

**LEE COUNTY, FLORIDA
ZONING DIVISION
STAFF REPORT**

TYPE OF CASE: PLANNED DEVELOPMENT/DCI

CASE NUMBER: DCI2006-00026

HEARING EXAMINER DATE: May 27, 2009

I. APPLICATION SUMMARY:

- A. Applicant: Resource Conservation Holding, LLC in ref. to Corkscrew Excavation
- B. Request: Rezone 1,365.5± acres from Agricultural District, AG-2 to Industrial Planned Development (IPD) to allow the use of an Excavation, mining operation (Construction Materials Mining Operation) with a proposed depth of 110 feet below the wet season water table AND sod farming. Dewatering is not proposed. The proposed use would, if permitted, allow blasting activities. The applicant has also requested approval of a General Mining Permit.
- C. Location: The subject property is located at 16871, 17501, 18701 and 18901 Corkscrew Road, SE Lee County Planning Community, Lee County, FL.(District #5)
- D. Future Land Use Plan Designation, Current Zoning and Use of Subject Property:
The subject property is designated as Density Reduction/Groundwater Resource and Wetlands. The subject property is currently zoned Agriculture District (AG-2). The subject property is presently being used for cattle grazing.
- E. Surrounding Land Use:
- | <u>Existing Zoning & Land Use</u> | <u>Future Land Use Map</u> |
|---|--|
| North: AG-2, conservation and mitigation lands | Density Reduction/
Groundwater Resource |
| East: AG-2, conservation/mitigation lands and vacant | Density Reduction/
Groundwater Resource |
| South: one parcel lies to the south of the property and north of Corkscrew Road and is currently vacant; then Corkscrew Road; then AG-2, single family homes and vacant parcels; PRFPD, golf course; and IPD (vacated), row crops | Density Reduction/
Groundwater Resource |

West: AG-2, single family homes and vacant parcels

Density Reduction/
Groundwater Resource

F. Size of Property: 1,365.5 acres

II. **RECOMMENDATION:**

Staff recommends DENIAL of the Applicant's request for rezoning from Agricultural District, AG-2 to Industrial Planned Development (IPD) and finds the application is inconsistent with the Lee Plan. Staff finds that the application:

1. Fails to demonstrate that there will not be any adverse impacts on the area and the County's natural and environmental resources; and
2. Fails to demonstrate compliance with local, state, and federal air, water, and noise pollution standards; and
3. Creates substantial potential for significant harm on adjacent land uses; and
4. Fails to include adequate methods of assessment or management to demonstrate that there will be no negative impact to ground and surface water hydro periods, quality, and quantity; AND, has not provided assurances that the existing hydro periods will be preserved to sufficiently protect the historic adjacent land uses and properties; and
5. Is potentially deficient in indigenous open space, has potential impacts to adjacent lands, has potential negative impacts to adjoining and surrounding mitigation areas, has potential negative impacts to wildlife habitat, has potential negative impact to protected species, has a reduced lake slope, and is inconsistent with the Lee Plan; and
6. Has the potential to adversely impact the water recharge benefits of this area for the County's existing and future wellfield sites; and
7. Will significantly increase the truck traffic on Corkscrew Road; and
8. The anticipated effects of the aggregate mine use are incompatible with the existing and planned uses in the area; and
9. Has the potential to adversely impact the public health, safety, and welfare; and
10. Has not demonstrated that additional mining area is needed to meet the County's needs and export to other communities, while providing for the protection of the County's resources.

C. **Findings and Conclusions:**

Based upon an analysis of the application and the standards for approval of planned development rezonings, staff offers the following findings and conclusions in support of the recommendation of denial:

1. The applicant has not proven entitlement to a rezoning to Industrial Planned Development (IPD) because the applicant failed to demonstrate compliance with the intent or provisions of the Lee Plan, the Land Development Code, and other applicable codes and regulations. The current zoning and land use is agricultural, which is consistent and compatible with the surrounding land uses and consistent with the existing future land use category.

2. The applicant has failed to demonstrate that the proposed aggregate mine use is consistent with the Lee Plan and will not adversely impact natural resources (ie. groundwater quality and quantity) or environmental resources (ie. surrounding environmentally sensitive lands and mitigation areas). The applicant also failed to demonstrate that additional mining area is necessary to meet the County's aggregate needs and make these resources available for export to surrounding communities.

(Lee Plan Policy 1.4.5.; Objective 1.5.; Policy 1.5.1.; Goal 2.; Objective 2.1.; Policies 2.1.1. and 2.1.2.; Objective 2.2.; Policy 2.2.2.; Policy 5.1.5.; Objective 7.1.; Policies 7.1.1., 7.1.2., 7.1.3., and 7.1.9.; Policy 9.1.4.; Goal 10.; Objective 10.1.; Policies 10.1.1., 10.1.2., 10.1.3., and 10.1.4.; Standard 11.4.; Policy 61.2.6.; Policy 63.3.12.; Goal 77, Objectives 77.2 and 77.3.; Policies 77.3.1., 77.3.3., 77.3.4.; Policies 107.2.2 and 107.2.10.; Objective 107.3., Policies 107.3.1; Objective 107.4., Policies 107.4.2., 107.4.3., and 107.4.4; Objective 107.10., Policies 107.10.2 and 107.10.3.; Objective 107.11., Policy 107.11.4.; Policies 135.9.5. and 195.9.6.; and Goal 114, Objective 114.1., Policy 114.1.2.)

3. The location and character of the proposed mining use is not compatible with the existing or future residential uses in the surrounding area contrary to LDC section 34-1681(a)(1)c and Lee Plan policies 5.1.5, 7.1.3, .135.9.5 and 135.9.6.

4. The requested IPD zoning is not compatible with existing or planned uses in the surrounding area because it will significantly increase the number of trucks using Corkscrew Road east of Alico Road; has the potential to adversely impact the water quality and quantity thereby adversely impacting Lee County Utilities wells in the area. (Lee Plan Policies 2.2.1., 5.1.5., 7.1.1., 7.1.2., 7.1.3., 7.1.9., 9.1.4., and 135.9.5.; and

5. The mining operation may adversely affect environmentally critical areas or natural resources. The applicant has not adequately demonstrated that the proposed use will not adversely impact the nearby environmentally critical areas and areas that are being used for environmental impact mitigation. (Lee Plan Goals 10, 77, 114; Objectives 2.1., 2.2. , 10.1, 7.1, 7.2 and 77.3., 107.3., 107.4., 107.10, 107.11, 114.1; Lee Plan Policies 1.5.1.;2.1.2, 2.2.1, 2.1.3, 3.3.1, 7.1.1, 7.1.2, 7.1.3, 101.1, 10.1.2., 10.1.3., and 10.1.4.; 77.3.1.,77.3.3., 77.3.4.; 107.2.2, 107.2.10, 107.3.1, 107.4.2, 107.4.3,107.4.4, 107.10.2, 107.10.3, 107.11.4, 114.1.2.; and, Standard 11.4.

6. There is a higher risk and increase of contaminant transfer in lakes/open waterbodies than in the groundwater flows that are filtered through the undisturbed soil and rock. Consequently, there is a greater risk to the surrounding area and ultimately the County's wellfields.
7. Approval of the request will place an undue burden upon existing transportation or planned infrastructure facilities and the site will not be served by streets with the capacity to carry traffic generated by the development. The proposed development will significantly increase the number of trucks using Corkscrew Road, east of Alico Road and cause a negative impact on the residents in this area. (Lee Plan Objective 2.2., Policies 2.2.1, 7.1.2, and 7.1.9.)
8. The proposed uses are not appropriate at the subject location. The applicant has failed to demonstrate that the proposed land use and development are appropriate at the subject location and will not have an adverse impact on the natural resources, environment, and surrounding land uses. In addition, the existing agricultural use is consistent and compatible with the surrounding land uses. (Lee Plan Policy 1.5.1.; Objective 2.2. and Policy 2.2.1.; Policy 5.1.5., Policies 7.1.1., 7.1.2., 7.1.3., 7.1.9., and 135.9.5.)
9. No set of conditions can be applied to adequately protect the County's waterbodies and natural resources in the DR/GR as required in Goals 10, 107, 114, 115 and 117 or Policy 1.4.5.
10. The deviations:
 - a) do not enhance the planned development; and
 - b) do not preserve and promote the general intent of the LDC to protect the public health, safety and welfare.

III. BACKGROUND INFORMATION AND ANALYSIS:

Application History

On March 26, 2006, Resource Conservation Holdings, Inc. filed an application encompassing 1365.5 acres requesting Industrial Planned Development (IPD) zoning in order to establish a fill operation with a maximum depth of 20-25 feet. The lake to be created over an estimated period of 15 years covered about 1062 acres. This fill pit application was pursued through a number of sufficiency reviews and resubmittals until June 20, 2007 when the application was substantially revised to request an aggregate mine operation with a maximum depth of 100 feet. Through resubmittals, the last of which was October 2, 2007, the proposed aggregate mine request evolved into an operation creating a 825 acre lake with a maximum depth of 110 feet and 120 acres of mine related uses including concrete batch plant, asphalt batch plant and 50,000 square feet of office/scale area.

The applicant began pursuing an Environmental Resource Permit for an aggregate mine in June 2006 (FDEP file no. 0266397-001). The ERP was issued in February 2009. A copy of this ERP Permit #0266397-001 is attached as Attachment J and was reviewed by County staff in preparing this recommendation.

During November 2008, SFWMD noticed its intent to issue Water Use Permit No. 36-6874-W to RCH for the Corkscrew Excavation project. In response to this notice, Lee County filed an administrative action to challenge the water use permit (DOAH Case No. 08-6480. This action is still pending.

