agencies' Comments |
| | Board of County Commissioners Hearing for Adoption |

STAFF REPORT PREPARATION DATE: November 26, 2013

PART I - BACKGROUND AND STAFF RECOMMENDATION

A. SUMMARY OF APPLICATION

1. EXECUTIVE SUMMARY:

This amendment proposes two changes to the Lee Plan. The first change, following a request by the South Florida Water Management District (SFWMD), removes language in the Plan pertaining to SFWMD permitting authority.

The second change updates the Lee Plan Map that identifies Lee County Utility wells and their associated protection zones which identify adjacent lands needed to protect the public water supply.

2. RECOMMENDATION:

Staff recommends that the Board of County Commissioners *transmit* the proposed amendment to the Lee Plan. This recommendation includes deleting Map 13, updating Map 8, and renaming Map 8 to "Wellfield Protection Zones." The recommendation includes transmitting the following modified Lee Plan language shown in strikethrough/underline form:

~~**POLICY 1.7.10:** The Irrigation Well overlay in 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 the Irrigation Well overlay may not utilize the main potable water source. For the purposes of this plan, the boundaries of the Irrigation Well overlay are indicated on Map 13 of the Future Land Use Map series. (Also see Policy 54.1.9 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, Amended and Relocated by Ordinance No. 02-02)~~

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 1.7.10;~~ Lehigh Acres as described in Policy 54.1.9; 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, 94-30, 00-22, 02-02)

POLICY 54.1.9: Lehigh Acres (as defined by outer boundaries of its Privately Funded Infrastructure overlay on the Future Land Use Map) is hereby declared a critical area for future potable water supply due to fluctuating water levels in the Sandstone aquifer. In response to this designation, the county will amend current regulations to provide that new wells in Lehigh Acres must be constructed to accommodate submersible pumps. (Also see ~~Policy 1.7.10 for new permit requirements for irrigation wells in Bonita Springs,~~ and Policy 2.4.2 for special requirements for amendments to the Future Land Use Map.) (Amended by Ordinance No. 94-30, 00-22, 02-02)

3. APPLICANT/REPRESENTATIVES:

Lee County Board of County Commissioners/Lee County Division of Planning staff in conjunction with Lee County Utilities and Natural Resources staff.

4. REQUEST:

Amend the Lee Plan to remove provisions which regulate permitting of the use of water for irrigation from the Lower Tamiami aquifer. Also update Map 8 of the Lee Plan, which

identifies the Wellfield Protection Zones for Lee County public wells and Aquifer Storage and Recovery wells.

B. FINDINGS OF FACT SUMMARY

BASIS AND RECOMMENDED FINDINGS OF FACT:

- The Lee County Board of County Commissioners initiated the proposed amendment on November 19, 2013 through Blue Sheet No. 20130964.
- Florida Statute Section 373.016(4)(a) states that waters in the state should be managed on a regional basis.
- Florida Statute 373.217 gives the Department of Environmental Protection (DEP) or water management districts exclusive authority for requiring permits for water consumption.
- Currently, Lee Plan Map 13 depicts the Irrigation Well Overlay.
- The South Florida Water Management District (SFWMD) currently maintains a comprehensive regulatory program.
- SFWMD has determined that Lee Plan Policy 1.7.10 conflicts with the districts jurisdiction.
- The proposed amendment would remove a redundant water management policy.
- Map 8 identifies Wellfield Protection Zones for permitted wells in the County.
- Lee County Land Development Code Chapter 14 Article III addresses contamination of potable water supplies through the creation of Wellfield Protection Zones. These zones are defined by the transit time of water within the aquifer.
- The Florida DEP is requiring Lee County to expand Aquifer Storage and Recovery (ASR) well protection zones.
- New public water supply production wells have been installed, and Map 8 should also be updated to include these new wells and provide more accurate location of existing wells.

C. BACKGROUND INFORMATION

Lee Plan Map 13, The Irrigation Well Overlay, depicts the area identified in Policy 1.7.10 as a critical area for future potable water supply. The Overlay originally depicted a large area in the southern portion of the County including areas in Bonita Springs. The incorporation of the City of Bonita Springs and the subsequent removal of regulations specific to the area of the city from the Lee Plan resulted in the current extent of Map 13. The Overlay currently covers portions of the Southeast Lee County and Estero Planning Communities.

