Board of County Commissioners
Leon County, Florida
www.leoncountyfl.gov

Agenda Item
Executive Summary

April 13, 2010

Title:
Consideration of Modifying Conservation Subdivision and Urban Fringe Development Policy

Staff:
Parwez Alam, County Administrator
Vincent S. Long, Assistant County Administrator
Wayne Tedder, Planning Department Director

Issue Briefing:
This item requests Board consideration regarding a proposed option to modify policies addressing Conservation Subdivisions and other development in the Urban Fringe Future Land Use Category.

On December 7, 2009, at the Board of County Commissioners' 2009/2010 Retreat, the Board identified a review or repeal of the Conservation Subdivision Ordinance as an issue to be handled administratively. This agenda item provides a brief and generalized review of this type of development and offers an option to keep the concept of Conservation Subdivisions, while addressing the Urban Fringe density issues that appear to be the major criticism of such development.

Key components of the proposed option for analysis and policy change are:

1. Redefine the Urban Fringe area as a Rural Residential area.
2. Remove the Urban Fringe "25-75" clustering option.
3. Keep Conservation Subdivisions with a density of one unit per three acres.
4. Establish one unit per ten acres as the density for traditional subdivision in Urban Fringe.
5. Redesign size calculations for the conservation area in a Conservation Subdivision.
6. Provide Rural Design Guidelines to help preserve the rural look and feel of the Urban Fringe.
7. Implement a Citizen Input Plan.

Fiscal Impact:
This item has no direct fiscal impact.

Staff Recommendation:
Option #1: Accept the Planning Department's report on Conservation Subdivisions and the Urban Fringe Future Land Use Map category and direct staff to initiate the strategies and recommendations herein.

Report and Discussion

Background:

Conservation Subdivisions in the Comprehensive Plan

Conservation Subdivision policy direction is included under Objective 2.3 [L] of the Comprehensive Plan and focuses on providing options "that advance environmental resource protection or restoration or promote infill and redevelopment" (Attachment #1). The Plan prohibits the use of Conservation Subdivisions in the Rural Future Land Use category; however, it leaves the option for potential implementation in the remaining Future Land Use Map categories. At this time, the only Conservation Subdivision implementing regulations are for the Urban Fringe and the Lake Talquin Recreation/Urban Fringe zoning districts. *(Note: The Bradfordville Sector Plan does provide for limited use of Conservation Subdivisions in Rural and it modifies the use of Conservation Subdivisions in select Urban Fringe areas.)*

Based on Policy 2.3.2 [L],

> "Conservation subdivisions within the Urban fringe land use category shall be density neutral, and ward no units greater than those achievable via conventional site plans subject to density limitations imposed by Policies 1.3.2 [C] and 1.3.6 [C]."

Currently, the density neutral test for Conservation Subdivisions is based on the provision in Policy 2.2.2 [L] that allows for densities of one unit per acre in the Urban Fringe category, if these units are clustered on 25% or less of the property, with the remaining 75% available for urban development after the Urban Service Area encompasses the property. Based on this provision, the Land Development Regulations for Conservation Subdivisions set the density in Urban Fringe as one unit per one and one-third (1.33) acres.

It is important to note that the Plan allows Conservation Subdivisions to be zoned as Planned Unit Developments (PUD) to provide flexibility in site design. If a Conservation Subdivision were developed as a PUD, the site would be eligible for the full one unit per acre density that the current density neutral test is based on. However, centralized sewer would be necessary to achieve such density.

Overview of the Urban Fringe Future Land Use Category

The Comprehensive Plan states "Future urbanization of county beyond scope of the Plan is likely to take place in present areas designated Urban Fringe." Originally, the Plan indicated that urban services might be programmed around the year 2010 for developable portions of the Urban Fringe to help accommodate population growth. However, in 2006, the Board approved an amendment to extend that planning period to 2030.