In December 2007, the Board adopted a moratorium, effective as of September 10, 2007, on the processing of rezoning applications within the Southeast Lee County Density Reduction/Groundwater Resource area. This application was among those affected by the moratorium. As a result of the moratorium, Resource Conservation Holdings, Inc. filed a complaint against Lee County alleging, among other things, their application was deemed complete as of October 2, 2007 and entitled to be processed under the regulations in effect prior to the adoption of LDC Chapter 12. On February 12, 2009, the Circuit Court ruled in the plaintiff/applicant's favor (see Attachment R) and deemed the application as submitted through October 2, 2007 sufficient for processing and hearing before the Lee County Hearing Examiner. Accordingly, County staff scheduled this case for hearing and prepared a Staff recommendation based upon the application's compliance with the LDC provisions in effect prior to September 9, 2008. A copy of the applicable LDC provisions underlying the County staff zoning review are attached as Attachment T.

On May 6, 2009, while this staff report was being prepared, the applicant submitted a revised TIS and Master Concept Plan. These documents are attached as Attachments F and S. No cover letter or explanation with respect to these documents was provided by the applicant. Nevertheless, these documents were considered as part of the review conducted to prepare staff's recommendation.

Property Location.

The subject 1365.5 acre parcel is located East of I-75 along the Corkscrew Road Corridor on the north side of Corkscrew Road approximately 1.5 miles east of the intersection with Alico Road. It is located in the Density Reduction/Groundwater Resource Area approximately 2.5 miles west of Westwind Mine (approved under Z-01-016), 3.5 miles west of the proposed Estero IPD mine (denied under Z-06-097) and directly north of the Schwab 640 Mine (denied under Z-01-046) and a residential area west of 6 L's Farm Road. The subject property is bounded on the north by County property subject to a conservation easement and identified in the Lee Plan as the Airport Mitigation Overlay area; on the east by the T & T mitigation area, now owned by the County; and on the west by the Burgundy Farms, a large lot residential neighborhood.

Community Character

Since 1966, the predominant uses along the Corkscrew Road Corridor have been large scale agricultural enterprises and scattered large residential uses (ranchettes). East of Alico Road this corridor has long been the home of farming, ranching and grove activity along with ranchettes clustered in "communities" and "neighborhoods". Prior to 1994, Corkscrew Road

was an unpaved road extending eastward from the intersection with Alico Road to its intersection with state Road 82. Consequently, the heaviest traffic using the dirt road were the agricultural trucks and farm equipment related to the seasonal crop production. West of Alico Road the corridor has developed at urban densities with a variety of residential neighborhoods.

Corkscrew Road Corridor east of Alico Road is essentially a rural community served by a general store built in 1981. The Corkscrew Country Store acts as the hub for the community and has served as a meeting place for residents within a six-mile radius for the past 27 years.

With the exception of the largely reclaimed Rinker/RMC Mine located west of Alico Road, the residents along this corridor were basically not exposed to the effects of mining operations until the Westwind Mine was approved as a fill pit in a 1999 and then later intensified to an aggregate mine in 2002. Consequently, the Westwind Mine was approved without meaningful opposition, except with respect to traffic concerns. Since that time the residents have joined together to voice their concerns regarding incompatibility of mining uses with residential/agricultural communities.

The residents' voice was first heard with respect to Schwab's application for an aggregate mine covering one section of land located directly south of the Corkscrew Excavation site. Their concerns included the dangers of dump truck traffic, the noise, dust and light pollution as well as the effects of blasting on the rural lifestyle and homes of the Corkscrew Road residents. Schwab's request was denied by the Board based upon finding that the anticipated impacts from the aggregate mine use are incompatible with existing and planned uses in the area; and, if approved would result in establishing of a use not consistent with Lee Plan directives to protect the health safety and welfare of its citizens.

About 5 years later, the same group of residents voiced their concerns with respect to a fill pit application filed as Estero IPD. The Estero IPD parcel is located about 3.5 miles east of the Corkscrew Excavation project and adjacent to the Westwind Mine. Having lived with the Westwind Mine for about 6-7 years, the residents were able to submit credible evidence and testimony during the 2007 hearing regarding the change in their lifestyles and quality of life, the truck traffic generated by mine activity, the intrusion of the operation at night and on weekends etc.

Since the inception of comprehensive planning in 1984, the Corkscrew Road Corridor has been designated and developed primarily for agricultural and low density residential uses. The area has maintained this character for more than 25 years.

Corkscrew Road Corridor - Comprehensive Planning History

The Lee County Comprehensive Plan (Lee Plan) adopted by Lee County in 1984 designated the property east of Alico Road as "Open Lands". Open lands was a non-urban Future Land Use Category contemplating viable agricultural uses, open space, natural resources conservation and residential densities at one dwelling unit per five acres. This future land use category was described at that time as "containing most of Lee County's viable agricultural activities -- grazing, cultivation, and other farming. The continuation of the Open Lands essentially in their present character is intended to protect and encourage

agricultural opportunities, provide for a rural character and life-style, reserve open space, and conserve important natural upland resources.”

In 1990, the Lee Plan future land use designation was changed to “Density Reduction/Groundwater Resource” and “Resource Protection” (“DR/GR”). DR/GR lands were characterized as property that accommodates wellfield development, agricultural uses, mineral and limerock extraction, conservation and low density residential at one dwelling unit per 10 units per acre. The “Resource Protection” areas were designated for the preservation of water resources. “Residential Development” was contemplated at one unit per 40 acres.

Four years later, the County conducted an Evaluation and Appraisal Report Amendment to the Plan (EAR). At that time, uses that could be permitted in the DR/GR Land Use Category were expanded to allow ancillary uses associated with mineral or lime-rock extraction and to include gun ranges and residential development at one unit per ten acres.

Also in 1994, the “Resource Protection Areas” were changed to the “Wetlands” Future Land Use Category. Residential development was permitted in Wetlands areas at one dwelling unit per 20 acres.

In 1999, the uses permitted in the DR/GR Future Land Use Category were further expanded to allow private recreational facilities in certain areas. The Lee Plan was amended in 2002 to eliminate the terms “mineral” and “lime-rock” and replaced those terms with “natural resource.”

Master Concept Plan¹

Based upon the circuit court order, the application reviewed is a composite of the documents submitted to the County through October 2, 2007. On May 6, 2009 the applicant submitted a TIS identified as revised April 27, 2009 (Attachment F), a one page Mining and Excavation plan dated 4/21/09 Attachment S) and a four page Master Concept Plan (MCP) dated 4/21/09 (also Attachment S). The revised Mining and Excavation Plan (MEP) appears identical to the Plan approved under the DEP permit. Both the MEP and the MCP, though substantially similar to the application documents submitted through October 2, 2007, include additional restoration/enhancement area along the eastern boundary. A comparison exhibit of the October ,2007 drawings and May 2009 drawing has been made and is found as attached Map #5. This recommendation is based upon both the October 2, 2007 and May 6, 2009 submittal information as well as the FDEP Permit # 0266397-001 (Attachment J)

The MCP (Sheet 1 of 4) depicts the 1,365.5 acre site. Access to the site is solely provided from Corkscrew Road, which is an existing County right-of-way. There is a break in the proposed berm and buffer along Corkscrew Road at each of the eight existing access points leaving open the opportunity for all of these access points to be used as part of this planned development. The applicant does not proposed closing any of these access points.

¹The original application filed on March 26, 2006 sought a mining operation with a maximum depth of 20 feet. The June 1, 2006 submittal changed the lake depth on the Master Concept Plan (MCP) to 25 feet. This depth was consistent in the next few submittals (September 15, 2006, December 20, 2006, January 17, 2007, and February 8, 2007). In the June 20, 2007 resubmittal the lake depth was increased to 100 feet. Finally the August 7, 2007 submittal included a Plan with a maximum depth of 110 feet which was maintained in the final October 2, 2007 submitted Master Concept Plan.

The MCP also depicts an east-west 100 foot wide right-of-way as described in County Commissioner Minutes Book 6 at Page 219 bisecting the subject property. A note on page one of the MCP states "The viewer's is road depicted at the direction of staff and is not a valid property interest on behalf of Lee County nor does that 'road' constitute a legal cloud on the title of the applicant." The County Attorney's office does not agree with this characterization of the viewer's road and believes the County holds rights for the benefit of the public that must be extinguished through the vacation process in order to locate any of the proposed mining operations within this area.

The MCP depicts a 825 acre lake within the proposed limits of excavation. The typical lake section shows a 110 foot maximum depth for the excavation. From the top of bank the lake slope is 4:1 to 4 feet below the dry season water table. The slope changes at this point to 2:1 to a depth of 20 feet below the wet season water table. At 20 feet to the maximum lake depth, the slope will be vertical. The application does not clearly indicate how/when these slopes will be created. This leaves an opportunity for the applicant to either dig to the slope depth or create the slope by backfilling as part of the reclamation process. How the slopes are created is an issue that affects the integrity of the littoral zones and the longevity of the post mining reclamation. Backfilled slopes are not desirable as they are more susceptible to degradation from lakes and weather effects.

Open space is calculated at 20% of the site with 273.1 acres required, at a minimum. The MCP states only the minimum required open space will be provided.

Sheet 2 of the MCP depicts the phases of the mine. A total of 5 phases are proposed. The phasing chart is not clear and appears to indicate that all phases can begin at the same time (ie year zero). A note mentions that the site will be excavated sequentially, with a new phase not excavated until the completion of the previous phase. This note raises two issues. First, based upon this note and using the maximum length for each phase, the total length of the mining operation could be as much as 50 years. Second, it does not address the fact that aggregate mines are excavated in a manner that allows the operation to meet the FDOT aggregate requirements. Typically this requires several areas to be mined at one time in order to achieve the appropriate mix. Consequently, mining sequentially, though potentially desirable, has yet to be achieved in Lee County. Another issue not addressed by the application materials is how the applicant proposes to excavate and process the material in Phase V given the fact that this area is where the mining equipment operations are located.

