

Lee County Board Of County Commissioners
 Agenda Item Summary

DATE CRITICAL
 Blue Sheet No. 20060387

1. ACTION REQUESTED/PURPOSE: Adopt an emergency ordinance establishing a moratorium on the rezoning of property from non-residential zoning district to a residential zoning district, and a moratorium on the submittal and processing of privately initiated comprehensive plan amendments for property within the Lehigh Acres Planning Community; and, Waive the statutory notice requirement based upon a finding that immediate enactment of the ordinance is necessary.

2. WHAT ACTION ACCOMPLISHES: If adopted, this ordinance will establish an approximate 18 month moratorium within the area identified as the Lehigh Acres Planning Community on the submittal and processing of (a) privately initiated plan amendments; and, (b) rezoning applications requesting a zoning change from a non-residential zoning district to a residential zoning district. The moratorium is intended to allow County staff and the Lehigh Acres community the opportunity to prepare and adopt a community plan and implementing land development regulations.

3. MANAGEMENT RECOMMENDATION:

4. Departmental Category: 12 **5:00 PM # 1** 5. Meeting Date: **04-04-2006**

6. Agenda:
 Consent
 Administrative
 Appeals
 Public 5:00 p.m.
 Walk-On

7. Requirement/Purpose: (specify)
 Statute
 Ordinance
 Admin. Code
 Other

8. Request Initiated:
 Commissioner _____
 Department County Attorney
 Division _____
 By: [Signature]
Dawn E. Perry-Lehnert
Assistant County Attorney

9. Background: A number of studies encompassing Lehigh Acres have recognized a short fall in the acreage committed to development with commercial and industrial land uses, school sites, and park areas. Despite this fact, the County continues to receive applications to rezone non-residential land in Lehigh Acres to residential use.

The Lehigh Acres Community is actively pursuing the development of a community plan to address the needs of the Lehigh Acres Planning Community. Development of this plan and related land development regulations is anticipated to take 18 months or more. Consequently, the Lehigh Acres community has requested that the Board adopt a moratorium to prevent further rezoning of property from non-residential to residential use and to curtail privately initiated plan amendments affecting the Lehigh Acres Planning Community area.

(continued on page 2)

10. Review for Scheduling:

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager/P.W. Director
					Analyst	Risk	Grants	Mer.	
				<u>[Signature]</u>	<u>[Signature]</u>	<u>[Signature]</u>	<u>[Signature]</u>	<u>[Signature]</u>	<u>[Signature]</u>
				<u>[Signature]</u>	<u>[Signature]</u>	<u>[Signature]</u>	<u>[Signature]</u>	<u>[Signature]</u>	<u>[Signature]</u>

11. Commission Action:

Approved
 Deferred
 Denied
 Other

[Signature]
 3/23/06 2:59 pm

Blue Sheet #: 20060387
Page #: 2
Subject: Lehigh Moratorium Emergency Ordinance

On March 21, 2006 the Board directed County staff to bring forward an emergency ordinance establishing the moratorium requested by the Lehigh Acres community. Accordingly, the attached proposed ordinance establishes a moratorium applicable to the Lehigh Acres Planning Community area as follows.

1. The moratorium is effective until September 30, 2007, which is about 18 months.
2. No zoning applications requesting a rezoning from non-residential to residential use may be accepted by the County after March 20, 2006. This includes rezonings from AG districts.
3. No privately initiated Lee Plan amendments can be accepted or processed after March 20, 2006.
4. Applications in the County system on or before March 20, 2006 may be processed to conclusion in the normal course of business.

This ordinance may be adopted by the Board with the waiver of the notice requirements by a 4/5th vote of the Board declaring an emergency requiring immediate enactment of the ordinance is necessary.