A map of the areas currently designated as Urban Fringe on the Future Land Use Map in the Comprehensive Plan is included as Attachment #2. The Urban Fringe covers approximately 57 square miles. For comparison, the City of Tallahassee includes 103 square miles and the Urban Service Area encompasses 161 square miles.

As indicated, the Comprehensive Plan identifies the Urban Fringe as the next area for expansion of the Urban Service Area and urban level development. If the Urban Service Area were expanded to encompass the 57 square miles of Urban Fringe, it would be a 35% increase of the Urban Service Area. The Planning Department has indicated on numerous occasions that the Urban Fringe category was mapped too aggressively and represents an allocation of residential development well beyond that needed to accommodate the projected population within the horizon of the Plan and beyond.

Development Inside the Urban Service Area

With limited exceptions, the Urban Fringe area is located outside of the designated Urban Service Area. From 2002 through 2008, on average, 86% (range of 81.7 to 88.2) of the residential units constructed in Leon County were constructed inside the Urban Service Area. For the same period, 99% of commercial development square footage was constructed inside the Urban Service Area.

The Urban Fringe and the Urban Service Area are often linked as the Comprehensive Plan currently identifies the Urban Fringe as the next likely area to be encompassed by any expansions of the Urban Service Area. However, analysis in the 2007 Evaluation and Appraisal Report, the Residential Lot Availability Committee report, and recent analysis by the Planning Department, all indicate that it is not necessary to expand the Urban Service Area to develop units to accommodate the projected population of the community.

Wendy Grey, AICP, presented the data included in the following table at the 2008 joint City/County Commission Workshop on the Urban Service Area and Urban Fringe.

COMPARISON OF POPULATION ACCOMMODATION PROJECTIONS

	DCA EAR METHODOLOGY	RESIDENTIAL LOT AVAILABILITY COMMITTEE (RLAC)	COMPARISON
POPULATION PROJECTION FOR YEAR 2030	378,000	378,000	Both are based on state projections (Approx. 4,000 new residents per year)
ESTIMATED CAPACITY OF URBAN SERVICE AREA (in population)	898,000	116,167	DCA methodology assumes maximum density. RLAC methodology assumes historical buildout
CAPACITY OF USA (in years)	130	29	101

The table compares two different methods that have been used for estimating the remaining capacity of the existing Urban Service Area. The first "DCA EAR Methodology" was utilized for the adopted 2007 Evaluation and Appraisal Report. The second is a method utilized by the Tallahassee Board of Realtor's Residential Lot Availability Committee. Since the 2008 workshop, the population projections for Leon County have been revised for 2030 - from 378,000 (about 4,000 people per year) to 321,200 (about 2,300 people per year), nearly doubling the projected years to reach either calculation of the capacity of the Urban Service Area.

In addition, the Planning Department has conducted an analysis utilizing actual units proposed by the development community inside the Urban Service Area as part of major and ongoing projects (project with greater than 40 units). According to the analysis, sufficient units have already been proposed inside the Urban Service Area to accommodate the projected population through 2030. Relevant slides from a Planning Department presentation on this analysis are included as Attachment #3.

Approved and Proposed Conservation Subdivisions
Attachment #4 provides a map of approved and proposed Conservation Subdivisions, based on available data from Growth and Environmental Management and the Planning Department. The two largest sites on the map are the approved Centerville Farms Conservation Community and the proposed Chason Woods Conservation Subdivision. Centerville Farms has been subdivided to include 200 units on the 975-acre site (1 Unit/4.9 Acres), and includes 622 acres of land in perpetual conservation easement (64% of the site). The Chason Woods development has proposed 497 units on the 697-acre site (1 Unit/1.4 Acres) and a perpetual conservation easement on approximately 432 acres (62% of the site). Additionally, the Chason Woods development has received a Permitted Use Verification Certificate for 697 units on the 697-acre site (1 Unit/1 Acre). The higher density alternative is available through the Planned Unit Development process described under "Conservation Subdivisions in the Comprehensive Plan."