Lee Plan Map 8, currently titled “Cones of Influence,” indicates the travel time of groundwater surrounding various wellfields within the County and establishes protection from certain land uses within these zones. Florida DEP is currently requiring Lee County

Utilities to expand ASR protection zones from 500 to 2,640 feet. These zones are not depicted on the current Map 8.

PART II - STAFF ANALYSIS

A. STAFF DISCUSSION

INTRODUCTION

In a letter dated October 16, 2013 (see Attachment #1), the South Florida Water Management District (SFWMD) identified provisions in the Lee Plan that do not conform to Florida Statutes. This letter provides that these provisions intrude on the jurisdiction of the SFWMD in regards to the permitting of irrigation wells in the Lower Tamiami Aquifer. The main source of this conflict is Policy 1.7.10 which regulates permits in the Irrigation Well Overlay identified in Lee Plan Map 13. To remove this conflict, the SFWMD has requested that Policy 1.7.10 be deleted. This will require deletion of references to Policy 1.7.10 in two other policies, Policy 2.4.2 and 54.1.9. Lee Plan Map 13 will also be deleted as it will be unnecessary without Policy 1.7.10.

Staff is also taking this opportunity to update Lee Plan Map 8 to more accurately identify the purpose of the map. The map should be named "Wellfield Protection Zones." Map 8 needs to be updated for several reasons. New public water supply production wells have been installed, and the map should also be updated to include these new wells. In addition, due to recent groundwater modeling FDEP is currently requiring Lee County Utilities to expand the ASR well protection zones from 500 feet to 2,640 feet. These ASR boundaries are depicted on proposed Map 8.

PROPOSED CHANGES

The amendment proposes the deletion of Policy 1.7.10. This will remove a conflict between the Lee Plan and the SFWMD in the Estero area. Lee Plan Policies 1.7.11 through 1.7.15 will be renumbered. Lee Plan Policies 2.4.2 and 54.1.9 both contain references to Policy 1.7.10. The references will be deleted. Policies 2.4.3 and 2.4.4 will be renumbered as will Policies 54.1.10 through 54.1.12.

Another proposed change is the deletion of Lee Plan Map 13, the Irrigation Well Overlay. The deletion of Policy 1.7.10 will render this map irrelevant and it should be removed from the Lee Plan.

The last proposed change is to adopt an updated version of Lee Plan Map 8, Cones of Influence, in order to include the latest data from the Division of Utilities and rename the map as previously discussed.

The changes to the relevant Lee Policies are shown here in strikethrough/underline format:

~~**POLICY 1.7.10:** The Irrigation Well overlay in 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 the Irrigation Well overlay may not utilize the main potable water source. For the purposes of this plan, the boundaries of the Irrigation Well overlay are indicated on Map 13 of the Future Land Use Map series. (Also see Policy 54.1.9 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, Amended and Relocated by Ordinance No. 02-02)~~

Lee Plan policies 1.7.11 through 1.7.15 will be renumbered to reflect this deletion.

~~**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 1.7.10; Lehigh Acres as described in Policy 54.1.9; 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, 94-30, 00-22, 02-02)~~

~~**POLICY 54.1.9:** Lehigh Acres (as defined by outer boundaries of its Privately Funded Infrastructure overlay on the Future Land Use Map) is hereby declared a critical area for future potable water supply due to fluctuating water levels in the Sandstone aquifer. In response to this designation, the county will amend current regulations to provide that new wells in Lehigh Acres must be constructed to accommodate submersible pumps. (Also see Policy 1.7.10 for new permit requirements for irrigation wells in Bonita Springs, and Policy 2.4.2 for special requirements for amendments to the Future Land Use Map.) (Amended by Ordinance No. 94-30, 00-22, 02-02)~~

Deletion of Policy 1.7.10 and references to it will bring the Lee Plan into conformance with Florida Statute 373.106(4)(a). Deleting Lee Plan Map 13 will remove an unnecessary provision from the Lee Plan. Adoption of an updated Lee Plan Map 8 will keep groundwater protection policies current, will more accurately depict existing and new wells, and will now depict ASR well protection zones.

B. STAFF RECOMMENDATION

County staff recommends that the Board of County Commissioners *transmit* the proposed amendment.