Attachment
Draft Ordinance

cc: Mary Gibbs, Director, DCD
Paul O'Connor, Director, Planning Division
Pam Houck, Director, Zoning Division

ORDINANCE NO. 06-

AN EMERGENCY ORDINANCE ADOPTING A MORATORIUM ON REZONING OF PROPERTY FROM A NON-RESIDENTIAL TO RESIDENTIAL ZONING DISTRICT WITHIN THE LEHIGH ACRES COMMUNITY PLANNING AREA; MORATORIUM ON PRIVATELY INITIATED PLAN AMENDMENTS; PROVIDING FOR LEGISLATIVE FINDINGS; ESTABLISHING A PURPOSE (DEVELOPMENT OF THE COMMUNITY PLAN AND LAND DEVELOPMENT REGULATIONS FOR THE LEHIGH ACRES PLANNING COMMUNITY); AN APPROXIMATE 18 MONTH MORATORIUM (UNTIL SEPTEMBER 30, 2007); PROVIDING FOR CONFLICTS OF LAW; SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, pursuant to Article VIII, Section 1 of the Florida Constitution and Chapter 125 of the Florida Statutes, Lee County is authorized and required to protect the public health, safety and welfare of its citizens and has the power and authority to enact regulations for valid governmental purposes that are not inconsistent with general or special law; and

WHEREAS, Florida Statutes, Section 125.66(3) provides the County with the authority to adopt an emergency ordinance; and

WHEREAS, the 1996 Lehigh Acres Commercial Land Use Study and the 2004 Lehigh Population Model Study recognized the shortfall of acreage within Lehigh Acres committed to development with commercial and industrial land uses, school sites and park areas; and

WHEREAS, the County and the residents of Lehigh Acres are actively pursuing the creation of a Community Plan for the Lehigh Acres Planning Community; and

WHEREAS, the Lehigh Acres Community Planning Corporation, along with Lehigh Acres residents have requested that the Board of County Commissioners adopt a moratorium on: (1) rezonings that serve to change land from a non-residential zoning district to a residential zoning district; and, (2) privately initiated Lee Plan amendments, until after preparation and adoption of the Community Plan and land development regulations for the Lehigh Acres Planning Community; and

WHEREAS, the Board of County Commissioners finds it is appropriate to establish the requested moratorium in order to facilitate the adoption and implementation of the Community Plan for the Lehigh Acres Planning Community.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Lee County, Florida:

SECTION ONE: LEGISLATIVE FINDINGS

The Board of County Commissioners hereby adopts the recitals set forth above as the legislative findings and conclusions necessary to support adoption of this ordinance.

SECTION TWO: PURPOSE

The purpose of the moratorium is to provide a reasonable amount of time to establish the Community Plan for the Lehigh Acres Planning Community along with the land development regulations necessary to implement the community plan; and, to prevent the review and approval of new development proposals that might be inconsistent with the new community plan.

SECTION THREE: MORATORIUM

A moratorium is hereby established and applicable to property within the area commonly known as the Lehigh Acres Planning Community, which is depicted on attached Exhibit A, as follows:

1. The moratorium is for a period of approximately 18 months and will remain in effect through September 30, 2007.
2. No rezoning applications requesting a zoning change from a non-residential zoning district to a residential zoning district will be accepted by the County after March 20, 2006. This includes rezonings from AG districts.
3. No private Lee Plan amendments affecting land within the Lehigh Acres Planning Community will be accepted or processed after March 20, 2006.
4. Rezoning or plan amendment applications received by the County on or before March 20, 2006 will be processed to their conclusion in the normal course of business. These requests may be approved notwithstanding this ordinance; but, nothing herein will be interpreted to require or guarantee approval of these applications.

SECTION FOUR: 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 FIVE: 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 SIX: EFFECTIVE DATE

The ordinance will take effect on the date a copy is accepted by the U.S. postal authority for special delivery by certified mail to the Department of State.

THE FOREGOING ORDINANCE was offered by Commissioner , who moved its adoption. The motion was seconded by Commissioner and, being put to a vote, the vote was as follows:

ROBERT JANES
DOUGLAS ST. CERNY
RAY JUDAH
TAMMARA HALL
JOHN E. ALBION

DULY PASSED AND ADOPTED THIS day of April, 2006

ATTEST:
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

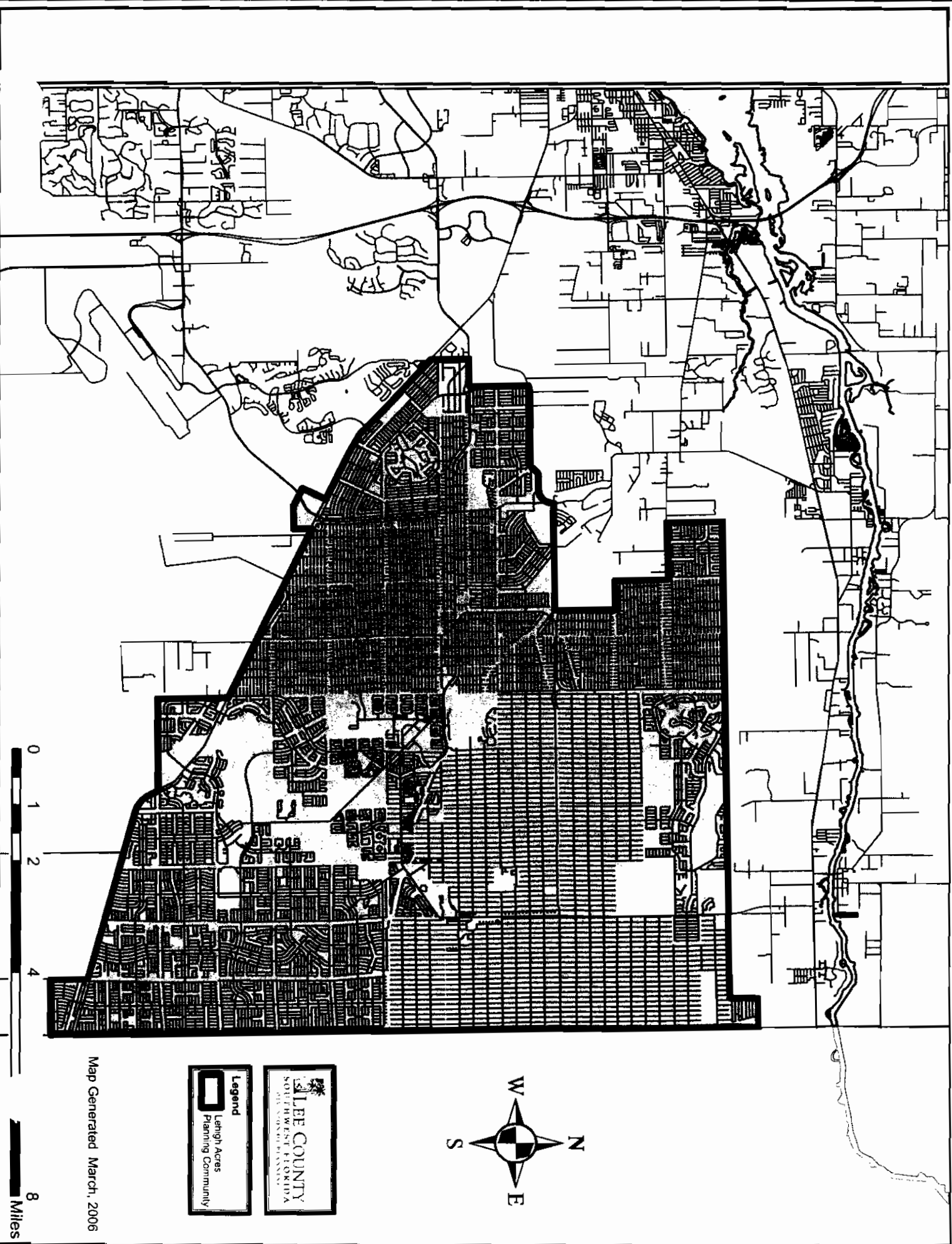
By: _____
Deputy Clerk

By: _____
Chairwoman

APPROVED AS TO FORM:

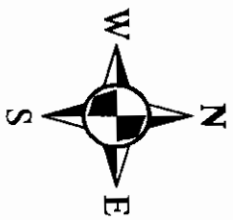
By: _____
Dawn E. Perry-Lehnert
Office of County Attorney

Exhibit A: Map of Moratorium Area



LEE COUNTY
SOUTHWEST FLORIDA
PLANNING COMMUNITY

Legend
□ 100 Acres Planning Community



0 1 2 4 8 Miles

Map Generated March, 2006