Options presented in the "Analysis" section seek to reduce the gross density available in Conservation Subdivisions down closer to the type of density achieved in the Centerville Farms Conservation Community.

Analysis:

Repeal of the Conservation Subdivision Ordinance
Repeal of the Land Development Regulations that implement Conservation Subdivisions would not prevent the future development of Conservation Subdivisions in Urban Fringe with densities as high as one unit per acre. Policy direction in the Comprehensive Plan would continue to allow for the development of Conservation Subdivisions as Planed Unit Developments (PUD).

Planning Department staff supports the use of Conservation Subdivisions as a tool to protect natural resources and recommends that the concept be maintained with the modifications discussed.

Addressing Conservation Subdivisions and Urban Fringe Development

The following seven sections provide a broad policy level plan for redefining our Urban Fringe areas and addressing concerns regarding the density currently allowed in Conservation Subdivisions. Considerable public outreach and policy analysis will be needed to implement these concepts. If directed to proceed, the Planning Department will seek citizen input and coordinate policy analysis with Growth and Environmental Management to identify recommended Comprehensive Plan and County Code revisions to be brought back to the Board for consideration.

1. Redefine the Urban Fringe area as a Rural Residential area: A new definition for the Urban Fringe category would focus on:
   (1) the value of surrounding the community with very low-density residential housing and conserved lands in a rural setting
   (2) removing the focus on waiting for the extension of urban services and the Urban Service Area boundary; and,
   (3) removing the resulting expectation of suburban/urban density development. Redefining Urban Fringe provides the opportunity to continue to surround our community with greenways, conservation lands, and a rural landscape while also focusing efforts on infill and redevelopment as opposed to an expanding suburban footprint. The concept of redefining the Urban Fringe area was discussed and received some support at the January 2008 joint City-County Commission workshop on Urban Fringe and the Urban Service Area.

2. Remove the Urban Fringe "25-75" clustering option. The existing option to develop one dwelling unit per acre clustered on 25% of the site was designed to allow for some near-term suburban density development while retaining most of the site (75%) for urban development after the Urban Service Area expands outward to encompass the site. The original projection for expansion of the Urban Service Area to encompass the Urban Fringe was the year 2010. In 2006, the Board voted to extend this projection out to the existing Comprehensive Plan horizon of 2030. Additionally, the Board-adopted 2007 Evaluation and Appraisal Report identified sufficient development opportunities inside the existing Urban Service Area to accommodate 880,245 more residents, many times greater than even the highest population projections. This information points to the lack of a need to expand the Urban Service Area to accommodate the projected population and provides for the opportunity to redefine Urban Fringe as an area that is rural residential by design, not a holding category awaiting urban development.

3. Keep Conservation Subdivisions with a density of one unit per three acres. The Planning Department supports the concept of Conservation Subdivisions as a tool to preserve natural features and the rural landscape. The Department's assessment is that current issues associated with Conservation Subdivisions are related to the densities currently allowed, not the general concept. Based on the Planning Department's experience processing Urban Fringe requests, it is appears that many of the citizens living in Urban Fringe think that one unit per three acres is the standard for development in their area.

Citizens are then frustrated when the much higher densities, currently associated with the Urban Fringe cluster option and Conservation Subdivisions, are proposed in what they believed was a large lot semi-rural area. By removing the Urban Fringe "25-75" clustering option, density neutral for Conservation Subdivisions would become one dwelling unit per three acres. Reducing the density from the existing one unit per one and one-third (1.33) acres to one unit per three acres would greatly improve compatibility with existing Urban Fringe development.