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

DATE OF PUBLIC HEARING: December 11, 2013

A. LOCAL PLANNING AGENCY REVIEW

**B. LOCAL PLANNING AGENCY RECOMMENDATION AND FINDINGS OF
FACT SUMMARY**

1. RECOMMENDATION:

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

C. VOTE:

| | |
|-------------------------|-------|
| NOEL ANDRESS | _____ |
| STEVE BRODKIN | _____ |
| WAYNE DALTRY | _____ |
| JIM GREEN | _____ |
| MITCH HUTCHCRAFT | _____ |
| ANN PIERCE | _____ |
| ROGER STRELOW | _____ |



SOUTH FLORIDA WATER MANAGEMENT DISTRICT

October 16, 2013

Lee Werst
Lee County Natural Resources Management
1500 Monroe Street
Ft. Myers, Florida 33901

LEE COUNTY DIV. OF
NATURAL RESOURCES
OCT 18 2013

RECEIVED

Re: Lee County Comprehensive Plan

Dear Mr. Werst:

Thank you for providing the South Florida Water Management District (District) with the opportunity to review Lee County's proposed changes to Ordinance No. 06-09. As noted in its September 12, 2013 letter, the District requested deletion of the renumbered Section 8.3.2(16), previously Section 9.3.2(16), purporting to regulate the use of water for irrigation from the Lower Tamiami aquifer, as such regulation is preempted to the District.

It has come to the District's attention that Policy 1.7.10 of the Lee County Comprehensive Plan ("Lee Plan") also intrudes into the District's exclusive jurisdiction. The Policy states:

The Irrigation Well overlay in 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 the Irrigation Well overlay may not utilize the main potable water source. For the purposes of this plan, the boundaries of the Irrigation Well overlay are indicated on Map 13 of the Future Land Use Map series.

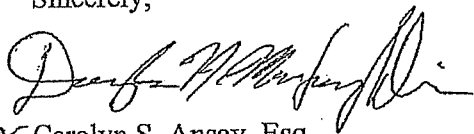
The Legislature stated that the waters in the state should be managed on a statewide and regional basis. See § 373.016(4)(a), Fla. Stat. (2013). To effectuate this goal, the Legislature enacted Section 373.217, Fla. Stat., giving the Department of Environmental Protection or water management districts exclusive authority for requiring permits for the consumptive use of water under Part II of Chapter 373, F.S. The law also superseded any existing state or local laws that conflicted with the Part II of Chapter 373, F.S., and preempted the enactment of future regulations.

The District adopted a comprehensive regulatory program. The Consumptive Use Permitting (CUP) Program protects the water resources from harm. § 373.216, Fla. Stat. (2013). All CUPs issued have been technically evaluated to determine if the water use has the potential to cause harm to the resources of the area. To further protect the Lower Tamiami aquifer, the District has adopted a minimum level for the aquifer. Fla. Admin. Code R. 40E-8.331. To prevent the

aquifer from reaching the minimum level, maximum developable limits have been set. See Section 3.2.4 of the Basis of Review for Water Use Permits within the South Florida Water Management District. Taken together, these rules and criteria are sufficient to accomplish the goals espoused by the Lee Plan.

Therefore, the District respectfully requests Lee County remove Policy 1.7.10 of the Lee Plan which purports to prohibit the construction of irrigation wells into the Lower Tamiami aquifer within a portion of Bonita Springs. If you have any questions, feel free to contact Jennifer Bokankowitz at 561-682-2258, or jbokanko@sfwmd.gov