Phase I encompasses the westernmost portion of the proposed lake. No information is provided regarding proposed blasting activity with respect to the location and means of accomplishing the initial mine key cut. The key cut is typically an intrusive blasting activity that can potentially occur within 1000 feet of the nearest residence. Under Florida Statutes, the State Fire Marshall has sole jurisdiction with respect to construction materials mine/aggregate mine blasting activity. If this mine is approved as proposed, the Burgundy Farms residents will experience the maximum impact of this new mine.

Sheet 3 of the MCP details the equipment area. The rock processing and sorting area is shown. This sheet also depicts up to four areas where concrete and asphalt plant operations may be developed, although these are not specifically identified on this sheet. The Mining and Excavation Plan does specify there are four concrete batch plants proposed within this planned mining operation.

Finally, Sheet 4 is the conceptual reclamation plan. This plan is intended to depict what the mine site will look like when the excavation is complete and the property is reclaimed. However, the series of notes cause the plan to be so general in nature it is difficult to predict what the site will actually look like once the mining activity is completed, when the mine activity will be complete or when the reclamation will actually begin. For example:

General note 1 implies that reclamation will begin within a phase 30 days after the last disturbance by the mine operation within that phase. However, what constitutes a "disturbance" is unknown and appears to be at the mine operator's discretion. Consequently, it is possible for all of the reclamation to be delayed until the entire 825 acre lake is completely mined. This fact, coupled with the applicant's intent that the "mine reclamation will be undertaken to complement post mine uses", opens the opportunity for the reclamation to be the subject of additional delay as the property owner seeks approval of the post mine uses to make the most "economically beneficial" use of the reclamation planting plan.

General note 6 proposes an incongruent result. It definitively provides that a 10 foot wide littoral planting shelf, around the entire lake perimeter will be protected from impacts during mining activity; and, goes on to ensure that this protection will continue after the mine is completed. However, this protection reaches its greatest level if the post mine use is livestock grazing because the developer will put a fence around the entire lake and prevent the livestock from impacting it by drinking directly from the lake.

The Mining and Excavation Plan (MEP) depicts a five phase mining operation. The MEP provides insight with respect to the intensity of this operation. Specifically, it indicates that there will be at least dragline activity on the site 24/7 although the hours of operation are identified as 5am to 6pm Monday through Friday and 5am-12 pm on Saturday. The notes indicate that rock crushing will generally occur 7am to 6pm Monday through Friday and 7am to 12pm Saturday, *unless* the mine operator contracts to provide materials on a 24 hour basis. However, the notes do not clarify how the crushed rock will leave the site when the mine operator has a contractual obligation to provide materials on a 24 hours basis. The logical presumption is that this mine intends to be up and running with respect to any and all related mine activity 24/7.

The Phasing Table and timing on the MEP is the same as on Sheet 2 of the MCP. A Grout Curtain Phasing table is included. This table presumes that the phases will be mined in sequential order so that a grout curtain will be placed at the end of a phase and before beginning the next phase. As indicated earlier, sequentially phased mining in Lee County is unusual due to the mine's need to meet the FDOT aggregate mix requirements, which often requires mining in multiple separate locations simultaneously. Consequently, when the grout curtain will be poured into place is unknown.

The applicant's Adaptive Management Plan (part of Attachment G) provides an introduction and description of a grout curtain. The applicant is proposing to establish a grout curtain (hydraulic barrier) around the perimeter of the lake to manage groundwater levels as part of this excavation. The proposed grout curtain is intended to establish an impediment to flow that will result in water levels outside the mine consistent with those that existed prior to the mining activity. The applicant explains that this is not a proposed impermeable barrier, but one that impedes the flow of groundwater. The material used will be a Portland cement-

based grout. The Plan says that along the grout curtain alignment grout holes will be placed at 15 to 20 foot intervals. During the initial stages, the proper combination of hole spacing, grout mixes, primary and secondary hole depth, grout pressure, and curtain phasing will be looked at by the applicant. The applicant explains a pilot program should be performed prior to full scale construction of the curtain, so that adjustments can be made.

The applicant's proposed property development regulations and schedule of uses are attached as Attachment C. The property development regulations propose a maximum height of 85 feet; and, allow principal and accessory structures to be set back a minimum of 20-50 feet from a private property line. Consequently, principal and accessory structures may potentially be located in the areas identified as upland/wetland restoration and enhancement areas.

Planning Community Map and Allocation Table

The subject property is within the Southeast Lee County Planning Community. The Use Allocation Table does not regulate natural resource extraction land use.

Lee Plan Considerations

The goals, policies, and objectives of the Lee County Comprehensive Land Use Plan (Lee Plan) are the standard by which all development is evaluated. The Lee Plan sets forth a vision for the next 30 years of development. Compliance with the Lee Plan is a prerequisite to development approval. The goals, policies and objectives of the Lee Plan are designed to safeguard the public interest. Not all uses contemplated by the plan are immediately appropriate, and in all instances, the most important theme is one of neighborhood protection and compatibility with existing and planned uses.

In summary, staff finds that this application is inconsistent with the Goals, Objectives, Policies, and Standards of the Lee Plan forth in Exhibit Q. To follow, staff provides greater detail in support of this finding.

The *Vision* of the Lee Plan is to depict Lee County as it will appear in the Year 2030. Lee County does not expect its Future Land Use map to change dramatically during the next 20 years, as the County is attempting to maintain a clear distinction between urban and rural areas.

Chapter II of the Lee Plan describes the Future Land Use Category of the property within Lee County. The stated goal of the Future Land Use Map is to protect natural and man-made resources, provide essential services in a cost-effective manner, and discourage urban sprawl. The subject property is located within the Southeast Lee County planning community and is designated by the Lee Plan as Density Reduction/Groundwater Resource (DR/GR) and Wetlands. The Lee Plan indicates that the DR/GR future land use category allows land uses of agriculture, natural resource extraction and related facilities, conservation uses, publicly-owned gun range facilities, private recreation facilities, and residential uses at a maximum density of one dwelling unit per ten acres (1 du/10 acres).

Policy 1.4.5. describes the DR/GR as upland areas that provide substantial recharge to aquifers most suitable for future wellfield development. These areas also are the most

favorable locations for physical withdrawal of water from those aquifers. This fact is borne out by the location of county wellfield areas within the Southeast DR/GR area. Land uses within the DR/GR areas must be compatible with maintaining surface and groundwater levels at their historic levels. In recent years the Board made attempts to understand how mining activity and other development affect the ability of the DR/GR area to continue producing the majority of the County public water supply. The most recent study by Dover Kohl is nearing completion. A copy of the first report due, titled "Prospects for Southeast Lee County" is available on the County's website at:

http://www3.leegov.com/dcd/CommunityPlans/SELC_DRGR/FinalReport.htm

The character of the DR/GR lands throughout the County are not uniform. Even land areas within the DR/GR in Southeast Lee County can be differentiated based on the character of development that has emerged within that area. For example, the lands classified as DR/GR along the Alico Road Corridor have been the home to ongoing mine activity for the past four decades. The lands classified as DR/GR north of the eastern Bonita Beach Road Corridor have been primarily low density residential and conservation in nature. The lands along Corkscrew Road east of Alico have historically been characterized as a rural agricultural/residential community by both staff and the Board of County Commissioners. The DR/GR lands that surround the Corkscrew Road Excavation site are not transitioning to mining uses. To the contrary, the character of the Corkscrew Road area has remained constant: one of rural agricultural/large lot residential development, with the sole exception of the Westwind Mine. The Board has now denied two applications for additional mining activity within this area - indicating a commitment to maintain its rural character.

This application seeks approval of natural resource extraction and related facilities, which is a use permitted within DR/GR future land use category. Currently the property is in active agricultural use (cattle grazing). Denying the applicant's request to establish an aggregate mine still permits the owner reasonable use of the property consistent with the Lee Plan and the current Agriculture District, AG-2 zoning.

Objective 1.5 and Policy 1.5.1. describe the Wetlands future land use category. Permitted land uses in this category consist of very low density residential and recreational uses that will not adversely affect the ecological functions of wetlands. Maximum residential density is one dwelling unit per twenty acres (1 du/20 acre) (except as otherwise provided in Table 1(a) and Chapter XIII of the Lee Plan). An aggregate mine is not a permitted use in the Wetlands category. The applicant is proposing to mine Wetland areas located on the western side of the property. Consequently, the application is not consistent with Policy 1.5.1.

Growth Management

Goal 2, Objective 2.1., and Policies 2.1.1. and 2.1.2. coordinate the location and timing of new development. They provide for contiguous and compact growth patterns through the rezoning process to contain urban sprawl, minimize energy costs, conserve land, water, and natural resources, minimize the cost of services, prevent development patterns where large tracts of land are by-passed in favor of development more distant from services and existing communities. Most residential, commercial, industrial, and

public development is expected to occur within the designated Future Urban Areas and new land uses will be permitted only if they are consistent with the Future Land Use Map and the goals, objectives, policies, and standards of this plan.

The proposed location for the Corkscrew Excavation Mine does not promote contiguous and compact growth patterns. Mining uses along Corkscrew Road Corridor east of Alico Road have been limited. At the present time the only operating mine is the Westwind Mine located about 2.5 miles east of the subject property (or 6 to 6.5 miles east of the intersection of Alico Road). In recent years, property owners have made unsuccessful attempts to obtain mining approvals. These include the Schwab 640 parcel located directly across Corkscrew Road to the south (DCI2001-00002) and most recently the Estero Group IPD (DCI2006-00007). The Estero Group IPD application involved property located 3.5 miles east of the subject property (approximately 6.5 miles east of the Alico Road intersection and adjacent to eastern boundary of the Westwind Mine.)