4. Establish one unit per ten acres as the density for traditional subdivision in Urban Fringe. Establishing one unit per ten acres as the gross density for traditional subdivision (non-conservation subdivision) in Urban Fringe would further the concept of redefining Urban Fringe as a Rural Residential category. Reduction of the gross number of potential units and the associated future vehicles that would be commuting into the City from these Urban Fringe areas would support implementation of new statutory requirements for greenhouse gas reduction strategies required for inclusion in the Comprehensive Plan by House Bill 697. Other communities have had success promoting Conservation Subdivisions by instituting such density disincentives for traditional subdivision of land.

5. Redesign size calculations for the conservation area in a Conservation Subdivision. Currently, Conservation Subdivisions are required to permanently set aside at least 50% of the total parcel as open space. The 50% requirement is applied regardless of the amount of protected environmental features that occur on the site (such as wetlands). The redesigned calculations would focus on keeping the 50% total open space requirement, while including a minimum percentage of developable uplands that must be represented in the conservation area. For example, Jefferson County requires that 50% of the open space in a Conservation Subdivision be uplands suitable for development. Protecting some "high and dry" developable lands would help buffer on-site environmental features, provide the opportunity to preserve upland habitats, promote shared agriculture, and allow for active recreation areas in Conservation Subdivisions.

6. Provide Rural Design Guidelines to help preserve the rural look and feel of the Urban Fringe. Just as urban design can be utilized to help promote desirable urban development, rural design can help ensure that new development preserves and promotes rural character. Guidelines on setbacks, lot configuration, building placement, open space and view preservation and others could be developed to help shape future development. Staff would research existing rural design programs and bring back recommendations on the appropriate mechanism for communicating such guidelines.

7. Implement a Citizen Input Plan to ensure the public is aware of Board directed changes and has an opportunity for meaningful input prior to final action by the Board.

The Bert J. Harris, Jr., Private Property Rights Protection Act

According to the County Attorney's Office, implementation of the options may impact the development rights of landowners whose properties lie in the Urban Fringe future land use category. Since the adoption of the Bert Harris Act ("the Act") in 1995, local governments should be cognizant that any change in regulations affecting development rights may give rise to

legal actions. That being said, an allegedly aggrieved landowner is not assured success simply because the hypothetical development under the new law is less than what might have otherwise been allowed.

The Act was adopted with the stated purpose of providing relief or compensation to property owners whose property rights have been "inordinately burdened" by the application of a law or regulation. To be determined to have inordinately burdened a property, the government action must have directly restricted or limited the use of real property such that the property owner is unable to attain the reasonable, investment-backed expectation for the existing use of the real property or a vested right to a specific use of the real property. Case law has determined the mere adoption of an amendment to a regulation does not give rise to an actionable claim. A property owner must actually submit an application for development approval to the local government. This is important to note because the review of an application for development will frequently result in a reduction in the actual achievable density of a project once environmental constraints and other pre-existing restrictions are applied to the property.

If a regulation is determined to have inordinately burdened a property, the compensation to which the owner may be entitled is based on the difference in the fair market value of the real property as it existed at the time of the government's action, and the fair market value of the property at the time of the government action when the impact of the regulation is accounted for.

Options:

1. Accept the Planning Department's report on Conservation Subdivisions and the Urban Fringe Future Land Use Map category and direct staff to initiate the strategies and recommendations herein.
2. Direct staff to schedule a workshop to further review and analyze the Conservation Subdivision and Urban Fringe issues prior to directing staff to initiate the strategies and recommendations herein.
3. Accept the Planning Department's report and take no further action.
4. Board Direction.

Recommendation:

Option #1.

Attachments:
1. Existing Comprehensive Plan Conservation Subdivision Policy
2. Map of Urban Fringe Areas
3. Slides from Planning Department Presentation
4. Map of Approved and Proposed Conservation Subdivisions

PA/VL/WT/bw

EXISTING COMPREHENISVE PLAN POLICY

CONSERVATION SUBDIVISIONS

Objective 2.3: [L]. *(Effective 7/1/04; Renumbered Effective 7/26/06; Revision Effective 8/1/07)* Conservation Subdivision land development regulations in the County shall continue to provide design options and guidelines for the development of Conservation Subdivisions that advance environmental resource protection or restoration or promote infill and redevelopment. The City may adopt similar provisions.