Sincerely,


for Carolyn S. Ansay, Esq.
General Counsel

CSA/jdb

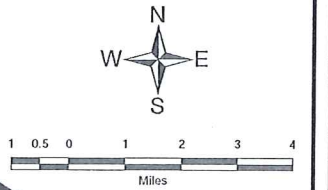
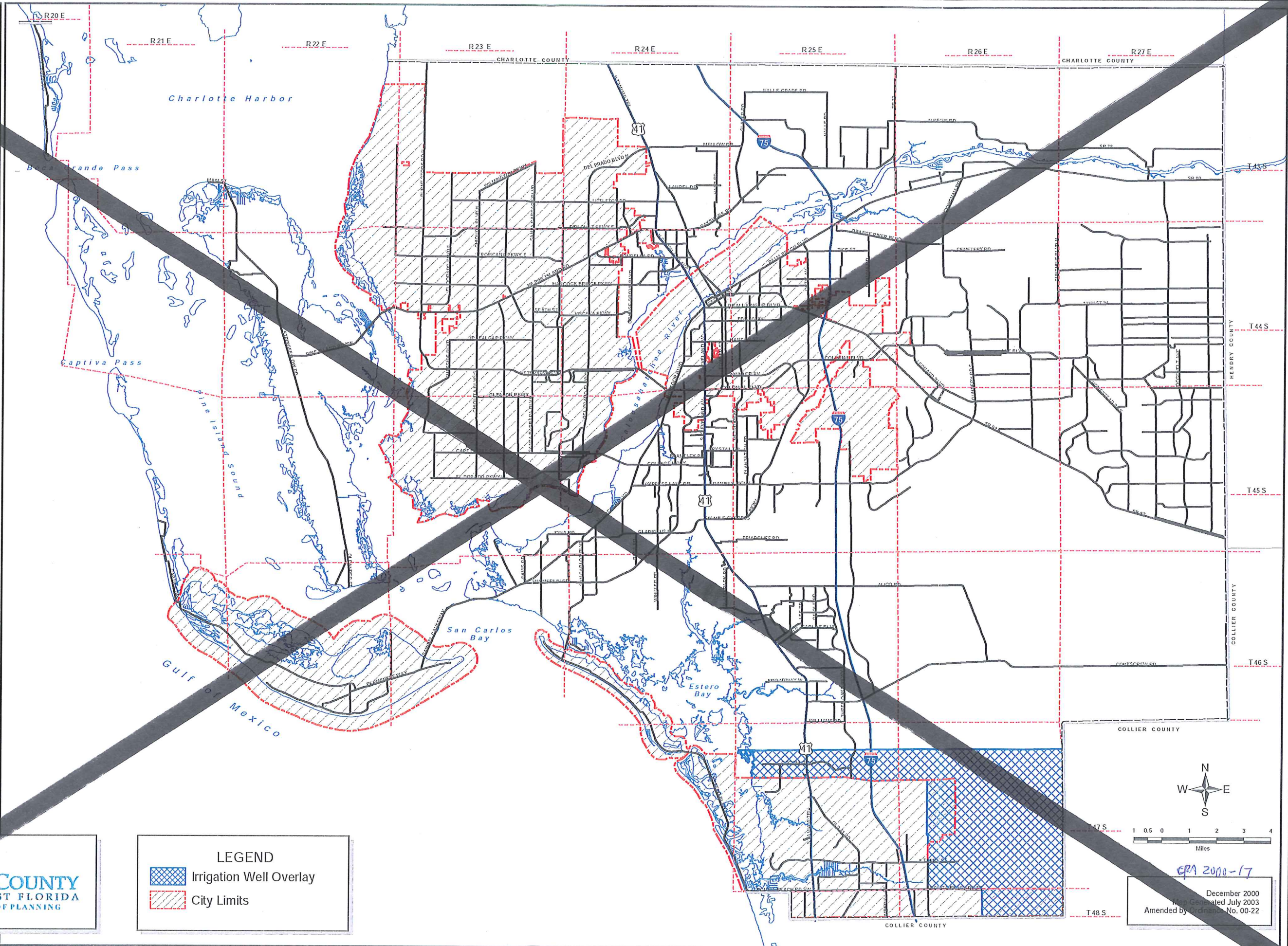
IRRIGATION WELL OVERLAY

(Lee Plan Map 13)



