

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

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**LEE COUNTY COMPREHENSIVE PLAN**

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**THE LEE PLAN**

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**BoCC Public Hearing Document**  
**December 13<sup>th</sup>, 2006 Public Hearing**

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*Lee County Planning Division*  
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December 1, 2006

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

Text Amendment       Map Amendment

<input checked="" type="checkbox"/>	<b>This Document Contains the Following Reviews:</b>
<input checked="" type="checkbox"/>	<b>Staff Review</b>
<input checked="" type="checkbox"/>	<b>Local Planning Agency Review and Recommendation</b>
	<b>Board of County Commissioners Hearing for Transmittal</b>
	<b>Staff Response to the DCA Objections, Recommendations, and Comments (ORC) Report</b>
	<b>Board of County Commissioners Hearing for Adoption</b>

INITIAL STAFF REPORT PREPARATION DATE: November 15, 2006  
REVISED STAFF REPORT PREPARATION DATE: December 1, 2006

**PART I - BACKGROUND AND STAFF RECOMMENDATION**

**A. SUMMARY OF APPLICATION**

**1. APPLICANT:**

LEE COUNTY BOARD OF COUNTY COMMISSIONERS  
REPRESENTED BY LEE COUNTY DIVISION OF PLANNING

**2. REQUEST:**

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

## **B. STAFF RECOMMENDATION AND FINDINGS OF FACT SUMMARY:**

### **1. RECOMMENDATION:**

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

### **2. PROPOSED TRANSMITTAL LANGUAGE**

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

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

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

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

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

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

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

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

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

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

### **3. BASIS AND RECOMMENDED FINDINGS OF FACT:**

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

[http://www.lee-county.com/dcd1/Downloads/Documents/Studies\\_Reports/GroundwaterResource/GR&M.htm](http://www.lee-county.com/dcd1/Downloads/Documents/Studies_Reports/GroundwaterResource/GR&M.htm)

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

### **C. BACKGROUND INFORMATION**

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

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

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

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

## **PART II - STAFF ANALYSIS**

### **A. STAFF DISCUSSION**

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

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

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

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

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

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

### **B. CONCLUSIONS**

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

### **C. STAFF RECOMMENDATION**

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

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

**DATE OF PUBLIC HEARING: November 27, 2006**

**A. LOCAL PLANNING AGENCY REVIEW**

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

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

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

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

**C. VOTE:**

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

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

DATE OF TRANSMITTAL HEARING: \_\_\_\_\_

**A. BOARD REVIEW:**

**B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:**

**1. BOARD ACTION:**

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

**C. VOTE:**

**BRAIN BIGELOW**

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**TAMMARA HALL**

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**BOB JANES**

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**RAY JUDAH**

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**FRANK MANN**

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

DATE OF ORC REPORT: \_\_\_\_\_

**A. DCA OBJECTIONS, RECOMMENDATIONS AND COMMENTS**

**B. STAFF RESPONSE**

**PART VI - BOARD OF COUNTY COMMISSIONERS  
HEARING FOR ADOPTION OF PROPOSED AMENDMENT**

**DATE OF ADOPTION HEARING:**

**A. BOARD REVIEW:**

**B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:**

**1. BOARD ACTION:**

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

**C. VOTE:**

**BRIAN BIGELOW**

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**TAMMARA HALL**

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**BOB JANES**

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**RAY JUDAH**

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**FRANK MANN**

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