Policy 2.3.1: [L] *(Effective 7/1/04; Renumbered Effective 7/26/06)*
To minimize the threat of premature conversion of rural land, including properties supporting bona fide agriculture and silviculture, the Conservation Subdivision option shall not be allowed within the Rural Future Land Use category, with the exception of those areas designated as Rural Residential within the Bradfordville Sector Plan.

Policy 2.3.2: [L] *(Effective 7/1/04; Renumbered Effective 7/26/06)*
Within the land development regulations, local government shall define for various Future Land Use categories in which Conservation Subdivisions are allowed, any applicable density bonus incentives, and the minimum percentages of parent tract(s) to be protected as contiguous open space within Conservation Subdivisions. It shall be the intent to establish higher open space percentages for the less dense Future Land Use Map categories. Similarly, it is intended that density bonuses only be permitted as an incentive in those land use categories which are more dense than the Urban Fringe land use category. Conservation subdivisions within the Urban Fringe land use category shall be density neutral, and ward no units greater than those achievable via conventional site plans subject to density limitations imposed by Policies 1.3.2[C] and 1.3.6[C].

Policy 2.3.3: [L] *(Effective 7/1/04; Renumbered Effective 7/26/06)*
To better judge the impacts of Conservation Subdivisions on the demands for services and the effects of coordinating protected open space, local government may phase the implementation of Conservation Subdivisions within Future Land Use Categories more dense than Urban Fringe via the adoption of land development regulation provisions, beginning with Urban Fringe Future Land Use category and those areas designated as Rural Residential within the Bradfordville Sector Plan.

Policy 2.3.4: [L] *(Effective 7/1/04; Renumbered Effective 7/26/06)*
Conservation Subdivisions may be zoned as Planned Unit Developments (PUDs) or the land development regulations shall be otherwise crafted in order to provide the necessary flexibility with respect to setbacks, minimum lot sizes, street widths, and parking requirements etc. to increase the likelihood of employing this site design option and foster the long-term viability and usefulness of the open space subject to the required conservation easement.

Policy 2.3.5: [L] *(Effective 7/1/04; Renumbered Effective 7/26/06)*
Preservation features defined in Policies 1.3.4 [C] and 1.3.5 [C]shall be incorporated into the open space of any Conservation Subdivision. Conservation features defined in Policy 1.3.1 [C], archaeological sites, bona fide agriculture and silviculture, viewsheds of canopy roads and of other open space shall be incorporated into the open space of a Conservation Subdivision to the greatest extent practicable.

The Planning and respective Growth Management departments shall encourage the use of

Conservation Subdivisions wherever parent tracts have been demonstrated to contain bona fide agriculture and silviculture, environmentally significant features, historically or archaeologically significant resources, or direct connections with existing or planned greenway corridors identified in either the Tallahassee-Leon County Greenway Master Plan or the Blueprint 2000 Project Definitions Report.

Policy 2.3.6: [L] *(Effective 7/1/04; Renumbered Effective 7/26/06)*
In the implementation of Conservation Subdivisions, all critical on-site resources that are to be preserved shall be of adequate size and buffered to ensure protection of the resource.

Policy 2.3.7: [L] *(Effective 7/1/04; Renumbered Effective 7/26/06)*
Where possible, local government shall require protected open space(s) within conservation subdivisions to be established adjacent or contiguous with existing or planned greenspace, whether public or private.

Policy 2.3.8: [L] *(Effective 7/1/04; Renumbered Effective 7/26/06)*
In the implementation of Conservation Subdivisions, local government shall require open space and related resources to be placed under a permanent easement that runs with the land. Said easement may be assigned to (1) local government or (2) a local or national land trust that is a 501(c)(3) organization for which conservation of resources is a principal goal and which can provide reasonable assurance it has financial and staff resources to monitor and manage the easement in accordance with the intent of the Objective 2.2 [L] and its supporting policies.