Objective 2.2. pertains to development timing and repeats the theme of compact and contiguous development patterns. New growth is directed to areas that will create and perpetuate contiguous development patterns. *Policy 2.2.1* provides that rezonings will be evaluated as to compatibility with surrounding land uses and other relative facts affecting the public, health, safety and welfare. By their nature, mining operations dramatically alter the character of the landscape. The Alico Road corridor evidences a development pattern dominated by mining operations. Additional mining approvals in the Alico area would perpetuate contiguous development patterns because the character of that area is one of intense mining activity. By contrast, the Corkscrew Road Corridor does not evidence a development pattern of mining. In fact, there is only one mining operation along the 7 mile stretch east of Alico Road. Consequently, the application is not consistent with *Objective 2.2.* and *Policy 2.2.1.*

Policy 2.2.2 states that the uses and density ranges reflected on the future land use map are no guarantee that the uses are appropriate. The Board must balance the standards and policies of the Lee Plan with several factors. This Policy states that approval should be delayed in an effort to encourage compact and efficient growth patterns. The Board was mindful of this Policy in its denial of the Estero Group IPD application. The historic mining corridor has been confined to the Alico Road area, proximate to the Interstate. The Estero Group application was about seven miles from the Alico Road/Corkscrew Intersection and 12 miles from the Interstate. Its proposed location did not promote compact and efficient growth patterns as mandated by the Lee Plan. Similar factors are at work with respect to the Corkscrew Excavation application.

Compatibility

Objective 5.1 provides that development approvals for residential, commercial, and industrial land uses must be consistent with the policies following the Objective, the general standards under Goal 11, and other provisions of the Lee Plan.

This application seeks development approval for a proposed mining operation. Natural Resources staff in review of this application notes there is substantial potential for significant harm on adjacent land uses that have been established for common public purpose and private use (potable water wellfields, private wells, environmentally sensitive

lands, lands being used for mitigation of environmental impacts, etc.). They also report the applicant fails to include methods of assessment or management that has been demonstrated to be effective in similar circumstances in this area. This would include negative impacts to ground and surface water hydroperiods, quality, and quantity, potential negative impacts on surrounding land uses, the residents in the area, the natural resources, environmentally sensitive land and lands being used for environmental mitigation.

Policy 5.1.5 requires the Board to protect existing and future residential areas from any uses that are potentially destructive to the character and integrity of the residential environment. If such uses are proposed and generally applicable development regulations are deemed inadequate, conditions may be attached to in order to minimize or eliminate the potential impact; or, where no adequate conditions can be drafted, the application can be denied altogether.

The eastern stretch of the Corkscrew Road Corridor has emerged since the 1960's as an area developed with residential and agricultural uses. Until 1999, the only mining operation directly accessing Corkscrew Road was the Rinker/RMC mine located just west of the Alico Road Intersection. Rinker/RMC Mine is no longer in operation. It is now in the reclamation phase and has been platted as a single family subdivision. The character of the Corkscrew Road corridor continues as a rural neighborhood of scattered ranchette communities.

The introduction of the first mining use east of Alico Road was the Westwind Mine in 1999. The effects of the Westwind Mine on the quality of life and character of the road corridor have been significant, as evidenced by the substantial citizen opposition to the mining applications that followed, namely, Schwab and the Estero Group IPD. Impacts from mining operations are not limited to property adjacent to the mine. Rather, there is a circle of influence beyond the immediately adjacent areas that are impacted by the operation of the mine site. The activities precipitating the impacts include dump truck traffic entering and leaving the site via Corkscrew Road, hours of operation, water use, surface water management and other issues.

The subject property fronts on and solely accesses Corkscrew Road. Lee County DOT reports that dump trucks comprise approximately one-half of the large trucks on Corkscrew Road east of Alico Road and one-fourth the number of large trucks from Alico Road to I-75. The approval of the Corkscrew Excavation IPD application will potentially double to triple the number of dump trucks per day (from 138 to approximately 310) on Corkscrew Road east of the project, increase the number of dump trucks by eighteen times (from 138 to 2,500) per day on Corkscrew Road between the project entrance and Alico Road, and triple the number of dump trucks on Corkscrew Road west of Alico Road (from approximately 500 dump trucks per day to approximately 1,500). The number of dump trucks on Alico Road north of Corkscrew Road will increase from 462 to approximately 2,000 per day. The number of dump trucks through the intersection of Corkscrew Road at Alico Road will increase from 549 to 3,056. LCDOT comments in their May 11, 2009 memorandum (attachment L) do not indicate any change to these calculations. The primary revisions are described as an update of traffic counts and the estimated project traffic distribution. The TIS fails to include any traffic calculations related to the proposed four asphalt batch plants shown on the Master Concept Plan and

included in the proposed Schedule of Uses. The two most recent zoning applications in this area recognize the increase in traffic as well as the type of vehicles involved may be potentially destructive to the character and integrity of the residential environment. The failure to include any traffic analysis of the four proposed asphalt plants concerns staff because this may mean that the full impacts of this development have not been disclosed or considered.

The application also seeks a mining operation that will operate 24 hours per day Monday through Saturday with respect to the excavation/dragline operations and potentially the rock crushing operations. Light, noise and potentially dust travel far from the site with respect to these activities and may interrupt the quiet enjoyment of nearby properties such as the residents of the Burgundy Farms or 6 Ls Farms neighborhoods.

In accord with the preceding paragraphs, the Corkscrew Excavation request is not consistent with policy 5.1.5.

Goal 7, Objective 7.1., and Policy 7.1.1. promote opportunities for well-planned industrial development at suitable locations within the county. All development approvals must be consistent with the Policies following the Objective, general provisions of Goal 11, and other provisions of the Lee Plan. Various factors must be considered for industrial rezonings. These include: compliance with local, state, and federal air, water, and noise pollution standards, generation of noise levels incompatible with adjoining residential areas, storage or production of hazardous materials (toxic, explosive, hazardous), contamination of surface and ground water, air emissions, effects on neighbors and surrounding land uses, effects on water quality, buffering and screening, and impacts on transportation facilities

The Corkscrew Excavation application does not provide adequate information to demonstrate compliance with local, state, and federal air, water, and noise pollution standards. The subject property abuts and is proximate to existing residential land uses. The applicant states that they will comply with permitting standards for noise impacts to the residential area, but does not provide sufficient information as to how this will be specifically achieved by this proposed mining operation.

Natural Resources staff finds that there is a substantial potential for significant harm on adjacent land uses that have been established for common public purpose and private use (potable water wellfields, private wells, environmentally sensitive lands, lands being used for mitigation of environmental impacts, etc.). They have also reported the applicant fails to include methods of assessment or management demonstrated to be effective in similar circumstances in this area. This includes negative impacts to ground and surface water hydroperiods, quality, and quantity. The applicant has not provided assurances that the existing hydro periods will be preserved to sufficiently protect the historic adjacent land uses and properties.

Lee County DOT advises that the submitted Traffic Impact Statement (TIS) does not include any traffic resulting from the four proposed asphalt concrete batch plants. The application fails to adequately analyze the full potential impacts of this development and any resulting negative impacts on surrounding land uses and traffic circulation. The residents along the Corkscrew Road Corridor all testified during the Estero Group IPD

case to the noise and dust generated from the truck traffic mainly attributed to the existing Westwind Mine. Those residents also testified regarding the safety concerns stemming from both the volume of truck traffic and the intimidating driving habits of the truck operators. The Corkscrew Excavation operation would further exacerbate these impacts because of the increased volume of truck trips associated with the operation. The volume of dump trucks alone will unquestionably alter the character of Corkscrew Road. Since Corkscrew Road is the only means of access to the site, there is no opportunity to disburse the trips to alternate roadways. The transportation impacts that will be generated from the Corkscrew Excavation site are concentrated on the same road that provides the only access to the numerous residential enclaves along Corkscrew Road Corridor. For these reasons, staff recommends that the application be found inconsistent with Lee Plan Goal 7, Objective 7.1 and Policy 7.1.1.

Policy 7.1.3. states that industrial uses must be located in areas appropriate to their special needs and constraints. These include, but are not limited to, topography, access by truck, utilities, greenbelt and other amenities, air and water quality considerations, proximity to supportive and related land uses, and compatibility with neighboring uses.

The physical location of the Corkscrew Excavation site, east of the Corkscrew/Alico Intersection and about 8 miles from the Interstate highlights the distance between the origin of the extraction and the primary impacts of the operation. The distance between the site and the point where trucks can be dispersed throughout the County road network increases the mine operation's circle of influence in a manner that requires the entire area to be taken into consideration when evaluating the operation's compatibility with the neighboring uses. Truck access is limited to Corkscrew Road, creating a constraint on the site's ability to ameliorate its impacts to surrounding land uses. Additionally, Lee County DOT staff indicates the TIS did not consider other potential uses shown on the Master Concept Plan where four concrete batch plants have been shown. These additional uses could further exacerbate the impacts to Corkscrew Road.

The applicant fails to sufficiently demonstrate that water quality and quantity will not be impacted by the proposed mining operation. This also directly relates to the compatibility with neighboring land uses. Raw and processed material may be manufactured into asphalt concrete and other concrete products because the applicant has indicated a possibility of related land uses on this site. However, these have not been committed to and thus the processed rock and material could be transported off-site. Due to the potential negative impacts caused by increased truck traffic and to the water quality and quantity in this area, staff finds this application is inconsistent with Policy 7.1.3.