LEGEND

- Irrigation Well Overlay
- City Limits

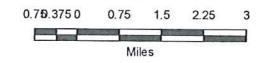


December 2000
Map Generated July 2003
Amended by Ordinance No. 00-22

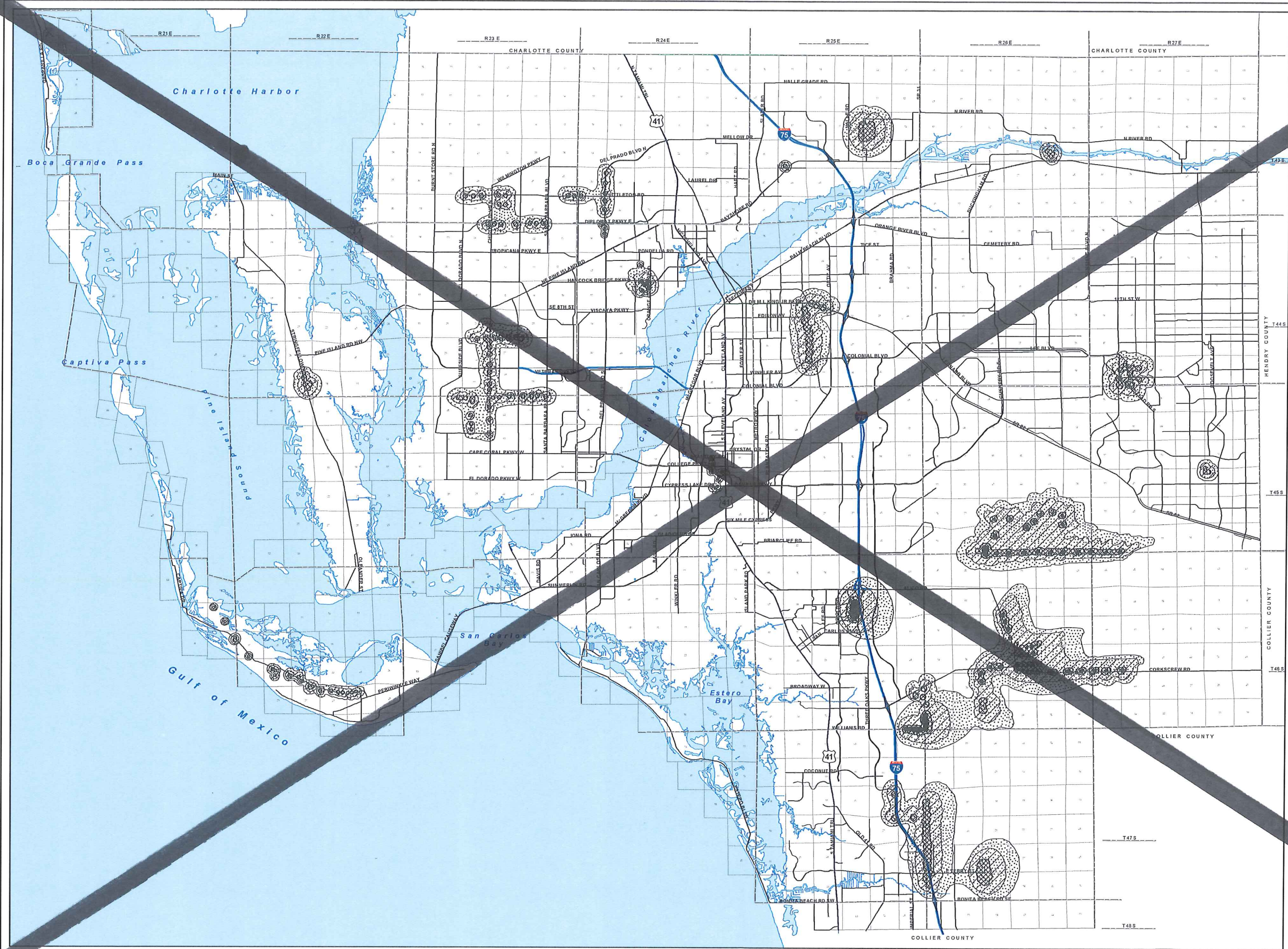
CONES OF INFLUENCE

Travel Times

- * Permitted Wells
- 6-Months
- ▨ 1-Year
- ▧ 5-Years
- ▩ 10-Years



Map Generated: January 2008
 City Limits current to date of map generation
 Last Amended: August 13, 2007
 Amended by Ordinance No. 07-13