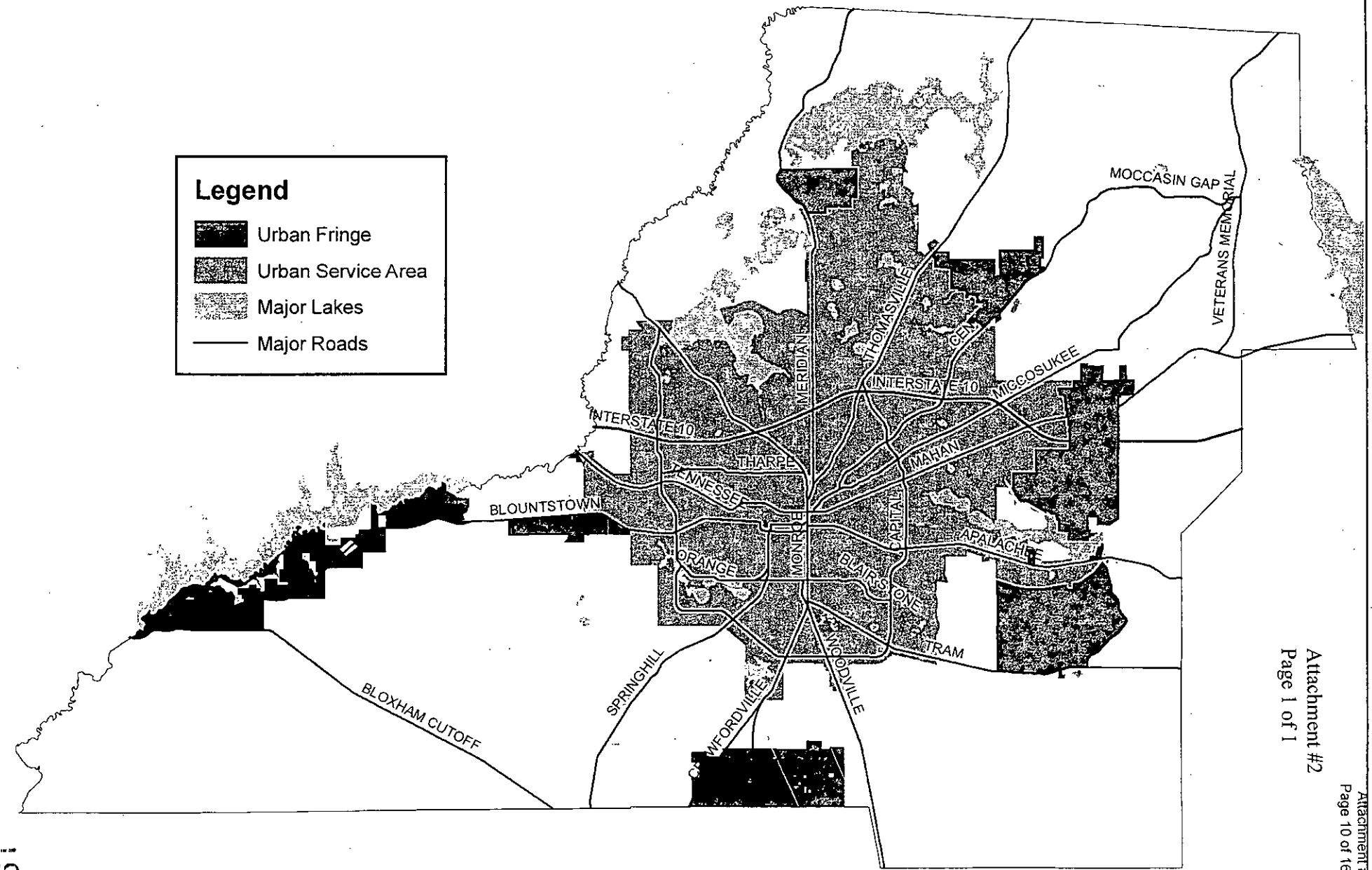
Policy 2.3.9: [L] *(Effective 7/1/04; Renumbered Effective 7/26/06)*
Local Government shall require all applications for Conservation Subdivisions to prepare a management plan for all protected open space and a dedicated source of revenues to ensure that all appropriate management activities are undertaken on a regular basis and that all terms of the conservation easement are monitored and enforced.