Policy 7.1.9 provides that industrial development will not be permitted if it allows industrial traffic to travel through predominantly residential areas. The traffic from this site has only two ways to travel, east or west from the site along Corkscrew Road. Truck traffic is not prohibited from traveling in either direction on Corkscrew Road. Both directions take truck traffic through residential areas. West from the entrance to this site, trucks would travel Corkscrew Road past Burgundy Farms Road. At the intersection of Alico Road, traffic has the option of taking Alico Road or Corkscrew Road to I-75. If traffic continues west on Corkscrew Road, traffic passes Corkscrew Woods (a platted residential subdivision, formerly the Rinker/RMC mine), Bella Terra residential development, Cypress Shadows residential development (approved but not under construction),

Wildcat Run Subdivision, Grande Oak Subdivision, Pinewoods Elementary, and Stoneybrook residential development before reaching I-75. Traffic heading north of Alico Road passes some residential at North and South Mallard Roads, but mostly either agricultural use or mining operations. In the future, south of Alico Road, lands are being sought for residential development within the old Florida Rock mining operation.

Traveling east on Corkscrew Road, traffic passes through residential areas off of Six L's Farm Road, Carter Road, Happy Dale Lane, Lazy D Farm Road, Corkscrew Estates Court, and the Wildcat Farms area.

In previous cases (Schwab 640 and Estero Group IPD), traffic using Corkscrew Road was found to be traveling through residential areas; and, truck traffic was found to be inconsistent with this Policy. All traffic, trucks or other vehicles, from this site will also be using Corkscrew Road as the sole means of access and will also be traveling through these residential areas violating Policy 7.1.9.

Policy 9.1.4 protects agricultural activities on lands designated as Agricultural on the agricultural overlay from the impacts of new natural resource extraction operations, recreational uses, and residential developments. The entire subject property is designated as one of the Agricultural Areas on Map 20 of the Lee County Comprehensive Plan. This application seeks approval of a new natural resource extraction operation. Approval of the request could result in impacts on the agricultural activities that have operated on this property and continue to exist on the land and in the area. If approved, the land would be lost to future agricultural activities, and questions have been raised as to the potential for adverse impacts to groundwater and surface water quality and quantity, which may detrimentally impact other existing agricultural activities in the area. As a result, the application is inconsistent with policy 9.1.4.

Goal 10, Objective 10.1., and Policy 10.1.1. relate to natural resource extraction and the protection of the areas containing identified natural resources from incompatible urban development, while insuring that natural resource extraction operations minimize or eliminate adverse effects on surrounding land use and natural resources. Natural resource extraction operations intending to withdraw groundwater for any purpose must provide a monitoring system to measure groundwater impacts.

The overriding premise of Goal 10 and the related policies is to protect areas containing natural resources from incompatible urban development and natural resource extraction operations to minimize or eliminate adverse effects on surrounding land uses and natural resources. This goal can be accomplished in areas that already have accommodated mining activity, specifically the Alico Road Corridor. Projects along the eastern portion of Corkscrew Road corridor will have difficulty meeting the requirement to minimize or eliminate its adverse effects on the surrounding residential land uses along the corridor because the limited road access to the area forces the traffic impact of the operation to be felt along the entire corridor.

Under *Policy 10.1.2* applications for natural resource extraction permits for new or expanding areas must provide an environmental assessment that includes (but not be limited to): consideration of air emissions, impact on environmental and natural resources, effect on nearby land uses, degradation of water quality, depletion of water

quantity, drainage, fire and safety, noise, odor, visual impacts, transportation including access roads, sewage disposal, and solid waste disposal.

Staff analysis of this application finds deficiencies in indigenous open space; the potential for impacts to adjacent lands; potential impacts to protected species; reduced lake slopes; and potential for degradation to both ground and surface water hydro periods, quality, and quantity. Furthermore, the submitted Traffic Impact Statement demonstrates a significant increase in the number of trucks on Corkscrew Road due to the proposed operation while still not analyzing all of the proposed uses of this site. For these reasons, staff finds the application inconsistent with Policy 10.1.2.

Policy 10.1.3 provides that applications for natural resource extraction permits for new or expanding sites must include a reclamation plan providing assurance of implementation and designed to minimize the possibility of contamination of the groundwater during mining and after completion of the reclamation.

Natural Resources staff expresses concern for the potential for adverse impacts to the ground and surface water, quality and quantity as indicated in Attachment M.

The reclamation Plan indicates that reclamation of the site will occur in phases; and start within 30 days after the completion of a phase that will not be disturbed by future mining operations. Given the nature of typical mine activity in Lee County and the need to simultaneously mine in multiple areas of one site in order to meet FDOT aggregate mix requirements, the reclamation plan fails to provide the necessary assurances contemplated by policy 10.1.3.

Policy 10.1.4 indicates that natural resource extraction activities may be permitted in areas designated on the Future Land Use Map as Rural, Open Lands, and Density Reduction/Groundwater Resources provided they have adequate fire protection, transportation facilities, wastewater treatment and water supply, and cause no significant adverse effects such as dust and noise on surrounding land uses and natural resources.

The subject property is partly designated as Density Reduction/Groundwater Resources. As reported by Natural Resources, Environmental Sciences, and Transportation staff there exists the potential for significant adverse impacts on the environment, natural resources, and transportation. Given this potential, coupled with the lack of sufficient information from the applicant demonstrating that the mining operation will not have significant adverse impacts on surrounding land uses and natural resources, staff finds that this request is inconsistent with Policy 10.1.4.

Policy 135.9.5 provides that new development adjacent to areas of established residential neighborhoods must be compatible with or improve the area's existing character. The submitted traffic impact statement leaves no doubt that approval of the requested zoning will increase the amount of truck traffic on Corkscrew Road. This increase in truck traffic is found by Lee County DOT to pose a potential impact on the nearby residents and thus is not compatible with the established residential neighborhoods located off of Corkscrew Road and will not improve the area's existing character. In fact, approval would constitute an intrusion into this established rural residential area. Staff therefore, finds this application is inconsistent with Policy 135.9.5.

Policy 135.9.6 provides that Lee County will administer the planning, zoning, and development review process in such a manner that proposed land uses acceptably minimize adverse drainage, environmental, spatial, traffic, noise, and glare impacts, as specified in county development regulations, upon adjacent residential properties, while maximizing aesthetic qualities. Based upon County staff's considerable experience in drafting conditions related to minimizing the adverse affects of proposed development on its surroundings, County staff does not believe that a set of conditions will be sufficient to ameliorate or adequately address the various impacts anticipated from this proposed development to allow approval. Accordingly, staff finds the application inconsistent with *Policy 135.9.6*.

Environmental Protection

Policy 61.2.6 provides the county will maintain regulations requiring reclamation standards for future excavation that mimic natural systems through the techniques that improve water quality, wildlife utilization, and enhance groundwater recharge.

Environmental Sciences and Natural Resources staff indicate this application fails to demonstrate that the reclamation planned for this mining operation will improve water quality, wildlife utilization, and enhance groundwater recharge. Therefore, the staff finds the application is inconsistent with *Policy 61.2.6*.

Objective 107.10 states Lee County will maintain regulatory measures to protect the woodstork's feeding and roosting areas and habitat. *Policy 107.10.3* requires the county to encourage the creation of woodstork feeding areas in mandatory littoral shelf design, construction, and planting. (See ES Protected Species Analysis in Attachment N).

LDC Section 34-1681(c)(2) requires the littoral shelf must be a creative design to improve water quality and create wildlife habitat. Environmental Sciences staff indicated that the proposed minimum 10 foot wide littoral shelf does not provide optimum woodstork foraging habitat. Documented successful woodstork foraging sites are those where the water is between 2 and 15 inches deep with calm water, uncluttered by dense thickness of aquatic vegetation, and subtle rise and fall in water elevation. The proposed minimum 10 foot wide littoral and steep lake bank slopes do not create optimum foraging habitat for woodstorks.

Based upon the above, staff finds the application is inconsistent with *Objective 107.10* and *Policy 107.10.3*.

Water Resource Protection

Goal 115; Objective 115.1; and Policies 115.1.1., 115.1.2., and 115.1.4. of the Lee Plan ensure that water quality is maintained or improved for the protection of the environment and people of Lee County. Sources of water pollution must be identified, controlled, and eliminated wherever feasible. New development is not permitted to degrade surface and ground water quality. Natural Resources and Environmental Sciences staff have noted that the application fails to demonstrate that water quality will be maintained by this proposed mining operation. Staff, therefore, finds this application is inconsistent with *Goal 115* and the related Objectives and Policies.

Lee Plan Goal 117; Objective 117.1; and Policies 117.1.3, 117.1.4, and 117.1.6 require development to conserve, manage, and protect the natural hydrologic system of Lee County to insure continued water resource availability. Freshwater resources must be managed in order to maintain adequate freshwater supplies during dry periods and to conserve water. Development designs must provide for maintaining surface water flows, groundwater levels, and lake levels at or above existing conditions. The county will continue to support a monitoring program of existing baseline conditions of water resources. Natural Resources staff reports (see Attachment M) that there is potential for degradation to both ground and surface water natural resources from the proposed mine use. They also report that the application does not include methods of assessment or management that have been demonstrated to be effective in similar circumstances in this area. This includes negative impacts to ground and surface water hydro periods, quality and quantity. The applicant has not provided assurances that the existing hydro periods will be preserved to sufficiently protect the historic adjacent land uses and properties. Staff, therefore finds the application inconsistent with the above Goal, Objective, and Policies of the Lee Plan.