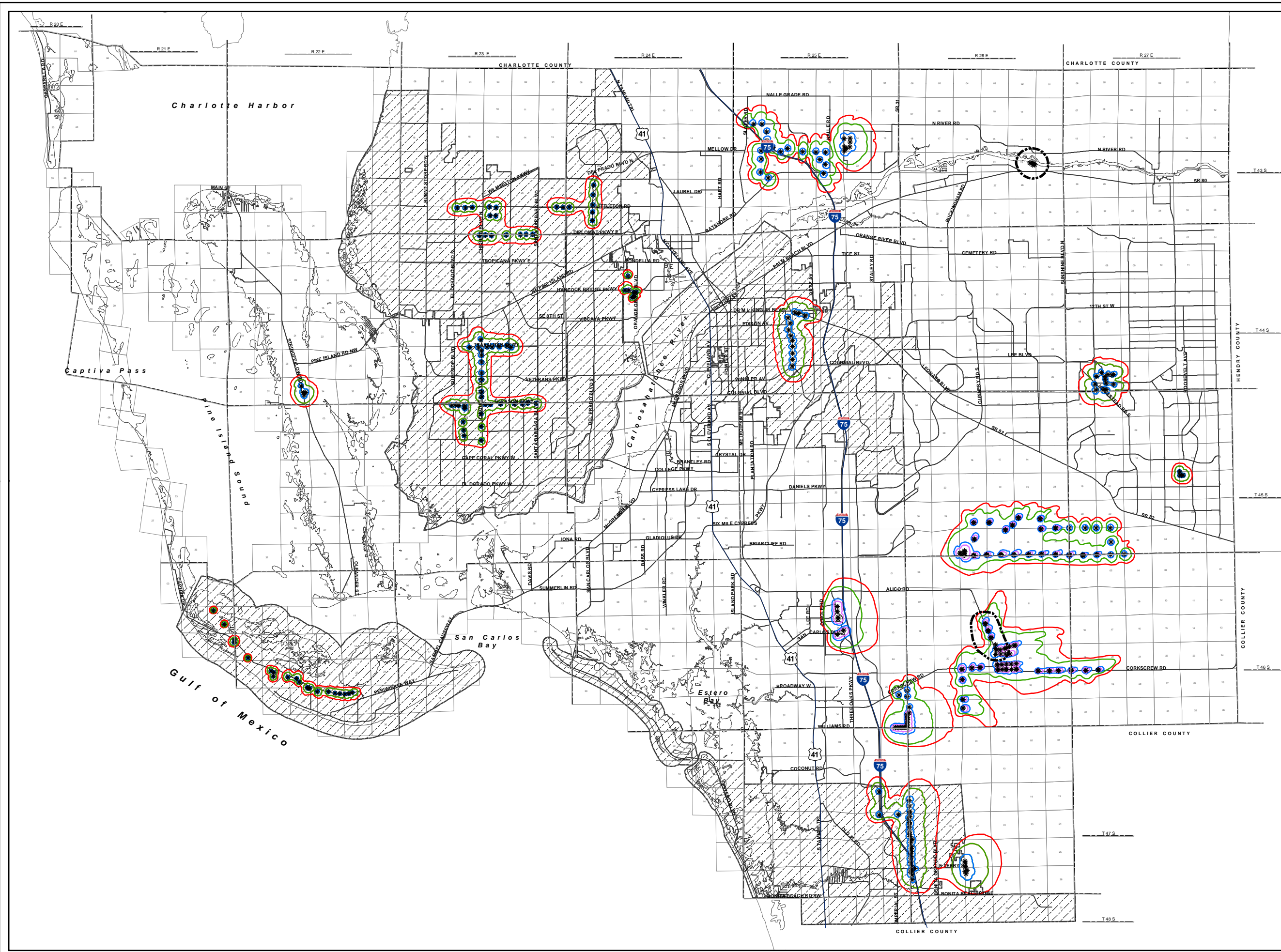


Wellfield Protection Zones

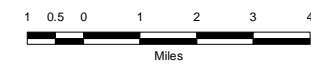
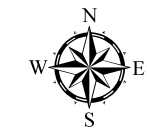
COMPOSITE ISO-TRAVEL TIME MAP

Travel Time

- 6-MONTHS
- 1-YEAR
- 5-YEARS
- 10-YEARS
- ASR PROTECTION ZONE
- * Permitted Well
- City Limits



LEE COUNTY
SOUTHWEST FLORIDA
DIVISION OF PLANNING



Map Generated: November 2013
City Limits current to date of map generation

Last Amended: August 13, 2007
Amended by Ordinance No. 07-13