Policy 2.3.10: [L] *(Effective 7/1/04; Renumbered Effective 7/26/06)*
Local and State Government shall be encouraged to enter into agreements with the managers of protected open space within Conservation Subdivisions where it would be mutually advantageous to consolidate management activities between the subdivision and any adjoining public lands.

Policy 2.3.11: [L] *(Effective 7/1/04; Renumbered Effective 7/26/06)*
It shall be the policy of the Property Appraiser's office to assess at the minimum rate or charge the applicable fee to all land preserved within a Conservation Subdivision, including property in bona fide agricultural and silvicultural use. However, the appraised value of associated developed land shall reflect any added value provided by proximity to protected open space.

Policy 2.3.12: [L] *(Effective 7/1/04; Renumbered Effective 7/26/06)*
Conservation Subdivisions shall be encouraged to include a range of housing types and sizes, and shall not be exempt from any adopted applicable affordable housing provisions.

The Urban Fringe Future Land Use Catagory in Leon County



Attachment #2
Page 1 of 1

What do we know about population and units needed?

Population Projections (BEBR)

- 2009 = 274,803
- 2030 = 321,200
- Growth = 46,397 people

Persons Per Unit

- 2009 County = 2.31

New Units Needed by 2030

- 46,397 people / 2.31 people per unit = 20,085 Units

Population Accommodation and the USA

Major Planned Developments

- Southwood = 2,700 units (Remaining in DRI)
- Fallschase = 1,514 units (Site Plan)
- Southside = 2,800 units (Proposed DRI)
- Welaunee = 4,819 units (Toe and Heel only)
- Pinnacle = 400 units (Proposed DRI)
- Summerfield= 447 units (PUD)
- Hopkins North= 480 units est.(192 res. ac. x 2.5 DU/ac.)
- Collin English = 2,000 units est. (9,350 based on SESP)
- Total = 15,160 units

Population Accommodation and the USA

Other Major Ongoing and Proposed Projects Inside the USA (greater than 40 units each)

Proposed					
Under Review	46	96	50	332	524
Approved (in subs/projects not yet started)	812	559	58	650	2,079
Approved (in subs/projects under construction)	1,015	536	349		1,900
Clearing Site					
Under Construction	42	5			47
Projects Not included in the above totals	1,915	1,196	457	982	**4,550**

Updated March 2010

Population Accommodation and the USA

Major Planned Developments	15,160 Units
	+
Other Ongoing and Proposed Projects	4,550 Units
=	19,710 Units

Population Accommodation and the USA

New Units Needed by 2030	20,085 Units
Planned and Ongoing Projects	19,710 Units
Remaining Units Needed by 2030 =	375 Units