Neighborhood Compatibility

Mining operations are not compatible with residential uses. This operation has single family residential immediately west of this site (Burgundy Farms). Also south, across Corkscrew Road, is single family residential (6 Ls Farm Road Community). There is the potential for negative impacts consisting of noise, dust, lighting pollution, diminished surface and groundwater quality and quantity, increased truck traffic, and the blasting activity related to the mining operations. Although it may be possible draft conditions to address a number of these issues, staff does not believe a set of conditions will fully or adequately address the potential negative and adverse impacts resulting from approval of the mine operation or make the mine activity truly compatible with its surroundings.

Environmental Sciences

The Division of Environmental Sciences (ES) staff have reviewed the proposed Corkscrew Excavation Industrial Planned Development (IPD) and has provided a complete report which may be found as Attachment N to this report. In summary, the report recommends DENIAL of this application. This denial is due to deficiencies in indigenous open space, potential impacts to adjacent lands, potential impacts to protected species, a deviation request for a reduced lake bank slope, and inconsistencies with Lee Plan Objectives, Policies and the Land Development Code (LDC). Staff provides the summary below of the issues raised in the attached report.

The site is comprised of 1247.5 acres of DR/GR and 118 acres of Wetlands. The property owner has made an effort to clear much of the exotic vegetation from the site. However, even with the exotics removed, the areas do not meet the county requirements with respect to native indigenous areas because the planting of Bahia grass from surrounding sod farms is preventing the development of the native understory plants necessary to form the complete indigenous plant community.

Under LDC section 10-415(a) large industrial planned developments are required to provide 20% of the total area as open space. Accordingly, this 1365.5 acre parcel is

required to provide 273.1 acres of open space. The application indicates the project would meet this minimum requirement. (See Lee Plan Objective 77.2 and Policies 77.1.2 and 77.3.4)

ES staff have the following concerns with regard to the project's commitment to provide open space as proposed on the MCP:

- the property development regulations propose 250 foot excavation setbacks to private property lines that exceed the LDC Section 34-1681(a)(2) 100 foot wide setback requirement, but are inconsistent with the proposed 460-500 foot wide preservation areas along the west and east property lines as depicted on the MCP;
- the property development regulations propose 250 foot excavation setbacks to existing right-of-way that exceed the LDC Section 34-1681(a)(2) 150 foot wide setback requirement, but are inconsistent with the proposed 400 foot setback along the Corkscrew Road right-of-way as depicted on the MCP;
- the property development regulations do not provide for minimum excavation setbacks to wetlands and/or preserves. Given that there is not a LDC requirement for excavation setback to a wetland and/or preserve, there is no assurance for setbacks as provided on the MCP; and
- the proposed burrowing owl/gopher tortoise preserve labeled on the MCP is not depicted on the proposed reclamation plan or mining and excavation. Based on the lack of and conflicting documentation provided on the MCP, property development regulations and Mining and Excavation Plan, ES staff can not ensure the project will be consistent with Lee Plan Objective 77.2, Policies 77.3.4, and 7.1.2.

The applicant is proposing to preserve existing on site indigenous plant communities and other vegetative communities, and restore other areas. The subject property adjoins Lee County Airport mitigation lands and South Florida Water Management District mitigation lands. However, the mining plan does not locate these adjoining conservation lands as required by LDC section 34-1675(b)(7)a.5; and fails to indicate how the proposed areas of existing plant communities, other vegetative communities, and restored areas within this application will connect to these adjoining mitigation lands. A major environmental concern of any mine is the effects of the mining activity on the onsite and adjacent environmentally sensitive lands. Of particular concern is the alteration of the sheet flow, dust generation and water drawdown effects.

Historically, sheet flow in this area has been north to south with connections to the Flint Pen strand and the CREW/Corkscrew Swamp Sanctuary. However, this site as well as other surrounding properties have been used for agricultural purposes, which has altered the sheet flow. The submitted application does not depict berming around the lake to redirect surface flow. However, the FDEP mining permit shows a perimeter berm that will redirect and concentrate the sheet flow to the east and west property lines, which may cause an increased chance of flooding in those areas and areas adjacent. (See Lee Plan Standard 11.4, Policies 107.2.2, 107.2.10, Objective 114.1, LDC §§34-411(i), 341674(3) and 34-1681(1)(1)c))

Excessive dust accumulation on plants hinders growth patterns, and in some cases destroys plants. Location of the haul roads and stockpile areas is not shown on the plans. Consequently, the applicant can establish haul roads and stock pile areas immediately adjacent to indigenous preserves. Based upon this lack of specificity, Staff does not have adequate assurance that dust will be controlled on site and prevented from negatively affecting the indigenous preserves. (See sections 34-411(i) and 34-1674(3))

A major concern is the effect on the hydrology due to digging a large, deep lake. As the excavation is occurring groundwater in the adjacent lands shifts. This drawdown effect can degrade adjacent plant communities on and off site. This leads to shorter hydroperiods for the plants to uptake nutrients and over time the wetland community will either transition to a more upland type community or will cease to exist. The grout curtain proposed by the applicant is intended to address the drawdown issue. However, insufficient assurances are provided to eliminate the ES staff concern that the drawdown will affect onsite preserve areas as well as adjacent mitigation lands. Additionally, the applicant has not provided an adequate mitigation plan in the event the grout curtain fails to function as proposed. (See Lee Plan Standard 11.4, Policies 107.2.2, 107.2.10, Objective 114.1, LDC §§34-411(i), 341674(3) and 34-1681(1)(1)c.).

In October 2006, the County and applicant received a letter from United States Fish and Wildlife Services (found as part of Attachment N) regarding early coordination efforts to protect wildlife and habitat. The applicant's response to this request was that they are not impacting Army Corps of Engineer wetlands and therefore not required to apply for federal permits to development the land. The applicant also maintains that enhancement of the agricultural fields and native habitat areas onsite will support their position that no significant habitat modification will occur. This explanation did not specifically address the effect of the 825 acre lake with respect to habitat modification or the affect it will have on loss of secondary Florida Panther habitat or Woodstork foraging area. Nor does the application include reasonable assurance that the mining operation will enhance or improve wildlife habitat. Consequently, staff finds that the application is not consistent with Lee Plan Objective 107.2 and 107.4, 107.11, and policies 107.3.1, 107.4.2, 107.4.3, 107.4.4, 107.11.4, Standard 11.4 and does not comply with LDC §34-411(g).

The applicant indicates that the wood storks and other wading birds were observed foraging opportunistically within the agricultural ditches and the ditch along Corkscrew Road. This property is approximately two miles from Corkscrew Swamp Sanctuary, which contains a large nesting colony of woodstork. The October 2006 letter from the USFWS requests the applicant seek technical assistance or necessary permits for impacts to woodstorks. The applicant has not addressed proper permitting for woodstorks or demonstrated adequate measures to protect or enhance woodstork habitat.

The submitted preliminary management plan for woodstorks indicate exotic removal (32.3 acres) and enhancement of two wetlands along the north property (10.3 acres) for a total of 42.6 acres to be enhanced for wading bird habitat, particularly wood stork. However, no information is provided on the timing for these enhancement activities and it could be several years before the area is improved for woodstorks. The timing of the

improvements may not coincide with the impacts to the agricultural ditches for the mine excavation, which would result in a loss of foraging habitat for the woodstorks. The submitted preliminary management plan indicates reclamation areas will establish a littoral shelf that will provide additional foraging habitat. The proposed reclamation area is a 10' wide shelf but does not provide optimum woodstork foraging habitat. However, of greater threat to the Woodstork is the proposed timing of the reclamation, which may be delayed 20 years or more because the application indicates that reclamation will not begin until the mine activity is complete. As a result, the project does not include reasonable assurance that the property will enhance or improve woodstork habitat and this proposed mining is inconsistent with Lee Plan Objective 107.10 and Policies 10.1.3, 107.10.2 and 107.10.3 and does not comply with LDC 34-411(i) and 34-1674(1).

ES Staff has concerns regarding the lack of documentation provided to ensure improved water quality and wildlife utilization as it relates to the slope deviations requested. LDC section 34-1675(b)(8) requires submittal of documentation that accurately depicts the reclamation plan consistent with the standards set forth in section 34-1681 for each increment of the mining plan. Based upon review of the proposed mining plan, ES staff made the following comments:

- Section 34-1681(c)(2) requires littorals to be planned to complement post mine uses. The MCP depicts excavation surrounded by on-site enhanced and restored preserves. Post mine uses are not identified/proposed. ES staff finds the proposed minimum littoral width, minimum littoral plantings and steep bank slopes around the entire lakes shoreline do not enhance adjacent preservation uses.
- Section 34-1675(b)(7)b requires a profile plan showing the proposed depth of excavation and slopes of banks during excavation operations and after reclamation. The typical lake section depicted on the MCP leads ES staff to question whether the slopes will be created as part of the excavation or through backfill.
- Section 34-1681(c)(5) requires organic soils (muck) to be excavated from any impacted wetlands on site and placed in the littoral shelf creation areas. The MCP proposed impacted wetlands, but the reclamation plan lacks detail regarding use of the muck to create littoral shelves.
- Section 34-1675(b)(8) requires a reclamation plan for each increment of the mining plan. The reclamation plan lacks detail regarding proposed reclamation for each phase. Instead the plan simply states that the reclamation will begin within 30 calendar days after completion in any phase that will not be disturbed by future operations, and will be completed within 12 months or whenever the permitted operation have been completed or the general excavation permit expires, whichever ever comes first. Based upon this note, the phasing schedule provided and the phasing location depicted on the MCP, there is no assurance as to when the littoral reclamation will occur.

Based upon the above, ES staff find that the application is not consistent with Lee Plan Goal 10 and Policies 10.1.3 and 61.2.6.

The report then discusses Deviations 1, 3 and 4. Deviation 1 requests the banks of the excavation be sloped at 4:1 rather than 6:1. ES staff is concerned with this deviation because:

- it cites an incorrect lake depth at a maximum of 25 feet below the wet season water table (where the excavation is proposed to be 110 feet),
- the reclamation plan does not propose any enhancement in the littoral width or additional plantings,
- the application lacks documentation to ensure improved water quality and wildlife utilization and ES staff points out requirements under Land Development Code (LDC) Section 34-1675(b)(8) and 34-1681.

Deviation 3 is from the LDC Section 10-415(b)(1)(b) requirement that 50% of the project open space percentage requirement must be met through on-site preservation of existing indigenous vegetation communities consistent with Subsection 1 through 4, to allow the proposed preservation areas to meet the indigenous requirement at a reduced percentage of 36%.

ES staff has the following concerns with the deviation as requested and acreage calculations as proposed:

- The deviation requested is not from the correct LDC section. LDC Section 10-415(b)(1)a requires the indigenous requirement to be met with the onsite preservation of existing native vegetation communities. LDC Section 10-415(b)(1)b allows native tree areas to be used to meet indigenous requirements only if the site does not contain existing indigenous communities;
- The acreage table and justification provided depict the wrong codes for credits and mitigation measures to offset the percentage reduction. The correct regulations are LDC sections 10-415(b)(3) and 10-415(b)(5), respectively;
- The existing indigenous area to be preserved includes \pm 12 acres of native tree area taken at a 1:1 ratio. The indigenous management plan provided only requires exotic removal within these areas, no supplement plantings are proposed. A staff site visit confirmed these areas are lacking native ground cover and midstory and should be restored at 2:1; and
- The table provided does not accurately depict credits taken per LDC Section 10-415(b)(3). The acreages provided are not consistent with FLUCCS map. Not all preserved upland areas meet minimum size and width requirements for a 150% credit and indigenous vegetation communities and native tree tracts must be existing, not created, to be utilized as credits.

Based on the information provided through the deviation request, ES staff can not ensure that the minimum LDC indigenous acreage requirement of 136.6 acres will be met.

Deviation 4 requests a deviation from LDC Section 10-416(d) to allow the proposed restoration and enhancement areas to serve as the required type F buffer along the north, east, and west property lines. The applicant's submittal does not provide any justification for the requested deviation. Although the widths may comply with the LDC, the plantings do not. The trees are proposed at 3 and 6 foot heights, 25 foot on center and 3 gallon shrubs, with no height requirement and 10 foot on center. These tree and shrub heights and densities do not meet the LDC requirements.

Natural Resources

The Division of Natural Resources recommends denial of the Corkscrew Excavation IPD based upon findings that due to the sensitive nature and recognized protection status of the adjacent land uses and resources, the potential for degradation due to this large scale modification to both ground and surface water resources is substantial. Predevelopment models notwithstanding, the development activity occupies sufficient space to impose significant harm on adjacent land uses that have been already established for the common and public purpose, as well as private use. A complete copy of the Natural Resources report is set forth in Exhibit M and is summarized below.

The applicant does not include methods of assessment or management that have been demonstrated effective in similar circumstances in this area. This would include negative impact to ground and surface water hydro periods, quality and quantity. The applicant has not provided assurances that the existing hydro periods will be preserved to sufficiently protect the historic adjacent land uses and properties. This is demonstrated by the following:

1. Issues Associated with Grout Curtain (utilizing the "Adaptive Management Plan")

The Adaptive Management Plan (AMP) fails to provide specific performance measures, or assurances that the existing conditions can be maintained with the installation a grout curtain. The information provided by the applicant does not adequately demonstrate or identify the potential for impacts to adjacent properties. The land elevation on the proposed site varies from +29 feet NGVD to approximately +19 feet NGVD (NE to SW). The excavation of the proposed mine and associated water management structures will alter the surface water flow in surrounding properties, resulting in a change to their onsite and off-ste groundwater recharge patterns.

The application does not provide sufficient information concerning the grout curtain (including potential negative impact) for staff to evaluate the effectiveness and impacts onsite as well as on neighboring/adjacent land uses/properties. The Adaptive Management Plan fails to provide assurances that the pre-existing conditions can be maintained on adjacent lands. As presented, the grout curtain once constructed has the potential to create irreversible impacts to historical regional and local aquifers. Further, the adaptive management plan requires the grout curtain to be installed at the end of each phase and before the beginning of the next. However, the application does not

address interim measures to project adjacent land uses and control offsite impacts occasioned by the delay.

II. Issues Associated with Ground Water Hydrology

The relative water-table aquifer levels adjacent to the project have not been evaluated with respect to historic regional levels. Thus, even though the elevation of the groundwater adjacent to the curtain approaches the design values, it has the potential to vary from the regional water-table elevation.

III. Issues Associated with Surface Water Hydrology

The project has the potential to impact the surface water flow of approximately 7,000 acres that are upstream of the project boundary within the existing watershed. The applicant has not adequately addressed the upstream sheet flow and the likelihood of localized flooding, septic tank drain field impacts as well as property damage. There is a history of frequent flooding of properties to the west of the planned project.

IV. Issues Associated with Groundwater Model

The model results indicate there is 0.5 feet change in water level with installation of the proposed grout curtain, which implies that there will be an adverse impact on the onsite and offsite wetlands. However, no analysis was presented on what a half foot of water level change means to the wetland and ecosystems. The application failed to analyze the relationship/interference between the proposed grout curtain and the groundwater supply to the public as well as adjacent lands and other competing demands .

V. Issues Associated with Hydrologic Monitoring and Water Quality

The applicant has not provided an adequate water quality monitoring plan to address pre-development, operating and post development conditions of the aquifer and public supply wells.

Transportation

The Lee County Department of Transportation has reviewed this application and provided a memorandum included as Attachment L of this staff report. The following summarizes this detailed memorandum.

Dump trucks comprise over one-half of the existing large truck volume on Corkscrew Road. With the addition of project traffic, the level of service on Corkscrew Road is projected to be at the maximum level within acceptable operational conditions. The potential for congestion and passing difficulty increases with more large truck traffic at existing traffic volumes on Corkscrew Road. Members of the community have raised safety concerns with large trucks on Corkscrew Road.

Numerous studies have been performed on truck traffic at the Federal, State and local levels. Studies indicate motorists are concerned with the number of large trucks and express discomfort when driving in traffic with many large trucks. While vehicle crashes

involving large trucks occur at a lower rate per miles driven than for all vehicles, the rate of injuries and fatalities in crashes per miles driven involving large trucks is higher. The percentage of fatal crashes involving dump trucks is much greater than the percentage of vehicles that are not dump trucks.

In studies of fatalities in crashes involving large trucks, the highest percentages of fatalities occur on rural, two-lane undivided roadways. The study data indicates that 75 percent of fatal crashes involving a large truck occur on roadways with a posted speed of 50 MPH or higher. Corkscrew Road is a two-lane, rural arterial with posted speed of 55 miles per hour.

On Corkscrew Road east of Alico Road, the percentage of large trucks is approximately equal to the national average for rural non-interstate arterials. For this reason, the national data is helpful to evaluate Corkscrew Road. The existing percentage of large trucks is more than double the national average on Corkscrew Road from Alico Road to I-75. The approval of the proposed mining application will substantially increase the number of large trucks on Corkscrew Road; in fact, **based upon count data, the proposed Corkscrew Excavation IPD operation would nearly double the number of large trucks east of Alico Road.** The majority of existing large trucks using Corkscrew Road east of I-75 are dump trucks. **The approval of the Corkscrew Road Excavation IPD will increase traffic operational and safety problems on Corkscrew Road.**

Based on the 2008 count data, dump trucks comprise approximately one-half of the large trucks on Corkscrew Road east of Alico Road and one-fourth the number of large trucks from Alico Road to I-75. Based on the 2007 intersection count data, and applying the TIS trip generation and trip distribution estimates, the approval of the Corkscrew Excavation IPD application will potentially double to triple the number of dump trucks per day (from 138 to approximately 310) on Corkscrew Road east of the project, increase the number of dump trucks by eighteen times (from 138 to 2,500) per day on Corkscrew Road between the project entrance and Alico Road, and triple the number of dump trucks on Corkscrew Road west of Alico Road (from approximately 500 dump trucks per day to approximately 1,500). The number of dump trucks on Alico Road north of Corkscrew Road will increase from 462 to approximately 2,000 per day. The number of dump trucks through the intersection of Corkscrew Road at Alico Road will increase from 549 to 3,056. The LOS with the project becomes LOS E east of Alico Road when compared to the existing Link-Specific Service Volume of Corkscrew Road and background traffic volume of 497 trips.

The TIS states, "The materials taken from the property and the corresponding amount of truck trips that are generated are entirely a function of the demand for such materials." Consequently, an increase in the demand for materials may also contribute to a greater increase in traffic volumes on Alico Road and Corkscrew Road than the TIS estimated traffic volumes.

The TIS also included an intersection analysis of the project entrance to Corkscrew Road and indicated an acceptable LOS. Staff has concerns that the intersection analysis does not adequately account for the acceleration and deceleration characteristics of dump trucks based upon recent data. The Highway Capacity manual

truck factor is applicable to roadway segments. Studies indicate that a higher factor is appropriate in intersection analyses. Application of a higher truck factor in combination with higher opposing through volumes identifies a potential operational problem on Corkscrew Road.

Studies indicate motorists are concerned with the number of large trucks and express discomfort when driving in traffic with many large trucks. Corkscrew Road east of 1-75 has 10-35% large trucks, approximately half of which are dump trucks. The Corkscrew Excavation IPD application is for a land use that will export fill material. The primary vehicle type for fill material is a special type of large truck commonly referred to as a dump truck. Approval of the Corkscrew Excavation IPD will increase large truck traffic on Corkscrew Road. An increase in the number of large trucks on Corkscrew Road may increase traffic operational and safety problems as a result of congestion.