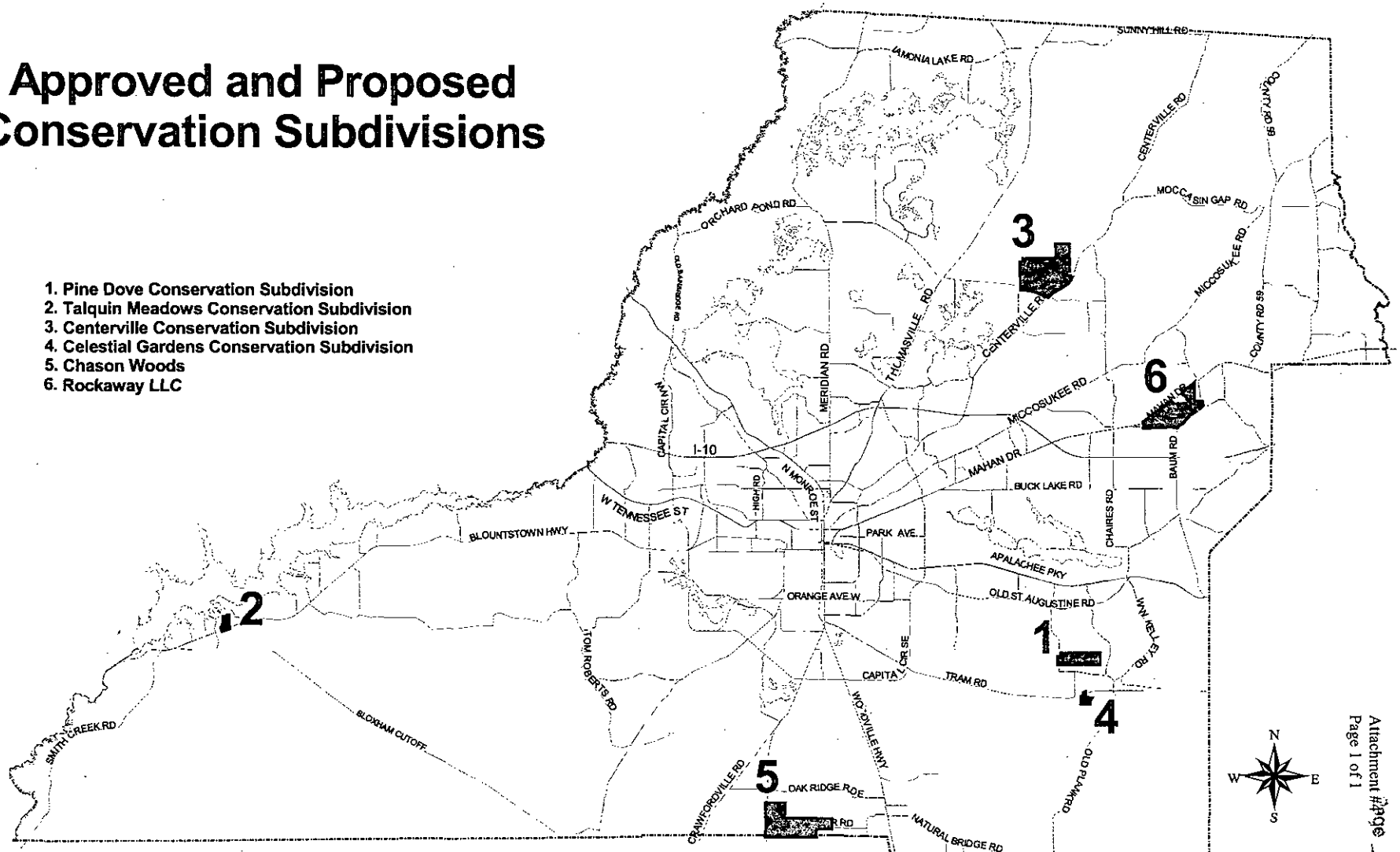
Note: No units have been attributed to:

Welaunee North inside the USA (~1,900 acres), or

Welaunee outside the USA inside the City (~2,900 acres)

Approved and Proposed Conservation Subdivisions

1. Pine Dove Conservation Subdivision
2. Talquin Meadows Conservation Subdivision
3. Centerville Conservation Subdivision
4. Celestial Gardens Conservation Subdivision
5. Chason Woods
6. Rockaway LLC



Map is based on the best available data. Not intended to be a difinitive list of properties that may have utilized, or proposed to utilize, Conservation Subdivision Policies

Date Printed: March 24, 2010

Attachment #4
Page 1 of 1

Attachment # 3
Page 16 of 16