Corkscrew Road east of Ben Hill Griffin Parkway has narrow paved shoulders and few turn lanes. Turning vehicles disrupt the traffic flow more frequently as traffic volumes and turning volumes increase. Large trucks require a greater deceleration and acceleration length. A higher percentage of trucks combined with increases in total traffic will increase congestion and accelerate the need for highway improvements. With this project the southbound approach to intersection of Corkscrew Road and Alico Road will operate at LOS "F". More restrictive traffic control may be necessary in order to preserve the roadway capacity.

Data indicates that while crash frequency is decreasing and large trucks are involved in fewer crashes per miles traveled, there are more fatalities and injuries per million miles driven resulting from large truck crashes than from passenger cars. If the Corkscrew Excavation IPD is approved, then the increase in dump truck traffic will increase the potential for safety problems and crashes on Corkscrew Road based on data that suggests:

- 1) The number of dump trucks on Corkscrew Road will increase.
- 2) The majority of fatalities and injuries in crashes involving large trucks are passengers of other vehicles.
- 2) A higher proportion of fatal crashes occur on roadways for each of the independent variables for highway function similar to Corkscrew Road east of Ben Hill Griffin Parkway
 - (a) a non-interstate minor arterial
 - (b) location in a rural area
 - (c) two lane undivided roadway
 - (d) with a posted speed of 55 MPH.
- 3) Dump trucks are also involved in a disproportionately high percentage of fatal crashes.

Florida Department of Transportation

Attachment K includes copies of two letters from the Florida Department of Transportation. The first letter dated August 2007 confirms that FDOT is in good faith negotiations with Resource Conservation Holdings to enter into a Constructive Aggregate Materials Agreement pertaining to the Corkscrew Road Excavation, pursuant

to which lime rock and other construction aggregate would be made available to FDOT on a basis that is advantageous to FDOT. FDOT mentions that it is their desire to join as co-applicants on all pending applications for approvals as soon as the agreement is executed, and that appropriate revisions to all pending applications will be made to add FDOT as a co-applicant.

FDOT is not currently a co-applicant on this rezoning request.

Utilities

Lee County Utilities (LCU) reviewed the available application materials and provided a report in two parts found in Attachment P. In summary, LCU indicates that the subject site is located approximately 1.4 miles east of the Corkscrew Water Treatment Plant facility. The MCP identifies a series of public utility wells located along the north side of Corkscrew.

The attached memoranda from LCU details concerns raised regarding the South Florida Water Management District Water Use Permit No. 36-6874-W, which is currently the subject of pending administrative action filed by Lee County (DOAH No.08-6480).

Lee County Port Authority

Attachment O is a copy of comments from the staff of the Lee County Port Authority (LCPA). This letter indicates LCPA has strong concerns about the potential impact the proposed mine will have on adjacent mitigation parks lands to the north. This land was purchased as a wetland creation and restoration project for airport expansion. The LCPA stresses the importance of maintaining the existing area hydrology in order to avoid harmful effects to the multi-million dollar restoration project that has been underway for a number of years. The LCPA also raises concerns regarding construction of the grout curtain one phase at a time and the potential for this process to drawdown water levels in the Airport mitigation area to levels seriously impacting the success of the mitigation park. LCPA echoes staff concerns regarding the applicant's failure to demonstrate that the grout curtain will work effectively. They point out that all of the backup from the applicant on the grout curtains are for 23 to 40 feet in depth, with one exception that is a dam at 160 to 280 feet deep.

Prospects for Southeast Lee County, Planning for the Density Reduction/Groundwater Resource Area (DR/GR)

Recently the Board of County Commissioners hired the firm of Dover Kohl and Partners to complete a study of the Density Reduction/Groundwater Resources (DR/GR) area in the southeastern portion of Lee County. The resulting report completed by this firm is called Prospects for Southeast Lee County, Planning for the Density Reduction/Groundwater Resource Area (DR/GR), (Dover, Kohl & Partners July, 2008). A copy of this report is available at the following website:

http://www3.leegov.com/dcd/CommunityPlans/SELC_DRGR/FinalReport.htm

This study was undertaken on 82,560 unincorporated acres in southeast Lee County. The DR/GR lands store and protect a critical supply of water for the region with several wellfields already located in this area. This area also has low density residential use, agricultural use, and limestone mining activities.

The study found that the need for aggregate material from 2007 through 2030 would require 4,397 acres of additional mining pits. The study found that Lee County has already approved 3,576 acres of additional limerock mining, leaving 821 acres left to be needed through the Year 2030. The study also states that the DR/GR is the likely area for limerock mining, due to the location and the quality of the mining deposits.

The study notes that existing applications (at the time of the report) exceeded this additional land needed for limerock mining and notes that the mining that would displace existing agricultural activity, disrupt the rural and natural character, and would run counter to the natural resource protection strategies that were established in the Lee Plan in 1990. Approval of mining activities could be for up to 50 years and would shape the future of the County beyond the planning horizon in the Lee Plan.

The Report provided three separate scenarios. The Board directed staff to start work on amendments to the Lee Plan following Scenario 1, with modifications. Scenario 1 considers the use of two strategies: keep limerock mining near the traditional Alico Road corridor, and the identify additional lands that would be available for aggregate production. The scenario identified 3,576 acres of already approved mines. An additional 4,048 acres would be made available for aggregate production. The Board modified this scenario eliminating the lands within the boundary of Southwest Florida International Airport.

Staff notes that the subject property is NOT within the area of Scenario 1. The subject property contains 1,365.5 acres of land with a resulting excavation lake area of 825 acres. The overall area of the subject property of this application and the resulting area of excavation each exceed the 821 acres left to be required through the Year 2030.

Conclusion

The Lee Plan's overriding theme is one of safeguarding the public interest through neighborhood protection and maintaining compatibility with existing uses. Public purposes sought to be achieved are echoed in the goals, policies and objectives that emphasize the importance of compact and efficient growth patterns, compatibility, and preserving the character of residential areas by avoiding the introduction of uses that would be destructive rather than enhance the character of a community. The nature and magnitude of the impacts created by a mine operation cannot be adequately addressed in an area that is not characterized by industrial or mining uses. Historic development patterns along the Corkscrew Road Corridor have been agricultural and large lot residential uses. The character of the corridor is rural residential/agricultural, not industrial. Mining has only recently been introduced to eastern Corkscrew Road. The testimony of the residents impacted by the one existing operation, Westwind Mine, makes it is clear the Board was not unreasonable in denying the rezoning applications filed with respect to Estero Group IPD or Schwab 640. The same residents will be affected by the Corkscrew Excavation mine.

The Local Comprehensive Planning and Land Development Regulation Act mandates that all actions taken by a local government in regard to development orders be consistent with the adopted comprehensive plan. See s. 163.3194(1)(a), F.S. The Florida Supreme Court has held that rezonings must be consistent with the comprehensive plan. Brevard County v. Snyder, 627 So. 2d 469 (Fla. 1993). See also Pinecrest Lakes, Inc. v. Shidel, 795 So. 2d 191 (Fla. 4th DCA, 2001) cert. den. 821 So. 2d 300 (Fla. 2002). Accordingly, zoning approvals must be "consistent" with the Lee Plan. A zoning approval is considered consistent with the comprehensive plan if the land uses, intensity, timing and other aspects of the development are compatible with and further the objectives, policies, land uses, and intensities in the comprehensive plan and if it meets all other criteria enumerated by the local government. See s. 163.3194(3)(b) F.S. The Corkscrew Road Excavation Planned Development rezoning application must be consistent with the Lee Plan to be approved by the Board. The analysis set forth above identifies inconsistencies with numerous provisions of the Lee Plan. These inconsistencies are a legitimate bar to approval and highlight the reasonableness of Staff's recommendation of denial.

IV. SUBJECT PROPERTY:

- A. STRAP: The applicant indicates the STRAP numbers are: 23-46-2600-00003.0000, 24-46-26-00-00001.0000, 19-46-27-00-00001.0000, 19-46-27-00-00001.0010, 19-46-27-00-00001.0040, 19-46-27-00-00001.0050, 19-46-27-00-00001.0060

V. ATTACHMENTS:

- A. Map of surrounding zoning
- B. Applicant's analysis on Lee Plan, Decision Making Guidelines, & Design Standards
- C. Applicant's Schedule of Uses, Deviations, and Property Development Regulations
- D. Environmental Assessment
- E. Test Boring Geologic Log
- F. Traffic Impact Statement (updated April 27, 2009)
- G. Groundwater Level Impact Analysis, Adaptive Management Plan and supplemental material for these documents
- H. Preliminary Lee County Indigenous Area Management Plan with supplement
- I. Certificate to Dig
- J. FDEP Environmental Resource Permit
- K. Letters from Florida DOT dated August 8, 2007 and March 16, 2008
- L. Memoranda from Lee County DOT, dated April 6, 2009, and May 11, 2009
- M. Memorandum from Natural Resources
- N. Memoranda from Environmental Sciences, dated March 23, 2009 and May 8, 2009
- O. Letter from Lee County Port Authority
- P. Two memoranda from Public Works/Utilities
- Q. Lee Plan Goals, Objectives, Policies, and Standards
- R. Final Judgement Resource Conservation Holdings, LLC v. Lee County
- S. Reduced Mining Plans (not to scale).
- T. Pre-Chapter 12 LDC Regulations

EXHIBITS:

A. Legal Description

cc: Applicant
County Attorney
Zoning File